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**OFFICE OF INDEPENDENT BUDGET ANALYST
CITY OF SAN DIEGO
M E M O R A N D U M**

No. 07-14

DATE: November 14, 2007

TO: Honorable Council President and Members of the City Council

FROM: Tom Haynes, Office of the Independent Budget Analyst TH

SUBJECT: Construction and Demolition Debris Diversion Ordinance

On October 10, 2005 the City Council adopted a Construction and Demolition (C&D) Debris Diversion Ordinance in an effort to increase recycling and divert waste from the Miramar landfill. The Ordinance was designed to become effective 45 days after a certified mixed C&D recycling facility became operational within the City of San Diego. To date, so such facility has come online within City limits.

The proposed amendments to the C&D Ordinance would modify the trigger such that the Ordinance would become effective 45 days after certification of a mixed C&D recycling facility located within 25 miles of the City Administration Building. Currently, a mixed C&D recycling facility operated by EDCO (SANCO) is located in Lemon Grove, within the 25 mile radius. Should these proposed amendments be approved, the C&D Ordinance would become effective upon certification of the SANCO facility.

The IBA has reviewed the proposed amendments to the C&D Ordinance and we support adoption of these proposals. However, while the C&D Ordinance will increase the City's diversion rate and extend the life of the Miramar landfill, it will come with a financial impact. While various funds would be impacted, the Refuse Disposal Fund would bear the primary financial impact, as certain disposal fees will not be charged on diverted tons of recycled C&D material. IBA Report 07-101 (attached) provides an overview of intricate refuse disposal fee structure, and the financial impacts that can result from that structure when recycling efforts are increased.

To address these impacts, the Environmental Services Department has proposed two financial mitigations: an automated refuse container replacement fee and an increase in the self-haul disposal fees. The automated refuse container replacement fee would fully mitigate the financial impact to the General Fund, while the increase in self-haul fees would only partially mitigate the financial impact to the Refuse Disposal Fund. While we support these financial mitigations, we wish to note that more significant mitigations will be needed in the near future to ensure the financial health of both the Refuse Disposal Fund and the Recycling Fund.

Attachment



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: October 19, 2007

IBA Report Number: 07-101

NR&C Committee Agenda Date: October 24, 2007

Item Number: 5

Subject: Construction and Demolition Ordinance

OVERVIEW

In October 2005, the City Council adopted a Construction and Demolition (C&D) Ordinance, which required C&D materials to be recycled in an effort to extend the life of Miramar landfill and to increase the City's diversion rate as required by the California Integrated Waste Management Act. It is estimated that diverting C&D material could increase the City's diversion rate by 4% - 5%. The C&D Ordinance was designed to become effective 45 days after a certified mixed C&D facility became operational within the City of San Diego.

To date, no such facility has become operational within City limits. However, a private mixed C&D facility operated by EDCO (SANCO) is currently located in Lemon Grove. As such, an amendment is proposed to the C&D Ordinance that would cause the Ordinance to be triggered by any certified mixed C&D facility that is located within 25 miles of downtown San Diego. Should this amendment be approved, the C&D Ordinance would become effective upon certification of the SANCO facility.

Efforts to increase recycling and waste diversion, such as the C&D Ordinance, present unique financial challenges for the Environmental Services Department. Due to the intricate and complex nature of the City's refuse disposal rate structure, such efforts often come with significant and interrelated financial impacts, which may not be immediately apparent.

This report provides an analysis of City's refuse disposal rate structure by examining the fees that are charged when refuse is disposed and how those fees impact various City funds, including the General Fund. In addition, the financial impacts of the C&D



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Ordinance are examined, and the proposed fiscal mitigations are briefly discussed. Finally, this report looks at how compliance with the C&D Ordinance is approached, and highlights the difficulty with other possible approaches.

FISCAL/POLICY DISCUSSION

Refuse Disposal Fees

In FY 2007, approximately 1.3 million tons of waste was disposed in the Miramar landfill. This waste is brought to the landfill by numerous types of haulers, including residents, businesses, City franchised haulers, and the City itself. Each hauler that brings waste to the landfill is charged for the disposal of that waste.

In general there are two ways that these charges are assessed: as a flat rate and per ton. Haulers that transport their waste in smaller vehicles, such as cars, pickups, or small trailers, are charged a flat rate depending on the type of vehicle they are using, the type of waste they are disposing, and whether the waste was generated within the City of San Diego. These haulers make up a very small percentage of the waste that is disposed in the landfill.

Larger haulers are charged based on the tons of waste they dispose. A variety of charges are levied on each ton of waste that is disposed. These charges, collectively known as disposal fees, support the General Fund, the Refuse Disposal Enterprise Fund, and the Recycling Enterprise Fund. The analysis in this report focuses on the per-ton charges, as they are charged on approximately 90% of all waste disposed at the Miramar landfill.

Disposal fees levied by the City are composed of four different types of fees: tipping fees, AB 939 or recycling fees, franchise fees, and the Refuse Collector Business Tax (RCBT). A brief description of each of these fees is provided below.

Tipping Fee – The basic fees charged for use of the Miramar landfill. Tipping fees are authorized by Municipal Code Section 66.0129, and are the primary funding source for the Refuse Disposal Enterprise Fund. The disposal fee differs depending on the type of hauler and whether the waste is generated within the City (“City waste”). The disposal fee paid by the City and by franchised haulers is \$24 per ton for City waste and \$34 per ton for non-City waste.

AB 939 (Recycling) Fee – The Integrated Waste Management Act (AB 939), passed by the State of California in 1989, authorized local agencies to impose fees in order to establish and implement an integrated waste management plan. The AB 939 fee is levied at \$7 per ton. All revenue derived from this fee is paid into the Recycling Enterprise Fund to support the City’s recycling program.

Refuse Hauler Franchise Fee – Municipal Code Section 66.0108 requires all commercial refuse haulers obtain a franchise agreement with the City in order to provide solid waste collection services. The franchise is required in order to regulate such businesses to ensure health and safety standards, and for the use of the City’s rights-of-way. Class I franchises are granted to those haulers that collect 75,000 tons or less per year, who are charged \$11 per ton. Class II franchises are granted to haulers that collect over 75,000 tons, who are charged \$12 per ton. Revenue from refuse hauler franchise fees is allocated to the General Fund.

Refuse Collector Business Tax (RCBT) – The Refuse Collector Business Tax (RCBT) is charged at a rate of \$8 per ton on non-City waste disposed by franchises haulers, and on each ton of waste disposed by non-franchised haulers and residents self-hauling over two tons. The RCBT was originally approved in 1993, and all revenue is allocated to the General Fund.

Due to the various types of fees that are charged and the different amounts of the fees depending on the hauler type and where the waste is generated, it is difficult to generalize about the refuse disposal fee structure. However, this complexity may be averted by simply examining the fee structure for one particular hauler type. The following diagram reflects the fees that are charged on each ton of waste that is disposed by Class II franchise haulers.

Table 1. Disposal Fees for Class II Franchise Haulers, per ton

	City Waste	Non-City Waste		
Tipping Fee	\$24.00	\$34.00	→	REFUSE DISPOSAL FUND
AB 939 Fee	\$7.00	\$7.00	→	RECYCLING FUND
Franchise Fee	\$12.00	\$0.00	→	GENERAL FUND
RCBT	\$0.00	\$8.00	→	GENERAL FUND
TOTAL	\$43.00	\$49.00		

Again, it should be noted that these fees only pertain to Class II franchise haulers. Class I franchise haulers and City waste haulers pay almost identical fees, except that the franchise fee for Class I haulers is \$11 per ton. City waste haulers pay the same tipping fee and AB 939 fee, but do not pay franchise fees or RCBT.

This intricate network of fees and charges generates significant revenue for the various City funds. The Table 2 shows how much revenue each of these fees is anticipated to generate in FY 2008, and to which funds.

Table 2. Disposal Fee Revenues, FY08 Budget in millions

		FEE				
		Tipping	AB 939	Franchise	RCBT	TOTAL
FUND	Refuse Disposal	\$31.1				\$31.1
	Recycling		\$11.5			\$11.5
	General			\$10.1	\$2.0	\$12.1

But the City does more than just receive revenue from these fees; it also pays them. Tipping fees and AB 939 fees are charged on each ton of waste that the City disposes in Miramar. Since the General Fund provides for residential refuse collection, it bears the largest share of these costs. The table below shows the funding budgeted in FY 2008 for disposal fee expenses.

Table 3. Disposal Fee Expenditures

Fund	FY08 Budget
General Fund	\$ 13,134,448
Collection Svcs.	11,950,158
Recycling	841,054
Refuse Disposal	281,716
Water	400,000
Sewer*	832,000
Other Funds	11,500
TOTAL	\$ 15,500,718

* Includes both Muni and Metro Funds

This analysis illustrates the complexity of City's refuse disposal fee structure and the impact that disposal fees can have on various City funds and departments, both as revenues and as expenditures. This reflects the inherent difficulty with enhancing recycling efforts: the City loses money for each ton of material that is diverted away from the landfill.¹ Furthermore, increasing certain fees will increase expenditures for certain funds, primarily the General Fund. As discussed in ensuing sections, this rate structure

¹ This is often referred to as "deferred" revenue since the space in the landfill still exists, and fees will be charged on the use of that space in the future. However, this foregone revenue still presents a serious cash flow impact on a year-by-year basis, and for practical purposes may be considered lost.

and the intricately linked funding network tends to limit the City's options in terms of implementing compliance measures or fiscal mitigations related to recycling programs.

Financial Implications of C&D Ordinance

The Environmental Services Department estimates that the total financial impact of the C&D Ordinance will be \$4.1 million in FY 2009 and \$8 million in FY 2010 and each year thereafter as diversion rates are maximized. This represents the cumulative impact across various funds, as summarized in the table below.

Table 4. Estimated Financial Impacts

	<u>FY 2009</u>	<u>FY 2010</u>
General Fund	\$0.3 million	\$0.3 million
Refuse Disposal Fund	\$3.1 million	\$7.0 million
Recycling Fund	\$0.6 million	\$0.6 million
Other City Funds	\$0.1 million	\$0.1 million
TOTAL	\$4.1 million	\$8.0 million

The estimated financial impacts are composed of both increased expenditures and decreased revenues. For instance, there are increased costs to certain General Fund and non-General Fund departments related to recycling C&D material, and increased costs to the Recycling Fund associated with new positions needed to administer the C&D program. However, the largest financial impact of the C&D Ordinance is the lost or deferred revenue that results from diversion of material away from Miramar landfill.

It should be noted that the estimated financial impacts are based on a host of assumptions and unknown elements, such as the effectiveness of the C&D Ordinance and the future flow of waste into the Miramar landfill. However, it is relatively easy to understand the financial impact of diverting C&D material from the landfill. The Environmental Services Department estimates that approximately 400,000 tons of C&D material is disposed in the Miramar landfill annually. The City hopes to divert 75% of this material by FY 2010. This means that the City will no longer be able to charge tipping fees on around 300,000 tons of material that was previously disposed at Miramar. Using the "City Waste" rates listed in Table 1, a simple calculation reveals that this will reduce revenues in the Refuse Disposal Fund by approximately \$7 million per year.²

As shown in Table 4, the Refuse Disposal Fund is most significantly impacted by diverted material pursuant to the C&D Ordinance. The Recycling Fund and the General

² While this is an oversimplification of how the estimated financial impacts are calculated, it illustrates the concept and of how diverted tonnage results in lost revenue, and the general magnitude of such impacts.

Fund are less impacted, because both AB 939 and franchise fees will continue to be charged on each ton of diverted C&D material.³ This is in contrast with the diversion of other recyclable material, where these fees are not charged. The reason for this discrepancy is that the Municipal Code currently defines C&D material as solid waste, as these fees are designed to be levied against solid waste that is generated, processed or disposed in the City.

Proposed Fiscal Mitigations

Two measures are proposed to mitigate the estimated financial impacts of the C&D Ordinance: increasing the flat rate (self haul) disposal fees at the Miramar landfill and implementing a replacement fee for automated refuse containers. If implemented, the increased flat rates will partially mitigate the financial impacts to the Refuse Disposal Fund, while the automated refuse container replacement fee will more than offset the impact to the General Fund.

As previously mentioned, flat-rates are charges to persons transporting their waste in small vehicles, such as cars, trucks and small trailers. The flat rate charges differ depending on the type of vehicle, the type of waste being disposed, and whether the waste was generated within the City of San Diego. It is proposed that the flat-rate charges be increased for all vehicle types in FY 2008 and again in FY 2009. The Department estimates that these fee increases will generate approximately \$700,000 for the Refuse Disposal Fund in FY 2008 and \$2.5 million in FY 2009.

In 1994 the City began to permanently convert to automated refuse collection, and provided one refuse container to each customer in order to ensure that all containers would be fully compatible with the new automated and semi-automated collection systems. These containers generally have a life expectancy of 10 to 12 years, and a vast majority of the 319,000 containers currently in use are nearing or have surpassed their useful life. Currently, the General Fund bears the expense of replacing automated refuse containers, and it is anticipated that the number of containers needing replacement will accelerate in upcoming years. To offset the cost of container replacement, it is proposed that a \$70 charge be levied on all replacement containers provided to City customers. It is estimated that such a charge would generate \$500,000 for the General Fund in FY 2008, and \$1 million each year thereafter.

The IBA supports these financial mitigations in concept; however, additional time is needed to conduct sufficient analysis of these proposals. One point that should be clearly noted is that the proposed increase in flat rates will only partially mitigate the impact to the Refuse Disposal Fund, and no mitigations are currently proposed for the Recycling Fund. However, as the Department has shown previously, both of these funds are facing

³ There is a very minor impact to both the Recycling Fund and the General Fund due to the loss of AB 939 fees and RCBT on C&D material that is self-hauled, since the City has no way of tracking this tonnage.

negative fund balances in the near future, and more robust fiscal mitigations will likely be necessary in upcoming years in order to maintain the financial health of these funds.

Compliance With C&D Ordinance

One of the more significant aspects to the C&D Ordinance is a system of refundable deposits, designed to ensure compliance with the intent of the program. Under this system, the City would collect a refundable deposit from applicants who are applying for building or demolition permits for specified construction, renovation or demolition projects. Deposits would be paid prior to issuance of the permit, and in order to receive a refund the permit holder would need to provide documentation that C&D materials from their project were recycled at a certified C&D recycling facility.

While this system is designed to achieve compliance by creating an incentive to recycle, it is not the only possible means of creating such an incentive. The optimal situation would be one in which it was cheaper to recycle C&D material than to dispose of it. This would create a natural incentive to recycle. Unfortunately, this is not currently the case. The SANCO facility, operated by EDCO, currently charges \$46 per ton of mixed C&D material. This is in addition to the AB 939 fees and franchise fees charged by the City. As shown in the table below, the combination of these charges creates a situation where disposal is more cost-effective than recycling.

Table 5. Cost of Disposal* v. Recycling

	<u>Miramar</u>	<u>SANCO</u>
Tipping Fee	\$24.00	\$46.00
AB 939 Fee	\$7.00	\$7.00
Franchise Fee	\$12.00	\$12.00
TOTAL	\$43.00	\$65.00

* Reflects disposal cost for a Class II Franchise

Again, in an optimal situation the cost of recycling would be less than the cost of disposal, thereby creating a natural economic incentive to recycle. However, the only way to achieve such an incentive currently would be through some combination of raising disposal costs and lowering recycling costs. Unfortunately, doing this would have significant financial implications for the City.

One option would be to eliminate AB 939 and franchise fees on recycled C&D material, combined with an increase in tipping fees on disposed material. While this option has the potential to create a natural economic incentive to recycle, it would result in significant revenue loss to both the Recycling Fund and the General Fund, as well as significant additional expenses for the General Fund. While it would be possible to make the

Recycling Fund whole by increasing AB 939 fees on waste disposed at Miramar, this would only further increase General Fund costs.

Ultimately, the most preferable situation would be to pass the costs of refuse disposal – including the necessary charges for recycling programs – along to those who generate the waste. This would not only create an incentive to increase the recycling effort, but would also place the financial burden on those who strain the City’s landfill system.

Unfortunately, the People’s Ordinance prohibits the City from passing along refuse collection and disposal costs to a very large contingency of waste producers. Were the City able to charge for refuse collection, increases in tipping fees and AB 939 fees could be passed along to City customers, thereby alleviating the General Fund of adverse financial impacts. This would allow for a greater degree of flexibility in not only mitigating additional costs of recycling programs such as the C&D Ordinance, but also in terms of creating more natural economic incentives for recycling.

In the absence of this flexibility, ESD is proposing to narrow the gap between the cost of disposal and recycling for C&D materials by imposing an additional fee on C&D material that is disposed in the Miramar landfill. This additional fee would be equivalent to 50% of the current tipping fee for each ton of material disposed, and would create a disincentive for disposing non-City C&D material at the Miramar landfill. While disposal rates for C&D material generated within the City would still be higher than the cost of recycling, this additional fee would certainly narrow the cost gap. The table below compares the cost of recycling with the cost of disposal, including the additional fee for C&D material.

Table 6. Cost of Recycling vs. Disposal*, with C&D fee

	<u>Miramar (City waste)</u>	<u>Miramar (Non-City)</u>	<u>SANCO</u>
Tipping Fee	\$36.00	\$51.00	\$46.00
AB 939 Fee	\$7.00	\$7.00	\$7.00
Franchise Fee	\$12.00	\$0.00	\$0.00
RCBT	\$0.00	\$8.00	\$8.00
TOTAL	\$55.00	\$66.00	\$61.00

** Reflects disposal cost for a Class II franchise*

Overall, the system of refundable deposits should achieve the desired compliance with the C&D Ordinance, while minimizing the financial impacts to the City. However, it is recommended that the deposit rates be closely monitored to ensure that they are high enough to create the proper incentive to recycle C&D material. Finally, it should be strongly noted that the financial implications of changing the City’s disposal rate structure will likely need to be contemplated in the near future, as new proposals to

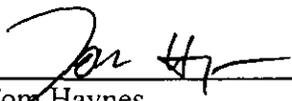
mitigate financial imbalances in the Refuse Disposal and Recycling Funds are likely to include a variety of disposal rate increases.

CONCLUSION

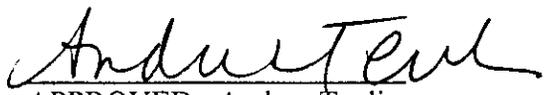
The City has an intricate network of fees related to refuse disposal. Each ton of refuse that is disposed in the Miramar landfill is charged a variety of different fees. Tipping fees support the Refuse Disposal Fund, and vary depending on the type of refuse hauler. The Recycling Fund is supported by AB 939 fees, while franchise fees and the Refuse Collector Business Tax are allocated to the General Fund. In addition, several funds within the City must also pay these refuse disposal fees, since they too dispose waste in the landfill. The General Fund bears the largest expense for disposal fees, as a result of providing residential refuse collection.

The C&D Ordinance aims to divert nearly 300,000 tons of C&D material from the Miramar landfill per year. The benefits of diverting recyclable C&D material from the landfill are maintaining the 50% diversion rate as required by the California Integrated Waste Management Act, and extending the life of the Miramar landfill. However, these benefits come with a cost. The fiscal impact of the C&D Ordinance is estimated to be approximately \$4.1 million in FY 2009 and \$8.0 million in FY 2010 and thereafter, with the greatest impact hitting the Refuse Disposal Fund. Two fiscal mitigations have been proposed that would partially offset the impact to the Refuse Disposal Fund, and fully offset the impact to the General Fund. However, additional mitigations will be necessary in the near future to ensure the financial health of both the Refuse Disposal Fund and the Recycling Fund.

Finally, the C&D Ordinance relies on a system of refundable deposits to create an incentive to recycle, and to ensure compliance with the Ordinance. Other possible approaches to creating incentives, such as lowering the cost of recycling and increasing the cost of disposal, cannot be easily implemented without significant financial impacts to various City funds, particularly the General Fund. This is due in large part to the People's Ordinance, which prohibits the City from charging for residential refuse collection, and thus does not allow increase expenses to be passed on to consumers.



Tom Haynes
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

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COMMITTEE ACTION SHEET

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11/20

COUNCIL DOCKET OF Nov 20, 2007

Supplemental Adoption Consent Unanimous Consent Rules Committee Consultant Review

R -

O -

Construction and Demolition (C&D) Debris Diversion Deposit Ordinance Implementation

Reviewed Initiated By NR&C On 11/02/07 Item No. 5a

RECOMMENDATION TO:

Forward the Construction and Demolition Ordinance to the full City Council and include language to reflect that in order to receive the deposit, a person/business would be required to show a receipt of where they dumped their C&D materials. Also, add language stating that residents and non-residents who have been affected by the 2007 fires would not be required to pay the surcharge for C&D, but the fees associated with C&D would begin January 1, 2008.

VOTED YEA: Frye, Faulconer, Peters

VOTED NAY:

NOT PRESENT: Hueso, Maienschein

CITY CLERK: Please reference the following reports on the City Council Docket:

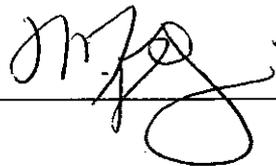
REPORT TO THE CITY COUNCIL NO. 07-169

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Independent Budget Analyst's Report No. 07-101; Environmental Services Department's November 2, 2007, PowerPoint

COUNCIL COMMITTEE CONSULTANT





001011

THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: October 19, 2007**IBA Report Number:** 07-101**NR&C Committee Agenda Date:** October 24, 2007**Item Number:** 5**Subject:** Construction and Demolition Ordinance**OVERVIEW**

In October 2005, the City Council adopted a Construction and Demolition (C&D) Ordinance, which required C&D materials to be recycled in an effort to extend the life of Miramar landfill and to increase the City's diversion rate as required by the California Integrated Waste Management Act. It is estimated that diverting C&D material could increase the City's diversion rate by 4% - 5%. The C&D Ordinance was designed to become effective 45 days after a certified mixed C&D facility became operational within the City of San Diego.

To date, no such facility has become operational within City limits. However, a private mixed C&D facility operated by EDCO (SANCO) is currently located in Lemon Grove. As such, an amendment is proposed to the C&D Ordinance that would cause the Ordinance to be triggered by any certified mixed C&D facility that is located within 25 miles of downtown San Diego. Should this amendment be approved, the C&D Ordinance would become effective upon certification of the SANCO facility.

Efforts to increase recycling and waste diversion, such as the C&D Ordinance, present unique financial challenges for the Environmental Services Department. Due to the intricate and complex nature of the City's refuse disposal rate structure, such efforts often come with significant and interrelated financial impacts, which may not be immediately apparent.

This report provides an analysis of City's refuse disposal rate structure by examining the fees that are charged when refuse is disposed and how those fees impact various City funds, including the General Fund. In addition, the financial impacts of the C&D

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Ordinance are examined, and the proposed fiscal mitigations are briefly discussed. Finally, this report looks at how compliance with the C&D Ordinance is approached, and highlights the difficulty with other possible approaches.

FISCAL/POLICY DISCUSSION

Refuse Disposal Fees

In FY 2007, approximately 1.3 million tons of waste was disposed in the Miramar landfill. This waste is brought to the landfill by numerous types of haulers, including residents, businesses, City franchised haulers, and the City itself. Each hauler that brings waste to the landfill is charged for the disposal of that waste.

In general there are two ways that these charges are assessed: as a flat rate and per ton. Haulers that transport their waste in smaller vehicles, such as cars, pickups, or small trailers, are charged a flat rate depending on the type of vehicle they are using, the type of waste they are disposing, and whether the waste was generated within the City of San Diego. These haulers make up a very small percentage of the waste that is disposed in the landfill.

Larger haulers are charged based on the tons of waste they dispose. A variety of charges are levied on each ton of waste that is disposed. These charges, collectively known as disposal fees, support the General Fund, the Refuse Disposal Enterprise Fund, and the Recycling Enterprise Fund. The analysis in this report focuses on the per-ton charges, as they are charged on approximately 90% of all waste disposed at the Miramar landfill.

Disposal fees levied by the City are composed of four different types of fees: tipping fees, AB 939 or recycling fees, franchise fees, and the Refuse Collector Business Tax (RCBT). A brief description of each of these fees is provided below.

Tipping Fee – The basic fees charged for use of the Miramar landfill. Tipping fees are authorized by Municipal Code Section 66.0129, and are the primary funding source for the Refuse Disposal Enterprise Fund. The disposal fee differs depending on the type of hauler and whether the waste is generated within the City (“City waste”). The disposal fee paid by the City and by franchised haulers is \$24 per ton for City waste and \$34 per ton for non-City waste.

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C01013

Refuse Hauler Franchise Fee – Municipal Code Section 66.0108 requires all commercial refuse haulers obtain a franchise agreement with the City in order to provide solid waste collection services. The franchise is required in order to regulate such businesses to ensure health and safety standards, and for the use of the City’s rights-of-way. Class I franchises are granted to those haulers that collect 75,000 tons or less per year, who are charged \$11 per ton. Class II franchises are granted to haulers that collect over 75,000 tons, who are charged \$12 per ton. Revenue from refuse hauler franchise fees is allocated to the General Fund.

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Due to the various types of fees that are charged and the different amounts of the fees depending on the hauler type and where the waste is generated, it is difficult to generalize about the refuse disposal fee structure. However, this complexity may be averted by simply examining the fee structure for one particular hauler type. The following diagram reflects the fees that are charged on each ton of waste that is disposed by Class II franchise haulers.

Table 1. Disposal Fees for Class II Franchise Haulers, per ton

	City Waste	Non-City Waste		
Tipping Fee	\$24.00	\$34.00	→	REFUSE DISPOSAL FUND
AB 939 Fee	\$7.00	\$7.00	→	RECYCLING FUND
Franchise Fee	\$12.00	\$0.00	→	GENERAL FUND
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TOTAL	\$43.00	\$49.00		

Again, it should be noted that these fees only pertain to Class II franchise haulers. Class I franchise haulers and City waste haulers pay almost identical fees, except that the franchise fee for Class I haulers is \$11 per ton. City waste haulers pay the same tipping fee and AB 939 fee, but do not pay franchise fees or RCBT.

This intricate network of fees and charges generates significant revenue for the various City funds. The Table 2 shows how much revenue each of these fees is anticipated to generate in FY 2008, and to which funds.

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		FEE				
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	Recycling		\$11.5			\$11.5
	General			\$10.1	\$2.0	\$12.1

But the City does more than just receive revenue from these fees; it also pays them. Tipping fees and AB 939 fees are charged on each ton of waste that the City disposes in Miramar. Since the General Fund provides for residential refuse collection, it bears the largest share of these costs. The table below shows the funding budgeted in FY 2008 for disposal fee expenses.

Table 3. Disposal Fee Expenditures

Fund	FY08 Budget
General Fund	\$ 13,134,448
Collection Svcs.	11,950,158
Recycling	841,054
Refuse Disposal	281,716
Water	400,000
Sewer*	832,000
Other Funds	11,500
TOTAL	\$ 15,500,718

* Includes both Muni and Metro Funds

This analysis illustrates the complexity of City's refuse disposal fee structure and the impact that disposal fees can have on various City funds and departments, both as revenues and as expenditures. This reflects the inherent difficulty with enhancing recycling efforts: the City loses money for each ton of material that is diverted away from the landfill.¹ Furthermore, increasing certain fees will increase expenditures for certain funds, primarily the General Fund. As discussed in ensuing sections, this rate structure

¹ This is often referred to as "deferred" revenue since the space in the landfill still exists, and fees will be charged on the use of that space in the future. However, this foregone revenue still presents a serious cash flow impact on a year-by-year basis, and for practical purposes may be considered lost.

and the intricately linked funding network tends to limit the City's options in terms of implementing compliance measures or fiscal mitigations related to recycling programs.

Financial Implications of C&D Ordinance

The Environmental Services Department estimates that the total financial impact of the C&D Ordinance will be \$4.1 million in FY 2009 and \$8 million in FY 2010 and each year thereafter as diversion rates are maximized. This represents the cumulative impact across various funds, as summarized in the table below.

Table 4. Estimated Financial Impacts

	<u>FY 2009</u>	<u>FY 2010</u>
General Fund	\$0.3 million	\$0.3 million
Refuse Disposal Fund	\$3.1 million	\$7.0 million
Recycling Fund	\$0.6 million	\$0.6 million
Other City Funds	\$0.1 million	\$0.1 million
TOTAL	\$4.1 million	\$8.0 million

The estimated financial impacts are composed of both increased expenditures and decreased revenues. For instance, there are increased costs to certain General Fund and non-General Fund departments related to recycling C&D material, and increased costs to the Recycling Fund associated with new positions needed to administer the C&D program. However, the largest financial impact of the C&D Ordinance is the lost or deferred revenue that results from diversion of material away from Miramar landfill.

It should be noted that the estimated financial impacts are based on a host of assumptions and unknown elements, such as the effectiveness of the C&D Ordinance and the future flow of waste into the Miramar landfill. However, it is relatively easy to understand the financial impact of diverting C&D material from the landfill. The Environmental Services Department estimates that approximately 400,000 tons of C&D material is disposed in the Miramar landfill annually. The City hopes to divert 75% of this material by FY 2010. This means that the City will no longer be able to charge tipping fees on around 300,000 tons of material that was previously disposed at Miramar. Using the "City Waste" rates listed in Table 1, a simple calculation reveals that this will reduce revenues in the Refuse Disposal Fund by approximately \$7 million per year.²

As shown in Table 4, the Refuse Disposal Fund is most significantly impacted by diverted material pursuant to the C&D Ordinance. The Recycling Fund and the General

² While this is an oversimplification of how the estimated financial impacts are calculated, it illustrates the concept and of how diverted tonnage results in lost revenue, and the general magnitude of such impacts.

Fund are less impacted, because both AB 939 and franchise fees will continue to be charged on each ton of diverted C&D material.³ This is in contrast with the diversion of other recyclable material, where these fees are not charged. The reason for this discrepancy is that the Municipal Code currently defines C&D material as solid waste, as these fees are designed to be levied against solid waste that is generated, processed or disposed in the City.

Proposed Fiscal Mitigations

Two measures are proposed to mitigate the estimated financial impacts of the C&D Ordinance: increasing the flat rate (self haul) disposal fees at the Miramar landfill and implementing a replacement fee for automated refuse containers. If implemented, the increased flat rates will partially mitigate the financial impacts to the Refuse Disposal Fund, while the automated refuse container replacement fee will more than offset the impact to the General Fund.

As previously mentioned, flat-rates are charges to persons transporting their waste in small vehicles, such as cars, trucks and small trailers. The flat rate charges differ depending on the type of vehicle, the type of waste being disposed, and whether the waste was generated within the City of San Diego. It is proposed that the flat-rate charges be increased for all vehicle types in FY 2008 and again in FY 2009. The Department estimates that these fee increases will generate approximately \$700,000 for the Refuse Disposal Fund in FY 2008 and \$2.5 million in FY 2009.

In 1994 the City began to permanently convert to automated refuse collection, and provided one refuse container to each customer in order to ensure that all containers would be fully compatible with the new automated and semi-automated collection systems. These containers generally have a life expectancy of 10 to 12 years, and a vast majority of the 319,000 containers currently in use are nearing or have surpassed their useful life. Currently, the General Fund bears the expense of replacing automated refuse containers, and it is anticipated that the number of containers needing replacement will accelerate in upcoming years. To offset the cost of container replacement, it is proposed that a \$70 charge be levied on all replacement containers provided to City customers. It is estimated that such a charge would generate \$500,000 for the General Fund in FY 2008, and \$1 million each year thereafter.

The IBA supports these financial mitigations in concept; however, additional time is needed to conduct sufficient analysis of these proposals. One point that should be clearly noted is that the proposed increase in flat rates will only partially mitigate the impact to the Refuse Disposal Fund, and no mitigations are currently proposed for the Recycling Fund. However, as the Department has shown previously, both of these funds are facing

³ There is a very minor impact to both the Recycling Fund and the General Fund due to the loss of AB 939 fees and RCBT on C&D material that is self-hauled, since the City has no way of tracking this tonnage.

negative fund balances in the near future, and more robust fiscal mitigations will likely be necessary in upcoming years in order to maintain the financial health of these funds.

Compliance With C&D Ordinance

One of the more significant aspects to the C&D Ordinance is a system of refundable deposits, designed to ensure compliance with the intent of the program. Under this system, the City would collect a refundable deposit from applicants who are applying for building or demolition permits for specified construction, renovation or demolition projects. Deposits would be paid prior to issuance of the permit, and in order to receive a refund the permit holder would need to provide documentation that C&D materials from their project were recycled at a certified C&D recycling facility.

While this system is designed to achieve compliance by creating an incentive to recycle, it is not the only possible means of creating such an incentive. The optimal situation would be one in which it was cheaper to recycle C&D material than to dispose of it. This would create a natural incentive to recycle. Unfortunately, this is not currently the case. The SANCO facility, operated by EDCO, currently charges \$46 per ton of mixed C&D material. This is in addition to the AB 939 fees and franchise fees charged by the City. As shown in the table below, the combination of these charges creates a situation where disposal is more cost-effective than recycling.

Table 5. Cost of Disposal* v. Recycling

	<u>Miramar</u>	<u>SANCO</u>
Tipping Fee	\$24.00	\$46.00
AB 939 Fee	\$7.00	\$7.00
Franchise Fee	\$12.00	\$12.00
TOTAL	\$43.00	\$65.00

** Reflects disposal cost for a Class II Franchise*

Again, in an optimal situation the cost of recycling would be less than the cost of disposal, thereby creating a natural economic incentive to recycle. However, the only way to achieve such an incentive currently would be through some combination of raising disposal costs and lowering recycling costs. Unfortunately, doing this would have significant financial implications for the City.

One option would be to eliminate AB 939 and franchise fees on recycled C&D material, combined with an increase in tipping fees on disposed material. While this option has the potential to create a natural economic incentive to recycle, it would result in significant revenue loss to both the Recycling Fund and the General Fund, as well as significant additional expenses for the General Fund. While it would be possible to make the

Recycling Fund whole by increasing AB 939 fees on waste disposed at Miramar, this would only further increase General Fund costs.

Ultimately, the most preferable situation would be to pass the costs of refuse disposal – including the necessary charges for recycling programs – along to those who generate the waste. This would not only create an incentive to increase the recycling effort, but would also place the financial burden on those who strain the City’s landfill system.

Unfortunately, the People’s Ordinance prohibits the City from passing along refuse collection and disposal costs to a very large contingency of waste producers. Were the City able to charge for refuse collection, increases in tipping fees and AB 939 fees could be passed along to City customers, thereby alleviating the General Fund of adverse financial impacts. This would allow for a greater degree of flexibility in not only mitigating additional costs of recycling programs such as the C&D Ordinance, but also in terms of creating more natural economic incentives for recycling.

In the absence of this flexibility, ESD is proposing to narrow the gap between the cost of disposal and recycling for C&D materials by imposing an additional fee on C&D material that is disposed in the Miramar landfill. This additional fee would be equivalent to 50% of the current tipping fee for each ton of material disposed, and would create a disincentive for disposing non-City C&D material at the Miramar landfill. While disposal rates for C&D material generated within the City would still be higher than the cost of recycling, this additional fee would certainly narrow the cost gap. The table below compares the cost of recycling with the cost of disposal, including the additional fee for C&D material.

Table 6. Cost of Recycling vs. Disposal*, with C&D fee

	<u>Miramar (City waste)</u>	<u>Miramar (Non-City)</u>	<u>SANCO</u>
Tipping Fee	\$36.00	\$51.00	\$46.00
AB 939 Fee	\$7.00	\$7.00	\$7.00
Franchise Fee	\$12.00	\$0.00	\$0.00
RCBT	\$0.00	\$8.00	\$8.00
TOTAL	\$55.00	\$66.00	\$61.00

* Reflects disposal cost for a Class II franchise

Overall, the system of refundable deposits should achieve the desired compliance with the C&D Ordinance, while minimizing the financial impacts to the City. However, it is recommended that the deposit rates be closely monitored to ensure that they are high enough to create the proper incentive to recycle C&D material. Finally, it should be strongly noted that the financial implications of changing the City’s disposal rate structure will likely need to be contemplated in the near future, as new proposals to

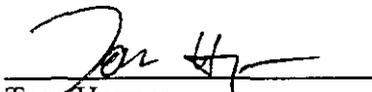
mitigate financial imbalances in the Refuse Disposal and Recycling Funds are likely to include a variety of disposal rate increases.

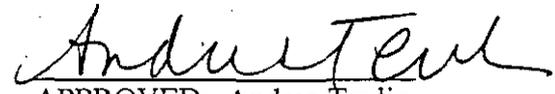
CONCLUSION

The City has an intricate network of fees related to refuse disposal. Each ton of refuse that is disposed in the Miramar landfill is charged a variety of different fees. Tipping fees support the Refuse Disposal Fund, and vary depending on the type of refuse hauler. The Recycling Fund is supported by AB 939 fees, while franchise fees and the Refuse Collector Business Tax are allocated to the General Fund. In addition, several funds within the City must also pay these refuse disposal fees, since they too dispose waste in the landfill. The General Fund bears the largest expense for disposal fees, as a result of providing residential refuse collection.

The C&D Ordinance aims to divert nearly 300,000 tons of C&D material from the Miramar landfill per year. The benefits of diverting recyclable C&D material from the landfill are maintaining the 50% diversion rate as required by the California Integrated Waste Management Act, and extending the life of the Miramar landfill. However, these benefits come with a cost. The fiscal impact of the C&D Ordinance is estimated to be approximately \$4.1 million in FY 2009 and \$8.0 million in FY 2010 and thereafter, with the greatest impact hitting the Refuse Disposal Fund. Two fiscal mitigations have been proposed that would partially offset the impact to the Refuse Disposal Fund, and fully offset the impact to the General Fund. However, additional mitigations will be necessary in the near future to ensure the financial health of both the Refuse Disposal Fund and the Recycling Fund.

Finally, the C&D Ordinance relies on a system of refundable deposits to create an incentive to recycle, and to ensure compliance with the Ordinance. Other possible approaches to creating incentives, such as lowering the cost of recycling and increasing the cost of disposal, cannot be easily implemented without significant financial impacts to various City funds, particularly the General Fund. This is due in large part to the People's Ordinance, which prohibits the City from charging for residential refuse collection, and thus does not allow increase expenses to be passed on to consumers.


Tom Haynes
Fiscal & Policy Analyst


APPROVED: Andrea Tevlin
Independent Budget Analyst



THE CITY OF SAN DIEGO

CONSTRUCTION AND DEMOLITION (C&D) RECYCLING

Natural Resources & Culture Committee

November 2, 2007

Purpose of the Briefing

Review:

1. Ordinance
2. Recommended amendments to the Ordinance
3. Fiscal Impacts
4. Recommended fiscal mitigation

Ordinance Review

- Needed because cost of landfill disposal is less than cost of recycling mixed C&D material
- Creates a financial incentive to recycle through collection of refundable deposits
- Deposits collected on building and demolition/removal permits
- Exemptions for projects not likely to produce much C&D debris

Ordinance Review (Cont.)

- Deposit based on square footage and type of project
- City will certify C&D recyclers, verifying diversion rate and permit status
- To obtain refund in part or in full the applicants must document the following:
 - Debris is recycled with certified facilities
 - Onsite reuse of C&D debris
 - Other: Donations or reuse of debris

Recommended Amendments/Revisions

Amendments:

- Trigger Ordinance when a facility is operating within 25 miles of downtown San Diego
- Appeals to the C&D facility certification regulations to go to the Mayor or designee
- Diversion deposits to be paid at the time permits are issued
- Exemptions for minimum diversion deposit increased from \$100 to \$200

Revisions:

- d. Revise deposit schedule
 - a) To increase deposit amounts
 - b) To allow 45 working days to refund deposit

Fiscal Impact of Ordinance

- Based on estimated reduction in waste disposed
- Assumes optimal diversion of the C&D waste stream
- Does not account for additional disposal of waste:
 - > Population growth
 - > Large one-time projects

Fiscal Impact

Fund	FY2008	FY2009	Total	FY2010
General Fund	\$0	(\$300,000)	(\$300,000)	(\$300,000)
Recycling Fund	(\$200,000)	(\$600,000)	(\$800,000)	(\$600,000)
Refuse Disposal Fund	\$0	(\$3,100,000)	(\$3,100,000)	(\$7,000,000)
Other Enterprise Funds	\$0	(\$100,000)	(\$100,000)	(\$100,000)
Total	(\$200,000)	(\$4,100,000)	(\$4,300,000)	(\$8,000,000)

Fiscal Mitigation

- **Two Recommendations**
 1. Adjustment in refuse container fees
 2. Increase in flat rate fees
- **Will return with recommendations for FY2010 after analyzing initial impacts of the Ordinance**

Refuse Container Replacement Fee

- Prior to advent of automated refuse collection, residents responsible for refuse containers
- Since 1996 City has provided one refuse container at no charge
- Nothing precludes the City from charging for refuse containers
- Customers will have option of obtaining refuse containers from City or private vendors

Flat Rate Fees

- Assessed on self haul vehicles bringing waste to Miramar Landfill
- Haven't changed since early 1990's
- Significantly lower than fees at other landfills
- Encourages non-city individuals and businesses to come to Miramar
 - Results in Miramar filling with non-city waste
 - Non-city waste being counted as City of San Diego waste
 - Increased fuel consumption, leading to additional greenhouse gas emissions

Recycling Fund Status¹

Status Quo	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Projected Beginning Fund Balance	\$3,300,000	\$3,600,000	\$2,400,000	\$1,100,000	(\$300,000)
Projected Year-End Fund Balance	\$3,300,000	\$2,400,000	\$1,100,000	(\$300,000)	(\$1,600,000)
Implementing the CRO, CADD and Fee Schedule					
Projected Beginning Fund Balance	\$4,300,000	\$3,100,000	\$900,000	(\$2,100,000)	(\$5,700,000)
Projected Year-End Fund Balance	\$5,400,000	\$1,900,000	(\$2,100,000)	(\$5,700,000)	(\$9,200,000)

All data are estimates, subject to revision, and rounded to the nearest \$100,000.

Refuse Disposal Fund Status¹

Status Quo	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Projected Beginning Fund Balance	\$12,300,000	\$14,700,000	\$8,500,000	\$2,400,000	\$2,600,000
Projected Year-End Fund Balance	\$10,700,000	\$6,800,000	\$2,400,000	(\$2,600,000)	(\$7,100,000)
Implementing the CRO, C&DO and Fee Schedule					
Projected Beginning Fund Balance	\$12,300,000	\$14,200,000	\$8,700,000	(\$3,900,000)	(\$13,200,000)
Projected Year-End Fund Balance	\$11,400,000	\$6,700,000	(\$3,300,000)	(\$13,200,000)	(\$22,300,000)

All data are estimates, subject to revision, and rounded to the nearest \$100,000.

001027



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: October 19, 2007 REPORT NO: 07-169

ATTENTION: Natural Resources and Culture Committee
Agenda of October 24, 2007

SUBJECT: Construction and Demolition (C&D) Debris Diversion Ordinance
Implementation

REFERENCE: Manager's Report No. 94-191 (July 7, 1994)
Manager's Report No. 95-91 (April 26, 1995)
Manager's Memorandum re: CMR 95-91 (May 26, 1995)
Manager's Memorandum re: CMR 95-91 (August 2, 1995)
Manager's Report No. 96-117 (May 28, 1996)
Manager's Memorandum re: Solid Waste Management Issues
(August 1, 1996)
Manager's Report No. 98-61 (March 20, 1998)
Manager's Report No. 99-160 (July 28, 1999)
Manager's Report No. 99-208 (October 27, 1999)
Manager's Report No. 04-175 (July 28, 2004)
Manager's Report No. 04-176 (July 28, 2004)
Manager's Report No. 05-071 (March 9, 2005)
Manager's Report No. 05-205 (October 7, 2005)
Manager's Report No. 05-222 (November 23, 2005)
Report to the City Council No. 07-140 (August 31, 2007)
City Attorney's Report to Mayor & Council (June 13, 2005)

REQUESTED ACTION:

1. Adopt the amended Ordinance revising Chapter 6, Article 6 of the San Diego Municipal Code by amending 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, and 66.0608 all relating to the diversion of construction and demolition debris from landfill disposal.
2. Approve the revised deposit schedule for the City's Construction and Demolition Debris Diversion Program.

STAFF RECOMMENDATION:

Approve the requested actions and forward to the full City Council for approval.

SUMMARY:

The California Integrated Waste Management Act of 1989 (AB939) required all cities to achieve a 50% waste diversion rate from landfill disposal by 2000 and to maintain that diversion rate on an ongoing basis. While the City's calendar year (CY) 2005 diversion rate was 52%, there are still substantial quantities of recyclable materials being unnecessarily disposed of in the region's landfills. Waste composition studies show that C&D was approximately 20% of the disposed waste stream in 1992, and increased to 31% in 1997 and 35% in 2000. The City's overall annual disposal tonnage in CY 2006 was approximately 250,000 tons higher than the tonnage studied in the 1999/2000 waste composition study, and the Miramar Landfill tonnage reporting system shows that approximately 400,000 tons of C&D debris are disposed there annually.

The City Manager's Committee on C&D Material Recycling considered a C&D ordinance in 2003. The goals of the Ordinance were to assist the City in increasing its AB939 waste diversion rate and to extend the life of Miramar Landfill. The Committee recommended continuing with a voluntary policy initially, only enacting a C&D recycling ordinance if the voluntary policy was not successful. The City Council established a voluntary C&D Policy in November 2004. The subsequent lack of results led to the adoption of a C&D Ordinance in October 2005, which would become effective 45 days after a certified mixed C&D recycling facility is operating within the City. To date there is no mixed C&D facility operating in the City and the Ordinance has not become effective.

Miramar Landfill C&D Facility

Even though there already was a strong source separated recyclables processing infrastructure in the region, a mixed C&D recycling infrastructure was needed to ensure that additional waste diversion would occur. The City issued a Request for Proposal (RFP) in November 2004 to develop a mixed C&D recycling facility at the Miramar Landfill. A Notification of Intent to Award was issued in August 2005, and the Environmental Services Department (ESD) planned for the Miramar Landfill facility to open in summer/fall 2006. The response to the RFP resulted in a need for ESD to subsidize the facility so that the cost to landfill users would be the same for mixed C&D recycling and refuse disposal. This subsidy would have been in addition to the fiscal impacts which also apply to the implementation of the C&D Ordinance as noted in the Fiscal Considerations section of this report. The subsidy was proposed to consist of both one-time upfront costs and ongoing operating expenses. The upfront costs of approximately \$1.2M would have included providing a scale for contractor use to weigh outbound loads, providing the infrastructure for water and electricity service to the C&D facility site, other related improvements and expenses, and improvements to and expansion of the Miramar Greenery. The ongoing subsidies associated with the operation of the City facility would have had a fiscal impact of \$3.2M per year, and would have included the following:

- \$2.7M lost revenue and increased costs to the Refuse Disposal Enterprise Fund:
 - \$1.7M in lost revenue for disposal of residue from the C&D facility at no charge.
 - \$1M in increased Miramar Greenery operating costs for processing of clean green waste, clean wood, and clean drywall from the C&D facility at no charge.
- \$500,000 increased costs to the Recycling Enterprise Fund:
 - \$200,000 increased costs for energy, permits, and scale related costs.

- \$300,000 payment to vendor (subsidy above the \$24/ton tipping fee received at Miramar Landfill Fee Booth).
- The subsidy would also increase by approximately \$200,000 per year due to increased costs such as CPI increases.

The award of the contract and subsequently the facility's opening date were delayed due to the significant adverse fiscal impacts on ESD fund balances. In the meantime, the private sector started to respond to this market opportunity by developing local mixed C&D infrastructure. For example, the SANCO (EDCO) facility in Lemon Grove opened in January 2007, and two additional mixed C&D recycling facilities are proposed to be developed in the near future.

The SANCO facility is located approximately eight miles from downtown San Diego, just outside the City's boundary with the City of Lemon Grove, and is easily accessed from State Route 94. While not equidistant to all parts of the City, it is closer to downtown (where much of the development/redevelopment is occurring) than the proposed City facility at the Miramar Landfill. The SANCO operator estimates that approximately 80% of the facility's capacity could serve the City of San Diego. If fully utilized, this is equal to the expected diversion from the City's proposed facility and could increase the City's overall waste diversion rate by up to 4% - 5%. In addition, San Diego Landfill Systems (Allied Waste Services) is working to site mixed C&D facilities at both the Otay and Sycamore Landfills. Since the combination of a strong regional source separated recycling infrastructure and the SANCO facility will provide ample capacity and opportunity to divert C&D materials generated in San Diego, there is no need for the City to subsidize the construction and operation of a C&D facility at the Miramar Landfill.

C&D Ordinance

The need for the existing C&D ordinance remains due to the fact that the current cost of landfill disposal is less than the cost of recycling mixed C&D material. The Ordinance creates an economic incentive to recycle through the collection of refundable deposits. The City will collect a refundable diversion deposit for specified building construction, demolition or remodeling projects when a building permit or demolition/removal permit is issued. Certain projects and activities will be exempt from the deposit requirement. These include: pools, decks, carports, fences, and retaining walls; projects that only require a plumbing, electrical or mechanical permit; projects generating only hazardous waste and projects with a calculated deposit below the established threshold. Last year the Development Services Department (DSD) issued 5,000 permits that would have been subject to paying a deposit if the Ordinance had been in effect. The deposit amount will be based on square footage and type of project, with maximum deposits for some larger projects. The applicant will be required to complete and submit a Waste Management Form Part I (Attachment (1)) with their permit application. The form will require applicants to estimate the type and amount of waste material that will be generated as a result of the project. The deposit will be calculated by DSD staff, based on the approved deposit schedule, and paid with the other fees associated with the permit at the time it is issued.

During the course of the project, the applicant will need to document project C&D debris recycled at recycling facilities certified by the City, onsite reuse of C&D debris and/or other donations or reuse of C&D debris. A certified facility is one that meets City standards for recovery of debris. Criteria for certifying facilities will include criteria for: 1) determining the

facility's diversion rate, and 2) verifying that the facility has obtained all applicable permits and licenses necessary to legally operate their facility in California. DSD will provide a list of certified facilities to applicants when they apply for permits, and the list will be available on the City's website. Reuse of debris is encouraged, with the requirement that applicants provide photo and narrative documentation of their reuse efforts to justify the refund of their diversion deposit.

The diversion deposits will be collected starting on or after July 1, 2008. To be eligible for a diversion deposit refund, in whole or in part, the applicant will be required to submit to ESD, within 180 days of the final inspection date for the project, the properly completed Waste Management Form Part II (Attachment (1)), together with documentation that establishes the diversion rate the applicant achieved for the project. ESD will review the documentation to determine whether the project met the applicable diversion requirement. If the diversion requirement is achieved, a refund will be approved. In the event that an applicant does not request a refund of the C&D deposit within 180 days of the final inspection date of the project or is entitled only to a partial refund, then the non-refunded balance will be retained by the City. Interest on deposits will also become the property of the City. Non-refunded deposits and interest earned on deposits will be deposited into the Recycling Sub-Fund specifically for use in furthering waste reduction and diversion efforts, and will offset administrative costs of the C&D diversion program established by the Ordinance. Due to the unknown rate of defaults of deposits, it is difficult to estimate the total deposit revenue that may be generated by the Ordinance annually.

Proposed Amendments to C&D Ordinance

Without the subsidized facility at the Miramar Landfill or another facility within the City of San Diego, the current C&D Ordinance will need to be modified to become effective. The four proposed modifications to the C&D Ordinance are listed below and the proposed Ordinance to amend the Municipal Code to include the C&D modifications is included as Attachment (2):

1. The requirement that a certified recycling facility which accepts mixed C&D must be operating within the City will be replaced by a requirement that a certified recycling facility must be operating within 25 miles of downtown San Diego. The collection of diversion deposits will begin on or after July 1, 2008. This will allow private sector facilities located outside the City limit to trigger the Ordinance, and will provide for an educational period prior to the collection of the diversion deposits. The diversion requirement for those applying for building permits or demolition/removal permits would be 50% until December 31, 2008. For those permits issued on or after January 1, 2009, the diversion rate would be 75%, provided that a certified recycling facility which accepts mixed C&D debris is operating within 25 miles of downtown San Diego at a 75% diversion rate as of that date. If such a facility is not in operation on January 1, 2009, the diversion rate would remain at 50% for all permits issued until 30 days after the City has notified the public that such a facility is available, after that time the diversion rate for all permits issued would increase to 75%. ESD plans to develop its certification regulations with the goal to certify facilities no later than January 31, 2008. See Attachment (3) for the proposed timeline.
2. Any appeals to the proposed C&D facility certification regulations will be to the Mayor or designee instead of City Council. This would result in a timely and efficient process to handle administrative changes with better utilization of staff resources.

3. Diversion deposits will be paid at the time the building permits or demolition/removal permits are issued instead of at the time of permit application. This will ensure that deposits are not collected any earlier than necessary. In addition, this prevents many applicants who submit permit applications, but never actually obtain permits, from being subjected to the deposit and having to request refunds.
4. The program exemption for minimum diversion deposits would be changed from \$100 to \$200 to keep the list of exemptions consistent with proposed increases to the deposit schedule. Attachment (4) shows the schedule of the current and proposed deposit amounts.

In addition to the proposed Ordinance modifications, the City Council will be requested to adopt a resolution revising the deposit schedule to increase the deposit amounts to a level that provides an economic incentive to recycle. The existing deposit amounts were based on the assumption that the cost of mixed C&D recycling would be the same as landfill disposal. That assumption is no longer valid given that the City is not subsidizing a C&D facility. Without a City-subsidized processing facility at the Miramar Landfill, the deposits will need to be increased to ensure there is sufficient incentive for recycling C&D waste. If deposit amounts are not increased, many people would simply forfeit their deposit and consider their lost deposit a cost of doing business.

Additionally, the deposit schedule is requested to be revised to allow for 45 working days instead of 30 working days to refund deposits after full and complete refund applications are received. ESD originally requested 90 working days to process refunds, but the City Council amended it to 30 working days. In consultation with the Auditor's Office it has been determined that 45 working days is a more prudent time frame to allow for the proper processing of the refunds.

Mitigation of Fiscal Impacts

The City Council will also be requested to adopt resolutions as appropriate to mitigate the fiscal impacts of the Ordinance as discussed in the Fiscal Considerations section.

Conclusion

The Mayor supports bringing forward these amendments to the C&D recycling ordinance which would be triggered by a private sector C&D certified recycling facility operating within 25 miles of downtown San Diego at a minimum 50% diversion rate. The Department would like to bring this ordinance to Council in November 2007 with collection of deposits to begin on or after July 1, 2008. With the private sector's C&D recycling infrastructure, a facility at Miramar Landfill is no longer needed at this time. Not proceeding with a facility at the Miramar Landfill would also ensure that the users of the Miramar Landfill do not have to subsidize the cost of developing or operating the facility. The delay in requiring deposits will provide time for a comprehensive education and outreach effort while ESD and DSD develop the information technology to support the deposit process.

FISCAL CONSIDERATIONS:

Fiscal Impact

The Environmental Services Department Business Process Reengineering (BPR) was approved by City Council in February 2007. The Department's BPR study comprehensively assessed the Department's operations. As a result, the Department streamlined and improved its operations, resulting in estimated annual savings of \$3M exclusive of the Collection Services Division.

Even though the BPR effort enhanced the Department's efficiency and effectiveness, its focus was on current operations. New programs that come online that would impose significant increases in expenditures and/or reductions in revenues must be addressed at the time the programs are approved and implemented in order to maintain an appropriate level of solid waste system financing.

Any additional fiscal impacts to the Department's Enterprise Funds require the Department to balance the impacts through either an infusion of revenues or a reduction in services. Certain disposal fees have not been increased in 15 years and are significantly below the full cost-recovery amount. In addition, years ago the City undertook payment of certain operational charges which previously had been the responsibility of customers. ESD recommends increasing certain disposal fees to bring them closer to the cost recovery amount and shifting back to customers the responsibility for certain operational costs to offset the financial impacts of the Ordinance.

The total FY 2008 fiscal impact of this ordinance is estimated to be \$200,000, all of which will be in the Recycling Enterprise Fund. These are education and outreach costs for the Ordinance; staffing costs, and information technology costs for modifying DSD's permitting system to incorporate the deposit process.

The total FY 2009 fiscal impact is estimated to be \$4.1M, and is broken down by fund as follows: \$3.1M in reduced Refuse Disposal Fund revenues associated with C&D tonnage diverted from Miramar Landfill; \$600,000 in reduced Recycling Fund revenues associated with C&D tonnage diverted from Miramar Landfill and costs for a proposed staffing increase of 3.50 FTE to implement the Ordinance; \$300,000 in increased costs and reduced revenues in the General Fund associated with recycling C&D tonnage; and \$100,000 in increased costs to other City enterprise fund departments for recycling C&D tonnage.

The total estimated fiscal impact for FY 2010 and annually thereafter is \$8M, and is broken down by fund as follows: \$7M in reduced Refuse Disposal Fund revenues associated with C&D tonnage diverted from Miramar Landfill; \$600,000 in reduced Recycling Fund revenues associated with C&D tonnage diverted from Miramar Landfill and ongoing costs for the aforementioned proposed 3.50 FTE; \$300,000 in increased costs and reduced revenues in the General Fund associated with recycling C&D tonnage; and \$100,000 in increased costs to other City enterprise fund departments for recycling C&D tonnage. See Attachment (5) for the fiscal impact summary.

Fiscal Mitigation

Two mitigation options are recommended to address the FY 2008 and FY 2009 fiscal impacts to the General Fund, Recycling Enterprise Fund, and Refuse Disposal Enterprise Fund from triggering the Ordinance. These options are (1) increasing the flat rate (self haul vehicles) disposal fees at Miramar Landfill and (2) implementing a revision to the refuse container fee regulations to require customers to furnish their own container, after the first one, either by purchasing subsequent approved containers from the City or from commercially available sources. These proposed mitigation measures are introduced below, and described in detail in two separate Reports to the City Council.

If the mitigation measures are approved and become effective as of January 1, 2008 they will mitigate most of the Ordinance's estimated fiscal impacts to all three funds in FY 2008 and FY 2009. If the fiscal impact exceeds the mitigation revenues, fund balances will be used to make up the difference. As necessary, the Department will bring forward additional fiscal recommendations for FY 2010 and beyond after it has had an opportunity to analyze the initial success and fiscal impacts of the Ordinance. These fiscal impacts are estimated based on changes in waste disposed and assume optimal diversion of the C&D waste stream.

Flat Rate Fees – Self Haul Vehicles

Flat rate fees are currently assessed on self haul vehicles bringing waste to the Miramar Landfill. The majority of these transactions are with pickup trucks, passenger vehicles, SUVs, etc. These fees have not been increased since the early 1990s and are below full cost recovery. The purchasing power of the revenue from these fees has decreased significantly since that time. The below cost fees have encouraged citizens and businesses from outside the City limits to come to Miramar Landfill, which is filling up with non-City generated waste more rapidly than it otherwise would. In addition, many landfill customers, instead of bringing waste to the closest facility, travel further to bring the material to Miramar to take advantage of the below-market rates causing additional wear and tear on City infrastructure as well as increased fuel consumption, leading to increased greenhouse gas emissions.

The proposed flat rate fee increases will be implemented in two steps over two years, with the first increase effective January 1, 2008.

Fees will change for many vehicle types with the most common being pick-up trucks. For example, the current fee for a City resident coming into Miramar Landfill in a pick-up truck is \$12. Other local landfills charge \$30 for pick-ups. Starting January 1, 2008, ESD is proposing a City resident in a pick-up truck pay \$21 and beginning January 1, 2009, \$30.

Adjustment of Current Fee for Refuse Container Replacement

Currently, the City provides one refuse container to all new customers at no charge. The City also does not currently charge administrative fees nor repair costs for handling City-issued containers. This has been the City's practice since the implementation of the automated refuse collection system in 1996 and would change with this proposal, which modifies the existing container fee schedule to recover these costs for the replacement of the initial trash container provided to City refuse customers. This proposal contemplates returning individual responsibility for refuse containers (after the first container) to customers, where it had resided for nearly 75 years before the City's conversion to automated refuse collection.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Issues related to the need to divert additional C&D tonnage from the landfill and the Ordinance have previously been discussed before City Council, including a September 19, 2005 City Council meeting discussion on the C&D ordinance, and other City Council and Natural Resources and Culture Committee meetings related to a draft C&D ordinance, the City Council Policy on C&D Recycling, the Ordinance, and the proposed C&D facility.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The concept of a C&D recycling ordinance was first publicly discussed during the City Manager's Committee on Construction and Demolition Material Recycling, which convened from August - October 2003. The purpose of this committee was to develop a C&D recycling ordinance. There was additional community participation and outreach associated with the City Council Policy that was developed as a result of the City Manager's Committee, and the C&D Ordinance that was developed and adopted at a later date. Efforts included outreach to, and meetings with, stakeholders, and related presentations given to the NR&CC and City Council.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders associated with this item include the City's Non-Exclusive Franchised Solid Waste Haulers, San Diego County Disposal Association, Building Industry Association of San Diego County, Associated General Contractors of America, San Diego Regional Chamber of Commerce, San Diego County Taxpayers Association, US Green Building Council, California Resource Recovery Association, San Diego County Integrated Waste Management Citizens Advisory Committee, Sierra Club, Audubon Society, Solana Center for Environmental Innovation, and individual residents who support recycling and waste diversion. The implementation of the Ordinance will extend the life of the Miramar Landfill and assist the City in maintaining AB 939 waste diversion mandates.



Elmer L. Heap, Jr.
Environmental Services Department



R.F. Haas
Deputy Chief/ Public Works

- Attachments:
1. Waste Management Form Parts I and II
 2. C&D Debris Diversion Deposit Ordinance Revisions
 3. Implementation and Fiscal Impacts Timeline
 4. Proposed C&D Ordinance Deposits
 5. Fiscal Impacts Summary



Waste Management Form for Construction & Demolition (C&D) Debris

Required for projects described in Municipal Code §66.0601-66.0610. Please see Information Bulletin 119 for more information.

PART I Complete this section before obtaining a building or demolition permit. Submit this form and your recycling deposit to the Development Services Department when paying permit fees.

Permit # _____ Project Name (if applicable) _____

Project Address _____ Zip Code _____

Property Owner _____ Contact Name _____ Title _____

Signature _____ Date _____

Phone _____ Fax _____ Email _____

Contact Mailing Address (if different than project address) _____

City _____ State _____ Zip _____

Project Type (check all that apply): New Construction Addition/Alteration Demolition

Commercial Residential Single Family Multi-Family

Estimated sq ft. _____

Estimated Start Date ____/____/____

Estimated Completion Date ____/____/____

TO BE FILLED OUT BY DSD STAFF
Recycling Deposit Paid \$ _____
By _____

Fill out the following table with estimated waste tonnage that will be generated by your project.
Goal: Reduce quantity of materials disposed at landfills by percentage noted in Mun Code 66.0601-66.0610

Indicate quantities in tons for each material listed. (Please use the *City Construction and Demolition Debris Conversion Rate Tables* if converting from volume to tonnage.)

Material Type	A Estimated Waste Quantity	B Estimated Salvage Reuse OR Recycled	C Estimated Disposal	D Hauler	E Facility Destination(s)
Asphalt & Concrete					
Brick/Masonry/Tile					
Dirt					
Mixed inerts					
Mixed C&D Debris					
Cabinets, doors, fixtures, windows (circle all that apply)					
Carpet					
Carpet Padding/Foam					
Cardboard					
Ceiling Tile (acoustic)					
Drywall (Used, new, unpainted sheets or scrap)					
Landscape Debris					
Unpainted Wood & Pallets					
Roofing Materials					
Scrap Metal					
Stucco					
Garbage/Trash					
Other (please describe)					
Other (please describe)					
TOTAL					

Continued on back

PART I continued

Fill in the blanks below to determine your diversion rate.

Total B / Total A _____ = _____ x 100 = _____ %

For Multi-Family, Commercial and Industrial Projects only (Single family projects do not need to answer this question):

My project complies with Municipal Code §142.0801 - 142.0830 which requires permanent, adequate and convenient space for the storage and collection of refuse and recyclable material.

PART II

Complete this section after final inspection. Submit with a copy of all diversion and disposal receipts, written statements or photographs documenting on-site reuse or other reuse or donation, and a copy of PART I of this form to apply for your refund.

Send completed form and all documentation to:

City of San Diego
Environmental Services Department
Attn: C&D Diversion Coordinator
9601 Ridgehaven Court, Suite 320
San Diego, CA 92123

Applicants must submit refund requests within 180 days following project final inspection. Requests submitted after 180 days will not be eligible for a refund. Refunds will not be issued if all requested information and documentation is not provided. Refunds will be mailed within 45 days following receipt of all proper forms and documentation.

Applicant is advised of San Diego Municipal Code section 11.0401(b) which states: "No person willfully shall make a false statement or fail to report any material fact in any application for City license, permit, certificate, employment or other City action under the provisions of the San Diego Municipal Code."

Section A

I certify under penalty of perjury under the laws of the State of California that the information provided in and with this form pertains to construction and demolition debris generated only from the project listed in PART I, that I have reviewed the accuracy of the information, and that the information is true and correct to the best of my knowledge and belief.

Name _____ Title _____

Signature _____ Date _____

Final Inspection Date _____

Section B

Please fill in this part only if the refund check is to be sent to a different person and address than that listed in PART I. By signing my name, I hereby direct the C&D refund for this project to be sent to the person listed in Section C below.

Name _____ Signature _____

Section C

Please send refund to:

Name _____ Address _____

City _____ State _____ Zip _____

For more information please call City of San Diego Environmental Services Department
(858) 492-5010 or visit www.recycleorelese.com.

001037

(O-2008-47)

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, AND 66.0608, ALL RELATING TO DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS FROM LANDFILL DISPOSAL.

WHEREAS, the City operates the Miramar Landfill [Landfill], which currently is the only municipal landfill in the City; and

WHEREAS, the Landfill is expected to close between 2011 and 2013; so preserving Landfill capacity in order to extend the useful life of the Landfill for the benefit of the citizens of the City is of paramount concern; and

WHEREAS, the California Integrated Waste Management Act of 1989, Assembly Bill 939 [AB 939], requires that each local jurisdiction in the State divert 50% of waste from landfill disposal; and

WHEREAS, the City could face fines up to \$10,000 per day if it fails to remain in compliance with AB 939 mandates; and

WHEREAS, at least 35%, or 586,000 tons, of waste going into local landfills each year originates from construction and demolition projects within the City; and

WHEREAS, reusing and recycling construction and demolition debris is necessary both to preserve and extend the useful life of the Landfill and to further efforts to reduce waste and comply with AB 939 mandates; and

WHEREAS, construction and demolition debris recycling is proven to reduce the amount of such material deposited in a landfill; and

WHEREAS, except in unusual circumstances, it generally is feasible to divert most of the construction and demolition debris generated from most construction, demolition, and renovation projects; and

WHEREAS, this ordinance as originally adopted was to become effective only after a certified recycling facility which accepted mixed construction and demolition debris was operating within the City at a 50% diversion rate; and

WHEREAS, a private recycling facility which accepts mixed construction and demolition debris is now operating just outside City limits in a relatively central location and two additional facilities are proposed for development at local landfills within the County of San Diego in the near future; and

WHEREAS, facility certification regulations would be promulgated in a more timely and efficient manner if objections to proposed regulations were appealable to the Mayor, whose decision would be final; and

WHEREAS, for purposes of more effectively administering the diversion deposit process, deposits should be collected at the time of permit issuance rather than permit application; and

WHEREAS, the deposit schedule requires upward revision and the minimum deposit should be increased to remain consistent with the deposit schedule;

NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 6, Article 6, Division 6, of the San Diego Municipal Code be amended by amending Sections 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, and 66.0608, to read as follows:

Division 6:**Construction and Demolition Debris Diversion Deposit Program****§ 66.0601 Findings**

The Council of the City of San Diego finds and declares that:

- (a) [No change in text.]
- (b) The City has made and continues to make progress in meeting the waste *diversion requirements* imposed by *AB 939*, but additional efforts, particularly in the *diversion of construction and demolition debris*, will assist the City in continuing to meet the goal of *diverting 50%* of its waste from landfill *disposal*.
- (c) [No change in text.]
- (d) Efforts by the City and the private sector to encourage voluntary *construction and demolition debris diversion* have not been as successful as the City had hoped and additional efforts are necessary to ensure continued compliance with *AB 939* requirements.
- (e) [No change in text.]

§ 66.0602 Purpose of Construction and Demolition Debris Diversion Deposit Program

The purpose of this Division is to establish the Construction and Demolition Debris Diversion Deposit Program. This program is intended to increase the *diversion of construction and demolition debris* from landfill *disposal*, conserve the capacity and extend the useful life of the Miramar Landfill, and avoid the potential financial and other consequences to the City of failing to remain in compliance with *AB 939* requirements.

§ 66.0603 Definitions

[No change in text.]

§ 66.0604 Submittal of Waste Management Form and Diversion Deposit

Beginning on the 45th day after the City has notified the public, in the manner described in section 66.0606(e), that a *certified recycling facility* which accepts mixed *construction and demolition debris* is operating at a 50% *diversion rate*, within 25 miles of the City Administration Building located at 202 "C" Street, San Diego, or beginning on July 1, 2008, whichever is later:

- (a) All *applicants* for a Building Permit or a Demolition/Removal Permit, including the City of San Diego, shall submit a properly completed *Waste Management Form Part I* with the Building Permit or Demolition/Removal Permit application, in accordance with the requirements set forth in the Land Development Manual; and
- (b) All *applicants*, including the City of San Diego, shall pay a refundable deposit at the time the Building Permit or Demolition/Removal Permit is issued; and
- (c) [No change in text.]

§ 66.0605 Establishment of Construction and Demolition Debris Diversion Deposits

[No change in text.]

§ 66.0606 Entitlement to Refund of Diversion Deposit

- (a) through (c) [No change in text.]
- (d) If the *Director* determines the applicant is entitled to a refund, the amount of the refund shall be in the same proportion to the deposit paid by the *applicant*

as the *diversion* rate achieved for the *development* is to the applicable *diversion* rate set forth below:

(1) For Building Permits or Demolition/Removal Permits issued on or after the actual effective date of Section 66.0604 through and including 180 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall be 50% by weight of the total *construction and demolition debris* generated by the *development*; and

(2) For Building Permits or Demolition/Removal Permits issued after 180 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall be 75% by weight of the total *construction and demolition debris* generated by the *development*, provided that a *certified recycling facility* which accepts mixed *construction and demolition debris* is operating within 25 miles of the City

Administration Building located at 202 "C" Street, San Diego, at a 75% *diversion* rate as of 181 calendar days from the actual effective date of Section 66.0604. If such a facility is not in operation as of 181 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall remain as set forth in Section 66.0606(d)(1) until 30 days after the City has notified the public that such a facility is available, at which time the *diversion* rate shall increase to 75% by weight of the total *construction and demolition debris* generated by the *development*.

(e) through (g) [No change in text.]

(h) If a Building Permit or Demolition/Removal Permit, for which a deposit has been paid, is subsequently cancelled, abandoned or expires before work on the

development has commenced, the *Director* shall refund the deposit paid by the *applicant* upon the *applicant's* submittal to the *Director* of satisfactory proof of the cancellation, abandonment or expiration of the permit.

(i) through (j) [No change in text.]

§ 66.0607 Certified Recycling Facilities

(a) [No change in text.]

(b) Within ten working days after publication of the notice adopting the proposed rules and regulations pursuant to Section 66.0607(a), any person in disagreement with the proposed rules and regulations may request in writing to the *Director* that proposed rules and regulations be considered by the City Manager or designee. The proposed rules and regulations shall be considered by the City Manager or designee, who shall issue a written decision respecting the proposed rules and regulations within thirty days of the *Director's* receipt of the written request. The decision of the City Manager or designee with respect to the rules and regulations shall be final.

§ 66.0608 Diversion Deposit Program Exemptions

(a) [No change in text.]

(b) The following activities are exempt from this Division:

(1) *Development* which is expected to generate only *hazardous waste* and/or *hazardous substances*.

(2) *Development* for which the *construction and demolition debris* deposit is less than \$200 as calculated by the Development Services Department or its successor.

§ 66.0609 Unrefunded Diversion Deposits and Accrued Interest

[No change in text.]

§ 66.0610 Use of Diversion Deposits and Accrued Interest

[No change in text.]

Section 2. That the adoption of this ordinance is not a project and, therefore, is not subject to the California Environmental Quality Act [CEQA] pursuant to CEQA Guidelines section 15060(c)(3).

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

Grace C. Lowenberg
Deputy City Attorney

GCL:mb:sc:sb
10/09/07
Or.Dept:ESD
O-2008-47

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

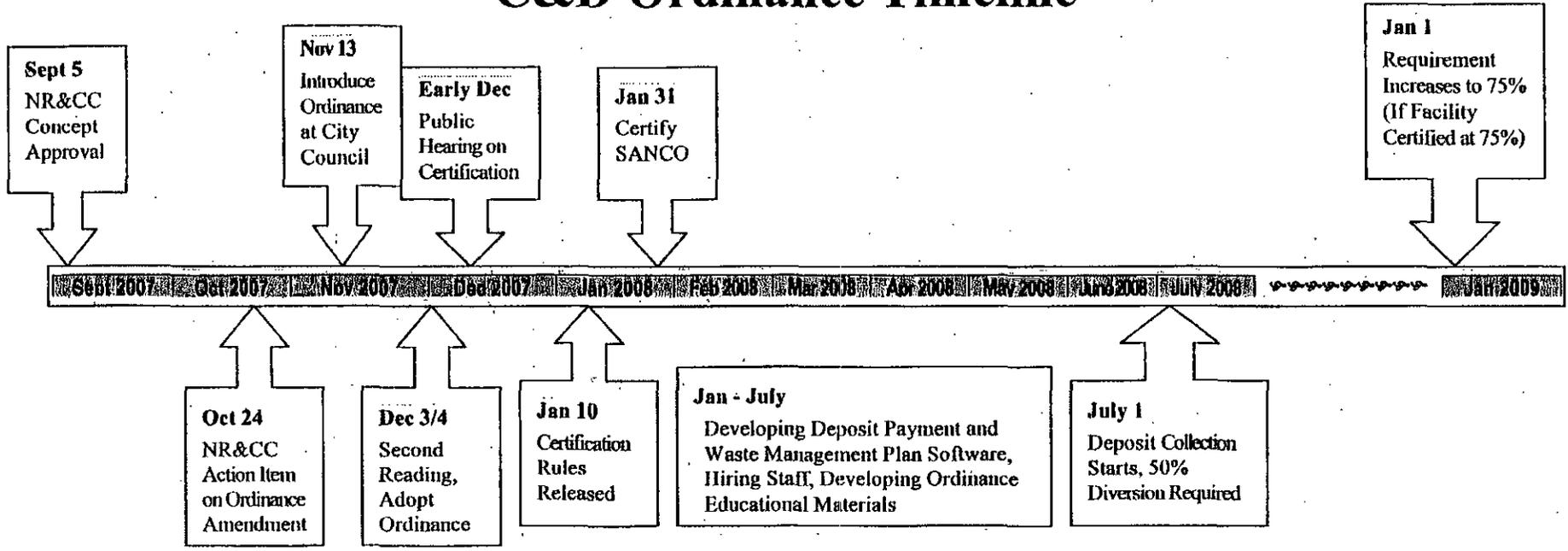
Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

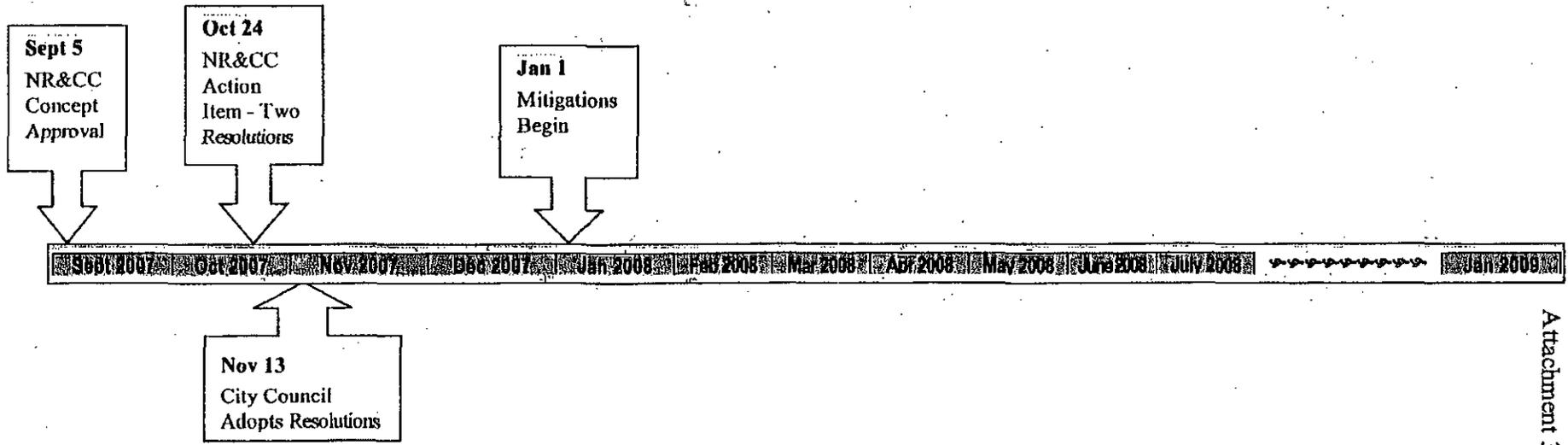
JERRY SANDERS, Mayor

C&D Ordinance Timeline



001045

Fiscal Mitigations Timeline



Attachment 3

Existing Deposit Schedule

Building Category	Deposit / Sq Ft	Maximum Sq Ft Subject to Deposit	Minimum Sq Ft Subject to Ordinance
Residential New Construction	\$0.20	125,000 detached 100,000 attached	500
Non-residential New Construction	\$0.10	25,000 commercial 75,000 industrial	1000
Non-residential Alterations	\$0.35	None	286
Residential Demolition	\$0.35	None	286
Non-residential Demolition	\$0.10	None	1000
Flat Rate			
Roof Project with Tear-Off	\$100	None	None
Residential Alterations	\$500	None	500

Proposed Deposit Schedule With Deposits Doubled

Building Category	Deposit / Sq Ft	Maximum Sq Ft Subject to Deposit	Minimum Sq Ft Subject to Ordinance
Residential New Construction	\$0.40	125,000 detached 100,000 attached	500
Non-residential New Construction	\$0.20	25,000 commercial 75,000 industrial	1000
Non-residential Alterations	\$0.70	None	286
Residential Demolition	\$0.70	None	286
Non-residential Demolition	\$0.20	None	1000
Flat Rate			
Roof Project with Tear-Off	\$200	None	None
Residential Alterations	\$1,000	None	500

Existing Deposit Schedule

Building Category	Deposit/ Sq Ft	Maximum Sq Ft Subject to Deposit	Minimum Sq Ft Subject to Ordinance
Residential New Construction	\$0.20	125,000 detached 100,000 attached	500
Non-residential New Construction	\$0.10	25,000 commercial 75,000 industrial	1000
Non-residential Alterations	\$0.35	None	286
Residential Demolition	\$0.35	None	286
Non-residential Demolition	\$0.10	None	1000
Flat Rate			
Roof Project with Tear-Off	\$100	None	None
Residential Alterations	\$500	None	500

Proposed Deposit Schedule With Deposits Doubled

Building Category	Deposit/ Sq Ft	Maximum Sq Ft Subject to Deposit	Minimum Sq Ft Subject to Ordinance
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Non-residential Alterations	\$0.70	None	286
Residential Demolition	\$0.70	None	286
Non-residential Demolition	\$0.20	None	1000
Flat Rate			
Roof Project with Tear-Off	\$200	None	None
Residential Alterations	\$1,000	None	500

Fiscal Impact Table[Benefit / (Cost)]^{1,2}

Ordinance	Fund	FY08	FY09	Total
C&D Debris Diversion	General Fund	\$0	(\$300,000)	(\$300,000)
	Recycling Fund	(\$200,000)	(\$600,000)	(\$800,000)
	Refuse Disposal Fund	\$0	(\$3,100,000)	(\$3,100,000)
	Other Enterprise Fund	\$0	(\$100,000)	(\$100,000)
	Total	(\$200,000)	(\$4,100,000)	(\$4,300,000)

¹ "Benefits" are defined as reduced expenditures and/or increased revenues. "Costs" are defined as increased expenditures and/or reduced revenues.

² All financial data are estimates, subject to change, and rounded to the nearest \$100,000.

001051

1472 - REQUEST FOR COUNCIL ACTION

ENVIRONMENTAL SERVICES DEPARTMENT

10/24/2007

SUBJECT: Construction And Demolition (C&D) Debris Diversion Deposit Ordinance
Implementation

Box 9 – CONTINUATION

Fiscal Impact Table

[Benefit / (Cost)]^{1,2}

Ordinance	Fund	FY08	FY09	Total
C&D Debris Diversion	General Fund	\$0	(\$300,000)	(\$300,000)
	Recycling Fund	(\$200,000)	(\$600,000)	(\$800,000)
	Refuse Disposal Fund	\$0	(\$3,100,000)	(\$3,100,000)
	Other Enterprise Funds	\$0	(\$100,000)	(\$100,000)
	Total		(\$200,000)	(\$4,100,000)

¹ "Benefits" are defined as reduced expenditures and/or increased revenues. "Costs" are defined as increased expenditures and/or reduced revenues.

² All financial data are estimates, subject to change, and rounded to the nearest \$100,000.

**The City of San Diego
Construction and Demolition Debris Diversion
Deposit Schedule**

A. AUTHORITY

The Diversion Deposit Schedule for the City of San Diego Construction and Demolition Debris Diversion Deposit Program was established under the authority of the San Diego Municipal Code, Chapter 6, Article 6, Division 6. The Diversion Deposit Schedule was adopted on _____, 2007 pursuant to City Council Resolution R-_____. The definitions found in Chapter 6, Article 6, Division 6 apply to this schedule.

B. DIVERSION DEPOSIT CRITERIA AND AMOUNTS

Except as otherwise provided in the San Diego Municipal Code, Chapter 6, Article 6, Division 6, a refundable deposit shall be paid at the time of submitting the Building Permit and/or Demolition/Removal Permit application. Deposit amounts are based on type and size of projects as specified in Table 1. The City of San Diego may, by resolution, change these deposit amounts based on the Consumer Price Index or other indices.

Table 1

Building Category	Deposit/ Sq Ft	Maximum Sq Ft Subject to Deposit	Minimum Sq Ft Subject to Ordinance
Residential New Construction	\$0.40	125,000 detached 100,000 attached	500
Non-residential New Construction	\$0.20	25,000 commercial 75,000 industrial	1000
Non-residential Alterations	\$0.70	None	286
Residential Demolition	\$0.70	None	286
Non-residential Demolition	\$0.20	None	1000
Flat Rate			
Roof Project with Tear-Off	\$200	None	None
Residential Alterations	\$1000	None	500

C. METHOD OF PAYMENT

Deposit payments may be made in the form of cash, cashier's check, money order, debit card, Visa or Mastercard. All payments shall be in the exact amount due. Cashier's checks and money orders shall be made payable to the "City Treasurer."

D. REFUND TIMELINE

The refund or notice of ineligibility for a refund shall be issued by the Environmental Services Department Director or designee within 45 business days of the date the Director receives the documentation required by the San Diego Municipal Code Section 66.0606 (a).

**The City of San Diego
Construction and Demolition Debris Diversion
Deposit Schedule**

A. AUTHORITY

The Diversion Deposit Schedule for the City of San Diego Construction and Demolition Debris Diversion Deposit Program was established under the authority of the San Diego Municipal Code, Chapter 6, Article 6, Division 6. The Diversion Deposit Schedule was adopted on _____, 2007 pursuant to City Council Resolution R-_____. The definitions found in Chapter 6, Article 6, Division 6 apply to this schedule.

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Flat Rate			
Roof Project with Tear-Off	\$200	None	None
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Deposit payments may be made in the form of cash, cashier's check, money order, debit card, Visa or Mastercard. All payments shall be in the exact amount due. Cashier's checks and money orders shall be made payable to the "City Treasurer."

D. REFUND TIMELINE

The refund or notice of ineligibility for a refund shall be issued by the Environmental Services Department Director or designee within 45 business days of the date the Director receives the documentation required by the San Diego Municipal Code Section 66.0606 (a).

001057

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)
N/A

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):
Environmental Services Department

3. DATE: 335
10/24/07 11/20

4. SUBJECT:
Construction and Demolition (C&D) Debris Diversion Deposit Ordinance Implementation

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)
Kip Sturdevan/858-573-1214/MS 1103B

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)
Stephen Grealy/858-573-1275/MS1103B

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					Please see attached Executive Summary Fiscal Considerations section and the attached Fiscal Impact Table
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>[Signature]</i>	10/29/07	6	DEPUTY CHIEF	<i>[Signature]</i>	10-6-07
2	EAS	<i>[Signature]</i>	10/30/07	7	COO	<i>[Signature]</i>	11-6-07
3	LIAISON OFFICE	<i>[Signature]</i>	10/31/07	8	CITY ATTORNEY	<i>[Signature]</i>	11-6-07
4	FM	<i>[Signature]</i>	11/6/07	9	ORIG. DEPT	<i>[Signature]</i>	11/6/07
5	AUDITORS	<i>[Signature]</i>	11/6/07		DOCKET COORD:	<i>[Signature]</i>	
					COUNCIL LIAISON	<i>[Signature]</i>	
					<input checked="" type="checkbox"/> COUNCIL PRESIDENT		
					<input type="checkbox"/> SPOB	<input type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> ADOPTION
					<input type="checkbox"/> REFER TO:		COUNCIL DATE: 11/23/07

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

- Adopt an ordinance amending Chapter 6, Article 6, Division 6 of the San Diego Municipal Code by amending 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, and 66.0608 all relating to the diversion of construction and demolition debris from landfill disposal.
- Approve the revised deposit schedule for the City's Construction and Demolition Debris Diversion Program attached hereto as Exhibit "A."

11A. STAFF RECOMMENDATIONS:

Adopt the Ordinance as prepared by the City Attorney to amend the San Diego Municipal Code all related to the diversion of construction and demolition debris from landfill disposal; and approve the revised deposit schedule for the City's Construction and Demolition Debris Diversion Program.

12. COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): ALL

ENVIRONMENTAL IMPACT: The activity to adopt an ordinance is not a "project" and therefore not subject to CEQA pursuant to the State Guidelines Section 15060(C)(3). This determination is predicated on Section 15004 of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review. Implementation of the future projects will require further environmental review under the provisions of CEQA.

HOUSING IMPACT: N/A

OTHER ISSUES: NONE

001059

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: REPORT NO:
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Environmental Services Department (ESD)
SUBJECT: Construction and Demolition (C&D) Debris Diversion
Deposit Ordinance Implementation
COUNCIL DISTRICT(S): All
CONTACT/PHONE NUMBER: Kip Sturdevan, Deputy Director/858-573-1214

REQUESTED ACTION:

1. Adopt an ordinance amending Chapter 6, Article 6, Division 6 of the San Diego Municipal Code by amending 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, and 66.0608 all relating to the diversion of construction and demolition debris from landfill disposal.
2. Approve the revised deposit schedule for the City's Construction and Demolition Debris Diversion Program.

STAFF RECOMMENDATION:

Approve the requested action.

EXECUTIVE SUMMARY:

At present, the C&D Ordinance adopted by the City Council on October 10, 2005 becomes effective 45 days after public notice that a mixed C&D facility is operating in the City. Because no mixed C&D facility exists in the City, the Ordinance is not active. The purpose of the C&D Ordinance is to encourage the recycling of C&D debris so as to maintain at least the 50% waste diversion rate mandated by state law and to extend the life of Miramar Landfill. The City's CY 2005 waste diversion rate was 52%. ESD planned on building a mixed C&D recycling facility at the Miramar Landfill to open in summer/fall 2006. Based on the responses, to the RFP, ESD would have had to subsidize the facility so that the cost to landfill users would be the same for both mixed C&D recycling and refuse disposal. This subsidy would have been in addition to the other fiscal impacts which would result from implementation of the C&D Ordinance as noted in the Fiscal Considerations section of this report.

The contract award for the City's proposed C&D facility was postponed in order to better evaluate the predicted, significant adverse fiscal impacts on ESD fund balances from the facility. In the interim, the private sector started to respond to this market opportunity by developing local mixed C&D infrastructure. For example, the SANCO (EDCO) facility in Lemon Grove opened in January 2007, and two additional mixed C&D recycling facilities are proposed to be developed in the near future. With the opening of the private SANCO facility just outside City limits, which can accommodate the expected volume of mixed C&D to be generated within the City, a facility at Miramar Landfill is not needed at this time. Relying on private C&D infrastructure also would mean that users of the Miramar Landfill would not be subsidizing the cost of developing or operating a public facility.

The proposed amendments to the C&D Ordinance would (1) replace the existing trigger by requiring deposits and submittal of C&D recycling plans beginning 45 days after public notice of a certified recycling facility operating within 25 miles of downtown San Diego or beginning July 1, 2008, whichever is later; (2) provide that appeals of the proposed recycling facility certification regulations be made to the Mayor or designee; (3) require diversion deposits to be paid at the time of issuing the building permit or demolition/removal permit; and (4) increase the program exemption for minimum diversion deposits from \$100 to \$200 to coincide with the proposed revised deposit schedule. The accompanying revised deposit schedule would double the original deposit amounts and allow for 45 working days instead of 30 working days to refund deposits after full and complete refund applications are received.

FISCAL CONSIDERATIONS:

The total FY 2008 fiscal impact is estimated to be \$200,000, all of which will be in the Recycling Enterprise Fund. These are education and outreach costs for the Ordinance, staffing costs, and information technology costs for modifying DSD's permitting system to incorporate the deposit process.

The total FY 2009 fiscal impact is estimated to be \$4.1M, and is broken down by fund as follows: \$3.1M in reduced Refuse Disposal Fund tipping fee revenues associated with C&D tonnage diverted from Miramar Landfill; \$600,000 in reduced Recycling Fund AB939 Fee revenues associated with C&D tonnage diverted from Miramar Landfill and costs for a proposed staffing increase of 3.50 FTE to implement the Ordinance; \$300,000 in increased costs (due to higher tipping fees at a mixed C&D recycling facility than disposal fees at Miramar Landfill) and reduced RCBT revenues in the General Fund associated with recycling C&D tonnage; and \$100,000 in increased costs to other City enterprise fund departments for recycling C&D tonnage (due to higher tipping fees at a mixed C&D recycling facility than disposal fees at Miramar Landfill).

The total estimated fiscal impact for FY 2010 and annually thereafter is \$8M, and is broken down by fund as follows: \$7M in reduced Refuse Disposal Fund tipping fee revenues associated with C&D tonnage diverted from Miramar Landfill; \$600,000 in reduced Recycling Fund AB939 Fee revenues associated with C&D tonnage diverted from Miramar Landfill and ongoing costs for the aforementioned proposed 3.50 FTE; \$300,000 in increased costs (due to higher tipping fees at a mixed C&D recycling facility than disposal fees at Miramar Landfill) and reduced RCBT revenues in the General Fund associated with recycling C&D tonnage; and \$100,000 in increased costs to other City enterprise fund departments for recycling C&D tonnage (due to higher tipping fees at a mixed C&D recycling facility than disposal fees at Miramar Landfill).

Simultaneously with this proposal, ESD also is recommending (1) increasing the flat rate (self haul vehicles) disposal fees at Miramar Landfill and (2) implementing a revision to the refuse container fee regulations to require customers to furnish their own replacement automated refuse container, when their initial City-provided container is no longer serviceable, either by purchasing one from the City or from commercially available sources. These two proposals are being recommended for reasons described in two separate Reports to Council and stand alone, but will offset some of the FY 2008 and FY 2009 fiscal impacts to the General Fund, Recycling Enterprise Fund, and Refuse Disposal Enterprise Fund from triggering the C&D Ordinance.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

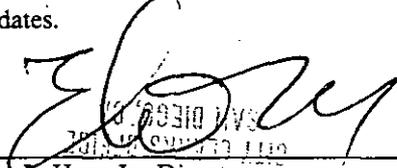
Issues related to the need to divert additional C&D tonnage from the landfill and the Ordinance have previously been discussed before City Council, including a September 19, 2005 City Council meeting discussion on the C&D ordinance, and other City Council and Natural Resources and Culture Committee (NR&CC) meetings related to a draft C&D ordinance, the City Council Policy on C&D Recycling, the Ordinance, and the proposed C&D facility.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The concept of a C&D recycling ordinance was first publicly discussed during the City Manager's Committee on Construction and Demolition Material Recycling, which convened from August – October 2003. The purpose of this committee was to develop a C&D recycling ordinance. There was additional community participation and outreach associated with the City Council Policy that was developed as a result of the City Manager's Committee, and the C&D Ordinance that was developed and adopted at a later date. Efforts included outreach to, and meetings with, stakeholders; and related presentations given to the NR&CC and City Council.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders associated with this item include the City's Non-Exclusive Franchised Solid Waste Haulers, San Diego County Disposal Association, Building Industry Association of San Diego County, Associated General Contractors of America, San Diego Regional Chamber of Commerce, San Diego County Taxpayers Association, US Green Building Council, California Resource Recovery Association, San Diego County Integrated Waste Management Citizens Advisory Committee, Sierra Club, Audubon Society, Solana Center for Environmental Innovation, and individual residents who support recycling and waste diversion. The implementation of the Ordinance will extend the life of the Miramar Landfill and assist the City in maintaining AB 939 waste diversion mandates.


Elmer L. Heap, Jr., Director
Originating Department


R.F. Haas
Deputy Chief/Chief Operating Officer

RECEIVED

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

EFFECTIVE DATE: _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 6, SECTIONS 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, AND 66.0608, ALL RELATING TO DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS.

This ordinance amends the Construction and Demolition Debris Diversion Deposit Program. Pursuant to the amendments, deposits will be required beginning 45 days after notice that a certified recycling facility is operating within 25 miles of downtown San Diego at a 50% diversion rate or by July 1, 2008, whichever is later. Recycling facility certification guidelines may be appealed to the Mayor or designee. Deposits would be paid at the time a building permit or a demolition/removal permit is issued. The minimum deposit would be increased to \$200.

This ordinance contains a notice that a full reading of the ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

This ordinance shall take effect and be in force on the thirtieth day after the City has notified the public, in the manner described in section 66.0606(e) above, that a certified recycling facility which accepts mixed construction and demolition debris is operating in the City at a 50% diversion rate.

A complete copy of this ordinance is available for inspection in the Office of the City Clerk, City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

GCL:mb:sc
10/08/07
Or.Dept:ESD
R-2008-47

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, AND 66.0608, ALL RELATING TO DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS FROM LANDFILL DISPOSAL.

WHEREAS, the City operates the Miramar Landfill [Landfill], which currently is the only municipal landfill in the City; and

WHEREAS, the Landfill is expected to close between 2011 and 2013; so preserving Landfill capacity in order to extend the useful life of the Landfill for the benefit of the citizens of the City is of paramount concern; and

WHEREAS, the California Integrated Waste Management Act of 1989, Assembly Bill 939 [AB 939], requires that each local jurisdiction in the State divert 50% of waste from landfill disposal; and

WHEREAS, the City could face fines up to \$10,000 per day if it fails to remain in compliance with AB 939 mandates; and

WHEREAS, at least 35%, or 586,000 tons, of waste going into local landfills each year originates from construction and demolition projects within the City; and

WHEREAS, reusing and recycling construction and demolition debris is necessary both to preserve and extend the useful life of the Landfill and to further efforts to reduce waste and comply with AB 939 mandates; and

WHEREAS, construction and demolition debris recycling is proven to reduce the amount of such material deposited in a landfill; and

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WHEREAS, except in unusual circumstances, it generally is feasible to divert most of the construction and demolition debris generated from most construction, demolition, and renovation projects; and

WHEREAS, this ordinance as originally adopted was to become effective only after a certified recycling facility which accepted mixed construction and demolition debris was operating within the City at a 50% diversion rate; and

WHEREAS, a private recycling facility which accepts mixed construction and demolition debris is now operating just outside City limits in a relatively central location and two additional facilities are proposed for development at local landfills within the County of San Diego in the near future; and

WHEREAS, facility certification regulations would be promulgated in a more timely and efficient manner if objections to proposed regulations were appealable to the Mayor, whose decision would be final; and

WHEREAS, for purposes of more effectively administering the diversion deposit process, deposits should be collected at the time of permit issuance rather than permit application; and

WHEREAS, the deposit schedule requires upward revision and the minimum deposit should be increased to remain consistent with the deposit schedule;

NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 6, Article 6, Division 6, of the San Diego Municipal Code be amended by amending Sections 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, and 66.0608, to read as follows:

Division 6:

Construction and Demolition Debris Diversion Deposit Program**§ 66.0601 Findings**

The Council of the City of San Diego finds and declares that:

- (a) [No change in text.]
- (b) The City has made and continues to make progress in meeting the waste *diversion* requirements imposed by *AB 939*, but additional efforts, particularly in the *diversion of construction and demolition debris*, will assist the City in continuing to meet the goal of *diverting 50% of its waste from landfill disposal*.
- (c) [No change in text.]
- (d) Efforts by the City and the private sector to encourage voluntary *construction and demolition debris diversion* have not been as successful as the City had hoped and additional efforts are necessary to ensure continued compliance with *AB 939* requirements.
- (e) [No change in text.]

§ 66.0602 Purpose of Construction and Demolition Debris Diversion Deposit Program

The purpose of this Division is to establish the Construction and Demolition Debris Diversion Deposit Program. This program is intended to increase the *diversion of construction and demolition debris* from landfill *disposal*, conserve the capacity and extend the useful life of the Miramar Landfill, and avoid the potential financial and other consequences to the City of failing to remain in compliance with *AB 939* requirements.

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§ 66.0603 **Definitions**

[No change in text.]

§ 66.0604 **Submittal of Waste Management Form and Diversion Deposit**

Beginning on the 45th day after the City has notified the public, in the manner described in section 66.0606(e), that a *certified recycling facility* which accepts mixed *construction and demolition debris* is operating at a 50% *diversion* rate, within 25 miles of the City Administration Building located at 202 "C" Street, San Diego, or beginning on July 1, 2008, whichever is later:

- (a) All *applicants* for a Building Permit or a Demolition/Removal Permit, including the City of San Diego, shall submit a properly completed *Waste Management Form Part I* with the Building Permit or Demolition/Removal Permit application, in accordance with the requirements set forth in the Land Development Manual; and
- (b) All *applicants*, including the City of San Diego, shall pay a refundable deposit at the time the Building Permit or Demolition/Removal Permit is issued; and
- (c) [No change in text.]

§ 66.0605 **Establishment of Construction and Demolition Debris Diversion Deposits**

[No change in text.]

§ 66.0606 **Entitlement to Refund of Diversion Deposit**

- (a) An *applicant* is eligible for a refund of the deposit paid pursuant to Section 66.0604(b) provided the *applicant* submits the following directly to the *Director* within 180 days of the final inspection date for the *development* for which the deposit was paid:

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- (1) A properly completed *Waste Management Form Part II*, in accordance with the requirements set forth in the Land Development Manual, which demonstrates the *construction and demolition debris diversion* the *applicant* achieved for the *development*.
- (2) Evidence satisfactory to the *Director* that the *construction and demolition debris* generated by the *development* was *diverted*, at the applicable *diversion* rate set forth in Section 66.0606(d) below, by one or more of the following methods:
 - (a) on-site reuse of the *construction and demolition debris*;
 - (b) acceptance of the *construction and demolition debris* by a *certified recycling facility*; or
 - (c) other donation or reuse of the *construction and demolition debris* acceptable to the *Director*.

For a commercial *development*, such as a shopping center, with a master developer which manages solid waste generated by the *development* as a whole and which has multiple commercial or retail tenants who may construct their own tenant improvements, the evidence satisfactory to the *Director* described in section 66.0606(a)(2) may include receipts from a *certified recycling facility(ies)* showing the cumulative weight or volume of *construction and demolition debris diverted* from the *development* within the 30 calendar days prior to the final inspection date referred to in section 66.0606(a).

(b) through (c) [No change in text.]

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(d) If the *Director* determines the applicant is entitled to a refund, the amount of the refund shall be in the same proportion to the deposit paid by the *applicant* as the *diversion* rate achieved for the *development* is to the applicable *diversion* rate set forth below:

- (1) For Building Permits or Demolition/Removal Permits issued on or after the actual effective date of Section 66.0604 through and including 180 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall be 50% by weight of the total *construction and demolition debris* generated by the *development*; and
- (2) For Building Permits or Demolition/Removal Permits issued after 180 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall be 75% by weight of the total *construction and demolition debris* generated by the *development*, provided that a *certified recycling facility* which accepts mixed *construction and demolition debris* is operating within 25 miles of the City Administration Building located at 202 "C" Street, San Diego, at a 75% *diversion* rate as of 181 calendar days from the actual effective date of Section 66.0604. If such a facility is not in operation as of 181 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall remain as set forth in Section 66.0606(d)(1) until 30 days after the City has notified the public that such a facility is available, at which time the *diversion* rate shall increase to 75% by weight of the total *construction and demolition debris* generated by the *development*.

(e) through (g) [No change in text.]

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- (h) If a Building Permit or Demolition/Removal Permit, for which a deposit has been paid, is subsequently cancelled, abandoned or expires before work on the *development has commenced*, the *Director* shall refund the deposit paid by the *applicant* upon the *applicant's* submittal to the *Director* of satisfactory proof of the cancellation, abandonment or expiration of the permit.
- (i) through (j) [No change in text.]

§ 66.0607 Certified Recycling Facilities

- (a) [No change in text.]
- (b) Within ten working days after publication of the notice adopting the proposed rules and regulations pursuant to Section 66.0607(a), any person in disagreement with the proposed rules and regulations may request in writing to the *Director* that proposed rules and regulations be considered by the City Manager or designee. The proposed rules and regulations shall be considered by the City Manager or designee, who shall issue a written decision respecting the proposed rules and regulations within thirty days of the *Director's* receipt of the written request. The decision of the City Manager or designee with respect to the rules and regulations shall be final.

§ 66.0608 Diversion Deposit Program Exemptions

- (a) [No change in text.]
- (b) The following activities are exempt from this Division:
 - (1) *Development* which is expected to generate only *hazardous waste* and/or *hazardous substances*.

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(2) *Development* for which the *construction and demolition debris* deposit is less than \$200 as calculated by the Development Services Department or its successor.

§ 66.0609 Unrefunded Diversion Deposits and Accrued Interest

[No change in text.]

§ 66.0610 Use of Diversion Deposits and Accrued Interest

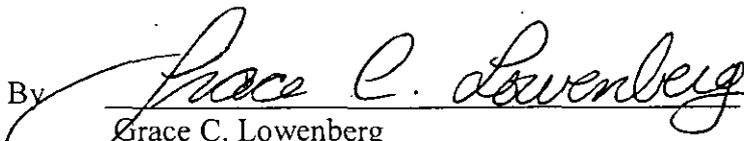
[No change in text.]

Section 2. That the adoption of this ordinance is not a project and, therefore, is not subject to the California Environmental Quality Act [CEQA] pursuant to CEQA Guidelines section 15060(c)(3).

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Grace C. Lowenberg
Deputy City Attorney

GCL:mb:sc:sb
11/06/07
Or.Dept:ESD
O-2008-47

001071

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

001073

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Underline

(O-2008-47)

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, AND 66.0608, ALL RELATING TO DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS FROM LANDFILL DISPOSAL.

Division 6

Construction and Demolition Debris Diversion Deposit Program

§ 66.0601 Findings

The Council of the City of San Diego finds and declares that:

- (a) [No change in text.]
- (b) The City has made and continues to make progress in meeting the waste *diversion* requirements imposed by *AB 939*, but additional efforts, particularly in the *diversion of construction and demolition debris*, will assist the City in ~~more quickly reaching~~ continuing to meet the goal of *diverting* 50% of its waste from landfill *disposal*.
- (c) [No change in text.]
- (d) Efforts by the City and the private sector to encourage voluntary *construction and demolition debris diversion* have not been as successful as the City had

hoped and additional efforts are necessary to ~~timely meet~~ ensure continued compliance with AB 939 requirements.

(e) [No change in text.]

§ 66.0602 Purpose of Construction and Demolition Debris Diversion Deposit Program

The purpose of this Division is to establish the Construction and Demolition Debris Diversion Deposit Program. This program is intended to increase the *diversion of construction and demolition debris* from landfill *disposal*, conserve the capacity and extend the useful life of the Miramar Landfill, and avoid the potential financial and other consequences to the City of failing to ~~timely meet~~ remain in compliance with AB 939 requirements.

§ 66.0603 Definitions

[No change in text.]

§ 66.0604 Submittal of Waste Management Form and Diversion Deposit

Beginning on the 45th day after the City has notified the public, in the manner described in section 66.0606(e), that a *certified recycling facility* which accepts *mixed construction and demolition debris* is operating at a 50% *diversion rate*, within 25 miles of the City Administration Building located at 202 "C" Street, San Diego, or beginning on July 1, 2008, whichever is later:

- (a) ~~Except as otherwise provided in this Division,~~ aAll applicants for a Building Permit or a Demolition/Removal Permit, including the City of San Diego, shall submit a properly completed *Waste Management Form Part I* with the Building Permit or Demolition/Removal Permit application, in accordance with the requirements set forth in the Land Development Manual: and

- (b) ~~Except as otherwise provided in this Division, the All applicants, including the City of San Diego, shall pay a refundable deposit at the time of submitting the Building Permit or Demolition/Removal Permit application is issued; and~~
- (c) [No change in text.]

§ 66.0605 Establishment of Construction and Demolition Debris Diversion Deposits

[No change in text.]

§ 66.0606 Entitlement to Refund of Diversion Deposit

- (a) An *applicant* is eligible for a refund of the deposit paid pursuant to Section 66.0604(b) provided the *applicant* submits the following directly to the *Director* within 180 days of the final inspection date for the *development* for which the deposit was paid:
- (1) A properly completed *Waste Management Form Part II*, in accordance with the requirements set forth in the Land Development Manual, which demonstrates the *construction and demolition debris diversion* the *applicant* achieved for the *development*.
 - (2) Evidence satisfactory to the *Director* that the *construction and demolition debris* generated by the *development* was *diverted*, at the applicable *diversion* rate set forth in Section 66.0606(d) below, by one or more of the following methods:
 - (a) on-site reuse of the *construction and demolition debris*;
 - (b) acceptance of the *construction and demolition debris* by a *certified recycling facility*; or
 - (c) other donation or reuse of the *construction and demolition debris* acceptable to the *Director*.

provided that a *certified recycling facility* which accepts mixed *construction and demolition debris* is operating within 25 miles of the City Administration Building located at 202 "C" Street, San Diego, at a 75% *diversion* rate as of 181 calendar days from the actual effective date of ~~this Division Section 66.0604~~. If such a facility is not in operation as of 181 calendar days from the actual effective date of ~~this Division Section 66.0604~~, the *diversion* rate shall remain as set forth in Section 66.0606(d)(1) until 30 days after the City has notified the public that such a facility is available, at which time the *diversion* rate shall increase to 75% by weight of the total *construction and demolition debris* generated by the *development*;

(e) through (g) [No change in text.]

(h) If a Building Permit or Demolition/Removal Permit, ~~application~~, for which a deposit has been paid, is subsequently ~~withdrawn or cancelled~~, abandoned or expires before work on the *development* has commenced, the *Director* shall refund the deposit paid by the *applicant* upon the *applicant's* submittal to the *Director* of satisfactory proof of the ~~withdrawal or cancellation~~, abandonment or expiration of the ~~application~~ permit.

(i) through (j) [No change in text.]

§ 66.0607 Certified Recycling Facilities

(a) [No change in text.]

(b) Within ten working days after publication of the notice adopting the proposed rules and regulations pursuant to Section 66.0607(a), any person in disagreement with the proposed rules and regulations may request in writing

to the *Director* that proposed rules and regulations be considered by the City Council Manager or designee. The proposed rules and regulations shall be ~~doeketed for City Council consideration~~ considered by the City Manager or designee, who shall issue a written decision respecting the proposed rules and regulations within thirty days of the Director's receipt of the written request. The decision of the City Council Manager or designee with respect to the rules and regulations shall be final.

§ 66.0608 Diversion Deposit Program Exemptions

- (a) [No change in text.]
- (b) The following activities are exempt from this Division:
 - (1) *Development* which is expected to generate only *hazardous waste* and/or *hazardous substances*.
 - (2) *Development* for which the *construction and demolition debris* deposit is less than \$100 \$200 as calculated by the Development Services Department or its successor.

§ 66.0609 Unrefunded Diversion Deposits and Accrued Interest

[No change in text.]

§ 66.0610 Use of Diversion Deposits and Accrued Interest

[No change in text.]

GCL:mb:sc:sb
 11/06/07
 Or.Dept:ESD
 O-2008-47

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE CITY OF SAN DIEGO APPROVING THE REVISED CONSTRUCTION AND DEMOLITION DEBRIS DIVERSION DEPOSIT SCHEDULE.

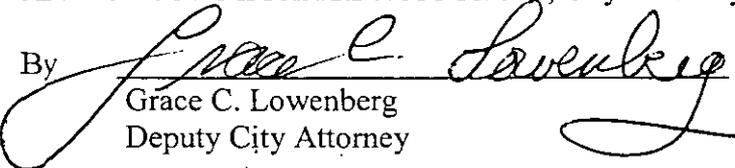
WHEREAS, by Resolution No. R-300841 adopted on September 19, 2005, the Council approved a deposit schedule for the construction and demolition debris diversion program; and

WHEREAS, revisions to the deposit schedule are recommended for reasons more fully set forth in Report to Council No. 07-169; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council approves the revised deposit schedule for the City's Construction and Demolition Debris Diversion Deposit Program attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that this activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines sections 15060(c)(3) and 15378(b)(4) because this activity constitutes government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Grace C. Lowenberg
Deputy City Attorney

GCL:mb
11/06/07
Or.Dept:ESD
Aud.Cert:N/A
R-2008-398

001080

(R-2008-398)

I hereby certify that the foregoing resolution was passed by the Council of the City of San Diego,
at its meeting of _____.

ELIZABETH S. MALAND, City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor