



# CITY COUNCIL AGENDA STATEMENT



January 19, 2021

File ID: 20-0542

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING AN AGREEMENT FOR POLICE, FIRE, AND EMERGENCY MEDICAL SERVICES BETWEEN THE CITY AND THE SAN DIEGO UNIFIED PORT DISTRICT

## **RECOMMENDED ACTION**

Council adopt the resolution.

## **SUMMARY**

The City of Chula Vista currently provides police, fire, and emergency medical services to the San Diego Unified Port District (the "Port District") pursuant to a Municipal Services Agreement (MSA) that expires on June 30, 2021. The subject services are provided on Port District tidelands that do not generate ad valorem tax revenues to the City. It is therefore necessary and appropriate for the Port District to reimburse the City for the reasonable cost of providing these public safety services. The City and Port District have negotiated a new MSA for the period July 1, 2020 through June 30, 2030. The Port District Board of Port Commissioners (the "Port District Board") approved the proposed MSA at its December 28, 2020 meeting. Council approval of the proposed MSA is recommended.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the proposed activity consists of a reimbursement agreement which does not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

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

Not applicable.

## **DISCUSSION**

The City of Chula Vista has provided police services to the Port District since 1984 and has provided fire & emergency medical services since 1991. MSAs between the two agencies provide a mechanism to reimburse the City for the reasonable cost of providing police, fire, and emergency medical services on the tidelands

within the City's jurisdictional boundary that do not generate ad valorem tax revenues. The subject properties include non-dedicated streets, parks, and other open space; unleased developed properties; leased properties wherein the lessee is not subject to ad valorem taxes; and unleased land (see Attachment 1).

The City provides police, fire, and emergency medical services on the non-ad valorem tidelands to the same extent, and in the same manner, that it provides services to ad-valorem tax generating properties within the City. For the Police Services portion of the MSA, services provided by the Chula Vista Police Department (CVPD) include, but are not limited to, responding to calls for service from the public, responding to calls for backup, proactive patrols, responding to calls from the Harbor Police for CVPD assistance, and activities of support staff. Support staff activities include, but are not limited to, investigating, supervising, dispatching, and other activities or events that call for the deployment of public safety officers. For the Fire & Emergency Medical Services portion of the MSA, services provided by the Chula Vista Fire Department (CVFD) including responding to all calls for fire suppression services and all calls for emergency medical services, to the same standards set by the City and to the extent that the City is required to respond by the county, state, or federal government. Support services are also provided, including but not limited to, investigating, supervising, dispatching, and other activities that support the deployment of fire suppression and emergency medical personnel.

The City's current MSA with the Port District runs from July 1, 2012 through June 30, 2021 (the "2012 MSA"). In late 2019, City and Port District staff began negotiating a new MSA. The parties undertook early negotiations due to the relationship between the MSA revenues received by the City and the planned Chula Vista Bayfront Resort Hotel and Convention Center Project (the "RHCC Project") public infrastructure financing. As part of the RHCC Project negotiations between the City and the Port District, the City committed to contributing an amount equal to the MSA revenues received as of fiscal year 2016 (\$986,625), escalating at a rate of three percent (3%) per annum, to the financing. While the ultimate term of the debt is still to be determined, current estimates indicate a bond term of between 35 and 37 years. As a result of this long-term commitment to the expected RHCC Project debt, the City desired greater certainty that these revenues would be received from the Port District throughout the expected term of the debt. With this goal in mind, the City negotiated a new MSA with Port staff that reflected a continuation of the current payment amount per the 2012 MSA, annual three percent (3%) escalation factors, and a forty (40) year term, with provisions for interim baseline resets and the ability for the Port to defer payment of certain amounts due for limited periods, if certain conditions were met (the "Proposed MSA"). The Proposed MSA was presented to the Port District Board at its December 8, 2020 meeting. The City of Chula Vista MSA was presented along with a proposed MSA for the City of Imperial Beach (including similar provisions for 3% escalation, 40-year term, etc.). At the December 8 Port District Board meeting, a number of questions and concerns were raised by the Port District Board. No action was taken, and consideration of the MSAs for both Chula Vista and Imperial Beach were rescheduled to December 28, 2020.

In order to respond to the Port District Board's questions and concerns, the City updated its MSA costing model to reflect the fiscal year 2020-21 budget. In addition, allocation factors to the tidelands were also reviewed and updated to reflect current property ownership and public safety operations (see Attachment 2 for allocation exhibits). The methodology employed by the City was previously negotiated and agreed to

between the City and the Port District and remains largely unchanged since 1994<sup>1</sup>. The updated costing analysis indicates costs of providing the subject services in fiscal year 2020-21 totaling \$2.265 million (\$1.87 million for Police Services and \$0.395 million for Fire Services). The updated analysis, along with a written response to other questions raised was prepared and submitted to the Port District Board at their December 28, 2020 meeting (see Attachment 3).

For police services, the City's methodology considers the following:

1. *Calls for Service Response*. An estimation based on a three-year average of actual time spent responding to calls for service originating on the non-ad valorem tidelands. Calls for Service time includes dispatch through call clearance, plus report time (see Attachment 3, Exhibit B).
2. *Proactive Patrol*. The CVPD spends 20 minutes per patrol shift per day proactively patrolling the non-ad valorem tidelands. With three shifts per day, this equates to one hour per day on proactive patrol, 365 days per year (see Attachment 3, Exhibit A).
3. *Reserve Capacity*. The CVPD staffs four patrol beats that overlap with the non-ad valorem tidelands (see Attachment 2). The staffing requirement for those four beats is calculated, and then an allocation factor is applied based on the acres of each beat that fall within the non-ad valorem tidelands (9.62%, see Attachment 3, Exhibit C). This component is comprised of auxiliary support services to non-ad valorem tidelands, which includes, but is not limited to: criminal investigations after a crime has occurred; actions and activities to address other crime or disorder concerns not addressed exclusively by calls for service response; and activities to reduce impacts related to homelessness, refuse disposal, and other safety concerns for non-ad valorem tidelands.

The time requirement for each of the three police functions above is then combined, and a full-time equivalent (FTE) staffing requirement is calculated. For fiscal year 2020-21, the need for 3.3 Officers is indicated. The total cost per Officer, including support staff and citywide overhead, is then calculated (\$1.87 million in fiscal year 2020-21).

For Fire and Emergency Medical Services, the City's methodology again looks at the acres of non-ad valorem tidelands in the City, but this time looks at the overlap with the service area for Fire Station 1 (FS 1), the primary response unit for the Bayfront. The non-ad valorem tidelands make up 10.81% of the FS 1 primary service area (see Attachment 3, Exhibit K). This allocation factor is then applied to the cost of a single company operating out of FS 1 (\$3.6 million in fiscal year 2020-21).

The Port District Board ultimately approved the proposed MSA, with some additional modifications made on the dais. The proposed MSA is now presented to the City Council for approval (see Attachment 4). Key terms are summarized below.

### **Proposed MSA Key Terms**

The proposed MSA would be effective July 1, 2020 through June 30, 2030 and sets an initial baseline reimbursement to the City for fiscal year 2020-21 equal to the fiscal year 2019-20 reimbursement amount under the 2012 MSA (\$1,103,646; the "Initial Baseline Rate"). Beginning on July 1, 2021, the City's Initial

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<sup>1</sup> No substantive change since at least 2003.

Baseline Rate will be increased by three percent (3%) annually (the “Annual Baseline Increase”). In addition to the Annual Baseline Increase, the City and Port District have agreed to consider comprehensive baseline resets, effective July 1, 2022 and July 1, 2025. The 2022 baseline reset will be used to address current underfunding of City costs in providing the associated services. The 2025 baseline reset has been designed to coincide with the planned Bayfront development, including the new Sweetwater and Harbor Parks which are anticipated to generate additional demands for public safety services on the tidelands.

The proposed MSA includes provisions for the City to reduce services if the rate in any given year is insufficient to cover the cost of providing the services. In addition, the Port District has the right to defer payment amounts attributable to the Annual Baseline Increase in an a given future year (i.e. the 3% increase amount only). Any amount deferred must be repaid in the years immediately following the deferral, in a time frame equal to the deferral period. For example, if the Port District were to elect a single year deferral, the deferred amount would be due in full in the subsequent fiscal year. If the Port District were to elect a three-year deferral, they would have three full years after the deferral period to repay the deferred amount. The Port District can use the payment deferral provision a maximum of five times (five service years) during the term of the Proposed MSA.

The Proposed MSA gives the Port District the right to conduct an annual performance audit and service study of the police , fire, and emergency medical services provided by the City (a “Performance Audit”). Further, the proposed MSA documents the intent of the Port District to establish “reasonable metrics to measure the costs of the Services for the Service Year that is the subject of the Performance Audit and expected costs for the Service Years that follow.”

Lastly, the proposed MSA can only be terminated during the first three (3) years of its term by mutual agreement of the City and the Port District. For the subsequent seven (7) years of the term, either party may terminate in its sole and absolute discretion, with six (6) months advance notice.

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

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of 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**

Approving the Proposed MSA with the Port District has no impact in the current fiscal year. The 2012 MSA does not expire until June 30, 2021. Further, the Proposed MSA reflects the same reimbursement to the City in fiscal year 2020-21 due under the 2012 MSA.

## ONGOING FISCAL IMPACT

Approving the Proposed MSA secures City reimbursement for providing police, fire, and emergency medical services through June 30, 2030, starting at \$1,103,646 and escalating 3% annually, as detailed in the table below.

Service/ Fiscal Year	MSA Amount	City RHCC Commitment
FY 2020-21	\$ 1,103,646	\$ 1,110,455
FY 2021-22	1,136,755	1,143,769
<i>1<sup>st</sup> Baseline Reset</i>		
FY 2022-23	1,170,858	1,178,082
FY 2023-24	1,205,984	1,213,424
FY 2024-25	1,242,163	1,249,827
<i>2<sup>nd</sup> Baseline Reset</i>		
FY 2025-26	1,279,428	1,287,322
FY 2026-27	1,317,811	1,325,941
FY 2027-28	1,357,345	1,365,720
FY 2028-29	1,398,066	1,406,691
FY 2029-30	1,440,008	1,448,892

While the initial reimbursement rate is less than the City's estimated actual cost of providing the subject public safety services in fiscal year 2020-21, entering into the proposed MSA provides greater security to the City relating to our planned RHCC financing commitment. In addition, the scheduled baseline resets (as indicated in the table above) provide an opportunity for the City to negotiate additional recovery of costs from the Port District in the future, both in the near term and as the Bayfront continues to develop.

The cost of providing fire services on the Bayfront, including interim and permanent facilities and fire apparatus, is being considered as part of the Bayfront financing and associated negotiations with the Port District. Development of the Bayfront will likely generate additional calls for police services as well. Staff will seek to address associated cost increases via the above noted baseline resets in order to avoid impacts to the City's General Fund.

## ATTACHMENTS

1. Non-Ad Valorem Tidelands Exhibit
2. Tideland Allocation Factor Exhibits
3. Response to Port District Board Questions
4. Proposed MSA between City and San Diego Unified Port District

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