



CITY COUNCIL AGENDA REPORT

Meeting Date: September 23, 2021

From: Director of Public Works/City Engineer

Subject: Ordinance 664 – Recovered Organic Waste Procurement

Community Goal/Result

Ecological Sustainability - Brisbane will be a leader in setting policies and practicing service delivery innovations that promote ecological sustainability

Purpose

To revise the Brisbane Municipal Code (BMC) so that the City is in full compliance with state recycling laws.

Recommendation

Introduce Ordinance No. 664, waiving first reading, adding Chapter 3.13 “Recovered Organic Waste and Recycled-Content Paper Procurement Policy” to the Brisbane Municipal Code.

Background

The language in the next two paragraphs and the numbered list is copied verbatim from the July 15, 2021 staff report to City Council on “Preview of SB 1383 Requirements”.

SB 1383 (Lara, 2016) is a prescriptive organic waste reduction mandate intended to reduce short-lived climate pollutants (primarily methane) that are produced from the degradation of organics in landfills. While the prescriptive nature of this law provides less leeway in the actions cities may take, it is generally seen as an improvement over AB 939 (California Integrated Waste Management Act, Sher, 1989), which simply mandated that cities reduce their diversion of solid waste to landfills by 50 percent.

There is an exceptionally detailed presentation provided by the California Department of Resources Recycling and Recovery (“CalRecycle”) attached to this report for the interested reader. In simplest terms, the efforts required of the city and its solid waste franchisees are as follows:

1. Provide organic collection to ALL residents and businesses
2. Participate in an edible food recovery program
3. Conduct education and outreach
4. Procure recyclable and recovered organic products
5. Monitor compliance and conduct enforcement

Items 1-3 and 5 above will be met through the adoption of Ordinance 663, which is also on the Council’s agenda for this date.

The specific requirements of item 4 include the procurement of recovered organic waste (e.g., specified mulch products, renewable gas, and electricity procured from biomass conversion) and the purchase of recycled content paper products.

CalRecycle will establish targets for procurement (or giveaway) of recovered organic waste products for each city and county. Brisbane is anticipated to meet all of its target through the credit we receive for South San Francisco Scavenger Company’s bioconversion of the city’s “green barrel” (food scraps, solid paper and yard waste) solid waste collection into renewable compressed natural gas (RNG).

Discussion

Ordinance 664 was drafted following a template provided by CalRecycle. The language therein reflects the requirements found in multiple Assembly and Senate bills and acts, and as such, the city has little discretion in deciding whether to adopt these requirements.

Fiscal Impact


There is no anticipated impact to the city or its residents as a result of implementing this ordinance. As noted, the city already benefits from the conversion of green barrel waste to RNG. Additionally, the city’s Climate Action Plan includes the practice of purchasing recycled content paper products, and BMC §3.12.070 G includes the same cost premium preference for sustainable purchases that is referenced in ordinance 664.

Attachments


1. Ordinance No. 664

Measure of Success

The City’s complete compliance with SB 1383, with the associated end result of a reduction in landfill methane production.



Randy L. Breault, Public Works Director



Clayton L. Holstine, City Manager

ORDINANCE NO. 664

**AN ORDINANCE OF THE CITY OF BRISBANE
ADDING CHAPTER 3.13 TO THE MUNICIPAL CODE
PERTAINING TO RECOVERED ORGANIC WASTE AND
RECYCLED-CONTENT PAPER PROCUREMENT POLICY**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Chapter 3.13 is hereby added to Title 3 of the Municipal Code:

§3.13.010 - Purpose and Findings

- A. It is the policy of the City, applicable to all departments and divisions, to incorporate environmental considerations including recycled-content and recovered Organic Waste product use into purchasing practices and procurement. This Recovered Organic Waste Product Procurement Policy (Policy) will help the City to:
1. Protect and conserve natural resources, water, and energy;
 2. Minimize the City's contribution to climate change, pollution, and solid waste disposal; and,
 3. Comply with State requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383 procurement regulations) to procure a specified amount of Recovered Organic Waste Products to support Organic Waste disposal reduction targets and markets for products made from recycled and recovered Organic Waste materials, and to purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper.
- B. The procedures for the purchase of Recovered Organic Waste Products and Recycled-Content Paper Products shall comply fully with the requirements specified in Chapter 3.12 of the Brisbane Municipal Code.

§3.13.020 – Definitions

- A. "Annual Recovered Organic Waste Product Procurement Target" means the amount of Organic Waste in the form of a Recovered Organic Waste Product that the City is required to procure annually under 14 CCR Section 18993.1. This target shall be calculated by multiplying the per capita procurement target, which shall be 0.08 tons of Organic Waste per California resident per year, times the City's residential population using the most recent annual data reported by the California Department of Finance. Annually, CalRecycle will provide notice to each City of its Annual

Recovered Organic Waste Product Procurement Target by posting such information on CalRecycle's website and providing written notice directly to the City.

- B. "City" means the City of Brisbane.
- C. "City Enforcement Officer" means any city employee or employee of a contracting agency, including the county, or any agent of the city, having the authority to enforce any applicable law.
- D. "Compost" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility or as otherwise defined in 14 CCR Section 17896.2(a)(4).

Compost eligible for meeting the Annual Recovered Organic Waste Product Procurement Target 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. Compost shall meet the State's composting operations regulatory requirements.

- E. "Direct Service Provider" means a person, company, agency, district, or other entity that provides a service or services to City pursuant to a contract or other written agreement or as otherwise defined in 14 CCR Section 18982(a)(17).
- F. "Electricity Procured from Biomass Conversion" means electricity generated from biomass facilities that convert recovered Organic Waste, such as wood and prunings from the municipal stream, into electricity. Electricity procured from a biomass conversion facility may only count toward the City's Annual Recovered Organic Waste Product Procurement Target if the facility receives feedstock directly from certain permitted or authorized compostable material handling operations or facilities, transfer/processing operations or facilities, or landfills, as described in 14 CCR Section 18993.1(i).
- G. "Organic Waste" means solid wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, yard trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing And Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.
- H. "Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).
- I. "Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other

uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).

- J. "Procurement of Recovered Organic Waste Products" shall mean purchase or acquisition (e.g., free delivery or free distribution from a hauler or other entity via a written agreement or contract), and end use by the City or others. The City's Annual Recovered Organic Waste Product Procurement Target can be fulfilled directly by the City or by Direct Service Providers through written contracts or agreements for Procurement of Recovered Organic Waste Products at the City's behest.
- K. "Publicly-Owned Treatment Works" or "POTW" has the same meaning as in Section 403.3(r) of Title 40 of the Code of Federal Regulations.
- L. "Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed at a permitted or otherwise authorized operation or facility, or as otherwise defined in 14 CCR Section 18982(a)(60). Products that can be used to meet the Annual Recovered Organic Waste Product Procurement Target shall include Compost, SB 1383 Eligible Mulch, Renewable Gas from an in-vessel digestion facility, and Electricity Procured from Biomass Conversion as described herein and provided that such products meet requirements of 14 CCR, Division 7, Chapter 12, Article 12.
- M. "Recordkeeping Designee" means the public employee appointed by the City Manager or their designee to track procurement and maintain records of Recovered Organic Waste Product procurement efforts both by the City and others, if applicable, as required by 14 CCR, Division 7, Chapter 12, Articles 12 and 13.
- N. "Recyclability" means that the Paper Products and Printing and Writing Paper offered or sold to the City are eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations Section 260.12 (2013).
- O. "Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper" means such products that consist of at least thirty percent (30%), by fiber weight, postconsumer fiber, consistent with the requirements of Sections 22150 to 22154 and Sections 12200 and 12209 of the Public Contract Code, and as amended.
- P. "Renewable Gas" means gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).
- Q. "SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced from time to time.

- R. “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this policy, the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.
- S. “SB 1383 Eligible Mulch” means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4):
1. Produced at one of the following facilities:
 - a. 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);
 - b. 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,
 - c. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
 2. Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5)(A)1 through 3.
 3. The City and/or its Recordkeeping Designee may only count mulch as a Recovered Organic Waste Product to meet its Annual Recovered Organic Waste Procurement Target if said mulch meets the standards specified in paragraphs 1 and 2 above.
- T. “State” means the State of California.

§3.13.030 – Recovered Organic Waste Product Procurement

A. Procurement Target

1. City will annually procure for use or giveaway a quantity of Recovered Organic Waste Products that meets or exceeds its Annual Recovered Organic Waste Product Procurement Target through the implementation of §3.13.030 - §3.13.050 of this ordinance.
2. To be eligible to meet the Annual Recovered Organic Waste Product Procurement Target, products that may be procured include the following (provided that each

product meets the criteria included in their respective definition in §3.13.020 of this ordinance):

- a. SB 1383 eligible Compost (as defined in §3.13.020.D of this ordinance).
- b. SB 1383 Eligible Mulch (as defined in §3.13.020.S of this ordinance).
- c. Renewable Gas (in the form of transportation fuel, electricity, or heat) (as defined in §3.13.020.P of this ordinance).
- d. Electricity Procured from Biomass Conversion (as defined in §3.13.020.F of this ordinance).

B. Requirements for City Departments

1. Compost and SB 1383 Eligible Mulch procurement. Divisions and departments responsible for landscaping, maintenance, renovation, or construction shall:
 - a. Use eligible Compost and SB 1383 Eligible Mulch produced from recovered Organic Waste for landscaping, maintenance, renovation, or construction, as practicable, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
 - b. When City uses eligible Compost and SB 1383 Eligible Mulch and the applications are subject to the City's Water Efficient Landscaping Ordinance (WELO), pursuant to Chapter 15.70 of the Brisbane Municipal Code, comply with one of the following, whichever is more stringent, (i) the City's WELO, Chapter 15.70 of the Brisbane Municipal Code, if more stringent than the State's Model Water Efficient Landscape Ordinance (MWELo), or (ii) Sections 492.6 (a)(3)(B), (C), (D), and (G) of the State's Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the CCR, as amended September 15, 2015, which requires the submittal of a landscape design plan with a "Soil Preparation, Mulch, and Amendments Section" to include the following:
 - (i) For landscape installations, Compost at a rate of a minimum of 4 cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
 - (ii) Apply a minimum three- (3-) inch layer of mulch on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide

habitat for beneficial insects and other wildlife, leave up to five percent (5%) of the landscape area without mulch. Designated insect habitat must be included in the landscape design plan as such.

- (iii) Procure organic mulch materials made from recycled or post-consumer materials rather than inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances.
 - (iv) For all mulch that is land applied, procure SB 1383 Eligible Mulch that meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land applications specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
- c. Keep records, including invoices or proof of Recovered Organic Waste Product procurement (either through purchase or acquisition), and submit records to the Recordkeeping Designee on a schedule to be determined by Recordkeeping Designee. Records shall include:
- (i) General procurement records, including:
 - (a) General description of how and where the product was used and applied, if applicable;
 - (b) Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;
 - (c) Type of product;
 - (d) Quantity of each product; and,
 - (e) Invoice or other record demonstrating purchase or procurement.
 - (ii) For eligible Compost and SB 1383 Eligible Mulch provided to residents through giveaway events or other types of distribution methods, keep records of the Compost and SB 1383 Eligible Mulch provided to residents. Records shall be maintained and submitted to the Recordkeeping Designee in accordance with the requirements specified in §3.13.030.B.1.c of this ordinance.
 - (iii) For procurement of SB 1383 Eligible Mulch, maintain an updated copy of the ordinance or enforceable mechanism(s) requiring that the mulch procured by the City or Direct Service Provider meets the land application standards specified in 14 CCR Section 18993.1, as it may be amended from time to time.

- d. When Procurement of Recovered Organic Waste Products occurs through a Direct Service Provider, enter into a written contract or agreement or execute a purchase order with enforceable provisions that includes: (i) definitions and specifications for SB 1383 Eligible Mulch, eligible Compost, Renewable Gas, and/or Electricity Procured from Biomass Conversion; and, (ii) an enforcement mechanism (e.g., termination, liquidated damages) in the event the Direct Service Provider is not compliant with the requirements.
2. Renewable Gas procurement (used for fuel for transportation, electricity, or heating applications). For Renewable Gas procurement, City shall:
 - a. Procure Renewable Gas made from recovered Organic Waste for transportation fuel, electricity, and heating applications to the degree that it is appropriate and available for the City and to help meet the Annual Recovered Organic Waste Product Procurement Target, which requires compliance with criteria specified in 14 CCR Section 18993.1.
 - b. Keep records in the same manner indicated in §3.13.030.B.1.c of this ordinance for the amount of Renewable Gas procured and used by the City, including the general procurement record information specified in §3.13.030.B.1.c.(i) of this ordinance, and submit records to the Recordkeeping Designee on a schedule to be determined by Recordkeeping Designee, which shall be no less than annually. City shall additionally obtain the documentation and submit records specified in §3.13.030.B.2.c of this ordinance below, if applicable.
 - c. If the City procures Renewable Gas from a POTW;
 - (i) Annually verify that the Renewable Gas from the POTW complies with the requirements specified in 14 CCR Section 18993.1(h), including, but not limited to the exclusion in 14 CCR Section 17896.6(a)(1) and the items listed in §3.13.030.B.2.c of this ordinance.
 - (ii) Annually receive a record from the POTW documenting the tons of Organic Waste received by the POTW from: (i) a compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10), that is permitted or authorized under 14 CCR Division 7; (ii) 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.
 - (iii) Annually receive documentation from the POTW of the percentage of biosolids that the POTW produced and transported to activities that constitute landfill disposal in order to demonstrate that the POTW

transported less than twenty-five percent (25%) of the biosolids it produced to activities that constitute landfill disposal. For the purposes of this Policy, landfill disposal is defined pursuant to 14 CCR Section 18983.1(a) and includes final disposition at a landfill; use of material as alternative daily cover or alternative intermediate cover at a landfill, and other dispositions not listed in 14 CCR Section 18983.1(b). Alternative daily cover or alternative intermediate cover are defined in 27 CCR Sections 20690 and 20700, respectively.

- (iv) Annually receive documentation that the POTW receives vehicle-transported solid waste that is an anaerobically digestible material for the purpose of anaerobic co-digestion with POTW treatment plant wastewater to demonstrate that the POTW meets the requirement of 14 CCR Section 18993.1(h)(2).
 - (v) City shall submit these records to the Recordkeeping Designee on a schedule to be determined by Recordkeeping Designee, which shall be no less than annually after receipt of notification from the POTW.
3. Electricity Procured from Biomass Conversion. For Electricity Procured from Biomass Conversion, City shall:
- a. Procure electricity from a biomass conversion facility that receives feedstock from a composting facility, transfer/processing facility, a solid waste landfill, and/or receives feedstock from the generator or employees on behalf of the generator of the Organic Waste and to the degree that it is available and practicable for the City and to help meet the Annual Recovered Organic Waste Product Procurement Target, which requires compliance with criteria specified in 14 CCR Section 18993.1.
 - b. Maintain records and conduct the following recordkeeping activities:
 - (i) Keep records in the same manner indicated in §3.13.030.B.1.c of this ordinance of this Policy for the amount of Electricity Procured from Biomass Conversion facilities, including the general procurement record information specified in §3.13.030.B.1.c.(i) of this ordinance.
 - (ii) Receive written notification by an authorized representative of the biomass conversion facility certifying that biomass feedstock was received from a permitted solid waste facility identified in 14 CCR Section 18993.1(i).
 - (iii) Provide these records to the Recordkeeping Designee.

C. Requirements for Direct Service Providers

- 1. Direct Service Providers of landscaping maintenance, renovation, and construction shall:

- a. Use eligible Compost and SB 1383 Eligible Mulch, as practicable, produced from recovered Organic Waste for all landscaping renovations, construction, or maintenance performed for the City, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application shall comply with 14 CCR, Division 7, Chapter 12, Article 12 and must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).

- b. If Direct Service Provider is subject to the City's WELO pursuant to Chapter 15.70 of the Brisbane Municipal Code, comply with one of the following, whichever is more stringent: (i) the locally-adopted WELO that is more stringent than the State's MWELo, or (ii) Sections 492.6 (a)(3)(B), (C), (D), and (G) of the State's MWELo, Title 23, Division 2, Chapter 2.7 of the CCR, as amended September 15, 2015, which requires the submittal of a landscape design plan with a "Soil Preparation, Mulch, and Amendments Section" to include the following:
 - (i) For landscape installations, Compost at a rate of a minimum of 4 cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.

 - (ii) Apply a minimum three- (3-) inch layer of mulch on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, leave up to five percent (5%) of the landscape area without mulch. Designated insect habitat must be included in the landscape design plan as such.

 - (iii) Procure organic mulch materials made from recycled or post-consumer materials rather than inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances.

 - (iv) For all mulch that is land applied, procure SB 1383 Eligible Mulch that meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land applications specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).

- c. Keep and provide records of Procurement of Recovered Organic Waste Products (either through purchase or acquisition) to Recordkeeping Designee, on a schedule to be determined by Recordkeeping Designee. Information to be provided shall include:

- (i) General description of how and where the product was used and if applicable, applied;
- (ii) Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;
- (iii) Type of product;
- (iv) Quantity of each product; and,
- (v) Invoice or other record demonstrating purchase or procurement.

2. Renewable Gas procurement by Direct Service Providers

- a. Subject to force majeure events that are beyond their control (such as the interruption of third-party supplies or facility shutdowns that are not their fault), Direct Service Providers transporting solid waste, organic materials, and/or recyclable materials shall procure at least seventy-five percent (75%) of their fuel as Renewable Gas and will be required to do so in all RFPs and RFQs released by the City for such services unless they are already required to do so by permit, license, written agreement, or written contract with the City.
- b. Departments releasing RFPs and RFQs for contractors that procure fuel in the course of their services to the City shall include a ten percent (10%) price preference to contractors that propose to use the amount or percentage of Renewable Gas specified in the RFP or RFQ to be eligible for said price preference. Such use, if it occurs, shall be documented in a written contract or agreement.
- c. If Renewable Gas made from recovered Organic Waste is used by Direct Service Providers, Direct Service Providers shall submit information listed below on a schedule to be determined by Jurisdiction, but not less than annually to the Recordkeeping Designee.
 - (i) Dates Provided
 - (ii) Source of product including name, physical location and contact information for each entity, operation or facility from whom the Recovered Organic Waste Products were procured;
 - (iii) Type of product;
 - (iv) Quantity provided; and,
 - (v) Invoice or other record or documentation demonstrating purchase, procurement, or transfer of material to giveaway location.

- d. Renewable Gas used by Direct Service Providers under §3.13.030.C.2.a & b of this ordinance shall comply with criteria specified in 14 CCR Section 18993.1.

§3.13.040 – Recycled-Content Paper Procurement

A. Requirements for City Departments

1. If fitness and quality of Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper are equal to that of non-recycled items, all departments and divisions of City shall purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, whenever the total cost is the same or a lesser total cost than non-recycled items or whenever the total cost is no more than ten to twenty percent (10-20%) of the total cost for the non-recycled items, consistent with the requirements of the City's Procurement Standards, BMC §3.12.070.G.3 and Public Contract Code, Sections 22150 through 22154 and Sections 12200 and 12209, as amended.
2. All Paper Products and Printing and Writing Paper shall be eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
3. Provide records to the Recordkeeping Designee of all Paper Products and Printing and Writing Paper purchases on a schedule to be determined by Recordkeeping Designee (both recycled-content and non-recycled content, if any is purchased) made by a division or department or employee of the City. Records shall include a copy of the invoice or other documentation of purchase, written certifications as required in §3.13.040.B.1.c & d of this ordinance for recycled-content purchases, vendor name, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-Recycled-Content Paper Products and/or non-Recycled-Content Printing and Writing Paper are provided, include a description of why Recycled-Content Paper Products and/or Recycled-Content Printing and Writing Paper were not provided.

B. Requirements for Vendors

1. All vendors that provide Paper Products (including janitorial Paper Products) and Printing and Writing Paper to City shall:
 - a. Provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, if fitness and quality are equal to that of non-recycled item, and available at equal or lesser price or available at no more than ten to twenty percent (10-20%) of the total cost for non-recycled Paper Products, consistent with the requirements of the City's Procurement Standards, BMC §3.12.070.G.3.

- b. Only provide Paper Products and Printing and Writing Papers that meet Federal Trade Commission Recyclability standard as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
 - c. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
 - d. Certify in writing, under penalty of perjury, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
 - e. Provide records to the Recordkeeping Designee of all Paper Products and Printing and Writing Paper purchased from the vendor on a schedule to be determined by Recordkeeping Designee (both recycled-content and non-recycled content, if any is purchased) made by a division or department or employee of the City. Records shall include a copy of the invoice or other documentation of purchase, written certifications as required in §3.13.040.B.1.c & d of this ordinance for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-Recycled-Content Paper Products and/or non-Recycled-Content Printing and Writing Paper are provided, include a description of why Recycled-Content Paper Products and/or Recycled-Content Printing and Writing Paper were not provided.
2. All vendors providing printing services to the City via a printing contract or written agreement, shall use Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, or as amended by Public Contract Code Section 12209.

§3.13.050 – Recordkeeping Responsibilities

- A. The Department of Public Works, Sustainability Division, will be the responsible department and will select an employee to act as the Recordkeeping Designee that will be responsible for obtaining records pertaining to Procurement of Recovered Organic Waste Products and Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper.
- B. The Recordkeeping Designee will do the following to track Procurement of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper:
 - 1. Collect and collate copies of invoices or receipts (paper or electronic) or other proof of purchase that describe the procurement of Printing and Writing Paper and Paper

Products, including the volume and type of all paper purchases; and, copies of certifications and other required verifications from all departments and/or divisions procuring Paper Products and Printing and Writing Paper (whether or not they contain recycled content) and/or from the vendors providing Printing and Writing Paper and Paper Products. These records must be kept as part of City's documentation of its compliance with 14 CCR Section 18993.3.

2. Collect and collate copies of invoices or receipts or documentation evidencing procurement from all departments and divisions procuring Recovered Organic Waste Products and invoices or similar records from vendors/contractors/others procuring Recovered Organic Waste Products on behalf of the City to develop evidence of City meeting its Annual Recovered Organic Waste Product Procurement Target. These records must be kept as part of the City's documentation of its compliance with 14 CCR Section 18993.1.
3. Collect, collate, and maintain documentation submitted by the City, Direct Service Providers, and/or vendors, including the information reported to the Recordkeeping Designee in accordance with §3.13.030.B.1.c, §3.13.030.B.2.b., §3.13.030.B.3.b, §3.13.030.C.1.c, §3.13.030.C.2.c, §3.13.040.A.3, and §3.13.040.B.1.e of this ordinance
4. Compile an annual report on the City's direct procurement, and vendor/other procurement on behalf of the City, of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper, consistent with the recordkeeping requirements contained in 14 CCR Section 18993.2 for the Annual Recovered Organic Waste Product Procurement Target and 14 CCR Section 18993.4 for Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper procurement. This report shall be made available to the City's responsible entity for compiling the annual report to be submitted to CalRecycle (which will include a description of compliance on many other SB 1383 regulatory requirements) pursuant to 14 CCR Division 7, Chapter 12, Article 13. The procurement report shall also be shared with the Brisbane City Council annually as evidence of implementing this Policy.

§3.13.060 – Effective Date of Policy

This Policy shall go into effect January 1, 2022.

SECTION 2: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent City to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section,

subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 3: This Ordinance shall be in full force and effect January 1, 2022.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Karen Cunningham, Mayor

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:



Thomas R. McMorrow, City Attorney