



June 21, 2016

Response to R3 Consulting Group Inc.'s Review of Santa Rosa Recycling and Collection's Performance, Customer Rates and Diversion Rates

by Rick Downey, General Manager of Santa Rosa Recycling and Collection (SRRC)

Santa Rosa Recycling and Collection (SRRC) serves over 48,000 customers in the city of Santa Rosa. SRRC has been Santa Rosa's franchised solid waste and recycling company for over 12 years. Over the years, SRRC has earned over 90% favorable ratings from its Santa Rosa customers¹. At the same time, SRRC has received generally favorable reviews from prior audits of Franchise Agreement performance conducted by independent contractors selected by the City. In particular, in 2015, the well-known, national and respected MuniServices Consulting Firm conducted an independent audit entitled "Exclusive and Debris Box Franchised Hauler Compliance and Fee Audit." MuniServices reached the following conclusion about SRRC's performance under its exclusive franchise agreement with Santa Rosa in 2015: "We found Santa Rosa Recycling and Collection to be exhibiting a high level of compliance."² SRRC's rates (and the rates charged in other cities served by SRRC's affiliated companies) for solid waste services are some of the lowest in Northern California. The average monthly price for 32 gallon curbside service in Northern California is \$31.86 and the monthly cost in Santa Rosa is \$16.83 – almost 50% less than the average³.

The May 17, 2016 "Final Report Review of Santa Rosa Recycling and Collection's Performance, Customer Rates and Diversion Rates" prepared by the regional firm of R3 Consulting Group presents a very different picture of SRRC that SRRC believes to be a misleading and incomplete picture.

Since China's implementation of "Operation Green Fence" in 2013, SRRC and its affiliated companies, along with the entire US recycling industry, have faced significant, nationwide, double-digit declines in exporting materials such as newsprint and glass. Lower market values for separated recycled material have driven down revenue while at the same time, rising contamination has increased processing costs and residual. This was compounded by a prolonged port strike in Oakland, California, that brought material sales to a virtual standstill. At the same time, a customer complaint directed to the local enforcement agency (LEA) was filed against SRRC's processing facilities on Standish Avenue. That filing triggered a full investigation where the 10% residual issue was uncovered and consequent action was taken. SRRC is fully engaged with CalRecycle, in cooperation with the LEA in Sonoma County, to resolve all of the regulatory issues. The regulatory issues have caused SRRC's affiliate to reduce certain recycling activities at its processing facility pending issuance of new permits. SRRC regrets the problem and is working tirelessly to correct the problem.

¹ See Ratto Group of Companies Sonoma County Survey January, 2016 and January 2015 prepared by Delphi Research (attached as Exhibits A and B)

² See MuniServices Exclusive and Debris Box Franchise Hauler Compliance and Fee Audit (attached as Exhibit C)

³ See 2015-2016 Solid Waste Rate Study - Draft prepared by Armanino (attached as Exhibit D). Note that the Armanino study is a draft. If there are any material changes in Armanino's final version, SRRC will provide the City with details.

SRRC is a local company with roots stretching back for over 40 years in Sonoma County. Just like the jurisdictions we serve, SRRC is growing and coming to grips with the complications that arise from our growth. It is inevitable that the relationship between SRRC and Santa Rosa will change over time. The bright line distinction between the MuniServices Audit and the R3 Report suggests that the change in our relationship could be for the worse – focused on hyper technical complaints and refusing to recognize the long history of cooperation and collegiality. But just as SRRC must improve to meet new challenges, Santa Rosa must honor its agreements with respect to providing SRRC an opportunity for comment before release of the R3 Report (see “History,” below) and its agreements with SRRC that are documented in the MuniServices Audit but ignored entirely in the R3 Report (see comments on Article 14, below).

SRRC looks forward to clarifying issues presented by R3, and welcomes the opportunity to work with the City in educating the public and constructing a service agreement that serves both parties while benefitting the citizens of Santa Rosa.

History

In 2014, the city of Santa Rosa hired MuniServices to conduct a Compliance and Fee Audit of Santa Rosa Recycling and Collection (SRRC) for the years 2011-2014. Finalized in January 2015, certified findings from that review found “Santa Rosa Recycling and Collections to be exhibiting a high level of compliance.” In late 2015, the City of Santa Rosa decided to obtain a 2nd review assessing SRRC’s performance in 2015. The cost for the MuniServices audit (completed January 2015) was \$31,142 and the cost of the R3 Audit (completed May 2016) was \$58,190.

When City officials notified SRRC in 2015 of their desire to conduct another audit, there was a discussion between senior SRRC managers and the City management from which agreement was reached on the scope of the new R3 audit. In particular, it was agreed that the 2016 audit would focus on the time that has passed since the conclusion of the MuniServices Audit so as to avoid a costly duplication of efforts. SRRC cooperated fully with R3 in its efforts to secure necessary information regarding the relevant audit period.

Based upon the agreed scope of the R3 Audit, SRRC provided R3 with all relevant information regarding the audit period. SRRC was surprised and disappointed to read in the R3 audit numerous allegations of SRRC withholding information from R3, virtually all of which pertained to information that was outside of the scope of the audit as explained by the City to SRRC. Since receiving a copy of the R3 Audit, SRRC is in the process of providing all of the requested information for time outside of the scope of the Audit. The repeated R3 comments regarding the unavailability of information without the explanation that the requested information was outside of the scope of the audit seems to SRRC to unfairly suggest that SRRC purposefully withheld information from R3 to which it was entitled. The fact is that SRRC has and will continue to provide all of the relevant information requested by Santa Rosa and its consultants.

R3’s agreement with the City states that on completion of their review, “R3 will present our preliminary findings to SRR&C for review. This step is undertaken to ensure that we have not misinterpreted any of the information that has been provided. Based on comments received from SRR&C we will make any

appropriate adjustments to our findings prior to presenting our Draft Report.”

SRRRC was presented preliminary findings on April 27, 2016 during a meeting between SRRRC’s General Manager, R3’s representatives and the Deputy City Manager of Santa Rosa. At that meeting, it was agreed that SRRRC would provide comments in response by May 30, 2016. However, on May 17, 2016, the Deputy City Manager forwarded R3’s Final Report to SRRRC absent of any SRRRC comments. The agreed upon opportunity to submit comments before a Final Report was issued had been eliminated. When contacted by SRRRC to inquire about this error in protocol and violation of the express terms of the R3 Agreement with the City, the Deputy City Manager offered that SRRRC could instead provide written comments on the Final Report in an agenda packet for a summer City Council meeting. Shortly thereafter, and again without inclusion or documentation of SRRRC comments, the same R3 Final Report was distributed the press, government staff and community stakeholders. This deviation from the original agreement was never discussed and resulted in an unbalanced summation of performance.

This Final Report lists possible compliance issues and offers observations on best practices. Regarding the compliance claims, SRRRC is reviewing R3’s methodology and findings, but preliminary review by SRRRC indicates incomplete conclusions within the report that could have been addressed had the City and R3 abided by the terms of their agreement.

Prior to the public circulation of R3’s report, SRRRC and the City agreed to give SRRRC until June 21, 2016 to submit comments on the Final Report. The City also indicated that both the R3 report and SRRRC’s response would be addressed at the July 12, 2016 City Council meeting. With a limited time to respond, SRRRC has been reaching out to R3 through a series of phone calls and emails, and is currently interfacing with the firm to review our mutual positions. We look forward to being aligned on the issues at the upcoming City Council meeting.

As discussed below, at length, where SRRRC agrees with R3’s conclusions, SRRRC acknowledges that it must improve its performance. But where R3 has incorrectly concluded that SRRRC is out of compliance, SRRRC is compelled to point out erroneous conclusions and correct the record.

SRRRC’s responses to seven (7) stated major findings

1. *Article 1.46 - Recyclable Materials*

Per the agreement, recyclable materials are defined as “Those materials which are capable of being recycled and which would otherwise be processed or disposed of as Residential Solid Waste or Commercial Solid Waste.” When there is a market for a material, it is *capable* of being recycled (capable is not the same as possible). The materials in question in R3’s report do not currently have a market.

The agreement also clearly states that recyclable materials "will be as defined by the City." This provision allows the City to respond to market conditions, enforce local ordinances (e.g. plastic bag ban), etc. The City did not provide a defined list at the ratification of the franchise agreement, and has not provided updated definitions of recyclable materials over the years to reflect market conditions or local

ordinances. In the franchise agreement, there is a list of possible items "currently being collected include" to provide a reference of the types of materials that could be considered recyclable. However, that list is not a definition, only a reference.

In the absence of defined material list, SRRRC consistently recycles incoming waste per the "recycling market" definition set forth by CalRecycle. Basically, if a material can be used to create a new product, it's recycled and then marketed. Due to the lack of markets for certain commodities, SRRRC is receiving items that are not considered "recyclable materials" per the agreement and are therefore categorized as garbage in the Blue Can. SRRRC will strive to better educate the public with expanded outreach and a sharing of information through our Customer Service Representatives. Under recent new leadership, SRRRC will also do a better job keeping City staff apprised to the situations and respectively discuss any contractual matters before moving forward with changes that could jeopardize contractual compliance. The message needs to be uniform, approved by the City and easy to understand because the recycling market remains fluid. Per the agreement, SRRRC is recycling those materials that are capable of being recycled. **SRRRC is not out of compliance on this issue.**

2. Article 5.01 - Minimum Diversion Requirements

In regards to R3's findings that SRRRC failed to meet the minimum diversion requirements specified in Article 5, R3 simply got it wrong. The 2013 and 2014 diversion numbers had already been reviewed and accepted by the City through the MuniServices audit filed in January 2015. R3 revisited the data that was analyzed by MuniServices and used incomplete data to create a new calculation sheet. The R3 numbers excluded recycled materials based on an apparent misunderstanding of contract terms and required services under the Franchise Agreement. SRRRC reached out to R3 to better understand their methodology for calculating diversion. There is ongoing dialogue with R3 to correct its diversion formula and to develop a contractually correct and mutually agreeable formula.

This issue could have been discussed and clarified prior to the release of the final report if responses to the preliminary report had been accepted before the release of a final draft. There may still be some disagreement on the calculation methodology; however, it is clear that SRRRC is not out of compliance on diversion figures for 2014 – that the conclusion of MuniServices that SRRRC was in compliance is correct. The entire diversion issue is extremely complicated especially when countywide materials are taken to the same facility for processing. SRRRC has hired a 2nd fulltime CPA to help guide this process and to add clarity to all diversion reports going forward.

As discussed above, the scope of review between the City of Santa Rosa and R3 was for the calendar year 2015. Annual diversion numbers are summarized after year-end, and submitted to the City in April of the following year. R3's report did not include the diversion numbers for 2015 that were 36%. This percentage is below the contractual requirement and should result in administrative charges. SRRRC distributed this report to the City of Santa Rosa in April 2016 per contractual obligations. **SRRRC is not out of compliance for 2013 and 2014.**

3. *Article 7.05 - Manner of Collection*

SRRC has done an excellent job collecting the City's trash, recycling and green waste. A recent 3rd party customer service survey indicated a satisfaction rate of **over 90%** among Santa Rosa customers. Santa Rosa residents enjoy some of the lowest rates in the Bay Area for garbage service, and considering the obstacles that automated routes face on a daily basis, the service has been stellar. There are many factors outside SRRC's control that contribute to cans being tipped over, open or located just beyond the 3 feet limit from the curb. R3's findings reflect that 85-99% of the carts are handled in a manner that is acceptable to the City. SRRC can improve on that percentage by increasing the number of Supervisors on the routes, providing more training and holding drivers accountable for reaching a higher performance percentage on outcomes they can control. At least 2 additional Supervisors will be needed to provide oversight. An Industry standard is approximately 1 Supervisor for every 12 routes.

SRRC agrees that the mix & match of some cans lacks the uniformity that one would expect in a city the size of Santa Rosa. There is no contractual obligation that all carts needed to be identical. SRRC could purchase all new carts for a more uniform presence, but decided the additional cost without a contractual obligation would just increase the cost to the customers in Santa Rosa. If the City desires to have uniform cans, this can be accomplished by amending the current agreement or adding it to a new contract with the proper mechanism for funding. SRRC would be happy to provide the economic impact of unifying all cans in the City.

SRRC has prioritized the economically efficient collection and processing of trash and recyclables and over the years has achieved high customer satisfaction and the lowest possible cost. The R3 audit appears to suggest that incurring higher costs for the sake of appearance will improve the collection system. SRRC does not believe that the cost of suggested changes will be justified but if the City desires to amend its agreements with SRRC to require the additional services suggested by R3, then SRRC would be agreeable to providing those additional services. **SRRC is not out of compliance on this issue.**

4. *Article 7.16.4 and 7.16.5 –Maximum Reuse & Recycling*

R3 states that there are diversion opportunities being missed within bulky item collections. Currently under the guidelines of the current Use Permit, SRRC is unable to dump out and sort the material at the Material Recovery Facility (MRF) for maximum reuse. Once SRRC secures a Facility Permit at 3417 Standish, such materials will be sorted through in a proper fashion that will increase diversion and reduce landfill items. SRRC has also expressed interest to the County convening a stakeholder's meeting to establish a more formal mattress-recycling program. **SRRC is out of compliance on maximum reuse and recycling, and is subject to administrative charges.**

5. *Articles 7.13.4, 8.03.5 and 9.04 - Materials Recovery Facility*

There is still some confusion regarding the Cease and Desist Order that was handed down by the Sonoma County Department of Health Services and CalRecycle in August 2015. The Company was and still is utilizing the facility at 3417 Standish in accordance with the *use permit* for that location. There is a CalRecycle provision that came in to affect after the use permit was issued. That provision requires

recycling facilities to maintain residuals (items put in the blue stream that cannot be recycled) under 10%. Once the residual number is above the 10%, CalRecycle, in conjunction with the Local Enforcement Agency (LEA), require a *solid waste facility permit* even though all activity fits within the *use permit* guidelines. Due to operational challenges and the continuing placement of solid waste in blue cans notwithstanding the efforts of SRRRC, SRRRC had no achievable path to reduce residuals below 10%, requiring the need for a facility permit (currently in progress). We expect the facility will be under permit within the year, removing the residual percentage standard. SRRRC is also seeking to hire an individual with prior MRF experience to manage the facility and in maintaining compliance and safety.

The agreement with the City requires SRRRC to deliver all of its Recyclable Materials to a legally permitted facility. 3417 was, and is, a legally permitted facility for receiving recyclable materials. Regarding the MRF, many improvements are in the works once the Facility Permit is issued and agreements are secured. **SRRRC is not out of compliance on this issue.**

6. *Article 14 - Collection Equipment*

SRRRC is substantially in compliance with the Franchise Agreement with respect to its collection and street sweeping vehicles. The MuniServices report acknowledges agreements between SRRRC and the City regarding the vehicle fleet. These agreements and the exchange of consideration (where SRRRC did not receive a refund of overpaid Franchise Fees) pertaining to the SRRRC fleet were not mentioned in the R3 audit. The City did not follow up on the MuniServices recommendation that contract amendments be developed to document agreements between the parties so the past practices of the parties and the MuniServices Audit are the key documentation of the agreements between SRRRC and Santa Rosa.

In its 2011-2014 Report, MuniServices found “all current systems to be at or above agreement standards.” The MuniServices report also confirmed the existence of a series of agreements and understandings between SRRRC and the City regarding the SRRRC fleet. The same report confirmed that a new fleet would “likely not be completed during the initial agreement term,” and recommended an addendum clarifying a collection vehicle strategy for the future.

SRRRC continues to pursue solutions independently (WrightSpeed) to address our fleet. The City, by accepting the MuniServices Audit, acknowledged the existence and legal consequence of the agreements and course of conduct of the parties and has not presented any recommendations for changes in fleet composition or maintenance to date. It is unfair to both Santa Rosa and SRRRC for R3 not to acknowledge in its Report the mutual agreements and exchange of consideration pertaining to the SRRRC fleet detailed in the certified MuniServices report.⁴ R3 should have acknowledged the status of the agreement between the parties as evidenced by the conduct of the parties over the years and the clear statements contained in the MuniServices Audit. Instead, R3 asserts without authority or factual basis that SRRRC is simply out of compliance. The MuniServices review of SRRRC’s collection vehicles,

⁴ See MuniServices Audit, pages 17 and 35, acknowledging understandings between Santa Rosa and SRRRC exchanging considerations for changes to vehicle requirements.

coupled with its documented understanding of how alternative vehicles would be addressed between the City and SRRC, clearly stated SRRC's compliance on this issue through December 2014.

For the calendar year 2015, which was the mutually agreed upon scope of R3's review, SRRC is substantially in compliance with the Franchise Agreement as set forth below with respect to its collection vehicles and is in compliance when the documented understandings between the City and SRRC are taken into consideration. It is also important to note that the fleet is in compliance with state and federal air quality emission standards and highway safety regulations.

The franchise agreement states that SRRC cannot use collection equipment greater than 10 years old. There are no collection vehicles greater than ten years old regularly servicing the City of Santa Rosa. **SRRC is not out of compliance on this issue.**

The franchise agreement also states that vehicles over five years old (or over 250,000 miles) must be a "rebuilt vehicle." Within the agreement, "rebuilt vehicle" is defined as "replacement of worn parts and reconditioning or replacement, as necessary, of hydraulic systems, transmissions, differentials, electric systems, engines and brake systems." SRRC has detailed repair and replacement logs for the collection vehicles serving the City of Santa Rosa, and has serviced vehicles as necessary per the agreement. **SRRC is not out of compliance on this issue.**

The franchise agreement further states, "In addition, the rebuilt vehicle must be repainted and tires must have at least eighty-five percent (85%) of tread remaining." There are currently 33 collection vehicles serving the City of Santa Rosa. 24 are more than 5 years old and have been rebuilt per the terms and definitions of the agreement. Some vehicles in the fleet have not been repainted because other than performing safety-related maintenance under "rebuilt vehicle" guidelines, SRRC has been in a holding pattern awaiting direction from the City regarding an alternative vehicle plan.

That said, the MuniServices audit found SRRC was in compliance with Article 14 of the Franchise Agreement, taking into account the understandings between SRRC and the City pertaining to vehicles. MuniServices stated "all current systems [pertaining to vehicle maintenance and contract compliance] at or above agreement standards." It is disappointing to SRRC that R3 neglected to even address the findings of MuniServices which confirm the existence of discussions affecting the terms of the Franchise Agreement. **SRRC is not out of compliance on this issue when the post Franchise Agreement MuniServices referenced revisions to Article 14 are taken into account.**

SRRC has hired a Maintenance Manager with a professional background and vast experience meeting compliance demands. SRRC feels comfortable that going forward, compliance issues with our fleet will be eliminated through proper management and oversight.

Over the past 7 months, SRRC has replaced 5 route trucks, 2 roll-offs and 3 street sweepers. With the environment and economic sustainability in mind, SRRC has been focused on the production of an electric truck being built exclusively for SRRC by Wright Speed. Based on production feedback, SRRC anticipated the truck would already be on the streets with other electric trucks to follow. SRRC believes

that while the electric truck will someday be part of our fleet, it doesn't appear likely to be completed anytime soon.

As a result, SRRC would like to focus efforts towards a fleet of Compressed Natural Gas (CNG) trucks. While CNG may be the environmentally superior alternative, CNG trucks require major infrastructure changes to accommodate a fuel island that allows for fast and slow fueling. This process won't happen overnight and would require the replacement of 30 Diesel trucks over time. SRRC looks forward to including a sustainable collection vehicle program in either new service contract with the City of Santa Rosa or during discussions within the RFP process.

7. Article 15.01.4 - Speed of Call Answer

In 2015, SRRC experienced a significant increase in call volumes due to service and rate changes. To manage the fluctuations in volume, SRRC contracted with Direct Line Call Center in Berkeley for all overflow calls. As a result of contracting with Direct Line, calls are being answered as obligated. Customers are not left on hold for long periods of time and call abandonment has decreased significantly. The new system has been thoroughly tested and is able to support the number of incoming calls in a sufficient manner. All calls that are directed to Berkeley are then relayed back to SRRC in an E-mail form and retrieved by a SRRC CSR. The CSR addresses the E-mail and responds to the customer during the same day or within 24 hours on a very busy call day when the company may record up to 1,500 inbound calls. Since implementing this new service in March 2016, SRRC hasn't received a single call service complaint and customers are happy. SRRC has brought in a new Customer Service Manager with a strong call center background to address any other issues and manage the current staff. **SRRC is not out of compliance on this issue.**

Other Findings

R3 purports to address the issue of comparative rates for solid waste services at Section 7.3 of its Report. Incredibly, the Report looks closely at rates charged by SRRC's affiliates in neighboring jurisdictions while failing to note the most obvious and important fact – that SRRC's rates are nearly 50% **LESS** than average rates in Northern California. SRRC provides Santa Rosa with just about the lowest garbage rates in the region. SRRC submits that this fact is more important than the color of its trucks or the lids on carts. Moreover, the cooperation between Santa Rosa and SRRC that was documented in the MuniServices Report demonstrates how SRRC is able to keep its rates low while meeting the important safety and recycling goals established by the Franchise Agreement. There is a history of common sense cooperation between Santa Rosa and SRRC that the R3 Report appears to challenge. Of course, there are areas where SRRC can and must improve. But it would be a mistake for Santa Rosa to elevate hyper-technical compliance with vague "industry standards" for issues that don't touch on safety or compliance with state law such that costs are increased for no material benefit for customers. With an over 90% customer approval rating and the lowest prices in Northern California, SRRC urges Santa Rosa to exercise its regulatory authority to maintain safety and legal compliance and to avoid excessive spending on the hyper-technical, non-core issues that R3 elevates by inclusion in its Report.

In addition to assessing potential compliance issues, R3 provided observations on SRRC's management, administration, IT systems and safety protocol. While in some areas SRRC performs above industry standards, SRRC agrees there is room for improvement. Prior to R3 being contacted and contracted by the City of Santa Rosa, SRRC was already implementing effective strategies to improve operations.

New leadership has been installed to address challenges, implement long-term solutions, enforce agreements and produce results.

A performance review is an important tool to initiate change and identify solutions. There is work to be done on many issues, whether they're contractual or not. SRRC can do better, and we will.

The Future

SRRC is a local, family-run business that must tackle new global market challenges along with ever-changing federal and state regulations. To function as a modern 21st century business, new models need to be explored where both costs and revenue are shared among stakeholders. To be successful, SRRC needs to incorporate consistent policies, long-term financial strategies, robust consumer education and innovative solutions. SRRC feels that under new management, those goals can be achieved and met relatively soon. SRRC is committed to improving the product out on the street and current management will do all they can to make that improvement a reality.

SRRC's vision moving forward is the best and highest use for every item discarded in Sonoma County, with a balanced focus on economic and environmental sustainability.

The facts are:

- Sonoma County has a 80% waste diversion goal by 2020
- California aims for 75% recycling, composting or source reduction of solid waste by 2020
- First-ever national food waste reduction goal, calling for a 50% reduction by 2030 in the U.S.
- Diversion is dependent on many factors and a shared responsibility among generators, service providers and government regulators
- Customers will have to pay for all disposal regardless of stream or service provider
- A local partner offers flexibility, resources and commitment to the communities they serve

With these facts in mind, SRRC is working to identify waste stream solutions that are market sound, cost effective and environmentally responsible for the City of Santa Rosa.