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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

7/9/2025 3:25:49 PM

Clerk of the Superior Court
By R. Stille ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

MARY BROWN, an individual;
SCOTT CASE, an individual;
PATTY DUCEY-BROOKS, an individual;
LISA MORTENSEN, an individual;
VALORIE SEYFERT, an individual; PAUL
ALESI, an individual; CATHERINE
CALLEN, an individual; CAROLINE
CARVER, an individual; JANED
GUYMON CASADY, an individual;
GREGORY HELMER, an individual;
PAUL KRUEGER, an individual; LOUISE
REHLING, an individual; STEPHEN
TOTH, an individual; DAVID WEIL, an
individual; and RONALD WINTERSTEIN,
an individual,

Plaintiffs,

v.

JOE LACAVA, JENNIFER CAMPBELL,
STEPHEN WHITBURN, KENT LEE,
VIVIAN MORENO, SEAN ELO-RIVERA,
in their official capacities as Members of the
San Diego City Council; CITY OF SAN
DIEGO, a municipal corporation; and DOES
1 through 50, inclusive, in their official
capacity only,

Defendants.

Case No. 25CU025589C
Assigned for All Purposes to
Honorable James Mangione, Dept. C-75

**FIRST AMENDED COMPLAINT FOR
DECLARATORY RELIEF FOR VIOLATION
OF CALIFORNIA STATE CONSTITUTION
ARTICLE XIII D SAN DIEGO SOLID
WASTE COLLECTION FEE**

Complaint filed: May 19, 2025

IMAGED FILE

INTRODUCTION

1. The government of the City of San Diego is trapped in a financial quagmire: the City faces growing pension debt with annual pension payments four times the “normal” pension liability; deferred maintenance of City storm water drains, streets, sidewalks, and alleys; and closed and deteriorating office space for City employees.

2. This action is brought by San Diego citizens to enforce their constitutional right to vote on solid waste collection fee increases, guaranteed under the Right to Vote on Taxes Act contained in the California State Constitution Art XIID § 6. This action seeks to vindicate the votes of over 46,456 City residents who voted **against** the solid waste collection fee because (1) it exceeds the cost to provide solid waste collection by over \$70 million; (2) the solid waste collection fees are to be imposed for purposes other than for solid waste collection; (3) the amount of the solid waste collection fees to be imposed exceeds the proportional cost of solid waste collection attributable to the parcel; (4) the solid waste collection fee is being imposed for services not immediately available to, or not actually used by, the property owners; and (5) solid waste collection fees are to be used for general governmental services.

3. City officials used a variety of devices to inflate and hide the amount and uses to which the solid waste collection fees are to be used. The two primary devices were (1) a City of San Diego Environmental Services Department (ESD) Operational Efficiency Analysis (OEA) that proposed significant budget cost additions of \$41.4 million; and (2) a \$5 million taxpayer-paid Cost Study that proposed additional cost increases. City officials also inflated the solid waste collection cost by not including the reduction of costs from the City’s plans to reduce the number of solid waste customers by several thousand. In other words, the City is doubling the costs of solid waste collection while reducing the number of solid waste customers.

4. The City is also by buying all new containers and assuming all customers will use the same large size, denying the customers the right to choose their container from the start.

5. The City has informed residents:

All affected property owners will initially be charged for Bundle 3 (which includes three 95-gallon containers: trash, recycling, and organics). However, in mid-July 2025, a sealed mailer will be sent to all impacted property owners. This mailer will

contain a QR code and website link to access the Measure B portal, where you'll be able to select your preferred container bundle for Fiscal Year 2027.

If you choose a different bundle than the default, your account will be credited or charged appropriately for FY 2027. Once selections are made, new containers will be delivered between October 2025 and June 2026.

6. The revenues derived from the City of San Diego's proposed solid waste collection fees exceeds the cost to provide service. Instead of imposing a solid waste collection fee based on the historic and empirical data, the City of San Diego spent \$5 million to hire a company to develop a model to inflate the projected costs for fiscal year 2026 from between \$70 million to \$148,971,183, as shown in a comparison between the City of San Diego's actual fiscal 2024 and 2025 collections costs. That comparison between actual costs and model costs is shown here:

General Fund

Department Expenditures

	FY2023 Actual	FY2024 Budget	FY2025 Adopted	FY2024-2025 Change
Clean SD	\$ -	\$ 18,626,703	\$ 22,501,014	\$ 3,874,311
Collection Services	63,682,327	74,041,660	70,678,700	(3,362,960)
Disposal & Environmental Protection	2,614,478	2,964,124	3,241,116	276,992
Environmental Services	3,736,740	5,212,736	3,969,010	(1,243,726)
Waste Reduction	12,900,447	3,857,782	3,153,540	(704,242)
Total	\$ 82,933,992	\$ 104,703,005	\$ 103,543,380	\$ (1,159,625)

PROJECTED FY 2026 COSTS

Solid Waste Projections	FY 25/26	FY 26/27	FY 27/28	FY 28/29	FY 29/30
9 Operational Revenue Requirement	\$138,500,402	\$145,025,996	\$160,660,915	\$161,684,900	\$163,362,938
10 Capital Expenditures	10,470,781	10,337,881	12,891,430	15,444,980	15,444,980
11 Net Revenue Requirement	\$148,971,183	\$155,363,877	\$173,552,345	\$177,129,879	\$178,807,917

7. The \$148,971,183 cost was inflated by including: debt from prior years of operations, upward adjustments of historic costs for collection-related services, and costs for new vehicles, containers, and other facility costs that will not be provided in the year the costs are proposed to be imposed on San Diego customers. As a result of these unlawful costs, City revenues are projected to increase to \$157.2 million, doubling actual costs.

///

1 8. City decision makers' imprudence has left the City both unable to pay for the
2 essential services required by the City Charter and with accumulated debt that exceeds the fair
3 value of its assets.

4 9. The City is imposing, purportedly for a fee, City-provided solid waste
5 management services known as the Solid Waste Management Fee. The proposed fee would apply
6 to owners of single-family homes or multi-family residential homes eligible to receive City-
7 provided solid waste management services.

8 10. In a series of secret meetings and communications amongst and between the San
9 Diego City Council Members, with the Mayor's Office acting as an intermediary, the City
10 Council collectively concurred and agreed to the contents of the NOTICE OF PUBLIC
11 HEARING Proposed Solid Waste Management Fee (attached as **Exhibit 1**), shown in pertinent
12 part here:



Proposed Solid Waste Management Fee



The City of San Diego is proposing a fee for City-provided solid waste management services (Solid Waste Management Fee). The City Ordinance (<https://docs.sandiego.gov/municode/MuniCodeChapter06/Cho6Arto6Division01.pdf>) pertaining to City-provided solid waste management services specifies that "at least once each week, City forces shall collect and transport residential solid waste for transfer, transport, and recycling or disposal, and the City may charge a cost-recovery fee, as allowed by law, for all solid waste management services." The Ordinance further explains that "residential solid waste means solid waste, of the type and quantity normally generated by a residential property, that is placed at the designated collection point at the curb line of a city public street or city public alley in a City-approved curbside collection container on the designated collection day" and that "residential property means a single-family residential property or a multi-family residential property, with up to four residences on a single lot, that meets City requirements for collection by City forces." The proposed fee would apply to owners of single-family homes or multi-family residential homes eligible to receive City-provided solid waste management services.

11. On April 14, 2025, the San Diego City Council Members made public their
decision to set a public hearing to adopt a Solid Waste Management Fee for trash and recycling
collection services. The City Council set a hearing for a final vote to adopt fees for the trash
collection and recycling program to take place on June 9, 2025, and for a second hearing later in

1 June to collect those fees as part of the County property tax collection.

2 12. While the City provides waste-collection services to more than 200,000 residential
3 properties, the City of San Diego does not maintain its own list of the persons to whom it
4 provides waste collection services. In its secret collective concurrence, a majority of the City
5 Council Members, coordinated by the Mayor as intermediary, decided to collect the Solid Waste
6 Management Fee by including it on the San Diego County tax roll so that customers will see a
7 line item on their 2026 property tax bill.

8 13. Plaintiffs are entitled to a declaration that the City Councilmember Defendants'
9 approval of the resolution to impose the Solid Waste Management Fee is null and void.

10 **JURISDICTION AND VENUE**

11 14. This Court has jurisdiction over this case because this is a civil action wherein the
12 matter in controversy, exclusive of interest and costs, exceeds the jurisdictional minimum of the
13 Court.

14 15. The acts and omissions complained of in this action took place in the City and
15 County of San Diego, California. Venue is proper because the acts and/or omissions complained
16 of took place, in whole or in part, within the venue of this Court.

17 **PARTIES AND KEY PLAYERS**

18 **A. Plaintiffs**

19 16. Mary Brown is a resident of the City of San Diego, State of California and a
20 citizen of the United States.

21 17. Scott Case is a resident of the City of San Diego, State of California and a citizen
22 of the United States.

23 18. Patty Ducey-Brooks is a resident of the City of San Diego, State of California and
24 a citizen of the United States.

25 19. Lisa Mortensen is a resident of the City of San Diego, State of California and a
26 citizen of the United States.

27 20. Valorie Seyfert is a resident of the City of San Diego, State of California and a
28 citizen of the United States.

1 21. Paul Alesi is a resident of the City of San Diego, State of California and a citizen
2 of the United States.

3 22. Catherine Callen is a resident of the City of San Diego, State of California and a
4 citizen of the United States.

5 23. Caroline Carver is a resident of the City of San Diego, State of California and a
6 citizen of the United States.

7 24. Janed Guymon Casady is a resident of the City of San Diego, State of California
8 and a citizen of the United States.

9 25. Gregory Helmer is a resident of the City of San Diego, State of California and a
10 citizen of the United States.

11 26. Paul Krueger is a resident of the City of San Diego, State of California and a
12 citizen of the United States.

13 27. Louise Rehling is a resident of the City of San Diego, State of California and a
14 citizen of the United States.

15 28. Stephan Toth is a resident of the City of San Diego, State of California and a
16 citizen of the United States.

17 29. David Weil is a resident of the City of San Diego, State of California and a citizen
18 of the United States.

19 30. Ronald Winterstein is a resident of the City of San Diego, State of California and a
20 citizen of the United States.

21 31. Each of the plaintiffs are City of San Diego property taxpayers, customers of the
22 City of San Diego trash collection, and will be subject to the alleged ad valorem trash collection
23 tax, described in detail below.

24 **B. Defendants**

25 32. Defendant San Diego City Councilmember District 1 Joe LaCava is a member of
26 The Majority; Councilmember LaCava is sued in his official capacity.

27 33. Defendant San Diego City Councilmember District 2 Jennifer Campbell is a
28 member of The Majority; Councilmember Campbell is sued in her official capacity.

1 34. Defendant San Diego City Councilmember District 3 Stephen Whitburn is a
2 member of The Majority; Councilmember Whitburn is sued in his official capacity.

3 35. Defendant San Diego City Councilmember District 6 Kent Lee is a member of The
4 Majority; Councilmember Lee is sued in his official capacity.

5 36. Defendant San Diego City Councilmember District 8 Vivian Moreno is a member
6 of The Majority; Councilmember Moreno is sued in his official capacity.

7 37. Defendant San Diego City Councilmember District 9 Sean Elo-Rivera is a member
8 of The Majority; Councilmember Elo-Rivera is sued in his official capacity.

9 38. Defendant City of San Diego is a municipal corporation of the State of California
10 and Defendants' employer.

11 **C. Key Players**

12 39. Mayor Todd Gloria was an active participant and intermediary in the unlawful
13 conduct alleged in this operative complaint.

14 40. The true names and capacities of those Defendants sued herein as DOES 1 through
15 50, inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiffs,
16 who sue those Defendants by such fictitious names. When the DOE parties' true names and
17 capacities and their actual involvement in the matters alleged herein are ascertained, Plaintiffs
18 will amend this complaint to accurately reflect the same.

19 41. Plaintiffs are informed and believe, and thereon allege, that each of the fictitiously
20 named Defendants designated hereunder as a DOE is responsible in some manner for the
21 occurrences alleged herein, and that Plaintiffs' damages as herein alleged were proximately
22 caused or contributed to by their conduct.

23 42. Plaintiffs are informed and believe, and thereupon allege, that at all times relevant
24 and mentioned herein, Defendants and DOES 1 through 50, inclusive, and each of them, were the
25 agents, servants, employees, independent contractors, co-conspirators, subsidiaries and/or joint
26 ventures of the remaining Defendants, and each of them, and were at all times material hereto
27 acting within the authorized course, scope, and purpose of said agency and employment, and/or
28 that all of said acts were subsequently performed with the knowledge, acquiescence, ratification,

and consent of the respective principals, and the benefits thereof accepted by said principals.

BACKGROUND

43. City officials and decisionmakers have caused the City of San Diego's financial crisis by engaging in a pattern of violating California Constitution Art. 16, Sec. 18 which prohibits the City from incurring debt requiring payments from future years revenues. The City of San Diego's "Unfunded Actuarial Liability-Actuarial Value" \$3,492,148,372 and its \$100,000,000 loss for the 101 Ash Street building are but two of the instances, described below.

A. Growth of Pension Debt

44. The City of San Diego’s unfunded pension debt grew to \$3,492,148,372, an increase of \$128,000,000, based on very optimistic assumptions. From its general fund budget, the City was required to pay this year the City pension \$533,200,000—a \$47,000,000 increase, or 30% of general fund budget of \$1,808,942. The “normal cost” or pension costs for the year are \$113,000,000, or only 21% of this year’s annual pension payment of \$533,200,000.

B. Increase Costs for City Office Space

45. The City faces increased costs for office space. The City had to abandon its workspace for several thousand City workers at two high-rise offices in San Diego: (1) Executive Complex located at 1010 Second Avenue due to undisclosed asbestos contamination; and (2) 101 Ash Street due to uninhabitability requiring over \$115,000,000 in repairs, as shown here:

Summary of Kitchell's Preliminary Recommendation	
Description	Amount (in millions)
Asbestos Abatement (incl 5% contingency & 10% escalation) ¹	\$ 26.2
Construction - Hard Costs	
HVAC	22.1
Electrical	15.4
Demolition	1.9
Interior Construction (required by State Fire Marshall)	0.4
Additional Fire Sprinklers	0.1
<i>subtotal Construction - Hard Costs</i>	\$ 39.9
Construction - Contingencies, Escalations & Mark-Ups	
Estimating Contingency (15%)	6.0
Mark-Ups	8.2
Cost Escalation (5%/year)	8.1
Contingency for Unexpected Costs (10%)	6.2
<i>subtotal Construction - Contingencies, Escalations & Mark-Ups</i>	\$ 28.5
<i>subtotal Construction</i>	\$ 68.5
Non-Construction (design, engineering, project management, etc)	20.5
TOTAL ESTIMATED PROJECT COSTS	\$ 115.2

¹ Estimate prepared by Shefa, reflects option 1 of \$34.7M, balance of costs are included in construction.

46. City officials, including the Mayor and most of the City Council, incurred debt exceeding \$100,000,000 that was payable out of later year revenues in violation of California Constitution Art. 16, Sec. 18.

47. The 1010 Second Avenue building was closed down after the Air Resources Board issued asbestos violation notices causing City workers to be removed from the building, as shown here:

230437
18NOV-000112

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO
10124 OLD GROVE ROAD
SAN DIEGO, CA 92131-1649
PHONE (858) 586-2650
FAX (858) 586-2651

Section ID: N/Site-00008
PCK: 112
Fee Code: A55
Method: APCD Use Only

NOTICE OF VIOLATION

Date(s) of Violation: 1/25/18, 1/26/18, (see below) Date of Report: 1/29/18
Name: Hammer Ventilation Tower 180 Queen, LLC Phone: 619-822-8235
Mailing Address: 1010 2nd St City/Zip: San Diego 92101
Violation Location: 1010 2nd St City/Zip: San Diego 92101

Specifically, the following violation(s) of the San Diego Air Pollution Control District rules and/or laws of the State of California has occurred: (abbreviations: H&S-Cal. Health & Safety Code; CCR-Cal Code of Regulations; R-Rule)

Section(s)/Rule(s)	Description of Violation
R1206(g)(1)	Failure to analyze material that was disturbed by the renovation operations. Freeproofing was found to be asbestos containing on the 19th floor.
R1206(f)(1)	Failure to remove all regulated asbestos containing material (RACM) before starting any activity that would break up, dislodge, or disturb RACM freeproofing on the 19th floor, the week of Jan 8th.
R1206(d)(1)(i)	Failure to keep RACM adequately wet until contained or collected in a clear leak-tight container on the 19th floor.
R1206(g)(3)	By handling RACM in a manner that allowed visible emissions to be discharged to the outside air.

Pursuant to California Health and Safety Code section 42400 et seq., any person who violates any Order, Rule, or Regulation of the State Board of Air Pollution Control District is guilty of a MISDEMEANOR. Each day a violation occurs constitutes a separate offense.

YOU MUST ADVISE THE DISTRICT IN WRITING, WITHIN TEN DAYS, OF THE ACTION TAKEN TO CORRECT THE ALLEGED VIOLATION(S) OR THE REASON(S) YOU BELIEVE THE VIOLATION(S) DID NOT OCCUR. PLEASE MAIL YOUR RESPONSE TO THE AIR POLLUTION CONTROL DISTRICT, ATTENTION: COMPLIANCE DIVISION, 10124 OLD GROVE RD, SAN DIEGO, CALIFORNIA 92131-1649.

Inspector: Vince Landi Date: 1/29/18 Time: 1025
SIGNED BY: Lawrence Howard Title: Manager
Signature: Date: 1/27/18

APCD 23 (Rev 11/16) W-Office C-Data Entry P-Site G-Field File

EXHIBIT 2 08/21/23

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO
10124 OLD GROVE RD.
SAN DIEGO, CA 92131
PHONE (858) 586-2650
FAX (858) 586-2651

18NOV-000112

ADDENDUM

Notice No. 230437 (NOV / NTC (Circle one))
Name: Hammer Ventilation Tower 180 Queen, LLC
Violation Location: 1010 2nd St City: San Diego 92101

Specifically the following violation(s) of the California Health and Safety Code, California Code of Regulations, and/or San Diego Air Pollution Control District Rules and Regulations require corrective action:

Section(s) /Rule(s)	Violation(s) and Corrective Action Required
R1206(g)(1)	Failure to contain RACM in clear leak-tight wrapping on the 19th floor.
R1206(g)(9)	Failure to deposit all RACM as soon as practical at a waste disposal site in accordance with the provisions of 40 CFR, Part 61, Section 61.154.
R51	By disturbing RACM freeproofing and discharging asbestos into the air causing a public nuisance.

Inspector: Vince Landi Date: 1/29/18
Served To: Lawrence Howard Title: Manager
Signature: Date: 1/27/18

APCD 23 (Rev 11/16) W-Office C-Data Entry P-Site G-Field File

48. The two abandoned buildings remain unused and unoccupied by City workers, and the City has had to incur substantial costs in relocating its work force. The two buildings are located here, first 1010 Second Avenue and second 101 Ash Street:



1 **C. Flood Victim Losses**

2 49. In January 2024, the City of San Diego incurred more than \$250,000,000 in
3 damages caused by failures of the City’s flood control system. The City of San Diego failed its
4 residents on January 22, 2024, when it allowed millions of gallons of stormwater to infiltrate and
5 damage homes and businesses.

6 **D. Unfunded Streets, Sidewalks, and Alleys Deferred Maintenance**

7 50. The City of San Diego has failed to maintain its 3,000-mile street network; there
8 is a large and growing deferred maintenance backlog that is estimated at over \$1.2 billion.

9 51. The City of San Diego is failing to maintain the 4,500 miles of its sidewalks.

10 52. The City of San Diego has over 250 miles of alleys. A significant portion of these,
11 around 60 miles, are classified as “unimproved.”

12 53. These financial missteps have left San Diego City decisionmakers in a financial
13 quandary in which there are not sufficient funds to provide basic City services required by the
14 San Diego City Charter.

15 **E. City Strategy to Increase Sales Tax to Increase Revenues**

16 54. The Mayor and City Council adopted a two-part strategy to increase City revenues
17 by (1) a 9% increase to its sales tax, raising it from 7.75% to 8.75% through what was known as
18 Measure E; and (2) a ballot proposition that would allow the City to recover costs for solid waste
19 management services, known as Prop B.

20 55. Voters defeated the sales tax increase.

21 56. Prop B passed, but a report in the Union Tribune showed that the City’s claimed
22 estimates of much the new trash collection fee cost was based on multiple basic calculation
23 errors. The Union Tribune Explained:

24 The \$23 to \$29 a month estimate presented to voters in a successful attempt to
25 persuade them to narrowly approve letting the city charge these homes for trash
26 collection has given way to a \$47.59 fee the city is poised to implement — that is,
27 unless a miracle strikes and a majority of affected parcel owners and tenants
28 navigate a suspiciously difficult voting process and object to the fee. Given how
many people this civic train wreck will directly hurt, it appears the trash bait-and-
switch has supplanted the purchase of the decrepit Ash Street office tower as the
worst city scandal in at least 20 years.

1 The case for this assertion only grows upon considering city officials'
2 characterization of this gross deception as “an honest mistake.” Anyone who has
3 paid attention to such “honest mistakes” in California over the years knows that
4 the mistakes always lead to outcomes favorable to the politicians running the
government body that made them — in this case, providing cover to City Hall’s
desperate attempt to add a new revenue source to help it pay its staggering pension
bills. Yeah, sure, they’re all “honest mistakes.”

5 A key point: If something like this happened in the private sector, the fact that the
6 mistakes were “honest” wouldn’t insulate those responsible from severe
7 consequences. Under federal securities laws, companies that make material
8 misstatements or omissions in a stock prospectus or other financial representations
9 can be found liable even without evidence of ill intent or bad faith. Claims of
incompetence may shield responsible parties from criminal charges but not civil
penalties. A private firm caught doing what the city has done would have been
hammered by the Securities and Exchange Commission and be at dire risk of
costly private lawsuits.

10 This only adds to the case that the right thing for Gloria to do is to start from
11 scratch and come up with a new trash fee policy — one that is free of so many
12 mistakes, “honest” or otherwise. But San Diegans shouldn’t get their hopes up.
Such a decision would require the sort of good judgment that has been missing on
this issue for three years.

13 **F. SDG&E Franchise Losses**

14 57. In the Spring of 2023, the Mayor and most of the San Diego City Council in
15 violation of the California Open Meeting Law and the California State Constitution Art. 1, Sec. 3,
16 entered into a franchise agreement with San Diego Gas & Electric (“SDG&E”) that the Mayor
17 and a majority of the San Diego City Council represented would produce \$3,000,000,000 for the
18 City of San Diego. The Mayor and City Council failed to make the payment fixed and this year
19 the promised amount sent unpaid, as reported in the following San Diego Union Tribune article:

20 **Just how bad are San Diego's budget problems? City may dip into reserves 21 for first time in years**

22 Key to the problem is a \$33 million drop in revenue from SDG&E that no
one saw coming, said Matt Vespi, the city's chief financial officer

23 By DAVID GARRICK I David.Garrick@sduniontribune.com I The San Diego
24 Union-Tribune
UPDATED: May 16, 2025 at 6:54 AM PDT

25 San Diego's steadily worsening budget picture means city officials will likely need
26 to dip into reserve funds to cover expenses this spring - the first time they've
27 needed reserve funds to balance the budget in at least a decade. City finance
28 officials said Wednesday that they're facing a new \$31 million budget hole thanks
to some new expenses and sharp drops in revenue, especially from a profit-sharing
deal with San Diego Gas & Electric. The new financial problems are projected to
force San Diego to use \$10.1 million from its \$207.1 million general fund reserve

1 to balance the city's \$2.1 billion budget for the fiscal year that ends June 30.

2 **

3 Key to the problem is a \$33 million drop in revenue from SDG&E that no one saw
4 coming, said Matt Vespi, the city's chief financial officer.

5 **

6 San Diego's franchise fee from SDG&E is a share of the company's revenue. But
7 city officials only get told how much they'll receive once a year **

8 **G. The City's Current Waste Management**

9 58. The City of San Diego's Environmental Services Department ("ESD") currently
10 provides residential solid waste, recycling, and organics collection services to approximately
11 222,500 customers for an annual per customer cost of approximately \$400 and a monthly per
12 customer cost of \$33.30. The primary costs include: (1) Refuse Disposal Fees of \$25,826,972;
13 (2) Salaries and Wages (280 FTE) of \$ 24,095,972; (3) General Retirement of \$5,085,565;
14 (4) Flexible Benefit Plan of \$3,790,346; (5) Workers' Compensation Insurance of \$1,012,857;
15 (6) Retiree Health Contribution of \$1,101,577; (7) CERS General Retirement 2010 of
16 \$2,091,699; (8) Trash Container of \$2,179,138; (9) Equipment Rental Motive Usage of
17 \$7,838,426; (10) Equipment Rental Motive Assign of \$3,555,803; (11) Professional IT Services
18 of \$1,158,441; (12) Hardware/Software Discretionary of \$1,000,000; and (12) Gas Services of
\$3,475,567.

19 59. In 2022, San Diego City voters approved Measure B and amended the "People's
20 Ordinance" to allow the City to charge a cost-recovery fee for City solid waste collection.

21 Measure B asked voters:

22 Shall the San Diego Municipal Code be amended so that all City residents receive
23 comparable trash, recycling, and other solid waste management services, by
24 allowing the City to recover its **cost of providing these services** to eligible
25 residential properties, which could allow the City to provide additional services,
such as weekly recycling, bulky item pickup, and curbside container replacement
and delivery, at no extra charge? (emphasis added)

26 60. Charging a solid waste collection fee relieves the City's General Fund and other
27 City departments of having to pay any portion of annual costs currently spent on the City's
28 provision of solid waste management services to eligible residential properties.

1 61. The Mayor and at least 6 members of the City Council (a majority) have agreed to
2 impose a \$148,971,183 tax on 222,500 San Diego City property taxpayers beginning in 2025 by
3 including the \$148,971,183 charge customers on the County tax roll as a line item on their fiscal
4 year 2026 property tax bill for the annual fee, billed semiannually.

5 62. The now-imposed tax is not based on the actual cost of trash collection costs
6 incurred by the 222,500 San Diego City property taxpayers.

7 63. The Mayor and most of the City Council have concealed their plan to impose the
8 \$148,971,183 tax on the 222,500 San Diego City property taxpayers by calling the *tax* a “cost-of-
9 service” solid waste collection. Instead of enrolling the trash collection customers and *then*
10 allowing the customers to select their level of solid waste collection service, the Mayor and most
11 of the City Council have arbitrarily decided to impose a tax instead of an actual cost-of-service
12 fee.

13 64. The Mayor and most of the City Council have engaged in an elaborate plan to set
14 the cost-of-service charge based on guess estimates. The Mayor and most of the City Council
15 contracted with HDR, with HF&H as a subcontractor, to create the cost-of-service rate. The
16 consultant set the cost of services to be imposed at \$148,971,183. In its cost-of-service study, the
17 consultant distanced itself from being held accountable for the conclusions reached in its own
18 consultant reports. For instance, the cost of solid waste collection for 2024 was \$88,896,547, yet
19 the consultant concluded the \$148,971,183 cost of service for the Fiscal Year 2026 to be \$59
20 million higher—an increase of 68%.

21 65. In its cost-of-service report, the consultant distanced the firm from the study with
22 the following:

23 The cost-of-service model prepared in conjunction with this report, and the
24 accompanying analyses, contain projections of revenues and expenditures based
25 on various assumptions and estimates. Expense projections are based on available
26 data. While HF&H reviewed these projections for reasonableness with City staff,
27 the actual results of operations **will differ** from projections because events and
28 circumstances do not always occur as expected. Those **differences may be significant** and may have **material effects** on the analyses and findings presented
in this report. The fact that the City has not previously charged for solid waste
management services, combined with significant changes in which customers are
eligible for City services, introduces additional uncertainty.

1 66. The City of San Diego has delivered to the 222,500 customers a notice stating that
2 “The City of San Diego is proposing a fee for City-provided solid waste management services
3 (Solid Waste Management Fee).” (**Exhibit 1**). The proposed fee will apply to owners of single-
4 family homes or multi-family residential homes eligible to receive City-provided solid waste
5 management services. The notice purportedly delivered to the 222,500 City customers for the
6 Fiscal Year 2026 (July 1, 2025 to June 30, 2026) told residential property owners they will be
7 charged as much as “\$47.59 per month or \$571.08 for the year. If City Council approves a fee and
8 authorizes ESD to collect the fee on the County tax roll, customers will see a line item on their
9 2026 tax bill for the annual fee associated with the Bundle Option 3 for Fiscal Year 2026. The
10 amount of the fee is dependent on the fee schedule approved by City Council but will not be more
11 than \$571.08.”

12 67. The City was unable to implement a cost-of-service program because it was unable
13 to identify the names and addresses of the customers upon whom the trash collection fee is to be
14 imposed. Instead, the City has decided and is attempting to implement the cost of service by
15 coupling it on San Diego City taxpayers’ property tax bill issued twice a year.

16 68. After what appears to be a bait-and-switch, the City of San Diego officials now
17 propose to charge over \$45 per month to be billed in two annual payments.

18 **THE TRASH TAX PROPOSAL VIOLATES THE CONSTITUTION**
19 **BECAUSE IT IS A TAX AND IS NOT BASED ON COST-OF-SERVICE**

20 69. The Trash Tax Proposal violates Article XIII D of the California Constitution
21 because the fee amount imposed is not based on the customers’ actual costs, but rather, is based
22 on projections and speculation.

23 70. The City admits in its Cost-of-Service study that the “costs” are to be placed on
24 parcel property tax bills. The City admits the differences between actual costs and the City’s
25 projected costs may be significant and may have material effects on the analyses and findings
26 presented in the report presented to the public. The City Council voted to use tax roll billing as
27 the method to collect the proposed Solid Waste Management Fee.

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1 71. The to-be-imposed trash tax collection violates Article XIII D of the California
2 Constitution by charging trash collection fees to customers that are not the actual costs of service.

3 72. The manner in which the Notice of Public Hearing was drafted and distributed to
4 the customers was confusing and failed to put the customers on the requisite notice in violation of
5 Article XIII D of the California Constitution. For example, the Notice has in large type on the
6 first of six pages the words “NOTICE OF PUBLIC HEARING,” but buried on page six in
7 lowercase and materially smaller type direction as to how and when protest to the proposed fee
8 must be received. Other City Notices had the protest language on page 1 – not buried on page 6,
9 as was done here. A likely response from a customer would be that there was going to be a public
10 hearing but not be alerted to the opportunity for them to protest the increase without attending the
11 public hearing.

12 73. The Notice is deceptive because it leads a reasonable customer to believe that
13 attendance at the public hearing is what determines their rights, however, it is the submittal of a
14 protest that is required of the customer to protect his or her rights. This is not clear in the Notice
15 or the Resolution.

16 74. The deceptive Notice created the City’s intended result: of the 222,500 customers
17 who were purportedly mailed the Notice that failed to make clear a non-response was an active
18 “yes” vote, the City only received 46,456 protests.

19 75. Plaintiffs are informed and believe that the City Clerk has been unable to
20 accurately identify the addresses of a material number of the 222,500 customers who are entitled
21 to receive the Notice of Opportunity to protest, which could affect and likely will negatively
22 affect the count of the protest.

23 76. The structure of the 218 protest is inherently unfair and violates the voting rights
24 and due process rights of the customers because it assumes that a non-response is a “Yes” vote.

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FIRST CAUSE OF ACTION
Violation of Article XIII D, section 6 (1)
(Revenues Derived from Solid Waste Collection
Fees Exceed the Cost to Provide Service)

77. Plaintiffs incorporate the allegations set forth above in this operative complaint as though fully allege herein.

78. The City concealed the fact it is imposing a charge on customers that are inflated collection costs by claiming the increase will pay for needed new additions due to the transition of collection services to an enterprise fund-supported operation, or for additional needs based on OEA and support the operation by improving the performance of ESD's fleet or promoting a culture of safety. Altogether, these additions total \$41.4 million.

79. The City also paid HF&H Consultants, LLC to produce a "Cost-of-Service Rate Study Final Report" (Cost Study) who generated additional charges that will not provide benefits in the year the charge is imposed. In addition to the \$41 million of cost from the OEA, City officials added another \$37 million from their Cost Study, including new costs such as trash containers, equipment rental – motive assign, equipment rental – motive usage, refuse disposal fees, and waste removal/disposal services.

80. The City attempts to justify the inflated costs by attributing them to the City's OEA. The OEA was nothing more than a device the City used to brainstorm how to increase the collection revenue. The OEA was not efficient in showing how collection could be reduced, rather it was efficient in showing how they could be inflated.

81. An actual controversy has arisen and now exists between Plaintiffs and Defendants City Council Majority and City of San Diego concerning whether the proposed trash collection tax violates Article XIII D of the California Constitution as set forth in this Cause of Action.

82. Plaintiffs desire a judicial determination that the Solid Waste Management Fees and Notice do not comply with the requirements of California Constitution Article XIII D, section 6 (1).

83. Plaintiffs respectfully request the Court to issue a Declaration that the Solid Waste Management Fees and Notice do not comply with the requirements of California Constitution

Article XIII D, section 6 (1).

84. A judicial declaration is necessary and appropriate at this time under the circumstances to ascertain that the Solid Waste Management Fees and Notice do not comply with the requirements of California Constitution Article XIII D, section 6 (1).

SECOND CAUSE OF ACTION
Violation of Article XIII D, section 6 (2)
(Revenues Derived Solid Waste Collection Fees Used for Purpose
Other than for the Purpose Imposed)

85. Plaintiffs incorporate the allegations set forth above in this operative complaint as though fully allege herein.

86. Revenues derived from the San Diego City solid waste collection fees are to be imposed for purposes other than for which the fees are to be imposed.

87. An actual controversy has arisen and now exists between Plaintiffs and Defendants City Council Majority and City of San Diego concerning whether the proposed trash collection tax violates Article XIII D of the California Constitution as set forth in this Cause of Action.

88. Plaintiffs desire a judicial determination that the Solid Waste Management Fees and Notice do not comply with the requirements of California Constitution Article XIII D, section 6 (2).

89. Plaintiffs respectfully request the Court to issue a Declaration that the Solid Waste Management Fees and Notice do not comply with the requirements of California Constitution Article XIII D, section 6 (2).

90. A judicial declaration is necessary and appropriate at this time under the circumstances to ascertain that the Solid Waste Management Fees and Notice do not comply with the requirements of California Constitution Article XIII D, section 6 (2).

THIRD CAUSE OF ACTION
Violation of Article XIII D, section 6 (3)
(Amount of Solid Waste Collection Fee Imposed
Exceeds Proportional Cost of Trash Collection Attributable to the Parcel)

91. Plaintiffs incorporate the allegations set forth above in this operative complaint as though fully allege herein.

1 92. The amount of the solid waste collection fee exceeds the proportional cost of the
2 service attributable to thousands of parcels charged.

3 93. An actual controversy has arisen and now exists between Plaintiffs and Defendants
4 City Council Majority and City of San Diego concerning whether the proposed trash collection
5 tax violates Article XIII D of the California Constitution as set forth in this Cause of Action.

6 94. Plaintiffs desire a judicial determination that the Solid Waste Management Fees
7 and Notice do not comply with the requirements of California Constitution Article XIII D, section
8 6 (3).

9 95. Plaintiffs respectfully request the Court to issue a Declaration that the Solid Waste
10 Management Fees and Notice do not comply with the requirements of California Constitution
11 Article XIII D, section 6 (3).

12 96. A judicial declaration is necessary and appropriate at this time under the
13 circumstances to ascertain that the Solid Waste Management Fees and Notice do not comply with
14 the requirements of California Constitution Article XIII D, section 6 (3).

15 **FOURTH CAUSE OF ACTION**
16 **Violation of Article XIII D, section 6 (4)**
17 (Charge Imposed for a Solid Waste Collection
 Not Immediately Available to Property Owner)

18 97. Plaintiffs incorporate the allegations set forth above in this operative complaint as
19 though fully allege herein.

20 98. The solid waste collection fee will be imposed for a service that will not be
21 actually used or immediately available to the owner of the property.

22 99. An actual controversy has arisen and now exists between Plaintiffs and Defendants
23 City Council Majority and City of San Diego concerning whether the proposed trash collection
24 tax violates Article XIII D of the California Constitution as set forth in this Cause of Action.

25 100. Plaintiffs desire a judicial determination that the Solid Waste Management Fees
26 and Notice do not comply with the requirements of California Constitution Article XIII D, section
27 6 (4).

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1 101. Plaintiffs respectfully request the Court to issue a Declaration that the Solid Waste
2 Management Fees and Notice do not comply with the requirements of California Constitution
3 Article XIII D, section 6 (4).

4 102. A judicial declaration is necessary and appropriate at this time under the
5 circumstances to ascertain that the Solid Waste Management Fees and Notice do not comply with
6 the requirements of California Constitution Article XIII D, section 6 (4).

7
8 **FIFTH CAUSE OF ACTION**
9 **Violation of Article XIII D, section 6 (5)**
 (Charge Imposed for a Solid Waste Collection
 To Be Used for General Government Services)

10 103. Plaintiffs incorporate the allegations set forth above in this operative complaint as
11 though fully allege herein.

12 104. No fee or charge may be imposed for general governmental services including, but
13 not limited to, police, fire, ambulance or library services, where the service is available to the
14 public at large in substantially the same manner as it is to property owners.

15 105. As set forth herein, the City intends to use the funds to cover the budget shortfalls,
16 as stated above and by some of the City Officials at the public meeting of June 9, 2025.

17 106. An actual controversy has arisen and now exists between Plaintiffs and Defendants
18 City Council Majority and City of San Diego concerning whether the proposed trash collection
19 tax violates Article XIII D of the California Constitution as set forth in this Cause of Action.

20 107. Plaintiffs desire a judicial determination that the Solid Waste Management Fees
21 and Notice do not comply with the requirements of California Constitution Article XIII D, section
22 6 (5).

23 108. Plaintiffs respectfully request the Court to issue a Declaration that the Solid Waste
24 Management Fees and Notice do not comply with the requirements of California Constitution
25 Article XIII D, section 6 (5).

26 109. A judicial declaration is necessary and appropriate at this time under the
27 circumstances to ascertain that the Solid Waste Management Fees and Notice do not comply with
28 the requirements of California Constitution Article XIII D, section 6 (5).

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray judgment as follows:

3 Upon the First Cause of Action

4 1. For an order of the Court declaring the Solid Waste Management Fees and Notice
5 do not comply with the requirements of California Constitution Article XIII D, section 6 (1) and
6 are thus null and void;

7 2. For an award of reasonable attorney fees under Code of Civil Procedure section
8 1021.5 because if successful in this action, it will result in the enforcement of an important right;

9 Upon the Second Cause of Action

10 3. For an order of the Court declaring the Solid Waste Management Fees and Notice
11 do not comply with the requirements of California Constitution Article XIII D, section 6 (2) and
12 are thus null and void;

13 4. For an award of reasonable attorney fees under Code of Civil Procedure section
14 1021.5 because if successful in this action, it will result in the enforcement of an important right;

15 Upon the Third Cause of Action

16 5. For an order of the Court declaring the Solid Waste Management Fees and Notice
17 do not comply with the requirements of California Constitution Article XIII D, section 6 (3) and
18 are thus null and void;

19 6. For an award of reasonable attorney fees under Code of Civil Procedure section
20 1021.5 because if successful in this action, it will result in the enforcement of an important right;

21 Upon Fourth Cause of Action

22 7. For an order of the Court declaring the Solid Waste Management Fees and Notice
23 do not comply with the requirements of California Constitution Article XIII D, section 6 (4) and
24 are thus null and void;

25 8. For an award of reasonable attorney fees under Code of Civil Procedure section
26 1021.5 because if successful in this action, it will result in the enforcement of an important right;

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10. For an award of reasonable attorney fees under Code of Civil Procedure section 1013.5, because if successful in this action, it will result in the enforcement of an important right

11. For an award of reasonable attorney fees under Code of Civil Procedure section 1013.5, because if successful in this action, it will result in the enforcement of an important right;

13. For all other relief as may be granted by the Court.

Dated: July 9, 2025

/s/ Maria C. Severson
Michael J. Aguirre, Esq.
Attorneys for Plaintiffs

EXHIBIT 1

Proposed Solid Waste Management Fee



The City of San Diego is proposing a fee for City-provided solid waste management services (Solid Waste Management Fee). The City Ordinance (<https://docs.sandiego.gov/municode/MuniCodeChapter06/Ch06Art06Division01.pdf>) pertaining to City-provided solid waste management services specifies that “at least once each week, City forces shall collect and transport residential solid waste for transfer, transport, and recycling or disposal, and the City may charge a cost-recovery fee, as allowed by law, for all solid waste management services.” The Ordinance further explains that “residential solid waste means solid waste, of the type and quantity normally generated by a residential property, that is placed at the designated collection point at the curb line of a city public street or city public alley in a City-approved curbside collection container on the designated collection day” and that “residential property means a single-family residential property or a multi-family residential property, with up to four residences on a single lot, that meets City requirements for collection by City forces.” The proposed fee would apply to owners of single-family homes or multi-family residential homes eligible to receive City-provided solid waste management services.

Public Hearing Information

**The public hearing will be held
June 9, 2025 at 2:00 p.m.
Council Chambers, 202 C St., 12th Floor
San Diego, CA 92101**

The City Council will hear and consider oral testimony and written materials submitted regarding the proposed fee at the hearing. Only valid written protests will be considered under the City’s Proposition 218 protest tabulating procedures. Protests must be received by the City Clerk, by mail or in person, at the Office of the City Clerk, 202 C St., MS 2T, San Diego, CA 92101, by 2 p.m. on June 9, 2025, or they may be submitted to the City Clerk, in person, at the June 9, 2025 City Council meeting, beginning at 2 p.m., prior to the close of the public input portion of the public hearing.

Why is the City proposing a Solid Waste Management Fee?

The City of San Diego (City) currently collects residential solid waste (trash and organics) from eligible single-family homes and multi-family residential homes for recycling or disposal. Measure B, passed by voters in 2022, amended sections of the San Diego Municipal

Code known as the People’s Ordinance, to remove a prohibition that prevented the City from charging a fee for City-provided solid waste management services.

Currently, most of the cost for the City to provide residential waste and recycling collection by the Environmental Services Department (ESD) is covered by the City’s General Fund. Each year, ESD requests funding to cover its operational needs through the City’s annual budgeting process. The General Fund receives its revenue from multiple sources, including sales taxes paid by all those who make purchases within the City of San Diego and property taxes paid by all those who own property within the City of San Diego. Under the current framework, although all property owners in the City pay the taxes that fund solid waste services for some properties in the City, the owners and residents of single-family homes and condominiums located on private streets or multi-family homes with more than four residences must additionally pay for a private company to collect their trash and recycling.

Why am I receiving this notice?

The proposed Solid Waste Management Fee would apply to owners of residential property within the City of San Diego eligible to receive City-provided solid waste management services. You are receiving this notice because you have been identified as an owner of residential property that may be eligible for City-provided

solid waste management services. If your property is not residential property eligible to receive City-provided solid waste management service, the proposed fee would not apply to you.

If you are unsure if your property qualifies for City service, please visit the Environmental Services Department website for more information on eligibility at [sandiego.gov/environmental-services](https://www.sandiego.gov/environmental-services) or contact Customer Service at 858-694-7000 or trash@sandiego.gov.

How would the fees be used?

The proposed fees would be used to pay for costs the City incurs to provide residential solid waste management services to eligible residential properties located in the City of San Diego. The fees cannot exceed the cost to provide residential solid waste management services to eligible customers, and any revenue received from an approved fee can be used only to pay for residential solid waste management services to eligible customers.

What is the reason for the solid waste management fee: what would the fee fund?

The City's General Fund covers most of the cost for the City to provide solid waste management services, including residential waste and recycling collection by the Environmental Services Department (ESD). Currently, there is no line item in the budget for this service, so every year, ESD must go through a budget process with its requests being weighed against the requests from other City departments.

Measure B, passed by voters in 2022, amended the People's Ordinance. While almost every other jurisdiction in the state charges a fee for solid waste collection and recycling or disposal services, the City had a 1986 provision that did not allow the City to charge. This resulted in some residents paying for the services from a private hauler while others received the services from the City at no charge. The 2022 amendment removed the 1986 prohibition from the municipal code that prevented the City from charging a fee for its residential waste and recycling collection services.

In response to the voter passed amendments, the City engaged in a public process to evaluate solid waste management services provided by the City to its residential customers, potential areas for service enhancements, and costs of services. The public engagement process assisted the City in determining the desired service level, which in turn guided the development of a proposed fee schedule that allows the City to recover the costs of providing solid waste management services to its eligible residents.

Under the current system:

- The City collects trash and organics each week and recycling every other week from eligible residential properties.
- Trash, recycling and organics must be placed in automated collection containers provided or approved by the City.
- Customers pay for new or replacement containers, container repairs and/or container delivery.
- Customers may experience collection delays due to ESD resource limitations.

ESD is proposing the following service changes beginning July 1, 2025:

- Trash, recycling and organics container repair, replacement and delivery at no additional cost.
- A new truck replacement schedule to increase service reliability and reduce maintenance costs by reducing the average age of waste collection trucks. The ability to replace collection vehicles on a regular schedule improves the age of the fleet and provides the ability to maintain a backup pool of vehicles, will improve fleet safety and efficiency, and will reduce out-of-service days, which will ensure the daily availability of a route-ready fleet to complete routes on the scheduled collection day.
- Additional staff including (1) a missed collections crew to address any missed collections same day or next day; (2) customer service representatives to meet the anticipated increased demand in inquiries; (3) mechanics to improve vehicle maintenance; (4) utility workers to deliver and pick up containers; and (5) code compliance officers to help ensure a smooth transition process.
- A new web portal for customers to select new containers, including the option for smaller trash containers yielding a reduced fee, effective upon delivery.
- Delivery of new trash and recycling containers beginning by Oct. 1, 2025.
- Weekly collection of trash and organics and biweekly collection of recycling.
- Saving to prepare for future costs and for reserves.
- A pilot program to evaluate potential future incorporation of electric vehicles into the collections fleet.

ESD is proposing the following additional services beginning July 1, 2027:

- Weekly collection of recycling.
- Curbside pickup of up to two bulky items per year.

Any fees collected could only be used to fund the solid waste management services provided, and fees would not exceed the cost to provide the service.

Proposed Solid Waste Management Fee

The City Council is scheduled to consider the proposed Solid Waste Management Fees in Table 1 and Table 2 below on June 9, 2025. The tables show proposed fees that would be effective July 1, 2025; July 1, 2026; July 1, 2027; and July 1, 2028. City Council may choose to approve the fees as presented below or they may choose to approve fees lower than those presented in this notice. City Council cannot adopt fees higher than those presented in this notice.

Under the proposed fee structure, the owner of each property selects the number of containers required to contain the volume of trash, recycling and organics produced between collections. Each property is required to have at least one trash container, one recycling container and one organics container. Properties producing higher volumes of trash, recycling or organics may require more containers. Owners of properties requiring more than three containers would pay more than owners of properties requiring only three containers. Additionally, the owners of properties for whom a 35-gallon or 65-gallon trash container is sufficient to contain the volume of trash produced each week would pay less than owners of properties requiring a 95-gallon trash container.

Explanation of Fee for Fiscal Year 2026 (July 1, 2025 to June 30, 2026)

For Fiscal Year 2026 (July 1, 2025 to June 30, 2026), under the approach proposed in this notice, each eligible residential property will be charged the rate associated with one 95-gallon trash container, one 95-gallon recycling container, and one 95-gallon organics container. This rate is labeled as Bundle Option 3 in Table 1 in this notice. The amount of the fee for Bundle Option 3 for Fiscal Year 2026 will ultimately be subject to a vote by City Council but will be no higher than \$47.59 per month or \$571.08 for the year. If City Council approves a fee and authorizes ESD to collect the fee on the County tax roll, customers will see a line item on their 2026 tax bill for the annual fee associated with the Bundle Option 3 for Fiscal Year 2026. The amount of the fee is dependent on the fee schedule approved by City Council but will not be more than \$571.08.

Because the proposed fee for Fiscal Year 2026 is equivalent to the level of service associated with one 95-gallon trash container, one 95-gallon recycling container, and one 95-gallon organics container and because some customers may currently have a bundle of trash, recycling and organics containers in which one or more of the containers is smaller than 95-gallon, the City will offer to replace the container(s) smaller than 95-gallon as soon as practicable should the customer wish to receive service at the 95-gallon service level. Customers with a bundle of one trash container, one recycling container, and one organics container in which one or more of the containers

is smaller than 95-gallon who would like to proceed with increasing the size of one or more of their containers to 95-gallon size as soon as practicable should make a request via the City's Get It Done app at sandiego.gov/get-it-done. For others willing to wait, ESD is developing a new web-based customer portal for customers to select new containers. ESD is planning to deliver all new trash and recycling containers beginning in October 2025.

Container Selection via New Customer Portal

By July 15, 2025, the City plans to launch a new web-based portal for customers to select their Bundled Option service level and determine if they would like any additional containers. Starting in October 2025, the City plans to begin replacing all trash and recycling containers for residential customers who receive City service, based on their service level selection.

Each property will be required to select at least one trash container, one recycling container, and one organics container. The fee for this initial bundle of three containers is a function of the size of the trash container, as illustrated in Table 1 in this notice. For example, as currently proposed, a customer with a 35-gallon trash container would pay a fee of no more than \$36.72 per month. The fee for the initial bundle includes a 95-gallon recycling container and a 95-gallon organics container. If a customer prefers a smaller recycling or organics container for reasons unrelated to solid waste management services (e.g., if they would like a smaller size due to space considerations), the City will make one available, but the fee would be the same.

If a customer needs more than the minimum bundle of three containers, the customer can select additional containers to meet their need. Table 2 summarizes the additional monthly fee associated with each additional container. For example, an additional 35-gallon trash container for the property would cost no more than another \$6.94 per month. An additional recycling container would cost no more than another \$10.57 per month, and an additional organics container would cost no more than another \$13.05 per month. For the additional recycling or organics containers, the fees would entitle the customer to a 95-gallon container for each, but smaller containers would be available if preferred by the customer, at the same price.

Through the customer portal, ESD will track the date in fiscal year 2026 on which the new containers are delivered ("Delivery Date"). If the customer selected a level of service that differs from the bundle of three 95-gallon containers, the customer will be entitled to a credit or an additional charge for the lower or higher level of service they selected. This credit or additional charge will be applied toward the customer's Fiscal year 2027 fee.

For example, if a customer selects Bundle Option 1, with the 35-gal trash container, the fee associated with that bundle is less than the fee associated with Bundle Option

3, with the 95-gal trash container, so the customer would receive a credit for the difference in fees during the time between the Delivery Date and the end of FY2026 on their FY2027 bill. Alternatively, if a customer selects Bundle Option 3, with the 95-gal trash container, and also requests an additional 95-gal trash container and an additional 95-gal recycling container, the total fee for that package would be higher than the fee associated with Bundle Option 3. For these and any other combination scenarios, ESD will calculate through the portal the

prorated difference in fee for the time between the Delivery Date and the end of the FY2026. This prorated difference of fee will be applied to the FY2027 as an additional charge or credit, as applicable.

For properties identified or that become eligible for service after July 1, 2025, the City will identify the date that the property began receiving service in FY2026 and will debit the fee associated with the costs of service for FY2026 on the customer's bill for FY2027.

TABLE 1. Proposed monthly fee for a property owner requiring a bundle of one (1) trash container, one (1) 95-gallon recycling container and one (1) 95-gallon organics container.

Bundles	Effective Date			
	July 1, 2025 ²	July 1, 2026	July 1, 2027	July 1, 2028
Bundle Option 1: <ul style="list-style-type: none"> 35-gal trash container 95-gal¹ recycling container 95-gal¹ organics container 	\$36.72	\$38.45	\$45.66	\$47.35
Bundle Option 2: <ul style="list-style-type: none"> 65-gal trash container 95-gal¹ recycling container 95-gal¹ organics container 	\$42.88	\$45.02	\$53.46	\$55.23
Bundle Option 3: <ul style="list-style-type: none"> 95-gal trash container 95-gal¹ recycling container 95-gal¹ organics container 	\$47.59	\$50.03	\$59.42	\$61.24

TABLE 2. Proposed additional monthly fee per additional container³ for a property owner requiring more than one (1) trash container, one (1) recycling container and one (1) organics container.

35-gal trash container	\$6.94	\$7.40	\$8.79	\$8.87
65-gal trash container	\$13.15	\$14.02	\$16.65	\$16.81
95-gal trash container	\$17.92	\$19.10	\$22.69	\$22.90
95-gal ¹ recycling container	\$10.57	\$11.79	\$16.18	\$17.84
95-gal ¹ organics container	\$13.05	\$12.97	\$13.84	\$13.95

Footnotes for Table 1 and Table 2:

¹ The City proposes to provide recycling and organics collection at the service level of 95-gal containers only. Customers may request a 35-gallon or 65-gallon size recycling and/or organics container at the same rate if they prefer a smaller container for reasons unrelated to solid waste services, for example, if they would like a smaller size due to space considerations. However, all customers will be charged at the 95-gallon container rate for recycling and organics collection services.

² Under the proposed rate plan, the City would charge all customers at the Bundle Option 3: 95-gallon container rate during fiscal year (FY) 2026. Customers will be asked to select a service level and bundled rate option during FY2026. Customers who select the 35-gallon or 65-gallon service level options will receive a credit, on their FY2027 bill, for the difference between the rates associated with their selected service level and the 95-gallon service level, for the period of time between when the customers received the containers for their smaller service level and the end of FY2026. Customers who currently have a container that is smaller than 95 gallons may request a 95-gallon container for FY2026.

³ Customers who select additional containers beyond the initial bundle will receive an additional charge, on their FY2027 bill, for the difference between the rates associated with their selected service level and the 95-gallon service level, for the period of time between when the customers received the additional container(s) and the end of FY2026.

Explanation of Fee for Fiscal Year 2027 and Beyond

ESD plans to complete the initial delivery of all new containers before the end of FY2026. The fee for each customer in FY2027 will be based on each customer's selected service level.

The customer portal is designed to allow customers to track the containers they have on their property and to request changes once per year.

In future years, the fees customers will pay will be based on the containers each customer has, reflecting the level of service available to them, plus or minus any credits or additional charges they are owed as a result of changes to the level of service they requested and received in the prior year.

For example, if a customer logged into the portal halfway through FY2027 and decided to replace their 95-gallon trash container with a 35-gallon trash container, ESD will track the date in FY2027 that the new container is delivered and will apply a credit to the fee for FY2028 based on the prorated portion of the year in which the customer received service at the 35-gallon level.

Will financial assistance be available?

Revenue from the fee itself cannot be used to support a financial assistance program. ESD has requested funding from the General Fund to support a financial assistance program. Criteria may include documentation of current enrollment in a state or federal assistance program; documented inability to pay property taxes for two or more consecutive years, coupled with customer household income below specified thresholds (below 80% of area median income (AMI)); and/or a standalone objective criterion of household income below specified thresholds (e.g., below 50% of AMI). ESD plans to continue coordinating with City leaders to consider options for the program and potential qualifying criteria. In addition, the City is examining options to address the impact the proposed fee may have on tenants.

What is the Basis Upon Which the Proposed Fees Were Calculated?

The City performed a cost-of-service study to demonstrate that the proposed solid waste management fees comply with Proposition 218. The cost-of-service study demonstrates that the proposed fees do not exceed the City's costs of service and proportionately allocates those costs to each service level. The cost-of-service study documenting the costs to provide residential waste management services and the development of the proposed fees is available for download at sandiego.gov/sites/default/files/2025-04/cosd-cost-of-service-study-report.pdf. Information on Measure B and the public process the City undertook is available at cleangreensd.org.

Additional information on the City of San Diego Environmental Services Department is available at sandiego.gov/environmental-services.

Council Chambers are open for in-person testimony. For more information, please visit: sandiego.gov/citywide-agendas-minutes.

Do I have the right to protest the proposed fee?

If you are the owner of a residential property located within the City of San Diego eligible to receive City-provided solid waste management services, or a tenant or customer in such a property, you have the right to protest the proposed fee. Written protests must contain a statement of opposition to the fee, the property's assessor's parcel number or property address, and the name and the original signature of the property owner or customer registering the protest. Only one protest will be counted for each parcel or address. Electronic protests (email, social media messages, etc.) will not be counted.

Per state law, the public hearing will be televised on City TV and simulcast on the City's website at sandiego.gov/communications/citytv. More information about Council meeting access and public comment is available online at sandiego.gov/citywide-agendas-minutes. Oral comments at the public hearing will be considered by the City Council but will not qualify as formal protests unless accompanied by a written protest. If, at the close of the public hearing, written protests against the fee are not presented by a majority of the parcels that would be subject to the proposed fee, the City Council will consider and may adopt a resolution authorizing the proposed fee. If adopted, the fee will not exceed the values presented in Table 1 and Table 2 of this notice.

Written protests must be received at the address below by 2 p.m. on June 9, 2025, if mailed or submitted in person prior to the public hearing.

Office of the City Clerk, 202 C St., MS 2T San Diego, CA 92101

Written protests may also be hand delivered to the City Clerk at the City Council meeting on June 9, 2025, up until the close of the public input portion of the public hearing on the matter.

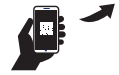
I _____ oppose adoption of the proposed solid waste management fee.

Assessor's Parcel Number or Address: _____

Signature: _____

IMPORTANT INFORMATION ABOUT YOUR RIGHTS

This notice is being provided to you by the City of San Diego Environmental Services Department pursuant to California Constitution Article XIIIID (also known as "Proposition 218"). Under the terms of Proposition 218, the City is required to notify the property owners of record of proposed changes to property-related fees, such as waste management. This serves as notice that the City Council will conduct a public hearing, at the time, date and location specified above, to consider recommended fees for residential solid waste management services provided by the City. If approved, the proposed fees would become effective July 1, 2025. The point in time where customers will first see this charge depends on whether or not the City Council also authorizes the charges to be collected on the County Tax Roll at a hearing on June 24, 2025. If approved, customers would first see the charge on their tax bills by October 2025. All members of the public are invited to attend the public hearing. **Additionally, under California state law, all property owners and customers of record that would be subject to this fee may submit a written protest to the proposed adoption of the solid waste management fee. Mailed protests must be received by 2:00 pm on June 9, 2025. If hand-delivered, protests must be received by the City Clerk before the close of the public hearing on June 9, 2025. Only one protest per parcel will be counted.** All written protests will be verified. You may also appear at the public hearing at the date and time specified above. More information is available online at: sandiego.gov/staging/environmental-services/trash-service-updates



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NOTICE OF PUBLIC HEARING TO CONSIDER TAX ROLL BILLING

How would the City collect the fee?

Notice of Hearing to Consider Tax Roll Billing

If City Council approves a new solid waste management fee, it will then hold a public hearing to consider whether to charge the fee via the County tax roll. The City intends to follow the process set forth in Health & Safety Code section 5470 et seq. to consider collecting the new fees on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, general taxes. To that end, the City will prepare a written report, which will contain a description

of each parcel of real property receiving solid waste management services and the amount of the fee for each parcel. The report will be filed with the City Clerk, and available for review by the public, by June 10, 2025.

On June 24, 2025 at 2:00 pm at Council Chambers, 202 C St., 12th Floor San Diego, CA 92101, an additional Public Hearing will be conducted by the City Council of the City of San Diego to consider all objections or protests, if any, to the report, and if a majority protest does not exist, to consider whether to adopt the report and authorize the solid waste management fees to be collected on the tax roll.