



Mayor
Mark Tetterer

Mayor Pro Tem
Scott Voigts

Council Members
Doug Cirbo
Robert Pequeño
Benjamin Yu

City Manager
Debra DeBruhl Rose

September 10, 2024

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

Re: Talking Trash: Recyclables and Organic Waste

Dear Judge Hernandez,

The City of Lake Forest has reviewed the Orange County Grand Jury Report entitled, "Talking Trash: Recyclables and Organic Waste." The Lake Forest City Council reviewed and adopted the following responses to the findings and recommendations included in the report at its August 20, 2024, City Council Meeting.

Note: The original Grand Jury findings are repeated below in italics. The City's responses are in bold, with additional explanation and commentary in regular typeface. References to the "City" refer to the City of Lake Forest.

F1. The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereof.

The City lacks knowledge and information sufficient to reach this conclusion. The City does not know what other Orange County jurisdictions do regarding residential container requirements. The City can only comment on its own effort. The City currently complies with the Cal Recycle standardized colors for all residential containers under its current hauler agreement and will require its hauler to distribute new residential containers that meet the CalRecycle standardized colors under its new solid waste agreement effective July 1, 2025.

F2. *While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereof.

The City has not designated the task of imposing and collecting fines from residents to its hauler. Instead, fines for noncompliance will be managed by the City. The City has taken steps to include the proper regulation mechanisms in its current ordinance and in the two latest adopted hauler agreements for solid waste and recycling services. The City has initiated enforcement through inspections and data collection as specified in the City's ordinance.

F3. *All jurisdictions will eventually start collecting fines from residents for noncompliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.*

The respondent agrees with the finding.

For its part, the City has not yet determined where revenues from fines for noncompliance will go. The City currently has an Organics Waste Recycling Special Revenue Fund that is used to account for restricted revenues and expenditures for the purpose of organics waste recycling activities pursuant to SB 1383.

F4. *In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereof.

The City lacks knowledge and information sufficient to reach this conclusion. The City does not know what other Orange County jurisdictions do regarding this

finding and can only comment on its own effort. For its part, the City has implemented an education and outreach plan that goes beyond intermittent hard-copy paper mailings. The City has an ongoing educational campaign which includes extensive social media presence and engagement tracking. There will be several additional touchpoints prior to July 1, 2025, including new kitchen pail deliveries, letters to residents, bill inserts, videos, social media posts, and more.

- F5. *Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereof.

The City lacks knowledge and information sufficient to reach this conclusion. The City does not know what other Orange County jurisdictions do regarding this finding and can only comment on its own effort. It is unclear as what is meant by *accurately* determining the *effectiveness* of the cities' outreach and education efforts. The City has taken steps to educate members of the public about SB 1383 regulations and requirements and tracks diversion rates. However, the City is unable to comment on whether these metrics accurately determine the effectiveness of these outreach efforts and education. How is *effectiveness* defined? The City, for its part, has no way to measure whether residents understand the law and its applicability, or whether they are convinced of its wisdom from a policy perspective.

- F6. *There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereof.

The City lacks knowledge and information sufficient to reach this conclusion. Capacity planning for composting facilities is a County responsibility. The City continues to cooperate with and look to the County for leadership on this matter.

- F7. *There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereof.

The City lacks knowledge and information sufficient to reach this conclusion. The City does not have vehicles that run on RNG in its fleet.

- F8. *The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.*

The respondent agrees with the finding.

A jurisdiction's population density or geographic size (square miles) was not considered in the formula used by the State to calculate the procurement targets for a jurisdiction. This particular metric was developed with little consideration of the unique characteristics of each city.

- F9. *Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereof.

The City lacks knowledge and information sufficient to reach this conclusion. The City does not know what other Orange County jurisdictions do regarding progress towards SB 1383 deadlines. The City can only comment on its own effort. The City met its 2022 procurement target and is currently reviewing its 2023 procurement target. The City lacks information to determine if the state-wide seventy-five percent reduction target will be achieved by the 2025 deadline.

- F10. *The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.*

The respondent agrees with the finding.

The procurement requirements mandated by SB 1383 are unrealistic for the City. The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size. Since

the City has a greater population density for its geographic size, this has resulted in the mandating of unrealistic procurement requirements for the City.

Responses to Recommendations

- R1. All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.*

The recommendation has been implemented.

The City has amended its agreement with current waste hauler to update residential containers to comply with SB 1383 requirements. The hauler has distributed these containers to all residential locations. This recommendation for residential containers has been implemented.

- R2. By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.*

The recommendation has been implemented.

The City amended its solid waste agreement with the current hauler to comply with SB 1383 required tasks. The City's new waste and recycling services agreement shall begin on July 1, 2025, and also includes requirements to fully comply with SB 1383 and associated regulations. The City's hauler does not and will not collect fines on behalf of the City for noncompliance. That task will be managed by the City itself.

- R3. The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.*

The recommendations will not be implemented because it is not warranted or it is not reasonable, with an explanation, thereof.

Utilizing and setting up a fund for the collection of fines for non-compliance is a policy choice left to the City under its police power, and the Grand Jury is not justified in attempting to impose it on the City.

- R4. *By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.*

The recommendation has been implemented.

The City has implemented a robust education and outreach plan that goes beyond intermittent hard-copy paper mailings. The City's extensive educational campaign includes social media activity and engagement tracking. In 2023, the City utilized social media to disseminate 61 posts leading to over 127,000 "likes" and views. Additionally, the City attended HOA meetings and provided education and outreach at City events. The City also created a "How To" video for sorting waste.

- R5. *By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.*

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, thereof.

The City already tracks engagement related to the social media element of its educational campaign regarding waste and recycling. Additionally, the City tracks diversion numbers to cross reference them with social media engagement rates in order to assess the effectiveness of its educational campaign. The City also included several questions regarding SB 1383 compliance in its community satisfaction survey. While the City seeks to be proactive in reaching the public for general education and outreach efforts, instituting new efforts and tracking these efforts for one particular set of regulations would be a policy choice. This policy choice is left to the City under its police power, and the Grand Jury is not justified in attempting to impose it on the City.

- R6. *By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.*

The recommendation has been implemented.

The City participates in OCW&R efforts by procuring compost from the agency in order to meet procurement targets and creating a circular economy in the long term. The City continues to participate in these programs and would look to the County for ongoing leadership in these efforts.

- R7. *By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.*

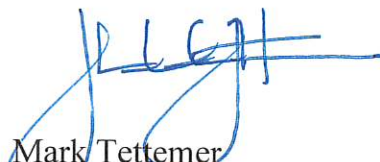
The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, thereof.

It is not reasonable to require the City to advocate or lobby on behalf of the County of Orange or other Orange County cities. The City may choose to be part of a multi-city coalition or group that advocates on this issue and may consider additional lobbying efforts as part of a review of its legislative program. However, this is a policy choice left to the City under its police power, and the Grand Jury is not justified in attempting to impose it on the City.

If you have any questions regarding this response, please reach out to the City Manager's office at (949) 461-3410.

Respectfully,

City of Lake Forest


Mark Tettemer
Mayor