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Title: UPDATE ON THE STATUS OF MUNICIPAL SERVICES AGREEMENTS FOR FISCAL YEAR 2023

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DATE: November 9, 2021

SUBJECT:

UPDATE ON THE STATUS OF MUNICIPAL SERVICES AGREEMENTS FOR FISCAL YEAR 2023

EXECUTIVE SUMMARY:

The District provides law enforcement, marine firefighting, and certain emergency response services throughout its jurisdiction (collectively, the “tidelands”) through the San Diego Harbor Police Department (Harbor Police). These services are provided both to taxpaying and non-taxpaying parcels on tidelands with the largest concentration of services occurring within the City of San Diego. On tidelands, the District also contracts with its member cities to provide certain services specifically to non-taxpaying tidelands (defined as those parcels which do not pay possessory-interest tax such as parks and roads). The scopes and rates for these services are memorialized in Municipal Services Agreements (MSAs). The District currently has MSAs with all five member cities.

Three MSAs - Coronado, National City, and Chula Vista - will require baseline rate and services negotiations with resulting new rates and updated scope of services to take effect on July 1, 2022. With respect to Coronado, an entirely new agreement will need to be negotiated since the existing MSA expires on its terms, as extended, on June 30, 2022. To better prepare both the District and member cities for budgeting for Fiscal Year 2023, staff is bringing this informational update to the Board on the status of these discussions. Staff will continue working with Coronado, National City, and Chula Vista and will return to the Board with recommendations regarding compensation for services provided under the MSAs.

RECOMMENDATION:

Receive staff’s informational update on the status of Municipal Services Agreements for Fiscal Year 2023.

FISCAL IMPACT:

This agenda item has no fiscal impact.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A Port with a healthy and sustainable bay and its environment.
- A Port that is a safe place to visit, work and play.

DISCUSSION:

The District provides law enforcement, marine firefighting, and certain emergency response services throughout its jurisdiction (collectively, the “tidelands”) through the San Diego Harbor Police Department (Harbor Police). These services are provided both to taxpaying and non-taxpaying parcels on tidelands with the largest concentration of services occurring within the City of San Diego. On tidelands, the District also contracts with its member cities to provide certain services specifically to non-taxpaying tidelands (defined as those parcels which do not pay possessory-interest tax such as parks and roads). The scopes and rates for these services are memorialized in Municipal Services Agreements (MSAs). The District currently has MSAs with all five member cities.

Background

Following the December 28, 2020 meeting during which new MSAs were approved for Chula Vista and Imperial Beach, staff reached out to the cities of San Diego, National City, and Coronado to negotiate additional new MSAs. During these discussions, staff offered either to negotiate a new baseline rate for services now, as was done with Imperial Beach, or continue with the current adjusted baseline rate and services for another year with a three percent (3%) escalation effective July 1, 2021 and negotiate a new rate to become effective on July 1, 2022, as was the case with Chula Vista. In all three situations, the District presented each city with an updated MSA template derived from the Imperial Beach and Chula Vista negotiations.

Maps were produced and distributed to each city (including, for their information, Imperial Beach and Chula Vista). Based on these maps and discussions with the cities, calls for service numbers for police and fire / emergency services were generated by San Diego and Coronado. During discussions with San Diego, National City, and Coronado, District staff first identified the non-taxpaying (or non-ad-valorem) tidelands parcels in each member city such as parks and roads. For purposes of this discussion, those parcels were characterized as those not paying possessory interest tax to the County of San Diego for Fiscal Year 2020. The amount of tax paid was not factored in - if the parcel was assessed possessory interest tax, it was excluded from the analysis.

These numbers were further refined in discussions with District staff to better understand which service calls were potentially allocable to non-taxpaying tidelands. A ratio of calls for service citywide versus non-taxpaying tidelands was established, and that number was applied to the corresponding city budget for those services with negotiated exclusions. Negotiations on these calls for service with

San Diego were fully completed resulting in a full reset of rates for law enforcement and fire / emergency services, while Coronado requested a one-year extension to its current MSA and National City deferred substantive negotiations on a new rate to take effect on July 1, 2022 for Fiscal Year 2023. New MSAs with National City and San Diego were approved by the Board at the June 15, 2021 meeting, as well as a one-year extension to the existing MSA with Coronado. San Diego's next baseline reset is the same as Imperial Beach on July 1, 2023 (for Fiscal Year 2024) while National City, Coronado, and Chula Vista's baseline rates for service must be negotiated to take effect July 1, 2022 (for Fiscal Year 2023).

Before commencing the budgeting process for Fiscal Year 2023, staff is presenting an overview of the three MSAs which are subject to negotiation of rates to take effect July 1, 2022: Coronado, National City, and Chula Vista. Rate and service negotiations for Imperial Beach and San Diego will commence at least six months prior to their scheduled baseline reset dates of July 1, 2023. This is an informational item only and staff will return to the Board once services and rates have been negotiated.

Methodology

It is challenging to identify one single metric - or even a collection of metrics - that will accurately and uniformly capture the reimbursement cost to the member cities for providing services under the MSA. There is variability in budgeting practices, acreages of the tidelands within each member city, services provided, and service levels. After negotiations and discussions with all of the member cities, two relatively objective factors to consider continue to stand out: (1) a ratio of calls for service for police, fire, and emergency services provided on non-possessory interest taxpaying tidelands versus citywide; and (2) adopted budgets for the member cities to provide these services net of any offsetting revenues and excluding any expense categories that cannot be reasonably attributed to tidelands. As such, staff has continued to pursue discussions with the member cities on this basis - first, identifying a calls for service ratio and then applying that ratio against an adjusted budget number.

Other methodologies - including those applied in some of the previous MSAs - allocate costs based in part on the non-taxpaying tidelands area included within the respective member city. Another approach includes identifying the average calls for service with an emphasis on the hours spent on each response including report writing as well as proactive patrol, and in addition administrative overhead, reserve capacity, support staff costs, and citywide overhead.

Other considerations include the differences between the tidelands areas in each member city including services provided by the respective cities on tidelands. In San Diego, for example, the Harbor Police provides at least an equal and offsetting number of calls for service support to the San Diego Police Department and so the District pays only for fire, emergency services, and certain limited police support functions. In Coronado, beyond law enforcement, fire, and emergency services, services also include lifeguards at Glorietta Bay. In Imperial Beach, services include law enforcement, fire and emergency services, lifeguards, maintenance, and animal control. In National City and Chula Vista, services are limited to law enforcement, fire, and emergency services.

City of Coronado

On June 15, 2021 the Board authorized a one-year extension to Coronado's MSA from July 1, 2021 to June 30, 2022 along with a three percent (3%) increase to the prior baseline rate for services. The

Coronado MSA has not yet been transitioned to the new template based on previously-approved MSAs with the other member cities. In early 2021, Coronado and District staff initially focused on negotiating a new baseline rate for services. As such, based on the District's non-taxpaying tidelands map, the City retrieved calls for service data for the last three fiscal years - FY 2018, 2019, and 2020. Based on the average of these three years, Coronado identified 2,685 police calls for service (versus 45,968 citywide) and 97 calls for fire and emergency services (versus 2,128 citywide) on tidelands. Some of these calls were associated with addresses that pay taxes on Coronado tidelands, and based on discussions with Coronado, it became clear that there are occasions in which the address used for the purpose of reporting or response to a call for service may not necessarily reflect where the service occurred. District and Coronado staff then began negotiating appropriate adjustments that should be made to these numbers likely reducing their totals on non-taxpaying tidelands.

District and Coronado staff were continuing to negotiate both the appropriate calls for service ratio as well as the appropriate applicable compensation when Coronado staff reached out to the District to request additional time. Former City Manager Blair King left Coronado and the process of selecting and starting a new City Manager was completed in September of 2021. In light of the transition and prior to the new City Manager beginning work, Coronado staff requested a 1-year extension to the existing MSA with a three percent (3%) increase to the baseline rate previously in effect and to otherwise keep the existing terms and service levels intact. To allow Coronado the time necessary to hire and onboard new management, the Board approved a 1-year extension through June 30, 2022 at a new rate of \$1,186,119.

In late August, staff reached out to Coronado staff with a proposal based on staff's review of the calls for service data Coronado provided earlier in the year. Staff is currently awaiting a response in the coming weeks to lead to the negotiation of a new baseline rate in an updated MSA.

City of National City

After preliminary discussions with National City in the first half of 2021, instead of negotiating a new rate and service level, National City staff requested a three percent (3%) increase and generally agreed to the new MSA template. On June 15, 2021 the Board authorized staff to enter into an MSA with National City expiring June 30, 2030. The rate for FY 2022 was approved by the Board at \$1,310,324. Additionally, the parties agreed to commence negotiations on a new baseline rate on July 1, 2021, with rate proposals to be presented to the Board at the December 14, 2021 and any corresponding agreed upon baseline rate to take effect July 1, 2022. Second baseline reset negotiations are to begin January 1, 2025 and the resulting new baseline rate to take effect in July 2025.

In late July 2021, District staff reached out to National City to request police and fire / emergency services calls for service data which they are working to provide. National City has provided some preliminary data but responded that specific parcel level data isn't available. Additionally, National City has stated that other potential approaches to the MSA may be more reflective of actual costs for services provided. Staff will continue to work with National City to obtain data consistent with that provided by other member cities and return to the Board.

City of Chula Vista

On December 28, 2020 the Board authorized staff to enter into an MSA with Chula Vista expiring June 30, 2030 along with a three percent (3%) increase to the baseline rate for services. The MSA

provides for baseline rate reset dates of July 1, 2022 and July 1, 2025 with negotiations for new rates to commence no later than six months prior to each reset date. In early October 2021, staff reached out to Chula Vista to begin discussions and will report out to the Board the status of those discussions at the November 9, 2021 Board meeting.

Next Steps

This is an informational item only. Staff will continue working with Coronado, National City, and Chula Vista and will return to the Board with recommendations regarding compensation for services provided under the MSAs. Although the National City MSA provides that the parties will return to the Board in December with a recommended baseline rate, the timeline for resolution will depend in part on discussions regarding methodology including the required underlying information necessary to make a recommendation.

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda sheet as presented to it and approves the same as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, receiving an update the status of municipal services agreements, does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

The proposed Board action complies with Section 35 of the Port Act, which allows the Board to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

The proposed Board action does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or exclusion is not required.

Diversity, Equity, and Inclusion Program:

This agenda sheet has no direct DEI impact.

PREPARED BY:

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