



## Legislation Text

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File #: 2021-0235, Version: 1

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**DATE:** June 15, 2021

**SUBJECT:**

**MUNICIPAL SERVICES AGREEMENTS:**

**(A) RESOLUTION AUTHORIZING A 9-YEAR MUNICIPAL SERVICES AGREEMENT THROUGH JUNE 30, 2030 WITH THE CITY OF NATIONAL CITY FOR POLICE, FIRE, AND EMERGENCY SERVICES ON NON-AD VALOREM DISTRICT PROPERTY LOCATED IN THE CITY OF NATIONAL CITY, WITH BASELINE RESETS IN 2022 AND 2025**

**(B) RESOLUTION AUTHORIZING A 5-YEAR MUNICIPAL SERVICES AGREEMENT THROUGH JUNE 30, 2026 WITH THE CITY OF SAN DIEGO FOR POLICE, FIRE, AND EMERGENCY SERVICES ON NON-AD VALOREM DISTRICT PROPERTY LOCATED IN THE CITY OF SAN DIEGO, WITH BASELINE RESETS IN 2023 AND 2025**

**(C) RESOLUTION AUTHORIZING A 1-YEAR EXTENSION TO THE EXISTING MUNICIPAL SERVICES AGREEMENT THROUGH JUNE 30, 2022 WITH THE CITY OF CORONADO FOR POLICE, FIRE, AND EMERGENCY SERVICES ON NON-AD VALOREM DISTRICT PROPERTY LOCATED IN THE CITY OF CORONADO**

**EXECUTIVE SUMMARY:**

The District reimburses its five Member Cities for certain services provided on non-taxpaying Tidelands within the geographical boundaries of each city. These agreements are referred to as Municipal Services Agreements (MSAs). At the December 28, 2020 Board meeting, the Board authorized two MSAs - one with the City of Imperial Beach for the provision of police, fire, emergency medical, lifeguard, animal control services, and tidelands maintenance services and the other with the City of Chula Vista for the provision of police, fire, and emergency medical services. Presently, there are three other MSAs with the member cities of San Diego, National City, and Coronado for the provision of law enforcement, fire, and emergency services on tidelands. These agreements all expire June 30, 2021. Following the December 28, 2020 Board meeting, staff began negotiations to renew the remaining existing MSAs generally based on the framework established by the Imperial Beach and Chula Vista MSAs and return to the Board.

Staff reached out to the cities of San Diego, National City, and Coronado to negotiate 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 and renegotiate in 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 MSAs.

After several discussions with the City of Coronado regarding both calls for service and budget, due to recent turnover in the City Manager's Office in Coronado and to allow Coronado sufficient time to review and comment on the template while conducting baseline rate negotiations, Coronado staff and the District negotiated a one-year extension of Coronado's existing MSA at a three percent (3%) increase. This extension will only change the existing MSA term and compensation amount, leaving negotiations for a new agreement to the months leading up to June 30, 2022. To accommodate the City's request and allow sufficient time for negotiation of a new agreement, staff recommends the proposed rate for FY 2022 as \$1,186,119.

With respect to the City of San Diego, as recommended by staff, the proposed rate for FY 2022 is \$1,550,699. Additionally, San Diego City staff requested a total agreement term of five years and staff negotiated adjustments to the baseline rate and services to occur in 2023 and 2025.

National City requested the three percent (3%) increase to the baseline rate under National City's current MSA in a new agreement with a baseline rate reset and service proposal negotiation to begin July 1, 2021 and to be completed by December 2021 in order to take effect on July 1, 2022. As recommended by staff, the proposed rate for National City for FY 2022 is \$1,310,324.

As more fully discussed below, staff recommends the Board authorize new MSAs with National City and San Diego based generally on the MSAs with the cities of Imperial Beach and Chula Vista, and a one-year extension to the existing MSA with Coronado.

**RECOMMENDATION:**

(A) Adopt a resolution authorizing a 9-year Municipal Services Agreement through June 30, 2030 with the City of National City for Police, Fire, and Emergency Services on non-ad valorem District property located in the City of National City, with Baseline Resets in 2022 and 2025.

(B) Adopt a resolution authorizing a 5-year Municipal Services Agreement through June 30, 2030 with the City of San Diego for Police, Fire, and Emergency Services on non-ad valorem District property located in the City of San Diego with Baseline Resets in 2023 and 2025.

(C) Adopt a resolution authorizing a 1-year extension to the existing Municipal Services Agreement through June 30, 2022 with the City of Coronado for Police, Fire, and Emergency Services on non-ad valorem District property located in the City of Coronado.

**FISCAL IMPACT:**

Board approval of the proposed MSA's, together with the two previous MSA's approved by the Board in December 2020, result in the following fiscal impact:

	FY 21		FY 22	
IB (w/o maintenance)	\$	4,071,914	\$	4,232,013
Coronado	\$	1,151,572	\$	1,186,119
Chula Vista	\$	1,103,646	\$	1,136,755
San Diego	\$	853,500	\$	1,550,699
National City	\$	1,272,159	\$	1,310,324
IB (maintenance only)	\$	1,053,406	\$	1,183,900
<b>TOTAL</b>	\$	9,506,197	\$	10,599,810

The proposed FY 2022 budgeted amount for MSA expenses is equal to \$9,710,000. The difference between this amount and the total amount for FY 2022 stated above will be included as a component of future budget amendments.

**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:**

Background

Following the December 28, 2020 meeting, staff reached out to the cities of San Diego, National City, and Coronado to negotiate 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 and renegotiate in 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.

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.

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. These numbers were further refined in discussions with District staff to better understand which 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. Ultimately, only San Diego completed discussions with District staff based on calls for service and budgeted amounts for these services, while Coronado requested a 1-year extension. Rather than negotiate a new baseline at this time, National City requested instead to leave the existing baseline rate in place with a three percent (3%) increase and to begin negotiations this summer with the intent to conclude by the December 2021 Board meeting.

### City of Coronado

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). 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 rendered actually 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 recently left Coronado and the process of selecting a new City Manager has not been completed. Coronado staff requested a 1-year extension to the existing MSA at three percent (3%) and to otherwise keep the existing terms and service levels intact. Since the existing MSA is expiring on June 30, 2021, and to allow Coronado the time necessary to hire and onboard new management, District staff recommends a 1-year extension at a new rate of \$1,186,119.

### City of San Diego

Negotiations with San Diego followed a similar process to Coronado - staff collaborated to determine the appropriate calls for service for police and fire / emergency services on non-taxpaying tidelands, then discussed the appropriate budget for each. With respect to police, it became clear after several iterations that many of the calls allocable to non-taxpaying tidelands could be offset by other calls for which the San Diego Harbor Police provided service off tidelands within San Diego. Detective Costs, Property Handling & Storage Costs, Total Laboratory Costs, Records Costs, however, did not have a compatible offset at the Harbor Police. As such, District staff proposed - and San Diego staff accepted - that reimbursements for police services should be limited only to those costs outlined above and that otherwise, police calls for service are effectively offset between the agencies. Based on a two-year budget average of costs for those listed services, the negotiated rate is \$225,264.

With respect to fire and emergency services calls for service, District and City staff were able to identify an appropriate number of calls to non-taxpaying tidelands. After some discussion, staff filtered out calls which were allocated to the Airport, for which the District should not be reimbursing San Diego; calls to the Convention Center, which is a City-managed asset; calls to addresses on City of San Diego, Navy, or Coast Guard property; and calls which could be fairly allocable to taxpaying tidelands. As a result, over a two-year period, staff identified an average of 735 calls for service which

equates to approximately 0.56% of San Diego's approximately 132,316 calls for service city-wide.

Next, San Diego and District staff reviewed the City's most recent, FY 21 fire budget to determine the costs against which the ratio of calls for service could be applied for reimbursement. After discussion, it was clear that lifeguard, community risk reduction, and air services were generally not applicable to non-taxpaying tidelands and as such, they should be deducted from the expenses along with a pro rata share of the overall department administration allocable to these deducted expenses associated with those services. Additionally, District staff requested, and City staff agreed, to further offset the expense budget by certain fire-related revenue received by San Diego to arrive at a cost closer to the incremental cost to provide services to the District. As such, the 0.56% ratio was applied to an adjusted, FY 21 fire budget of \$238,607,186 for a cost for services to the District of \$1,325,435. When combined with the proposed police costs, the total proposed baseline for San Diego for FY 2022 is \$1,550,699.

### City of National City

As with Coronado and San Diego, District staff offered National City staff the option of negotiating a new baseline rate and services now or taking a three percent (3%) increase now and deferring negotiations until January 2022 for an effective date of July 1, 2022. After preliminary discussions with National City, instead of negotiating a new rate and service level at this time, National City staff requested the three percent (3%) increase and generally agreed to the new MSA template. As such, the rate for FY 2022 is recommended at \$1,310,324. Additionally, the parties agreed to commence negotiations on a new baseline rate on July 1, 2021, with such negotiations to be completed by December 2021 and any corresponding agreed upon baseline rate to take effect July 1, 2022 with second baseline reset negotiations to begin January 1, 2025 and the resulting new baseline rate to take effect in July 2025.

### Conclusion and Recommendation

As more fully discussed above, staff recommends the Board authorize a new, 9-year MSA with the City of National City, a new, 5-year MSA with the City of San Diego, and a 1-year extension to the existing MSA with the City of Coronado. These MSAs if approved will join the other two MSAs approved by the Board on December 28, 2020 with the Cities of Imperial Beach and Chula Vista. Following negotiations with Chula Vista, Coronado, and National City, new baseline rates for these cities will take effect on July 1, 2022. New baseline rate negotiations with Imperial Beach and San Diego will begin by January 2023 with resulting rates to take effect on July 1, 2023.

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

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

### **Environmental Review:**

The proposed Board actions, including without limitation, resolutions authorizing a 9-year municipal services agreement with the City of National City, a 5-year municipal services agreement with the City of San Diego, and a 1-year extension of an existing municipal services agreement with the City

of Coronado, do not constitute a “project” under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of the proposed Board actions that require the District or the Board’s discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a “no project alternative” or adopting a Statement of Overriding Consideration, if required. The proposed Board actions in no way limit the exercise of this discretion. Therefore, no further CEQA review is required.

The proposed Board actions comply with Sections 21, 31, 35, and 81 of the Port Act, which allow the Board to pass resolutions; contract with cities for services; to do all acts necessary and convenient for the exercise of its powers; and to use funds for expenses of conducting the District. 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 (CDP) Regulations because they will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District’s CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District’s certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The proposed Board actions in no way limit the exercise of the District’s discretion under the District’s CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

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

Not applicable.

**PREPARED BY:**

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**Attachment(s):**

Attachment A: Proposed 9-Year MSA with the City of National City  
Attachment B: Proposed 5-Year MSA with the City of San Diego

Attachment C: Proposed 1-Year Extension to Existing City of Coronado MSA  
Attachment D: Existing MSA with Coronado expiring June 30, 2021