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September 10, 2024

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

RE: City of San Juan Capistrano Response to Orange County Grand Jury Report Entitled: "Talking Trash: Recyclables and Organic Waste."

Dear Honorable Judge Hernandez:

Please accept this letter as the City of San Juan Capistrano's response to the applicable findings and recommendations in the Grand Jury's report entitled "Talking Trash: Recyclables and Organic Waste." The City was requested to respond to all Findings F1 through F10, and all Recommendations R1 through R7. The City's responses to the findings and recommendations are listed below.

FINDINGS F1 THROUGH F10:

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.*

City Response: The City lacks knowledge and information regarding other cities' waste hauler operations and franchise agreements sufficient to reach this conclusion.

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.*

City Response: The City lacks knowledge and information regarding other cities' financial practices sufficient to reach this conclusion.

F3 *All jurisdictions will eventually start collecting fines from residents for non-compliance, 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.*

City Response: The City lacks knowledge and information regarding other cities' financial practices sufficient to reach this conclusion.

- 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.*

City Response: The City lacks knowledge and information regarding other cities' outreach programs sufficient to reach this conclusion.

- 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.*

City Response: The City lacks knowledge and information regarding other cities' education programs sufficient to reach this conclusion.

- 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.*

City Response: The City agrees with the finding.

- 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.*

City Response: The City agrees with the finding.

- 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.*

City Response: The City agrees with the finding.

- 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.*

City Response: The City lacks knowledge and information regarding other cities' operations sufficient to reach this conclusion.

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

City Response: The City lacks knowledge and information regarding other cities' procurement practices sufficient to reach this conclusion.

RECOMMENDATIONS R1 THROUGH R7:

- R1 *All jurisdiction 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 for labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 20, 2025.*

City Response: This recommendation has been implemented. The City's Franchise Hauler Agreement effective July 1, 2020, Exhibit I Container/Bin Specifications requires the contractor to provide carts in colors and labeling that meet SB 1383 regulatory requirements. Labeling in English and Spanish was completed in 2020 and any new containers are being transitioned to the SB 1383 color regulations with all containers transitioning by January 1, 2036, to comply with SB 1383.

- 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.*

City Response: This recommendation has been implemented. The City entered into a new Franchise Agreement on July 1, 2020, that addresses all state regulatory requirements. The agreement does include administrative, legislative and regulatory compliance payments.

- 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 23, 2024.*

City Response: This recommendation is not warranted. The City is committed to SB 1383 compliance, and the hallmark of the City's approach toward compliance is community education. This emphasis on community education frequently results in changed behavior by violators without needing to issue fines or citations. The City has found this program to be highly effective. The small amount of citation funds generated by the education-based approach does not warrant the establishment of an enterprise fund.

- 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.*

City Response: This recommendation has been implemented. The City and franchise hauler actively engage in various media for education and outreach strategies. The Franchise Hauler Agreement Exhibit H Community Outreach and Education Plan also outlines the community outreach and education plan.

- R5 *By December 31, 2024, 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.

City Response: This recommendation is being implemented through surveys distributed to businesses in San Juan Capistrano. For residential customers, City staff have engaged in direct one-to-one outreach at various public events. The Franchise Hauler Agreement Exhibit H: Community Outreach and Education Plan, provides a tracking record and monitoring of services to assure engagement with residents and the City's Recycling Consultant is also engaged in direct contact with businesses to ensure awareness with SB 1383 requirements.

- 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.*

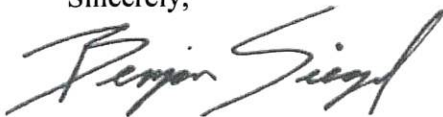
City Response: This recommendation has been implemented. The City actively engages with OCWR on various activities and meetings. The City has a pilot program with OCWR Greeneries to accept stable product for composting, attends the Recycling Coordinator meetings, has an agreement with OCWR for procurement of compost & mulch from the Greeneries, advertises OCWR events, is one of three host landfill cities, and is a party to the County Waste Disposal Agreement (WDA), among other activities.

- 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.*

City Response: This recommendation has been implemented. The City is a participating member of several regional groups that lobby CalRecycle and State Legislature such as Cal Cities, Association of California Cities – Orange County, California Resource Recovery Association, and other active waste recycling groups that seek to revise elements of SB 1383 to better reflect local factors.

Thank you for the opportunity to respond to the Grand Jury report. If you have any questions, please feel free to contact me at (949) 443-6314.

Sincerely,



Benjamin Siegel
City Manager

cc: Orange County Grand Jury, 700 Civic Center Drive West, Santa Ana, CA 92701
San Juan Capistrano City Council