

DRAFT

RESOLUTION 20xx-xxx

RESOLUTION AMENDING BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 090 TO ESTABLISH AN ECONOMIC RECOVERY PROGRAM (ERP) ORDINARY EXPENSES APPROPRIATED ITEM AND AN ERP CAPITAL OUTLAY APPROPRIATED ITEM FOR THE FUNDS IN THE ERP

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; and

WHEREAS, the State of California has allocated \$250 million of its Federal American Rescue Plan Act (ARPA) Funds to mitigate the negative economic impacts resulting from the COVID-19 pandemic by providing aid to California ports; and

WHEREAS, applications for ARPA funds are likely due to State Land Commission (SLC) in mid- to late October with awards granted to eligible ports in late October or early November; and

WHEREAS, SLC issued its draft guidance and application materials (collectively, Draft SLC Guidance) to ports for comment the week of September 27th; and

WHEREAS, according to the State Budget Act of 2021, awarded ARPA funds must be spent or obligated by June 30, 2024, unless Finance approves otherwise, and the State may claw back any ARPA Funds not obligated by August 1, 2024; and

WHEREAS, based on the funding calculation methodology in the draft SLC Port Fund guidelines, the District anticipates receiving approximately \$100 million in funds; and

WHEREAS, to effectively manage and account for the use of the ARPA funds, as well as ease reporting requirements, staff is recommending the BPC approves an Economic Recovery Program (ERP) with the anticipated \$100 million award and complete projects using these funds within the time limits established by the federal government and the State; and

WHEREAS, to more effectively implement the ERP - especially given the deadlines imposed by State and federal requirements - staff recommends amending BPC Policy No. 090 to create two new appropriated items for the ERP

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funds: 1) an Ordinary ERP Expenses appropriated item within the Ordinary Annual Expenses class, and 2) a Capital ERP Expenses appropriated item within the Capital Outlay class; and

WHEREAS, these two new appropriated items would only be used in connection with the ERP; and

WHEREAS, the proposed amendments to BPC Policy No. 090 is attached hereto as **Exhibit A**; and

WHEREAS, staff recommends amending BPC Policy No. 090 to create new appropriated items specific to ERP funds.

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

The Executive Director or his designated representative is hereby authorized to amend BPC Policy No. 090 to establish an Economic Recovery Program (ERP) Ordinary Expenses Appropriated Item and an ERP Capital Outlay Appropriated Item for the funds in the ERP, a copy of which shall be on file with the Office of the District Clerk.

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:

Exhibit A

Amended BPC Policy No. 090 (Redlined)



BPC Policy No. 090

SUBJECT: TRANSFER BETWEEN OR WITHIN APPROPRIATED ITEMS IN BUDGET

PURPOSE: To establish a policy for the transfer of amounts between appropriated items in the budget in accordance with Section 86 of the San Diego Unified Port District Act (Act), as well as within appropriated items.

POLICY STATEMENT:

The Act requires the Board of Port Commissioners (Board) adopt an annual budget by ordinance. After the budget is adopted, circumstances may arise that require adjustments by way of transfers between appropriated items in the budget. The Act authorizes the Executive Director to request in writing to the Board for a transfer of amounts from one appropriated item to another in the budget. On the approval of the Board by a two-thirds vote, the Port Auditor will make the transfer. Furthermore, circumstances may arise that require adjustments by way of transfers within appropriated items in the budget. The Act does not set forth when such intra-item transfers require Board approval.

TRANSFER GUIDELINES:

1. Appropriated items are defined as broad categories of budgeted costs within each budget class as follows:

Ordinary Annual Expenses (Class):

Personnel Expenses (appropriated Item)

Non-Personnel Expenses (appropriated Item)

Expense Major Maintenance (appropriated Item)

[Economic Recovery Program Ordinary Expenses \(appropriated Item\)](#)

Capital Outlay (Class):

Capital Improvement Program (CIP) (appropriated Item)

Technology Management Program (TMP) (appropriated Item)

Capital Major Maintenance (appropriated Item)

Equipment Outlay (appropriated Item)

Economic Recovery Program Capital Outlay (appropriated Item)

Prior Indebtedness (Debt Service Principal) (Class)

The entire amount assigned to this class is the appropriated item.

2. The following rules shall be used to determine whether a transfer requires Board approval:
 - A. Rules for All Transfers:
 - Individual transfer amounts may be made in a single transfer or multiple transfers if, in aggregate, they do not exceed the amount authorized.
 - B. Rules for Transfers Between Appropriated Items or Classes:
 - A transfer between classes (e.g., amounts transferred between Ordinary Annual Expenses and Capital Outlay) requires Board approval.
 - A transfer between appropriated items requires Board approval.
 - C. Rules for Transfers Within Appropriated Items:
 - Applicable to all appropriated items except CIP, Expense Major Maintenance and Capital Major Maintenance:
 - Transfer of amounts within each appropriated item requires approval of the Executive Director.
 - CIP (appropriated item):
 - Board approval is required for any transfers between CIP projects.
 - Transfer amounts between fiscal years within the 5-year CIP approved project budget, requires approval of the Executive Director with notification to the Board.
 - If the transfer amount exceeds the 5-year CIP approved project budget, Board approval is required.
 - Capital or Expense Major Maintenance (appropriated items):
 - Transfer amounts to projects related to emergency, safety and health require approval of the Executive Director with notification to the Board.
 - The transfer of funds between projects within Capital or Expense Major Maintenance require approval of the Executive Director with notification to the Board. If the individual transfer will increase the total approved project budget more than \$175,000 or available program budget, Board approval is required.

- All other transfers involving unplanned projects within Capital or Expense Major Maintenance require approval in compliance with BPC Policy No. 080 – Unplanned Work Consideration. Transfers involving unplanned projects with a total project cost equal to or less than \$175,000 require approval of the Executive Director with notification to the Board. Board approval is required for transfers involving unplanned projects with total costs in excess of \$175,000, *or in aggregate exceeding \$500,000 per year.
3. To ensure compliance with auditing standards, when the Board approves a transfer, the Port Auditor shall make the Board-approved transfer with the understanding that if this activity becomes a part of the District's annual audit plan, it must be reviewed by a party independent of the Port Auditor.

RESOLUTION NUMBER AND DATE: 2021-_____, dated October _____, 2021 ~~2019-032, dated April 9, 2019~~ (Supersedes BPC Policy No. 090, Resolution 2019-032, dated April 9, 2019; Resolution 2015-138, dated October 21, 2015; Resolution 2015-17, dated March 3, 2015; and Resolution 2013-109, dated June 11, 2013)