



## MEMORANDUM

**TO:** City Council

**FROM:** Bill Robeson, Assistant City Manager/Public Works Director  
Nicole Valentine, Administrative Services Director

**BY:** Ron Simpson, Public Works Manager  
Lynda Horejsi, Accounting Manager

**SUBJECT:** Consideration of adoption of a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383

**DATE:** April 26, 2022

---

### **SUMMARY OF ACTION:**

Adopt a Resolution creating a Recovered Organic Waste Products Procurement Policy (Policy) as required by Senate Bill (SB) 1383.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

The fiscal impact of the proposed Policy is currently unknown but is estimated to be significant. The estimated cost for procurement of recovered organic waste product(s) required to meet the City's SB 1383 requirements is between \$21,000 and \$129,900. There will be significant staff time required for the procurement of recovered organic waste products and recycled-content paper and paper products, use/application of the recovered organic waste products, and the record keeping and tracking requirements.

### **RECOMMENDATION:**

Adopt a Resolution creating a Recovered Organic Waste Products Procurement Policy as required by Senate Bill 1383.

### **BACKGROUND:**

SB 1383 was signed into law on September 19, 2016, to require a reduction of organic waste disposal to landfills from 2014 levels by 75% and increase edible food recovery by 20% by 2025. SB 1383 is the most significant waste reduction mandate to be adopted by the State of California in the last 30 years.

At the November 9, 2021 City Council meeting, the Council adopted an ordinance adding Mandatory Organic Waste Disposal Reduction and SB 1383 CalGreen Recycling and

**City Council**

**Consideration of adoption of a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383**

**April 26, 2022**

**Page 2**

Model Water Efficient Landscaping Ordinance Requirements to the Arroyo Grande Municipal Code (AGMC) in order to comply with the requirements of SB 1383. The City must now adopt a Recovered Organic Waste Product Procurement Policy to implement a portion of the requirements imposed by SB 1383. The City is already required to procure paper products, and printing and writing paper, consistent with the requirements of Sections 22150-22154 of the Public Contract Code. The new SB 1383 regulation adds to that requirement, and includes provisions for record keeping and reporting. The proposed City policy is a modified version of one that was prepared by the Integrated Waste Management Authority's consultant, HF&H, for use by cities in San Luis Obispo County and contains provisions necessary to comply with the new CalRecycle regulations. HF&H had previously been retained by CalRecycle to develop Statewide SB 1383 model documents, including franchise agreements, enforcement ordinances and procurement policies for organic waste products and paper products.

**ANALYSIS OF ISSUES:**

The SB 1383 regulations define two different types of procurement that the City is required to implement: the procurement of organic waste products and the purchase of recycled-content paper.

*Organic Waste Products*

Organic waste products are defined by the regulations as certain products that are made from organic waste that is diverted from the landfill. This can include compost, mulch, Renewable Natural Gas (RNG), energy, and other products made at organic waste facilities. This definition does not include mulch made from trees that were trimmed or removed and chipped onsite.

CalRecycle's SB 1383 regulations require the City to procure a prescribed quantity of recovered organic waste products to meet an annual procurement target based on population: 0.08 tons of organic waste per resident per year. CalRecycle will annually provide the City with its procurement target, which is recalculated every 5 years. CalRecycle has notified the City that the annual procurement target through December 2026 is 1,442.6 tons of organic waste products. The table below displays the procurement target calculations, details each qualifying organic waste product type, and the amount of each type needed annually based on meeting the procurement target using only one type of recovered organic waste product.

**City Council**

**Consideration of adoption of a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383**

**April 26, 2022**

**Page 3**

<b>Arroyo Grande Population (based on 2020 census)</b>				<b>18,033</b>
<b>Per Capita Procurement Target</b>				<b>0.08</b>
<b>Annual Recovered Organic Waste Product Procurement Target</b>				<b>1,442.6</b>
<b>Recovered Organic Waste Product</b>	<b>One Ton Equivalent</b>	<b>Quantity Procured Annually</b>	<b>Quantity Procured Monthly</b>	<b>Unit</b>
Renewable Gas in the form of Transportation Fuel	21	30,295.4	2,524.6	DGE
Electricity from Renewable Gas	242	349,118.9	29,093.2	kWh
Heat from Renewable Gas	22	31,738.1	2,644.8	therms
Electricity from Biomass Conversion	650	937,716.0	78,143.0	kWh
Compost (tons)	0.58	836.7	69.7	tons
Compost (cubic yards)	1.45	2,091.8	174.3	cubic yards
Mulch	1	1,442.6	120.2	tons

While the procurement requirements are considerable, SB 1383 allows the City to meet the procurement target through a combination of recovered organic waste products. The City does not need to buy or use the organics products itself to meet this requirement. The City may contractually designate a public or private entity as a direct service provider (DSP) to meet the procurement obligation on behalf of the City. The City may also acquire recovered organic waste products through free distribution by a contractor and the City may provide procured organic waste products to residents in events such as compost/mulch giveaways.

In order to meet the procurement requirements, the City will need to determine what type or types of products are available and the amount of each type of product feasible for acquisitions and use.

*Transportation fuel.* The City does not have a fleet of vehicles that can meet this requirement via fuels and does not have access to RNG produced from organic waste.

*Energy from renewable gas.* The City does not currently have access to electricity or heat derived from renewable gas or biomass conversion. The City could explore the availability of opportunities for procurement of electricity from organic waste products with community partners, including PG&E, Kompogas SLO and, Central Coast Community Energy.

*Compost.* Currently, the Public Work’s Department utilizes a few cubic yards of compost per year. In order to reach the procurement goal, the City would need to utilize and/or make available for residential giveaways a significantly larger amount of compost. The compost currently used may or may not be SB 1383 compliant. SB 1383 eligible compost must be produced at a compostable material handling operation or facility permitted or authorized under 14 CCR Chapter 3.1 of Division 7 or produced at a large volume in-vessel digestion facility that composts on-site as defined and permitted under 14 CCR Chapter 3.2 of Division 7 and meet the State’s composting operations regulatory

## City Council

### Consideration of adoption of a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383

April 26, 2022

Page 4

requirements. The City can explore DSP agreements or look at the possibility of an organic waste flow agreement with a composting facility to secure the required amount of compost at a discounted rate. Researching local costs for eligible compost and utilizing estimates that other jurisdictions have provided, procurement of compost could cost the City between \$10-\$30 per cubic yard of compost, for an annual cost of between \$21,000 to \$62,800.

*Mulch.* Like compost, the Public Works Department utilizes a few cubic yards of mulch annually. A substantially larger amount of mulch would need to be utilized and/or made available for residential giveaways. The mulch currently used may or may not be SB 1383 compliant. Mulch is only SB 1383 eligible if produced at: (i) a compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10); (ii) a transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or (iii) a solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2. As noted above with regard to compost, the City can explore DSP agreements or look at the possibility of an organic waste flow agreement with an eligible facility to secure the required amount of mulch at a discounted rate. Researching local costs for eligible mulch and utilizing estimates that other jurisdictions have provided, procurement of mulch could cost could cost the City between \$30-\$90 per ton of mulch, for an annual cost of between \$43,300 to \$129,900.

Staff is currently gathering data needed to benchmark use of compliant recycled organic waste products. Developing a program that both meets the City's recovered organic waste product annual procurement target and uses the material will be challenging. Compost and mulch are currently the most readily available types of recovered organic waste products and are already in use by the City. While the City may enter into purchase agreements to procure the required tons of compost and/or mulch, the procurement target is anticipated to far exceed what is used and needed by the City. Additionally, only eligible product can be procured to count towards the procurement target. Key considerations with compost and mulch options are the current use by City departments, procurement of eligible product(s), capacity for use on managed lands, capacity and location for storage of the compost/mulch, maintenance and security of the stored product(s), and the ultimate end use of the product(s).

Staff is also looking at what, if any, partnership opportunities are available to allow the City to meet its procurement target in an environmentally and fiscally sustainable way. Staff will work with South County Sanitary and Cold Canyon Landfill to look at options to obtain organic waste products that meet the SB 1383 procurement requirement. This may include providing a specified quantity of product(s) to the City and to residents through

**Item 8.b.**

## City Council

### Consideration of adoption of a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383

April 26, 2022

Page 5

giveaways. These types or arrangements with franchise waste haulers and landfills are being negotiated locally in franchise agreement amendments and statewide.

Should procurement requirements be met through compost and/or mulch, City staff will be required to keep detailed procurement records including:

- Dates product received
- How and where the product was used and applied
- Type, quantity and source of product
- Proof of purchase or acquisition
- Copy of enforceable mechanism (for mulch)
- Copy of agreement with DSP which includes definitions and specifications of the type of product and an enforcement mechanism for non-compliance with SB 1383 requirements.

While staff time is currently unknown, it is anticipated to be 5-10 hours weekly both for the procurement and use/application/giveaway of organic waste products as well as the recordkeeping requirements for the product use/application.

Staff will continue to assess all options to comply with the procurement requirement, including the procurement of both mulch and compost.

#### Recycled-content Paper and Paper Products

SB 1383 regulations also require all City departments that purchase paper and paper products, including writing and copying paper and janitorial supplies such as tissue and paper towels, to procure 30% postconsumer recycled-content products that are also recyclable. The City must also require businesses providing the paper products to the City to certify in writing to the percentage of post-consumer recycled material in the purchased product(s) and that the products are eligible to be labeled with an unqualified recyclable label. The City may waive the certification if the required information is provided on the product label or through the vendor's catalog, invoice or website.

To meet the SB 1383 regulations, the City's proposed policy includes a requirement that recycled paper and paper products be purchased where the fitness and quality are equal to non-recycled-content paper and paper products and the price is equal or less than non-recycled items. The proposed policy also includes record keeping responsibilities to track the purchase of recycled-content paper and paper products.

Given the SB 1383 requirements, and that purchasing is decentralized in the City, this is an added burden across all departments and divisions. All purchasers must now:

- Research the cost, fitness and recycled-content of all paper and paper products before purchase

**Item 8.b.**

## City Council

### Consideration of adoption of a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383

April 26, 2022

Page 6

- Document each product purchased including copies of the invoice or receipt, required certifications for recycled-content and recyclability or other verification of recycled-content, date purchased, quantity purchased, and recycled-content (including products that contain none)
- Include any justification for why a product was purchased that did not meet the recycled-content requirements or did not include the verification for recyclability
- Upload all documentation to a document repository within 30 days of purchase
- Request vendors providing printing services use best efforts to use paper meeting the SB 1383 recycled-content requirements

While the actual staff time required for compliance with the purchase of recycled-content paper and paper products is unknown, it is currently estimated that it will take roughly 5-10 hours weekly of staff time citywide based on the number of purchasers and products purchased throughout the City.

#### Recordkeeping

All documents supporting compliance with the recovered organic waste product purchases must be kept as part of the implementation record and provided to CalRecycle upon request. The Administrative Services Department is responsible for tracking the procurement of recycled content paper and paper products and recovered organic waste products, to ensure all required documentation has been collected, collated, maintained and provided to the Integrated Waste Management Authority monthly for compilation of the annual report on the City's procurement of recovered organic waste products and recycled-content paper and paper products.

The attached Resolution includes the proposed Recovered Organic Waste Product Procurement Policy that will enable the City to satisfy a portion of SB 1383's requirements.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Adopt a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383;
2. Modify and adopt a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383; or
3. Provide other direction to staff.

#### **ADVANTAGES:**

Adoption of the proposed Resolution and Policy will enable the City to comply with a portion of the requirements of SB 1383 related to organic waste product procurement. Timely compliance with SB 1383 will ensure that the City is working to meet the requirement of reducing organic waste disposal to landfills by 75% from 2014 levels by 2025.

**Item 8.b.**

**City Council**

**Consideration of adoption of a Resolution Creating a Recovered Organic Waste Product Procurement Policy as required by Senate Bill 1383**

**April 26, 2022**

**Page 7**

**DISADVANTAGES:**

Failure to approve the required Recovered Organic Waste Product Procurement Policy could subject the City to penalties imposed by CalRecycle, which can be up to \$10,000 per day. The estimated cost for procurement of recovered organic waste product(s) required to meet the City's SB 1383 requirements is between \$21,000 and \$129,900. There will be significant staff time required for the procurement of recovered organic waste products and recycled-content paper and paper products, use/application of the recovered organic waste products, and record keeping and tracking requirements.

**ENVIRONMENTAL REVIEW:**

No environmental review is required for this item.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

Attachments:

1. Proposed Resolution