

DRAFT**RESOLUTION 20xx-xxx****RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS FOR GRANT FUNDING, IF AWARDED, IN THE AMOUNT OF \$80,000, FOR A PERIOD OF 18 MONTHS BEGINNING ON OR AROUND SEPTEMBER 1, 2022, AND ENDING ON OR AROUND FEBRUARY 1, 2024, AND GRANTING INDEMNITY TO SANDAG**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 to establish a policy governing the processing and administration of public projects, consulting and service agreements, grant funded projects and supplies, materials, and equipment purchases; and

WHEREAS, in November 2004, countywide voters approved the San Diego Association of Governments' (SANDAG) *TransNet* Extension Ordinance and Expenditure Plan, which established the *TransNet* Environmental Mitigation Program (EMP); and

WHEREAS, the EMP established the Land Management Grant Program, which is a competitive grant process that provides funding for regional habitat management and monitoring activities to mitigate habitat impacts for regional transportation projects; and

WHEREAS, in 2018, the District applied for and was awarded \$75,400 from the EMP Land Management Grant 9th Cycle Awards to support the District's Endangered Species Management Program; and

WHEREAS, the grant funds supported management and recovery efforts for two federally listed birds, the endangered California least tern and threatened Western snowy plover, during the 2019 and 2020 nesting seasons at the D Street Fill in Chula Vista; and

WHEREAS, in January 2022, the District applied for the EMP Land Management Grant 10th Cycle Awards, requesting the maximum of \$80,000 to continue support for the District's Endangered Species Management Program; and

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WHEREAS, on June 14, 2022, the EMP Working Group recommended the District's application for full funding; and

WHEREAS, the EMP Working Group's recommendation will be brought to SANDAG's Board of Directors for consideration in fall 2022; and

WHEREAS, a BPC resolution to accept grant funding is a condition of funding approval by SANDAG's Board of Directors; and

WHEREAS, execution of an agreement that includes indemnification of SANDAG from claims resulting from or related to performance of the work funded by the grant is also required prior to the award of funds; and

WHEREAS, a sample grant agreement provided by SANDAG is included with the corresponding agenda sheet as Attachment A, SANDAG has indicated that it will not agree to substantive modifications of this sample agreement, which would be tailored to the District's project if this item is authorized by the Board, therefore, these items are being brought before the BPC prior to SANDAG's approval; and

WHEREAS, approval of this resolution would authorize the District's acceptance of this grant, if awarded, which would fund \$80,000 toward endangered species management at the D Street Fill included in the Environmental Conservation department FY 2023 budget; and

WHEREAS, staff recommends that the BPC approve the agreement granting indemnity to SANDAG, as the grant funding would fund \$80,000 toward endangered species management at the D Street Fill; and

WHEREAS, the District would provide in-kind services of \$10,000, of staffing resources to manage the grant and consultant agreements, provide oversight, and organize volunteer events.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or his designated representative is hereby authorized and directed on behalf of the San Diego Unified Port District to enter into an agreement with the San Diego Association of Governments (SANDAG) for grant funding, if awarded, in the amount of \$80,000, for a period of 18 months beginning on or about September 1, 2022, and ending on or around February 1, 2024, and granting indemnity to SANDAG.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the
San Diego Unified Port District, this 9th day of August 2022, by the following vote: