

**DRAFT**

**SAN DIEGO UNIFIED PORT DISTRICT**

**ORDINANCE xxxx**

**ORDINANCE AMENDING THE DISTRICT'S FY 2022 BUDGET BY ADDING \$10,000,000 TO THE ECONOMIC RECOVERY PROGRAM (ERP) ORDINARY EXPENSES APPROPRIATED ITEM AND \$90,000,000 TO ERP CAPITAL OUTLAY APPROPRIATED ITEM, TO BE FUNDED FROM THE FUNDS RECEIVED FROM THE STATE OF CALIFORNIA'S CORONA VIRUS FISCAL RECOVERY FUND OF 2021 RESULTING IN NO IMPACT TO THE DEFICIT**

**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 State passed the Budget Act of 2021 (Act), which clarified the use of the ARPA Funds by ports and escalated the deadlines for ports to spend or obligate ARPA fund by six months in comparison to ARPA and the U.S. Treasury Guidelines (from December 31, 2024 to June 30, 2024); and

**WHEREAS**, the State will award ARPA funds to ports under the impacted industry category of the ARPA; 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 anticipated in late October or early November 2021; and

**WHEREAS**, action by the Board of Port Commissioners (BPC) at the October 12, 2021 BPC meeting is vital for the District to submit a timely application to SLC, sign the funding agreement and execute on the funding agreement; and

**WHEREAS**, SLC issued its draft guidance and application materials (collectively, Draft SLC Guidance) to ports for comment the week of September 27, 2021; and

**WHEREAS**, the Draft SLC Guidance is in draft form and may be subject to change; and

**WHEREAS**, based on the Draft SLC Guidance, SLC staff will look at a port's revenue impacts, and whether the port received funds from county or city's local fiscal recovery funds when recommending the amount of ARPA funds to be

XXXX

awarded to an individual port; and

**WHEREAS**, based on the Draft SLC Guidance, SLC staff will also perform a technical review of all application packages by considering how the ports' proposed programs/projects support the ports' and State's economic recovery, such as avoids layoffs, restores jobs/services, supports port operations, implement deferred maintenance or, capital outlay projects delayed by pandemic-related fiscal impacts, benefits historically marginalized/vulnerable communities and benefits the public; and

**WHEREAS**, based on the Draft SLC Guidance, once the SLC approves the funding request/application, ports must submit a signed/executed funding agreement by an authorized signator within 30 days and no funds will be disbursed until the SLC receives the same; and

**WHEREAS**, this funding agreement will include a "Monitoring Plan" that ensures that the funds are being used in compliance with applicable Federal and State regulations; and

**WHEREAS**, the Monitoring Plan shall also include requirements to provide data for an "Annual Recovery Plan Performance Report", submit quarterly project and expenditure reports, and perform a single-audit in accordance with the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F; and

**WHEREAS**, based on the funding calculation methodology in the Draft SLC Guidance, the San Diego Unified Port District (District) anticipates receiving approximately \$100 million in funds in two phases; and

**WHEREAS**, the first phase of funds will be calculated for losses and other costs incurred during Calendar Year 2020, and that phase is estimated at \$60 million for the District; and

**WHEREAS**, the second phase of funds will be to cover losses occurring during Calendar Year 2021, and staff expects that phase to provide an additional \$40 million to the District; and

**WHEREAS**, the Board approve an Economic Recovery Plan (ERP) and amended BPC Policy No. 090 be amended to create two new appropriated items for the ERP 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 by resolutions at the October 14, 2021 open session meeting to further effectively implement the ERP; and

**WHEREAS**, based on the ERP and the new apparition categories in BPC Policy No. 090, staff is requesting the District's FY22 Budget be amended to add

XXXX

\$10 million to the ERP Ordinary Expense appropriated item and \$90 million to the ERP Capital Outlay appropriated item.

**NOW, THEREFORE**, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

Section 1. The Fiscal Year 2022 Final Budget is hereby amended to increase \$10,000,000 to the Economic Recovery Program (ERP) Ordinary Expenses appropriated item and \$90,000,000 to the ERP Capital Outlay appropriated item, to be funded from the funds received from the State of California’s Corona Virus Fiscal Recovery Fund of 2021 resulting in no impact to the deficit.

Section 2. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

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 12<sup>th</sup> day of October, 2021, by the following vote: