

DRAFT

RESOLUTION 20xx-xxx

**RESOLUTION APPROVING GRANT OF INDEMNITY
TO LORDSTOWN EV SALES LLC RELATED TO
PURCHASE OF ELECTRIC TRUCKS**

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 I (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, the purchasing of supplies, materials, and equipment, and grants; and

WHEREAS, Section 21 of the Port Act states that the BPC may pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, the District is seeking to participate in San Diego Gas & Electric's (SDG&E) Power Your Drive (PYD) for Fleets program to support private and public fleets to adopt electric medium- and heavy-duty vehicles; and

WHEREAS, through this program, SDG&E pays for and constructs the necessary infrastructure upgrades up to the charging station unit; and

WHEREAS, to be eligible for the program and enable SDG&E to begin design work on infrastructure upgrades on District owned property in National City, the District is required to procure at least two medium- or heavy-duty vehicles; and

WHEREAS, staff would like to place a purchase order with Lordstown EV Sales LLC (Lordstown) for two medium -duty electric pickup trucks; and

WHEREAS, as a condition of sale, Lordstown vehicles can only be used within the United States; and

WHEREAS, as part of the purchasing process, Lordstown requires a purchaser to hold harmless and defend Lordstown from and against any demand, claims, causes of action, damages, costs of any kind, including reasonable and necessary attorney fees, expert witness fees and expenses, and courts costs related to, arising from, or as a result of, purchaser's use of vehicles outside of the U.S.; and

WHEREAS, staff has determined that accepting the hold harmless clause does not pose unreasonable risk to the District, because the District does not

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intend to use vehicles purchased from Lordstown outside of the U.S.; and

WHEREAS, the purchase of the trucks is within the contract authority of the CEO, and Board approval is only required as to the indemnity; and

WHEREAS, staff recommends granting indemnity to Lordstown Motors, by accepting the hold harmless clause as written in the Fleet Account Number Application with Lordstown EV Sales LLC.

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

Indemnity to Lordstown EV Sales LLC related to purchase of electric trucks is hereby granted and the Executive Director or his designated representative is authorized to accept the hold harmless clause as written in the Fleet Account Number Application with Lordstown EV Sales LLC.

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 12th day of October 2021, by the following vote: