



## Legislation Details (With Text)

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**Title:** MUNICIPAL SERVICES AGREEMENTS

A. RESOLUTION ESTABLISHING A BASELINE RATE AND SCOPE OF SERVICES FOR THE FY23 BASELINE RESET DATE UNDER THE MUNICIPAL SERVICES AGREEMENT WITH THE CITY OF CHULA VISTA AND AUTHORIZING AN AMENDMENT TO SUCH AGREEMENT TO REFLECT THE UPDATED RATE

B. UPDATE ON MUNICIPAL SERVICES AGREEMENT BASELINE RATE AND SCOPE OF SERVICES NEGOTIATIONS WITH THE CITY OF NATIONAL CITY

**Sponsors:**

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**Attachments:** 1. 14. 2023-0053 Draft Resolution

Date	Ver.	Action By	Action	Result
5/9/2023	1	Board of Port Commissioners	adopted	Pass

**DATE:** May 9, 2023

**SUBJECT:**

**MUNICIPAL SERVICES AGREEMENTS**

**A. RESOLUTION ESTABLISHING A BASELINE RATE AND SCOPE OF SERVICES FOR THE FY23 BASELINE RESET DATE UNDER THE MUNICIPAL SERVICES AGREEMENT WITH THE CITY OF CHULA VISTA AND AUTHORIZING AN AMENDMENT TO SUCH AGREEMENT TO REFLECT THE UPDATED RATE**

**B. UPDATE ON MUNICIPAL SERVICES AGREEMENT BASELINE RATE AND SCOPE OF SERVICES NEGOTIATIONS WITH THE CITY OF NATIONAL CITY**

**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. 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.

Pursuant to the terms of the MSAs with the City of National City and the City of Chula Vista (on file in the Office of the District Clerk as Document Nos. 72923 and 72282, respectively), District staff has negotiated in good faith for updated baseline rates and scope of services. The MSAs provide that any resulting agreed upon new rates and updated scope of services take effect either retroactively on July 1, 2022 or prospectively depending on the agreed upon services to be provided. Both MSAs state that if the Board does not approve a new baseline rate and scope of services on or before January 1, 2023, the rates in effect as of July 1, 2022 will remain in place until the next baseline reset dates of July 1, 2025, subject to annual 3% increases.

After several discussions, National City conveyed that they preferred the existing baseline rate and scope of services remain in effect until July 1, 2025 (the next baseline reset date), subject to 3% annual baseline rate increases and subject to each party's right to terminate the MSA in accordance with its terms. Since the December 2022 Board meeting, Chula Vista has continued to negotiate the current baseline rate and scope of service with District staff. As a result of those good faith negotiations, Chula Vista has agreed to a new baseline rate of \$1,473,214 which staff recommends the Board adopt as the FY 2023 baseline rate to be retroactively effective as of July 1, 2022.

**RECOMMENDATION:**

Adopt a resolution establishing a baseline rate and scope of services for the FY 23 baseline reset date under the Municipal Services Agreement with the City of Chula Vista and authorizing an amendment to such agreement to reflect the updated rate.

**FISCAL IMPACT:**

Funds for the current MSAs are included in the FY 2023 budget. Funds required for future fiscal years will be budgeted for in the appropriate year subject to Board approval upon adoption of each fiscal year's budget.

**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:**

At the December 13, 2022 Board meeting, staff presented an update and request for direction on baseline rate negotiations with the Chula Vista and National City. The Board directed staff to return to the Board in sixty (60) days with recommendations. District staff has negotiated with National City and Chula Vista in good faith. Staff is now before the Board with an update on National City and a recommendation on Chula Vista.

*City of National City Update*

The Board approved a new MSA with National City at the June 15, 2021 meeting. The current annual reimbursement rate for the National City MSA is \$1,349,634. The National City MSA requires baseline rate and scope of services resets on July 1, 2022 and July 1, 2025, after which there are no further adjustments through the expiration of the MSA on June 30, 2030, other than an annual 3% baseline rate increase. The MSA required that the parties commence negotiations on the first baseline reset no later than July 1, 2021 and at least six months prior to the second baseline reset date. In connection with such negotiations, the parties may then jointly or separately present a new baseline rate and scope of services to the Board for approval. If the Board does not approve a new rate and scope within the six months following an applicable baseline reset date, then the then current rate and scope of services are to remain in effect until the next baseline reset date, subject to 3% annual increases and each party's right to terminate the agreement with six months' prior written notice.

Working diligently and in good faith, staff met several times with National City staff but the parties were unable to reach agreement on a new baseline rate and scope of services. City staff stated they prefer the current rate and scope to remain in place subject to 3% annual adjustments and each party's right to terminate the agreement. No additional Board action is needed at this time. Negotiations with respect to the next baseline reset date of July 1, 2025 are to commence on January 1, 2025.

#### *City of Chula Vista Baseline Rate Recommendation*

At the December 28, 2020 meeting, the Board approved a new MSA with Chula Vista. The current annual reimbursement rate for the Chula Vista MSA is \$1,170,859. The Chula Vista MSA requires baseline rate and scope of services resets on July 1, 2022 and July 1, 2025, after which there are no further baseline rate resets through the expiration of the MSA on June 30, 2030 other than an annual 3% baseline rate increases. The MSA requires that the parties commence negotiations on the baseline resets at least Six months prior to each baseline reset date. In connection with such negotiations, the parties may jointly or separately present a new baseline rate and scope of services to the Board for approval. If the Board does not approve a new rate and scope on or prior to six months from an applicable baseline reset date, then the then current rate and scope of services shall remain in effect until any future baseline reset date, subject to 3% annual increases and each party's right to terminate with six months' prior written notice.

Since the December 2022 Board meeting, and per the Board's prior direction, Chula Vista and the District have negotiated the baseline rate and discussed, not modified, the scope of services. District staff is now ready to recommend an updated baseline rate to the Board. Chula Vista has agreed to a new baseline rate of \$1,473,214. This rate consists of \$1,114,279 for police services and \$358,935 for fire and emergency services. Staff recommends the Board adopt this as the FY 2023 baseline rate to be retroactively effective as of July 1, 2022. Staff additionally recommends the Board authorize the Executive Director or his designee to enter into an amendment with the City of Chula Vista to its MSA to document the updated baseline rate and the effective date of the same.

#### **General Counsel's Comments:**

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

### **Environmental Review:**

The proposed Board actions, including without limitation, a resolution establishing a baseline rate and scope of services for the FY23 baseline rest date under the Municipal Services Agreement with the City of Chula Vista and an update on Municipal Services Agreement Baseline rate and scope of services negotiations with the City of National City, do not constitute a project under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because there is not a potential to result in a direct or indirect physical change in the environment. Therefore, the proposed Board actions are not subject to CEQA and no further action under CEQA is required.

The proposed Board actions comply with Sections 21 and 35 of the Port Act, which allow the Board to pass resolutions; and 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 actions are consistent with the Public Trust Doctrine.

The proposed Board actions do 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 an exclusion finding is not required.

### **Diversity, Equity, and Inclusion Program:**

This agenda sheet has no direct DEI impact on District workforce or contract reporting at this time.

### **PREPARED BY:**

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