



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: July 23, 2008

REPORT NO: 08-119

ATTENTION: City Council
Supplemental Docket of July 29, 2008
SUBJECT: MOU with MTS for Transit Shelters and Benches
REFERENCE:

REQUESTED ACTIONS:

- 1) Authorize a new Memorandum of Understanding with the San Diego Metropolitan Transit System (MTS) granting them exclusive authority to install transit shelters and bus benches in the public right-of-way for a term ending June 30, 2013.
- 2) Terminate the current Memorandum of Understanding (MOU) and all amendments.

STAFF RECOMMENDATION:

Staff recommends terminating the existing MOU and entering into a new Memorandum of Understanding with MTS for the installation and maintenance of transit shelters and bus benches within the City's public right-of-way. The new MOU will allow MTS to receive increased revenues from advertising on shelters that will be utilized for transit operations. It will also provide revenue to the City for capital improvements near bus stops.

SUMMARY:

These actions will provide MTS with the opportunity to receive increased revenues from advertising on shelters. The additional revenue will be used for transit operations. The MTS operating deficit over the last two years has been in excess of \$21 million. MTS operating expenses, such as fuel, have substantially increased. MTS has responded by raising fares, reducing staff, and eliminating low-revenue bus routes. This operating shortfall could be partially alleviated by greater revenues from advertising on shelters.

The existing MOU, which expires in 2010 for benches and 2015 for shelters, places limits on the revenue MTS can receive from advertising. Revenue from the shelter program is limited to \$150,000 annually and may only be used for MTS administrative expenses. No revenue from the shelter program goes to the City. Annual revenue from the bench program is divided equally between MTS and the City after subtracting MTS administrative expenses.

MTS would like to terminate the existing MOU and enter into a new agreement that does not limit MTS revenue to its administrative expenses only. This will allow them to charge higher fees to the shelter contractor. The contractor owns, installs and maintains the shelters and sells

advertising on them. All advertising is subject to the MTS advertising policy, which has been approved by the City and is incorporated into both the existing and proposed MOUs.

MTS is finalizing negotiations with CBS Outdoor, its current shelter contractor, to exercise the last five-year option on their contract which covers shelters in San Diego and other jurisdictions. According to MTS, CBS Outdoor has agreed in principle to pay MTS no less than \$4 million over the five year contract extension. The proposal is for a \$1 million initial payment and then a minimum of \$50,000 per month over the 60-month term for advertising on existing shelters. The contract extension is subject to final approval by CBS Outdoor and the MTS Board of Directors and is contingent upon the approval of the proposed MOU between the City and MTS. There may be additional revenue to MTS from advertising on new shelters and existing non-advertising shelters converted to advertising. The amount of any additional revenue is unknown and is dependent on the advertising market.

The proposed MOU shelter program has a revenue sharing provision in which ten percent of the MTS revenue derived from advertising on existing shelters within the city limits is payable to the City. Eighty-seven percent of the MTS shelters are within the city limits, resulting in a share no less than \$348,000 for the City over five years. This will be payable as a sum of \$69,600 starting on August 15, 2009 and again on each August 15th of each year through 2013. The City will also receive ten percent of MTS's additional net revenue from advertising on new shelters and non-advertising shelters converted to advertising. This amount of revenue is unknown and is dependent on the advertising market. The use of all shelter revenue to the City is limited to capital improvements in support of bus stops, such as concrete bus pads.

The existing revenue sharing formula between MTS and the City for the bench program, which runs through January 1, 2010, will be retained in the proposed MOU. Currently, revenues in excess of administrative costs are divided equally between MTS and the City. MTS's current contract with Coast-United Advertising Company for the bench program will not be affected by this action.

Background:

The existing MOU was approved in 1988 as a pilot program that was made into a full program in 1991. It was amended in 1997 and twice in 2000. The main features of the current program are as follows:

- MTS has exclusive authority to install shelters and benches in the public right-of-way including advertising.
- Limit of 690 shelters, no more than 460 with advertising.
- Limit of 2500 benches, all of which may have advertising.
- MTS must maintain the shelters and benches.
- MTS revenue from the shelter program is limited to its administrative expenses.
- The City has the authority to approve shelter and bench installations and order removals.
- Advertising is limited to commercial and industrial zoned areas only.

- The Second Amendment to the MOU requires that revenues from the bench program that exceed MTS administrative expenses to be divided equally between the City and MTS, with the City's portion limited to funding capital improvements near bus stops.
- The original term of the MOU was from 1991 to 2006. In 2000 it was extended to 2010 for benches and 2015 for shelters.
- Advertising must be in accordance with a policy approved by the City (Third Amendment).
- Private parties may install non-advertising benches and shelters under an encroachment permit from the City (First and Third Amendments).

The proposed MOU will change some provisions of the existing program, as follows.

Revenue to MTS from shelters

The existing MOU limits revenues from the shelter program to MTS administrative expenses (\$150,000 annually). The proposed MOU allows MTS to receive additional revenues from the shelter contractor of at least \$4 million over five years.

Revenue to the City from shelters

The City currently does not receive any revenue from the shelter program under the existing MOU. Under the proposed MOU, the City's share of revenue from the shelter program will be at least \$348,000 over five years and must be used for capital improvements in support of bus stops such as concrete bus pads.

Number of shelters with advertising

The number of shelters and benches allowed will remain the same under the proposed MOU, except that the requirement that one-third of the shelters be non-advertising is removed.

Advertising for civic events

Under the proposed MOU, the City will have the opportunity to use available shelter advertising panels for civic events without charge.

FISCAL CONSIDERATIONS:

Pending approval of the proposed MOU, the shelter contractor, CBS Outdoor, has agreed in principle to pay MTS no less than \$4 million over their pending five-year contract extension. The City's share will be \$348,000 over five years for advertising on existing shelters within the city limits. MTS will pay the City \$69,600 on August 15, 2009, and again on August 15th of each year through 2013. The City's annual share may exceed \$69,600 depending on the market for advertising on new shelters and non-advertising shelters converted to advertising. The use of City revenue from the shelter program is limited to capital improvements in the vicinity of bus stops, such as concrete bus pads. The existing revenue-sharing formula between the City and MTS for the bench program will not change.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The existing MOU was originally adopted by Ordinance O-17121 on July 25, 1988 as a pilot program and then as a full program by Resolution R-277415 on February 25, 1991. The First Amendment was entered into by managerial action on August 27, 1997. The Second

Amendment was approved by Council on January 10, 2000 through Resolution R-292645. The Third Amendment was approved by Council on August 15, 2000 by Resolution R-293711.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The MTS Board of Directors approved a draft version of the proposed MOU and the contract extension between MTS and CBS Outdoor at their meeting of July 17, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are MTS and City residents who travel by bus. They will benefit from the transit shelters, benches, MTS operating revenue and City capital improvement revenue that this proposed MOU will provide.

Respectfully submitted,


Patti K. Boekamp, Director

Engineering and Capital Projects
Department


David Jarrell, Deputy Chief Operating
Officer
Public Works

Attachments:

- A) Proposed MOU
- B) Existing MOU, adopted 1991
- C) First Amendment to existing MOU, approved 1997
- D) Second Amendment to existing MOU, adopted 2000
- E) Third Amendment to existing MOU, adopted 2000