



# CITY COUNCIL AGENDA STATEMENT



May 5, 2020

File ID: 20-0126

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CHULA VISTA AND THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM REGARDING INSTALLATION AND MAINTENANCE OF TRANSIT SHELTERS AND BENCHES THROUGHOUT THE CITY, AND ALLOWING ADVERTISING ON SHELTERS AND BENCHES INSTALLED IN ACCORDANCE WITH THE MOU

## **RECOMMENDED ACTION**

Council adopt the resolution.

## **SUMMARY**

Per the January 2015 Memorandum of Understanding (MOU) between Chula Vista and San Diego Metropolitan Transit System (MTS) regarding Chula Vista's divestment of Public Transportation Services, the Divestment MOU contemplated that the City and MTS would enter into a transit shelter and bus bench contract in the future by means of a separate agreement. The adoption of this resolution would approve the MOU and allow advertising on transit shelters and bus benches installed pursuant to the MOU in accordance with CVMC section 12.36.070.

## **ENVIRONMENTAL REVIEW**

The City's Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Project qualifies for a Categorical Exemption pursuant to State CEQA Guidelines Section 15301 Class 1 (Existing Facilities), Section 15302 Class 2 (Replacement or Reconstruction), Section 15303 class 3 (New Construction or Conversion of Small Structures), and Section 15332 Class 32 (In-Fill Development Projects) because the proposed project would not result in a significant effect on the environment, create a cumulative impact, damage a scenic highway, or cause a substantial adverse change in the significance of a historical resource. Thus, no further environmental review is required.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable.

## **DISCUSSION**

The City of Chula Vista used to operate Chula Vista Transit from 1971 until January 13, 2015, per Resolution 2015-009 (Attachment 1), when it was divested and incorporated into the San Diego

Metropolitan Transit System (MTS) network. As part of the divestment of transit services, Chula Vista and MTS were parties to a “Divestment MOU” that contemplated entering into a bench and shelter contract by means of a separate agreement. Due to new transit shelters and benches that MTS would like to place within Chula Vista, it is necessary to enter into a new MOU. Recently, both parties agreed to an MOU that addresses these issues. MTS has executed the MOU that is being presented for City Council’s consideration (Attachment 2).

MTS has recently purchased new transit shelters with receptacles for trash and recycling, and some with solar lighting, and both agencies desire to install such shelters and amenities at various locations throughout the City. The new transit shelters and benches will improve the streetscape along the various major corridors where they are installed. Installation of these facilities will be done through a third-party contract that MTS has for installation, maintenance, and advertising (to fully fund ongoing maintenance and repair) at transit shelters and bench locations throughout MTS’s jurisdiction.

Both agencies will mutually seek opportunities and cooperate to facilitate the expansion of transit shelters and bench installations at various locations requiring minor infrastructure improvements, generally anticipated to be concrete flatwork and other minor improvements that will provide the necessary infrastructure for the public to use these transit facilities as intended.

#### Advertising

The Chula Vista Municipal Code (“CVMC”) section 12.36.060 (Attachment 3) generally prohibits the installation or maintenance of benches within the City’s public right-of-way without first obtaining permission from the City’s Director of Public Works. The Director of Public Works will provide permission to MTS and its contractors to install and maintain benches within the City’s Public Rights-of-Way in accordance with the terms and conditions of the MOU.

CVMC 12.36.070 (Attachment 3) generally prohibits advertising on transit benches installed in the public rights-of-way by others. CVMC 12.36.070 provides that the City is exempt from this prohibition and grants the City Council discretion to place advertising on benches installed in the public right-of-way. Staff recommends the City Council exercise such discretion to allow advertising on transit benches installed in accordance with the MOU. The MOU incorporates MTS Policy and Procedure 21 (MTS Policy 21) (Attachment 4) as the advertising standards for the MOU. MTS Policy 21 is the regional standard in use by numerous jurisdictions in the County. City Attorney staff have reviewed MTS Policy 21 and determined to be acceptable.

#### Notices To Property Owners.

For the placement of the transit related appurtenances, MTS shall use its best efforts to notify the underlying property owners, as indicated on the most recent tax assessor’s rolls, and building occupants that a new transit shelter or bench is proposed to be installed within 100 feet of their property in the public right-of-way prior to any transit shelter or bench installation. Such notice will not be required if a shelter or bench currently exists and is simply being replaced by a new shelter or bus bench unless it is significantly modified.

#### Procedural Process/Location Criteria for Transit Shelters and Benches

Per the proposed MOU, the City would grant MTS, for a period of up to ten (10) years consisting of an initial five (5) base years and five (5) one year options, the authority to install, or cause to be installed, transit shelters, transit benches, and appurtenances within the public-right-of-way of the City, in accordance with the terms and conditions of the MOU. Prior to installing any transit shelter, transit bench, or appurtenance, MTS will be required to submit the proposed location for such installation to the City for consideration. The City Manager or his/her designee will have the sole authority to approve or deny any proposed installation. Further, if a proposed installation is approved, MTS or their contractor will be required obtain a no-cost master encroachment permit for all new transit shelters and benches in order to allow the City to track approved installation locations. Additionally, in locating, installing, and maintaining transit shelters, transit benches, and appurtenances under the MOU, MTS and their contractor will be required to comply with all applicable rules, regulations, and laws.

Transit shelters and benches *with advertising* shall be permitted only in commercial, industrial, or multifamily housing areas in City unless otherwise authorized by the City Manager. Transit shelters and benches *without advertising* will generally be permitted in areas where a MTS bus stop is located, so long as City has not exercised its authority under the MOU to (i) reject a proposed transit shelter or bench location or (ii) remove an existing transit shelter or bench. Since transit shelter and bench maintenance contracts depend on advertising revenue to be sustainable, the intent is to maintain a ratio of at least 4-to-1 advertising to non-advertising transit shelters and benches.

#### Maintenance.

MTS will have responsibility for repairs, maintenance, cleaning, installation, replacement, removal, trash and recycling service, graffiti abatement, painting, or any other work for transit infrastructure or appurtenances that are installed by MTS under this MOU.

MTS shall continue to maintain responsibility for all work related to the bus stop pole (if any), bus stop blade, and any MTS-provided information or amenities attached to the bus stop pole, including installation, repair, replacement, removal, cleaning, and graffiti abatement at all transit/bus stop locations.

#### Staff Recommendation

Staff recommends the City Council approve the resolution and MOU.

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council members and has found no real property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Further, to the extent that any decision would have a reasonably foreseeable financial effect on any member's real property, the effect would be nominal, inconsequential, or insignificant. Consequently, pursuant to California Code of Regulations Title 2, sections 18700 and 18702(b), this item does not present a real property-related conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

Approval of this resolution will result in no direct impact to the General Fund.

### **ONGOING FISCAL IMPACT**

None.

### **ATTACHMENTS**

1. Resolution 2015-009 dated January 13, 2015.
2. MOU between City of Chula Vista & the San Diego Metropolitan Transit System.
3. CVMC 12.36 (excerpt)
4. MTS Policy and Procedures Number 21

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