



August 7, 2024

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

Re: Response to the 2023-2024 Orange County Grand Jury report, *Talking Trash: Recyclables and Organic Waste*

Dear Honorable Maria Hernandez:

In accordance with Sections 933 and 933.05 of the California Penal Code, this letter contains the City of Brea's responses to the Orange County Grand Jury report titled *Talking Trash: Recyclables and Organic Waste*. The responses address Findings F1 through F10 and Recommendations R1 through R7 as requested by the Orange County Grand Jury.

RESPONSES TO FINDINGS:

- 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.**

Response: The City of Brea does not have sufficient information about other Orange County jurisdictions to agree or disagree with this finding.

Comment: The City of Brea can respond definitively only with respect to its situation. Not all residential containers in Brea's territory meet CalRecycle's standardized colors. However, the City is not required to replace functional containers that do not comply with the color requirements under SB 1383 prior to the end of their useful life, or prior to January 1, 2036, whichever comes first. In addition, the franchise waste hauler is currently providing residents with SB 1383-compliant containers if a request for an exchange or delivery is made (i.e., if a container is damaged). Otherwise, until current containers have reached the end of their useful life or the transition deadline is reached, the City and hauler anticipate providing residents with a new container label (sticker) to inform residents of the proper streams to sort and dispose of materials.

- 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.

Response: The City of Brea does not have sufficient information about other Orange County jurisdictions to agree or disagree agree with this finding.

Comment: The City of Brea can respond definitively only with respect to its situation. Both the City and the franchise waste hauler may issue and collect fines from residents and businesses depending on the violation. Fines issued by the City will be retained by the City, and fines issued by the hauler will be retained by the hauler.

- 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.**

Response: The City of Brea does not have sufficient information about other Orange County jurisdictions to agree or disagree agree with this finding.

Comment: The City of Brea anticipates any fines it collects from residents for noncompliance will go into a waste and recycling enterprise fund to assist with SB 1383 compliance activities.

- 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.**

Response: The City of Brea does not have sufficient information about other Orange County jurisdictions to agree or disagree agree with this finding.

Comment: The City of Brea can respond definitively only with respect to its situation. The City and the franchise waste hauler utilize hard-copy paper mailings for important notifications as a way to track how many residents and businesses are receiving education and outreach materials. The City and the hauler also provide education and outreach via attendance to community events, site visits, phone calls, emails, social media, flyer distribution, and ensuring webpages are updated.

- 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.**

Response: The City of Brea does not have sufficient information about other Orange County jurisdictions to agree or disagree agree with this finding.

Comment: The City of Brea can respond definitively only with respect to its situation. The City's efforts to determine the effectiveness of education and outreach efforts include inspections or audits, as well as communication or feedback from community members when there are interactions between them and City or hauler staff. This opportunity allows residents and businesses to inquire, confirm, or request additional assistance with their recycling practices at their property.

- 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.**

Response: The City of Brea agrees with this finding.

Comment: Although there are composting facilities in Orange County, the City of Brea believes there are insufficient options to ensure all organic waste is processed in Orange County. This leads to transporting materials over long distances for processing.

- 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.**

Response: The City of Brea agrees with this finding.

Comment: The City of Brea agrees there is a lack of infrastructure for obtaining RNG for vehicles to utilize that would count towards the procurement requirement.

- 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.**

Response: The City of Brea agrees with this finding.

Comment: The City of Brea recognizes that fulfilling its procurement target requires additional assistance to meet future needs should the State continue to utilize the current calculation.

- 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.**

Response: The City of Brea agrees with this finding.

Comment: The City of Brea recognizes that continued development in Orange County will require additional assistance from the County and/or the State to meet the required seventy-five percent reduction of organic waste sent to landfills by 2025.

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

Response: The City of Brea agrees with this finding.

Comment: The City of Brea considers the procurement target to be unrealistic and probably unachievable. The City requires additional assistance from the County and/or State to meet these needs should the State continue to utilize the current calculation.

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.**

Response: The recommendation has not yet been implemented, but will be implemented in the future.

Explanation: The City of Brea would support expedited acquisition and distribution of residential containers that meet CalRecycle's standardized colors. The City believes in order to fully expedite the acquisition and distribution of SB 1383 compliant containers state-wide, the State needs to take a more active role in supporting jurisdictions to meet this requirement primarily through providing financial support and/or incentives. In the interim, until additional State support is provided, the City will work with its franchise waste hauler to provide labels for non-compliant containers that explain SB 1383 requirements.

Implementation Schedule: Implementation in Brea will depend upon the execution of an amended and restated franchise agreement. At this time the City anticipates negotiations will conclude and a new franchise agreement will be

executed by the end of 2024. At that point SB 1383 compliant labels will begin to be distributed and placed on containers.

- 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.**

Response: The recommendation has not yet been implemented, but will be implemented in the future.

Explanation: The City of Brea agrees that the waste hauling agreement should be in compliance with State statute. The City is in the process of finalizing an amended and restated franchise waste hauling agreement to ensure complete compliance with SB 1383. With respect to fines, some fines issued by a hauler may be due to contamination and are required to account for the additional cost of recovering contaminated debris and ensuring proper disposal. In these instances, the fines collected for contamination should be allocated to the hauler because it incurs the additional cost for collection and disposal. The City believes the State needs to update the current regulations to provide clarification to jurisdictions with regard to the imposition and collection of fines associated with SB 1383 noncompliance.

Implementation Schedule: Implementation in Brea will depend upon the approval of an amended and restated franchise agreement. At this time the City anticipates negotiations will conclude and a new franchise agreement will be executed by the end of 2024.

- 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.**

Response:
The recommendation has been implemented.

Summary: The City anticipates any fines collected from residents for noncompliance will go into a waste and recycling enterprise fund to assist with SB 1383 compliance activities. The City has already established a dedicated Sanitation Fund for these activities.

- 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.**

Response: The recommendation has been implemented.

Summary: The City of Brea utilizes a diverse method of providing education and outreach to the community via mailings, notices, guides, flyers, newsletters, in-person visits to neighborhood groups/HOA's, websites/social media, and community events. The franchise waste hauler provides additional assistance and support for the City's outreach and education efforts.

- 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.**

Response: The recommendation has not yet been implemented, but will be implemented in the future.

Explanation: Some methods to gauge the effectiveness of the City's education and outreach efforts may be difficult due to staffing/costs/time, such as the door-to-door polling. The City will continue to research and utilize innovative ways to inform the public about SB 1383 programs.

Implementation Schedule: The City of Brea already conducts education and outreach activities, but anticipates implementing additional outreach methods in 2025 once the amended and restated franchise waste hauler agreement has been executed.

- 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.**

Response: The recommendation has been implemented, with a summary regarding the implemented action.

Summary: The City of Brea utilizes OCW&R for waste disposal and organics procurement. City staff meet on a quarterly basis with OCW&R and other Orange County jurisdictions to discuss SB 1383 implementation and outreach efforts. The City will continue to coordinate with the County to work towards SB 1383's goals.

- 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**

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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.

Response:

The recommendation has not yet been implemented, but will be implemented in the future.

Explanation: The City of Brea agrees that the County and all Orange County jurisdictions should continue their efforts to revise the organic waste diversion targets, procurement requirements, and associated enforcement actions by the State.

Implementation Schedule: The City of Brea anticipates coordinating and discussing with the County and other Orange County jurisdictions on how to best approach this by December 31, 2024. In addition, the City believes these efforts should be coordinated at the county level.

The City of Brea values the Grand Jury's report, *Talking Trash: Recyclables and Organic Waste* and appreciates the opportunity to provide responses to the report. Should you have additional questions, please contact me at (714) 990-7711 or by email at billga@cityofbrea.net.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Gallardo", with a long horizontal line extending to the right.

Bill Gallardo
City Manager
City of Brea

cc: Orange County Grand Jury