

THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

REPORT NO: 11-018

DATE ISSUED: February 4, 2011

ATTENTION: Natural Resources and Culture Committee

SUBJECT: Termination of City-Provided Waste Collection Services in Areas Covered by Hold Harmless Agreements

REFERENCE: (1) Report to City Council Budget and Finance Committee dated November 1, 2010. Report Number 10-142  
(2) Report to City Council Natural Resources and Culture Committee dated January 24, 2011. Report Number 11-018

**THIS IS AN INFORMATIONAL ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF CITY COUNCIL**

SUMMARY:

As a part of the Mayor's plan to address the projected General Fund budget deficit, the City has exercised the termination clause in 102 Hold Harmless Agreements to discontinue refuse, recycling and yard waste collection services to approximately 14,200 residential units located on private streets effective July 1, 2011. Although the City has provided refuse collection services to these residences for 24-46 years at no charge, the City is not required to do so. The savings from the elimination of this service is included in the proposed FY12 budget.

STAFF RECOMMENDATION: Accept the report.

BACKGROUND:

The People's Ordinance, San Diego Municipal Code (SDMC) §66.0127, provides that "Residential Refuse" shall be collected, transported, and disposed by the City at least once each week at no charge to the customer and that the City shall not enter upon any private property to collect any refuse except in the case of public emergency or pursuant to a hold harmless agreement in effect on November 4, 1986. Refuse collection services include curbside collection of recyclable materials and yard waste, where cost effective to do so, for diversion from landfill disposal to comply with AB 939 and the City's environmental stewardship goals. The City

currently provides free refuse collection to 304,000 residences and small commercial enterprises, biweekly recycling to 257,000 residences and yard waste collection to 191,000 residences.

Hold Harmless Agreements

Refuse collection services are provided by the City at no charge to 102 residential developments with private streets under "Hold Harmless Agreements" issued between 1964 and November 1986. The City entered into the Hold Harmless Agreements as a courtesy to residents whose properties were located on private streets and alleys and situated such that it was impractical for them to place their refuse containers at the curb of a public street for collection. The Hold Harmless Agreements essentially permit the City to travel over private property for purposes of collecting refuse from these residents and limit the City's liability for personal injury or property damage arising in connection with those collection services. They were granted on a case-by-case basis after City staff determined that collection operations could be performed safely. The November 4, 1986 amendment to the People's Ordinance precludes the City from entering into any additional Hold Harmless Agreements after that date.

All Hold Harmless Agreements have clauses permitting either party to terminate collection services after seven days advance written notice. The Mayor or his designee has the authority to terminate the Hold Harmless Agreements on behalf of the City. Residential collection provided under the hold harmless agreements is an optional non-core service provided to some members of the community.

The Hold Harmless Agreements affect approximately 14,200 residential units located throughout the city. City-wide there are 450-500 housing developments with private streets of which 102 are serviced by the City. A significant number of these planned residential developments were built after 1986, are not serviced by City forces, and contract with private sector providers for refuse collection services.

Residential units serviced under Hold Harmless Agreements are distributed as follows.

Council District	Day of Collection	Number of Hold Harmless Agreements	Number of Residential Units
1	Monday	23	2,785
1	Tuesday	3	819
Total Dist. 1		26	3,604
2	Monday	9	1,421
Total Dist. 2		9	1,421
3	Thursday	1	27
3	Friday	2	306
Total Dist. 3		3	333
4	Wednesday	1	57
4	Thursday	4	829
4	Friday	2	174
Total Dist. 4		7	1,060

5	Tuesday	26	3,565
Total Dist. 5		26	3,565
6	Wednesday	11	2,099
Total Dist. 6		11	2,099
7	Friday	7	711
Total Dist. 7		7	711
8	Thursday	13	1,409
Total Dist. 8		13	1,409
	Totals:	102	14,202

Implementation

Letters have been sent to the affected Home Owner Associations and Property Management firms representing the affected developments, notifying them of the termination of the Hold Harmless Agreements effective July 1, 2011. Home Owner Associations have four months to solicit and negotiate with a franchised hauler for refuse and recycling collection services.

ESD has consulted with the City Attorney’s Office, Purchasing and Contracting, and the Comptroller’s Office to determine the most efficient, cost effective, and legally permissible disposition of the City’s automated containers located at each of the housing developments. The vast majority of these containers are at, near, or beyond the end of their useful lives and have little value. The cost to the City to retrieve them is estimated at about \$400,000. Thus, ESD is working on a plan to offer these containers to the new hauler hired by a particular complex for a negotiated price. Transition of automated container assets to new service providers would permit the City to discontinue collection services to all developments at the same time and realize a full year of anticipated budget savings. ESD believes this plan also would be attractive to the private haulers in that it avoids significant up-front capital costs for new containers.

Environmental Review

The Hold Harmless Agreements were not subject to CEQA review upon issuance because they were not “projects;” rather, they were administrative actions involving general policy and procedure making. Staff investigated the request, determined if trash could be safely and efficiently collected, and Agreements were signed by the Department Director allowing provision of service. The Agreements state “said agreements may be terminated at any time, upon giving of seven days written notice.” Likewise, termination is an administrative matter, based on newer policies and procedures given current fiscal, safety, liability, fairness, or other considerations.

Labor Considerations

The Mayor’s Office has initiated Meet and Confer with AFSCME to discuss employee impacts.

FISCAL CONSIDERATIONS:

The termination of refuse collection services to residences covered by Hold Harmless Agreements could annually save the General Fund approximately \$675,000 and the Recycling Fund approximately \$15,000, including reduced recycling commodity revenue. The termination of collection services could also increase General Fund franchise fee revenues by approximately \$190,000 annually since the refuse would be collected by the City's Franchised Haulers.

The cumulative benefit to the City's budget is anticipated to be \$880,000 per year.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Informational Report 10-142 was presented at the Budget and Finance Committee on November 10, 2010. A second Informational Report, number 11-018, was presented to Natural Resources and Culture Committee on February 2, 2011.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City met with the City's franchised haulers to discuss and plan for this reduction in City-provided refuse collection services and to determine an appropriate amount of time for the transition from public to private service. Termination notices were sent by certified mail to Home Owners Associations and Property Management companies representing the 102 housing developments with active Hold Harmless Agreements on February 4, 2011, terminating service effective July 1, 2011. Additionally, the City will be conducting public outreach to the affected Home Owner's Associations in March and April 2011, and working with franchised haulers on the container disposition to ensure a smooth transition.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City residents and businesses in general will benefit from the savings to the General Fund realized from this reduction in discretionary refuse collection services and from the increased revenue to the General Fund from additional franchise fee revenues. The City's franchised haulers will benefit from increased business opportunities. Approximately 14,200 residential units which currently receive refuse collection services at no charge from the City will no longer receive that service.



Chris Gonaver  
Director, Environmental Services



Jay M. Goldstone  
Chief Operating Officer

- Attachment: 1) List of Housing Developments with Hold Harmless Agreements  
2) City of San Diego Hold Harmless Locations Map

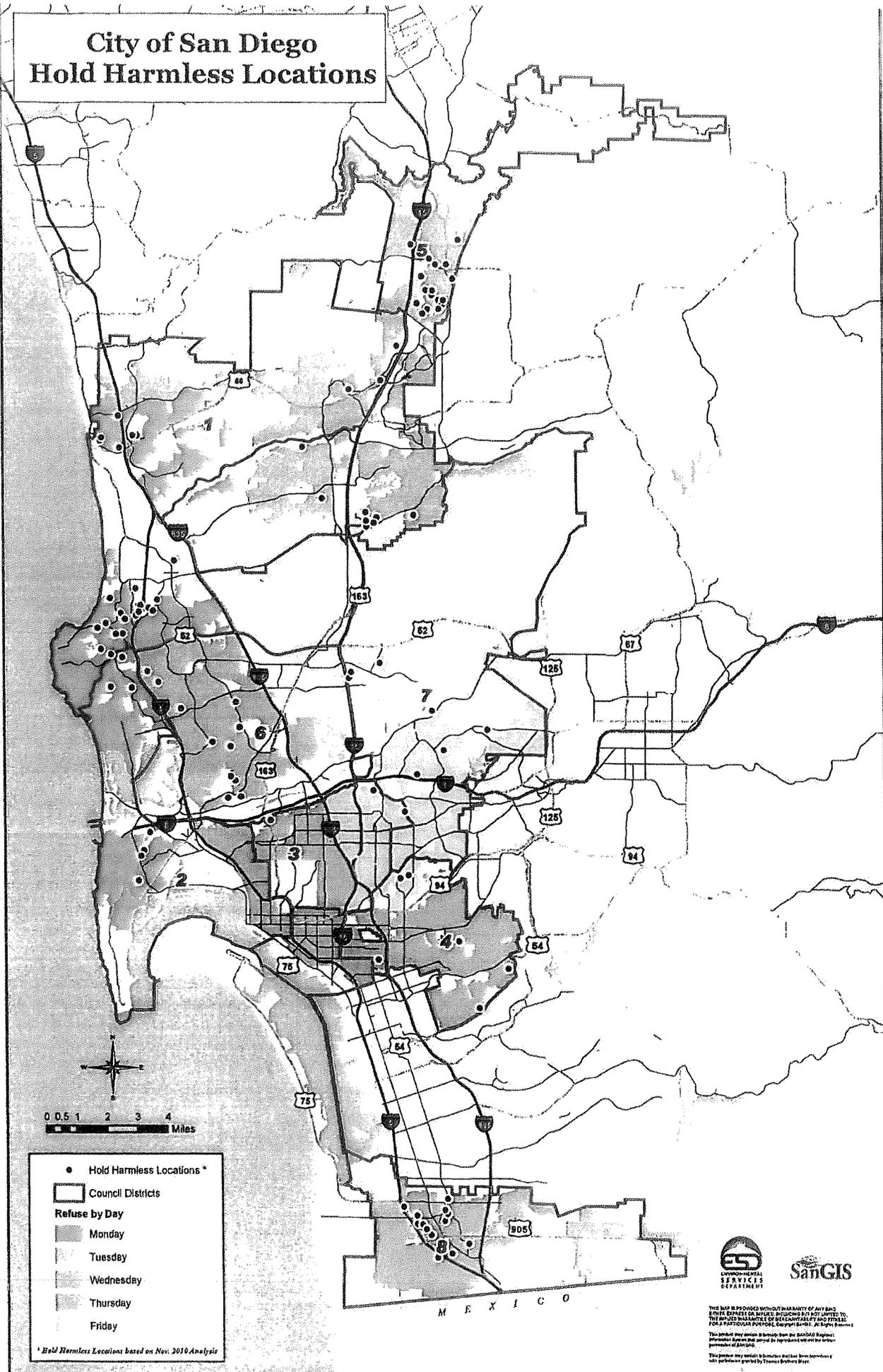
Attachment 1: Active Hold Harmless Agreements with The City of San Diego

#	Hold Harmless Agreements	Unit Count	Collection Day	Council District
1	POINTE DEL MAR	98	Monday	1
2	BARCELONA	177	Monday	1
3	CORAL COVE AT CARMEL DEL MAR	116	Monday	1
4	COROMANDEL	28	Monday	1
5	DEL CHARRO WOODS	53	Monday	1
6	DEL MAR HEIGHTS	147	Monday	1
7	DIEGUENOS (GENESEE HIGHLANDS #6)	91	Monday	1
8	EAST ROSELAND AREA	6	Monday	1
9	GENESEE VISTA and PLAYMOR LA JOLLA	220	Monday	1
10	HIDDEN VALLEY	37	Monday	1
11	LA JOLLA SOLEDAD WEST	140	Monday	1
12	LA JOLLA VILLAGE HOMEOWNER	419	Monday	1
13	LA JOLLA WOODS	76	Monday	1
14	MONTORO - LA JOLLA	28	Monday	1
15	RANCHO CON VISTAS	7	Monday	1
16	SEA POINT	238	Monday	1
17	THE GROVES AT CARMEL DEL MAR	74	Monday	1
18	TORREY PINES HEIGHTS (AKA SEA VILLAGE)	180	Monday	1
19	VALENCIA	145	Monday	1
20	WOODLANDS NORTH	129	Monday	1
21	WOODLANDS SOUTH	133	Monday	1
22	WOODLANDS WEST	126	Monday	1
23	WOODLANDS WEST II	117	Monday	1
24	PENASQUITOS TOWN HOUSES	68	Tuesday	1
25	PENASQUITOS VILLAS	516	Tuesday	1
26	SHADOW TREE	235	Tuesday	1
27	3545 LOWELL ST	1	Monday	2
28	3547 LOWELL ST	1	Monday	2
29	LA JOLLA ALTA (COMMON COUNCIL NO. 1) and LA JOLLA ALTA (VENTANA)	289	Monday	2
30	LOMA PORTAL COMMUNITY	219	Monday	2
31	MOUNT LA JOLLA CONDOMINIUMS	235	Monday	2
32	MOUNT SOLEDAD CONDOS	10	Monday	2
33	ORLEANS EAST CONDOMINIUM	48	Monday	2
34	SEA COLONY POINT	313	Monday	2
35	WINDEMERE	305	Monday	2

#	Hold Harmless Agreements	Unit Count	Collection Day	Council District
36	MADISON AVENUE VILLAS	27	Thursday	3
37	COLLWOOD PARK CONDOS	159	Friday	3
38	KENSINGTON PARK VILLAS	147	Friday	3
39	EASTGATE VILLAGE	57	Wednesday	4
40	6741 BENSON AV	2	Thursday	4
41	6760 AVIATION DR	1	Thursday	4
42	BONITA VISTA AKA BAY TERRACE UNIT #01	211	Thursday	4
43	MASTER, KNOLLS, MEADOWS, GREENS OF HILLSBOROUGH	615	Thursday	4
44	AUTUMN HILL	79	Friday	4
45	RYAN MANOR	95	Friday	4
46	SEVEN OAKS	89	Tuesday	5
47	ALEMEDA CONDOMINIUMS	56	Tuesday	5
48	BERNARDO VILLA	83	Tuesday	5
49	BERNARDO VILLAGE GREEN UNIT #1	53	Tuesday	5
50	CANYON POINTE	42	Tuesday	5
51	CHAPALA	147	Tuesday	5
52	FAIRWAY HEIGHTS NORTH	65	Tuesday	5
53	FAIRWAY HEIGHTS SOUTH	43	Tuesday	5
54	FAIRWAY POINTE	125	Tuesday	5
55	FAIRWAYS VISTAS	56	Tuesday	5
56	LADERA BERNARDO	54	Tuesday	5
57	LAS BRISAS BERNARDO (BERNARDO HEIGHTS UNIT #12)	231	Tuesday	5
58	LAS FLORES	151	Tuesday	5
59	LOMAS BERNARDO	100	Tuesday	5
60	LOS RIOS	247	Tuesday	5
61	MASTERS HILL	199	Tuesday	5
62	MESA VILLAGE	541	Tuesday	5
63	RANCHO BERNARDO VILLAS	63	Tuesday	5
64	SCRIPPS RANCH ESTATES	213	Tuesday	5
65	SMOKE TREE - SCRIPPS RANCH	49	Tuesday	5
66	THE GROVE	149	Tuesday	5
67	THE VILLAGE WOODS	114	Tuesday	5
68	TIMBERLANE	150	Tuesday	5
69	TIMBERLANE II	139	Tuesday	5
70	WESTWOOD TOWNHOUSES	247	Tuesday	5
71	WOODCREST HEIGHTS	159	Tuesday	5

#	Hold Harmless Agreements	Unit Count	Collection Day	Council District
72	AMANTEA, HILL AND TIMMINS	97	Wednesday	6
73	BALBOA TOWERS	116	Wednesday	6
74	CANYON HAVEN	82	Wednesday	6
75	CANYON RIM	179	Wednesday	6
76	FRIARS VILLAGE	442	Wednesday	6
77	LINDA VISTA VILLAGE	221	Wednesday	6
78	NORTH RIM MISSION VALLEY	316	Wednesday	6
79	STONEHAVEN	150	Wednesday	6
80	THE BLUFFS OF FOX RUN	200	Wednesday	6
81	UNIVERSITY CANYON EAST	120	Wednesday	6
82	UNIVERSITY CANYON WEST	176	Wednesday	6
83	GOLFVIEW ESTATES	82	Friday	7
84	DEL CERRO HEIGHTS #2 and #4	68	Friday	7
85	MARIPOSA MISSION PACIFIC	209	Friday	7
86	SMOKE TREE - ADOBE FALLS	113	Friday	7
87	VILLA COLINA	91	Friday	7
88	VILLA MONTEREY CONDOMINIUMS	104	Friday	7
89	VILLA TIERRASANTA	44	Friday	7
90	CORONADO TERRACE #2	156	Thursday	8
91	FLAIR (AKA WHITNEY SUBDIVISION)	49	Thursday	8
92	GREENFIELD MOBILE CLUB	124	Thursday	8
93	HELENA MOBILE HOME PARK	154	Thursday	8
94	IMPERIAL PALMS TERRACE	70	Thursday	8
95	IRIS GARDENS	29	Thursday	8
96	LAS LOMAS MOBILE HOME PARK	89	Thursday	8
97	OCEAN BLUFFS MOBILE HOME ESTATES	110	Thursday	8
98	PACIFICA HILLS AKA AMERICANA CONDOMINIUMS	181	Thursday	8
99	PALM TERRACE	128	Thursday	8
100	THE PARK CONDOMINIUMS	65	Thursday	8
101	VILLA LA ESPERANZA	32	Thursday	8
102	VILLAGE BY ROBINHOOD	222	Thursday	8

# City of San Diego Hold Harmless Locations



- Hold Harmless Locations \*
- Council Districts
- Refuse by Day
- Monday
- Tuesday
- Wednesday
- Thursday
- Friday

\* Hold Harmless Locations based on Nov. 2010 Analysis



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