March 8, 2022

Honorable London Breed
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Honorable Bob Wieckowski
State Capitol, Room 4085
Sacramento, CA 95814

Rachel Wagner
Department of Resources Recycling and Recovery (CalRecycle)
P.O. Box 4025
Sacramento, CA 95812-4025

Honorable Rob Bonta
Attorney General's Office
California Department of Justice
Attn: Public Inquiry Unit
P.O. Box 944255
Sacramento, CA 94244-255

Honorable David Chiu
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

Re: Request For Investigation into San Francisco's Bottle Recycling Pilot For Misuse Of Public Funds And Malfeasance

Dear Mayor Breed, Senator Weickowski, Director Wagner, Attorney General Bonta, City Attorney Chiu,

We write to you with evidence of misuse of public funds and potential fraud upon the taxpayers.

The City of San Francisco and CalRecycle have paid consultants for a grocers' association more than $700,000 through August 2022 to create a mobile pilot project for CRV redemption that is not "mobile" and does not function. The only purpose appears be to relieve grocers of their legal obligation to redeem nickel and dime CRV deposits on bottles and cans. We ask you to do an audit of how this money and subsequent dollars were spent.

The $700,000 paid was strictly for consulting and separate and apart from grants made to purchase equipment, pay personnel, and for software development to run the so-called "SF BottleBank" project.

Invoices from consultants representing retailers and internal emails received by Consumer Watchdog under the Public Records Act show that the City began paying consultants Tom Wright, John Katovich and others in 2017 and the payments continued through August 2021. The funds came from CalRecycle and from San Francisco's city and county funds.

Tom Wright is President of the SF-CRV Convenience Alliance and John Katovich is Secretary to this Alliance. Members of the SF-CRV Convenience Alliance Board include Paul Knowles of the Rainbow Grocery Cooperative, Steve Gaines of The SaveMart, and Ron Lee of Safeway. Other stores participating in the Alliance are Costco, Whole Foods Market, Lucky's, and Trader Joe's. This Alliance trademarked the pilot name of BottleBank in May 2019. See: https://trademarks.justia.com/884/25/bottlebank-88425122.html

That year, the Alliance sent an email to Senator Wiener, author of SB 458, a successful piece of legislation authorizing cities and counties to initiate mobile recycling programs to make up for the lack of redemption centers. They described the SF-CRV Convenience Alliance as a California nonprofit.

"The Alliance was formed by a group of retailers to address the significant lack of any convenient solution for recycling bottles and cans in the City of San Francisco," they wrote. "Following its formation, the Alliance began to work with the City of San Francisco and with CalRecycle to determine how recycling centers might be created that can sustain themselves." In the letter, they indicated that CalRecyle grant money, authorized by legislation for CalRecycle grants to pay for pilots, was critical. "Based on our collective efforts in researching and budgeting, we now know that for such a pilot to be successful in SF, it will require a firm commitment of at least $3m [$3 million], and will need a full three-year period to prove that it can be successful and sustainable."

Legislation by Assembly Member Phil Ting, AB 54, offered up to $5 million to support pilot projects through FY 19/20 and 21/22 and allowed retailers out of their legal obligation to take back bottles and cans or pay a $100 per day fee once a pilot project serving convenience zones was operational. Once the SF Bottle Bank pilot was approved, 450 retailers – including members of the CRV Alliance – were let out of their legal obligations to take back bottles and cans.

On July 1st, 2021, Cal Recycle determined the Pilot Program operational. As of that date, all residents of San Francisco were denied over 450 options to return CRV beverage containers and to receive their deposits back. On that date, all stores were exempt from instore take back requirements and so were the approximately 70 stores selecting the "Opt Out" option of paying $3,000 per month ($210,000 total per month). The state was denied $2.7 million per year paid by San Francisco retailers.

This was a coup for the retailers that were part of the Alliance. However, the pilot project – so-called SF BottleBank – was not operational at all. From July 1st until January 5th, 2022 San Franciscans had only two options to return bottles and cans at redemption centers on the edge of town.

The "bottle bank" did not become operational until January 5th and is still not functional. It promised to serve zones all across San Francisco but consists of a truck parked in two different parking lots four hours a day for a total of 16 hours a week.

Where did the $700,000 and any monies paid after August to the consultants for the retailers go? It certainly did not create a functional program to replace more than 450 retail locations to redeem bottles and cans.

These two KGO Seven on Your Side stories reveal the way the Bottle Bank is severely limited and has not served consumers:
https://abc7news.com/sf-bottlebank-mobile-recycling-service-san-francisco-app/11556375/
https://abc7news.com/sf-bottlebank-mobile-recycling-service-san-francisco-app/11538522/

As consumers complained to KGO, the pilot is not at all conveniently located, especially for anyone without a car. It requires consumers to buy special blue plastic bags that are not stocked at stores, and the two current locations operate only 16 hours a week, mainly during times that consumers are at work and cannot use the services at all. Moreover, the purchase costs of the plastic bags for the bottle bank usage to consumers (.40 cents per bag) will deny consumers the value of 56 cans and bottles for each 8 pack of bags purchased. The pilot program has only set up a website listing numerous "future locations" where redemption service will be provided with no date for them to become functional.

"Today, the BottleBank program effectively relieves businesses of their collection obligations and financial penalties because there is now an operating, viable alternative for participants to recycle and redeem," the SF Department of the Environment announced. See:
https://sfrichmondreview.com/2021/12/22/press-release-sf-launches-new-recycling-program/

On the contrary, the system is not a viable alternative for consumers. The consultants for the retailers have lined their pockets with money taken to develop that alternative and, instead, only benefited their patrons who do not have to provide redemption opportunities at 452 locations.

The program was not designed to provide more convenience, but rather to get the members of the SF-CRV Alliance and all retail dealers in the City out of their recycling responsibilities. The misuse of public funds from Cal Recycle and the City to start a program, that does not have the ability to be self-sufficient after the initial grant funds run out, is an inappropriate use of public money.

The deviousness of this plot is unforgiveable. The failure to spend public funds for their desired public purpose should be investigated and prosecuted. We request an audit of how these funds were spent.

We also request that the City be ordered to produce within 90 days a written plan outlining how the pilot program will be financially sustainable through June 30, 2026--when State pilot program support ends-- without additional assistance from the City or CalRecycle-- or to close the program and reinstate all store requirements for instore redemption services and for payments from all stores opting out of recycling responsibilities.

Sincerely,

Jamie Court

Liza Tucker