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13 CO. OF LOS ANGELES, LLC and THE HERTZ
CORPORATION

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN DIEGO**

16 ENTERPRISE RENT-A-CAR CO.
OF LOS ANGELES, LLC, a
17 Delaware limited liability company;
THE HERTZ CORPORATION, a
18 Delaware corporation,

19 Plaintiffs,

20 vs.

21 SAN DIEGO UNIFIED PORT DISTRICT, a
public corporation existing under the laws of
22 the State of California; ALL PERSONS
INTERESTED IN THE MATTER OF THE
23 IMPOSITION OF A USER FEE FOR THE
BENEFIT OF THE SAN DIEGO UNIFIED
24 PORT DISTRICT, COMMENCING ON MAY
10, 2018, TO BE COLLECTED FROM
25 CUSTOMERS BY RENTAL CAR
COMPANIES CONDUCTING BUSINESS ON
26 DISTRICT TIDELANDS ON BEHALF OF
THE DISTRICT AND PAID TO THE
27 DISTRICT, AT THE RATE OF \$3.50 PER
RENTAL CAR TRANSACTION; and DOES
1-100, inclusive,

28 Defendants.

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GENERAL DIVISION

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CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

VIA
FAX

Case No.

37-2018-00028276-CU-MC-CTL

**VERIFIED COMPLAINT AND
PETITION FOR:**

- (1) REVERSE VALIDATION
PROCEEDING;
- (2) DECLARATORY RELIEF;
- (3) WRIT OF MANDATE; AND
- (4) INJUNCTIVE RELIEF

[C.C.P. § 860 *et seq.*; Cal. Harb. & Nav. Code
§ App. 1, § 23; C.C.P. § 1085]

Calendar Preference per C.C.P. § 867

INTRODUCTION

1
2 1. Pursuant to Code of Civil Procedure section 860, *et seq.* and California Harbors
3 & Navigation Code § App. 1, § 23, Plaintiffs Enterprise Rent-A-Car Co. of Los Angeles, LLC
4 (“Enterprise”) and The Hertz Corporation (“Hertz”) bring this reverse validation action
5 challenging an unconstitutional special tax disguised as a “user fee.” (Enterprise and Hertz are
6 collectively referred to as “Plaintiffs.”) The Board of Port Commissioners (“Board”) of
7 Defendant San Diego Unified Port District (“Port” or “Defendant”) imposed the special tax
8 through the adoption of Resolution 2018-065 on April 10, 2018, which re-enacted Ordinance
9 2030. The special tax imposed through Resolution 2018-065 and Ordinance 2030 is a charge of
10 \$3.50 on rental car customers for each car rental transaction (“the Charge”) that takes place on
11 Port tidelands (the “Port Property”). As alleged below, Resolution 2018-065 and Ordinance
12 2030 call the Charge a “user fee,” which is to be collected from rental car customers by rental
13 car companies, including Plaintiffs, for the benefit of the Port so that the Port can use the funds
14 to pay for the construction of a new parking structure in Chula Vista. The Charge, however, is
15 not a legal “user fee” but rather is an illegal special tax that has been imposed in violation of
16 Propositions 13 and 218, which require that any special tax be approved by two-thirds of voters.
17 Because the Charge was not approved by the voters in the Port District, it is an unconstitutional
18 tax and therefore unlawful and invalid.

PARTIES

19
20 2. Plaintiffs are all “interested persons” pursuant to Code of Civil Procedure
21 section 863.

22 3. Plaintiff Enterprise is, and at all times mentioned herein was, a Delaware limited
23 liability company, duly organized and existing under the laws of Delaware and duly authorized
24 to conduct business in California. Enterprise is engaged in the business of renting cars to
25 customers from various locations, including certain locations on Port Property. For rental
26 transactions on Port Property, pursuant to Resolution 2018-065 and Ordinance 2030, Enterprise
27 is illegally required to collect the \$3.50 Charge from its rental car customers so that the Port can
28 use the funds to pay for the construction of a new parking structure in Chula Vista, regardless of

1 whether the customers use the parking structure.

2 4. Plaintiff Hertz is, and at all times mentioned herein was, a Delaware corporation,
3 duly organized and existing under the laws of Delaware and duly authorized to conduct business
4 in California. Hertz is engaged in the business of renting cars to customers from various
5 locations, including certain locations on Port Property. For rental transactions on Port Property,
6 pursuant to Resolution 2018-065 and Ordinance 2030, Hertz is illegally required to collect the
7 \$3.50 Charge from its rental car customers so that the Port can use the funds to pay for the
8 construction of a new parking structure in Chula Vista, regardless of whether the customers use
9 the parking structure.

10 5. Defendant is, and at all times mentioned herein was, a public corporation created
11 by the Legislature in 1962 pursuant to Harbors and Navigation Code.

12 6. The other named Defendants are All Persons Interested in the matters set forth in
13 the caption and are named in this Complaint pursuant to Code of Civil Procedure sections 861,
14 861.1, 862, and 863.

15 7. Plaintiffs are unaware of the true names and capacities of DOES 1-100 and
16 therefore sue them by such fictitious names. Plaintiffs are informed and believe and thereon
17 allege that each DOE Defendant is responsible for the acts, violations and injuries alleged
18 herein. Plaintiffs will amend this Complaint to allege the true names and capacities of the DOE
19 Defendants when their identities are ascertained.

20 8. Plaintiffs are informed and believe and thereon allege, that at all times, each of
21 the DOE Defendants was the agent, employee, representative, partner, joint venturer, and/or
22 alter ego of each other Respondent/Defendant and, in doing the things alleged herein, was acting
23 within the course and scope of such agency, employment and representation on behalf of such
24 partnership or joint venture, and/or as such alter ego, with the authority, permission, consent,
25 and/or ratification of each other Defendant.

26 **JURISDICTION AND VENUE**

27 9. The principal office of the Port is in the County of San Diego. Pursuant to Code
28 of Civil Procedure sections 860 and 863, jurisdiction and venue for this action lies in the

1 Superior Court for the State of California for the County of San Diego.

2
3 **GENERAL ALLEGATIONS**

4 **The Resolution**

5 10. On April 10, 2018, the Board of the Port adopted Resolution 2018-065, a true
6 copy of which is attached hereto as Exhibit 1. Resolution 2018-065 requires rental car
7 companies conducting business on Port Property (such as Enterprise and Hertz) to collect from
8 all rental car customers, on behalf of the Port, a “User Fee” of \$3.50 per transaction, and to pay
9 the collected “User Fees” to the Port. Resolution 2018-065 provides that monies generated by
10 the Charge will be used to pay for the construction of parking structures adjacent to the planned
11 Chula Vista Bayfront Convention Center on Port Property in Chula Vista in South San Diego
12 County. Specifically:

- 13 A. A recital to Resolution 2018-065 states that “the District’s Chula Vista Bayfront
14 project represents one of the last truly significant large-scale waterfront
15 development opportunities in Southern California. It seeks to transform a largely
16 vacant and underutilized industrial landscape into a thriving destination including
17 convention center facilities, a resort hotel, marinas, restaurants, and public spaces
18 on the Chula Vista waterfront”
- 19 B. A recital to Resolution 2018-065 states that the building of a “1,600-space
20 parking garage primarily intended to serve the convention center” is a “significant
21 aspect of the Chula Vista Bayfront” convention center.
- 22 C. Section 1 of Resolution 2018-065 references the Board’s purported finding
23 (which is incorrect) that a “significant number” of cars rented from rental car
24 companies doing business on Port District tidelands will have the Chula Vista
25 Bayfront convention center as their destination and thus will use the convention
26 center’s parking facilities.
- 27 D. Section 2 of Resolution 2018-065 provides that, starting on May 10, 2018, “each
28 rental car company conducting business on District tidelands shall commence

1 collection of the User Fee . . . and pay collected User Fees to the District.” The
2 “User Fees” are to be collected in accordance with Ordinance 2030, which was
3 enacted approximately twenty years ago to fund a parking structure near the San
4 Diego Convention Center and Airport. (A true copy of Ordinance 2030, which
5 was suspended over a decade ago, is attached hereto as Exhibit 2.)

6 E. Section 3 of Resolution 2018-065 provides: “Collected User Fees shall be used to
7 fund one or more parking structures located on District-owned property and
8 adjacent to and intended principally to serve the Chula Vista Bayfront convention
9 center facilities on District-owned land.”

10 **Plaintiffs’ Operations on Port Property**

11 *Enterprise*

12 11. Enterprise is in the business of renting vehicles to customers under the Enterprise,
13 National, and Alamo car rental brands. The business includes renting vehicles to customers
14 from the San Diego Airport, from numerous branch offices throughout San Diego, and from
15 counters located in various businesses in San Diego. The Enterprise operations include entering
16 into rental transactions on Port Property, including from the common car rental facility located at
17 the San Diego Airport, from counters located in hotels near the San Diego Convention Center
18 and the San Diego Airport, and from branches in the vicinity of the San Diego Airport that are
19 strategically located to serve customers whose personal automobiles are being serviced or
20 repaired at nearby automobile dealerships and repair shops.

21 12. With respect to rental car transactions occurring on Port Property, since May 10,
22 2018, Enterprise has been required to collect a \$3.50 Charge from its rental car customers,
23 pursuant to Resolution 2018-065 and Ordinance 2030. The Charge is not a “User Fee”
24 benefitting the customers; instead, the Charge is for the benefit of the Port so that it can use the
25 funds in the future to construct parking structures near a planned Chula Vista convention center.
26 Given that the parking structure has not been built, none of the customers being assessed the
27 Charge can “use” the parking structure. Moreover, even if the parking structure is built in the
28 future, only a miniscule percentage of the Enterprise customers would ever use the Chula Vista

1 parking structure which is approximately 10 miles from the San Diego Airport. In this regard:

2 A. The proposed parking structure would have approximately 1,600 parking spaces.

3 However, at the San Diego Airport alone, the rental car companies enter into
4 approximately thousands of transactions per day, such that only a small fraction
5 could "use" the Chula Vista parking structure even assuming that every single
6 customer wanted to use the structure (which is not the case in any event).

7 B. Enterprise maintains counters in a number of hotels located near the San Diego
8 Airport and in the vicinity of the San Diego Convention Center. It defies logic
9 that hotel guests near the San Diego Convention Center would rent a car from
10 Enterprise at the hotel in order to travel to the planned Chula Vista convention
11 center.

12 C. Enterprise has branch offices strategically located near auto repair shops and
13 dealerships so as to be able to rent cars to customers when their personal cars are
14 being serviced or repaired. It defies logic to believe that these customers would
15 rent vehicles from Enterprise, while their cars are being serviced or repaired, so
16 that they could visit the Chula Vista convention center and use the to-be-
17 constructed parking structure.

18 *Hertz*

19 13. Hertz is in the business of renting vehicles to customers under the Hertz, Dollar,
20 and Thrifty car rental brands. The Hertz operations, like those of Enterprise, include entering
21 into car rental transactions on Port Property. The rental transactions are from the common car
22 rental facility located at the San Diego Airport, from counters located in hotels near the San
23 Diego Convention Center and the San Diego Airport, and from standalone locations in the
24 vicinity of the San Diego Airport, including locations designed to serve customers whose
25 personal automobiles are being serviced or repaired at nearby automobile supply and repair
26 businesses. With respect to rental car transactions occurring on Port Property, since May 10,
27 2018, Hertz has been required to collect the \$3.50 Charge from its rental car customers, pursuant
28 to Resolution 2018-065 and Ordinance 2030. For the reasons stated above, the Charge is not a

1 “User Fee” benefitting Hertz customers, as no customers currently can “use” the parking
2 structure, and only a miniscule percentage of Hertz customers would ever use the Chula Vista
3 parking structure, which is approximately 10 miles from the San Diego Airport.

4 **The Illegal Tax**

5 14. The Charge does not constitute a legitimate “User Fee,” as stated in Resolution
6 2018-065 and related Ordinance 2030, because Resolution 2018-065 and Ordinance 2030 are not
7 limited to imposing charges on rental car customers based on their use of the to-be-constructed
8 Chula Vista parking structure or in amounts reasonably reflecting the value of benefits conferred
9 by the Port on those customers. It is false that a significant number of rental cars from
10 transactions on Port Property will have the Chula Vista Bayfront convention center as their
11 destination and will use the convention center’s parking structures. Rather, the overwhelming
12 majority of car rentals will not use the convention center’s parking facilities, and the
13 overwhelming majority of cars that will use the convention center’s parking facilities will not be
14 rental cars originating from car rental companies on Port Property. The Charge will thus
15 primarily and overwhelmingly benefit the general public, not customers of car rental companies
16 situated on Port Property, belying the Port’s designation of the Charge as a “User Fee.”

17 15. The Charge also does not constitute a regulatory fee, as a stated purpose of
18 Resolution 2018-065 does not include the regulation of car rental companies, and Resolution
19 2018-065, by its terms, does not regulate Plaintiffs’ activities.

20 16. The Charge does not represent a development fee in return for building permits or
21 other governmental privileges.

22 17. Under California law, the label “User Fee” used by the Port in Resolution 2018-
23 065 does not determine the character of the Charge. As a matter of law and fact, the Charge is a
24 special tax under California law.

25 18. Proposition 218, known as the “Right to Vote on Taxes Act,” amended the
26 California Constitution to ensure that citizens would have the right to vote on whether local
27 governments should enact taxes, such as the Charge at issue in this case. Under California
28 Constitution Article 13C Section 2 (enacted as part of Proposition 218), all taxes imposed by any

1 local government shall be deemed to be either general taxes or special taxes. A special tax means
2 any tax imposed for specific purposes. Any general tax must be submitted to the electorate and
3 approved by a majority vote. Any special tax must be submitted by the electorate and approved
4 by a two-thirds vote.

5 19. The purpose of Proposition 218 was to protect the voters' fundamental reserved
6 power—the power to decide whether to enact taxes. Proposition 218 was motivated by the
7 actions of local governments to circumvent then existing requirements for voter approval of
8 special taxes and assessments contained in Proposition 13, including California Constitution
9 Section 13A Section 4, requiring that special taxes be approved by a two-thirds vote. As
10 Proposition 218 states:

11 The people of the State of California hereby find and declare that Proposition 13
12 was intended to provide effective tax relief and to require voter approval of tax
13 increases. However, local governments have subjected taxpayers to excessive tax,
14 assessment, fee and charge increases that not only frustrate the purposes of voter
15 approval for tax increases, but also threaten the economic security of all
16 Californians and the California economy itself. This measure protects taxpayers
17 by limiting the methods by which local governments exact revenues from
18 taxpayers without their consent.

19 20. Proposition 218 also states that the provisions of the Act “shall be liberally
20 construed to effectuate its purposes of limiting local government revenue and enhancing
21 taxpayer consent.”

22 21. The Charge is a special tax within the meaning of Proposition 218 and
23 Proposition 13. It is not a user fee or any other kind of legitimate fee.

24 22. The Charge was not submitted to or approved by the voters of the Port District.
25 As such, it is unlawful.

26 23. If the Charge were to be deemed lawful without voter approval, the voter
27 approval requirements of Proposition 218 would be substantially eroded rather than “enhanced.”

28 24. The Port's attempt to adopt a new “tax” disguised as a “fee” without submitting
the Charge to a public vote presents an issue of widespread public concern. A prompt
determination of the validity of the Charge is therefore essential not only to protect the rights of
Plaintiffs, car rental companies and their customers, and voters in the Port District, but also to

1 prevent the enactment of widespread illegal taxes throughout the State of California.

2 25. An actual controversy now exists between Plaintiffs and the Port as to the legality
3 of the Charge. It is necessary and appropriate for this Court to declare that the Charge is a
4 special tax and invalid and illegal, including in violation of Proposition 218 and Proposition 13.

5 **FIRST CAUSE OF ACTION**

6 **[Reverse Validation--C.C.P § 863 and Cal. Harb. & Nav. Code § App. 1, § 23]**

7 26. Plaintiffs hereby incorporate by reference each of the preceding allegations as
8 though fully set forth herein.

9 27. Plaintiffs are interested persons pursuant to and in accordance with Code of Civil
10 Procedure section 863.

11 28. Plaintiffs are informed and believe that no public agency has brought a validation
12 action with respect to the matters set forth in the caption.

13 29. Plaintiffs are entitled to seek and by this action do seek a determination regarding
14 the validity of the Charge and Resolution 2018-065 and Ordinance 2030.

15 30. The Charge and Resolution 2018-065 and Ordinance 2030 are invalid and illegal
16 because, among other things, they seek to wrongly have car rental customers who will make no
17 use of the Chula Vista parking structures fund the construction and because the Charge violates
18 Proposition 218, in that it purports to impose a special tax that was not approved by Port District
19 voters.

20 **SECOND CAUSE OF ACTION**

21 **[Declaratory Relief]**

22 31. Plaintiffs hereby incorporate by reference each of the preceding allegations as
23 though fully set forth herein.

24 32. An actual, present, and substantial controversy exists between Plaintiffs and
25 Defendant. Plaintiffs contend that the Charge and Resolution 2018-065 and Ordinance 2030 are
26 invalid because, among other things, they seek to wrongly have car rental customers who will
27 make no use of the Chula Vista parking structures fund the construction, and because they
28 violate Proposition 218. Accordingly, Plaintiffs seek a declaration that the Charge and

1 Resolution 2018-065 and Ordinance 2030 are illegal and that the Port is required to refund to
2 Plaintiffs all Charges collected from customers and paid to the Port.

3 33. A declaration as to the respective rights and duties of the parties is necessary and
4 appropriate.

5 **THIRD CAUSE OF ACTION**
6 **[Writ of Mandate C.C.P. § 1085]**

7 34. Plaintiffs hereby incorporate by reference each of the preceding allegations as
8 though fully set forth herein.

9 35. During the pendency of this action, without the Court's intervention, Defendant
10 will impose and collect the car rental transaction tax through the rental car companies, including
11 Plaintiffs.

12 36. Plaintiffs have a direct and beneficial interest in the issuance of a writ because it
13 is subject to the assessment of an illegal special tax.

14 37. Plaintiffs have no plain, speedy, and adequate remedy in the ordinary course of
15 law, other than the relief sought in this writ.

16 38. Plaintiffs seek a writ of mandate prohibiting the Port from using Resolution
17 2018-065 and Ordinance 2030 to require Plaintiffs to collect the Charge and requiring the Port to
18 refund to Plaintiffs all Charges collected from customers and paid to the Port.

19 **FOURTH CAUSE OF ACTION**
20 **[Injunctive Relief]**

21 39. Plaintiffs hereby incorporate by reference each of the preceding allegations as
22 though fully set forth herein.

23 40. During the pendency of this action, without the Court's intervention, Defendant
24 will impose and collect the Charge through the rental car companies, including Plaintiffs, which
25 is an unconstitutional special tax.

26 41. Plaintiffs have no adequate remedy at law for Defendant's current and threatened
27 injuries and unless Defendant is restrained and enjoined by this Court, Plaintiffs will suffer
28 irreparable harm by having to collect illegal taxes from rental car customers. If injunctive relief
is not available in this action, Plaintiffs will be irreparably harmed and required to maintain a

1 multiplicity of judicial proceedings in order to protect their interests with respect to the illegal
2 taxes.

3 42. Plaintiffs seek preliminary and permanent injunctive relief prohibiting the Port
4 from using Resolution 2018-065 and Ordinance 2030 to require Plaintiffs to collect the illegal
5 and unlawful Charge and requiring the Port to refund to Plaintiffs all Charges collected from
6 customers and paid to the Port.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray as follows:

9 1. That this action is properly brought under Code of Civil Procedure section 860 *et*
10 *seq.*;

11 2. The Court render judgment adjudicating the Port's Charge unlawful and invalid,
12 including because it is an unlawful special tax in violation of Proposition 218;

13 3. For a declaration that the Port's Charge is unlawful and invalid, including as a
14 special tax pursuant to Proposition 218;

15 4. For a writ ordering the Port and Does 1-100 to take such actions as are necessary
16 to ensure that the Charge is not implemented and that all Charges paid to the Port are refunded;

17 5. For injunctive relief ordering the Port and Does 1-100 not to cause the Charge to
18 be implemented and ordering that all Charges paid to the Port be refunded;

19 6. That the Court's judgment become and thereafter be forever binding and
20 conclusive as to all matters adjudicated herein and the Court's judgment permanently enjoin the
21 institution by any person of any action or proceeding raising any issue as to which the judgment
22 is binding and conclusive;

23 7. For an award of attorneys' fees and costs under Code of Civil Procedure section
24 1021.5 and as otherwise authorized by law;

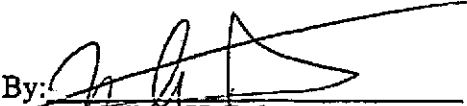
25 8. For costs of suit as authorized by law; and

26 9. For any other relief that the Court deems proper.
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DATED: June 8, 2018

DAKESSIAN LAW, LTD.

By: 
Mardiros H. Dakessian
Zareh A. Jaltorossian
Ruben Sislyan

CROWELL & MORING LLP

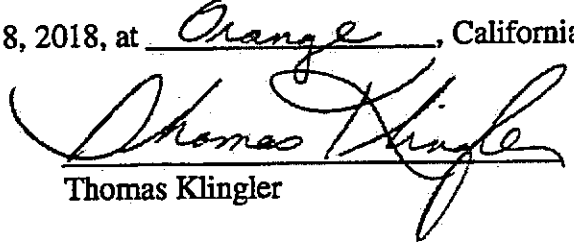
By: 
Douglas W. Sullivan
Joshua Thomas Foust
Attorneys for Plaintiffs
Enterprise Rent-A-Car Co. of Los Angeles, LLC
and The Hertz Corporation

VERIFICATION

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I, Thomas Klingler, am the Vice President of Finance for Plaintiff Enterprise Rent-A-Car Co. of Los Angeles, LLC and am authorized to make this Verification on its behalf. I have read this Verified Complaint and Petition for (1) Reverse Validation Proceeding, (2) Declaratory Relief, (3) Writ of Mandate, and (4) Injunctive Relief and am familiar with its contents. The facts alleged in paragraphs 2, 3, 10, 10A-E, 11, 12, 12A-C, and 14 are within my own personal knowledge, and I know these facts to be true. As to the remainder of the Petition, I am informed, and do believe, that the matters herein are true. On that ground I allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 8, 2018, at Orange, California.


Thomas Klingler

VERIFICATION

1
2 I, Stephen Blum, am a Senior Vice President Real Estate & Facilities for The Hertz
3 Corporation, and am authorized to make this Verification on its behalf. I have read this Verified
4 Complaint and Petition for (1) Reverse Validation Proceeding, (2) Declaratory Relief, (3) Writ of
5 Mandate, and (4) Injunctive Relief and am familiar with its contents. The facts alleged in
6 paragraphs 2, 4, 10, 10A-E, 13 and 14 are within my own personal knowledge, and I know these
7 facts to be true. As to the remainder of the Petition, I am informed, and do believe, that the
8 matters herein are true. On that ground I allege that the matters stated herein are true.

9 I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct. Executed on June 8, 2018, at Estero, Florida

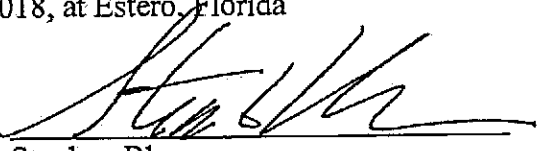
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12 _____
13 Stephen Blum
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EXHIBIT 1

RESOLUTION 2018-065

**RESOLUTION RESUMING COLLECTION OF
PREVIOUSLY ADOPTED USER FEE TO BE
COLLECTED BY TRANSPORTATION VENDORS
DOING BUSINESS ON TIDELANDS**

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, on December 15, 1998, the Board of Port Commissioners (Board) adopted Ordinance 2030, An Ordinance Adopting a User Fee to be Collected by Transportation Vendors Doing Business on Tidelands to be used to fund parking structures on District property intended to serve convention centers (User Fee); and

WHEREAS, between 1999 and 2006, collected User Fees paid for 100% of the construction of the parking facility built adjacent to the San Diego Convention Center (SDCC) and collection was suspended once all recoverable costs for that project were collected; and

WHEREAS, the District adopted and collected the User Fee during the time it operated the San Diego International Airport, and continued collection after operation of the San Diego International Airport was transferred by the California legislature to the newly-created San Diego County Regional Airport Authority (SDCRAA); and

WHEREAS, the District's Chula Vista Bayfront project represents one of the last truly significant large-scale waterfront development opportunities in Southern California. It seeks to transform a largely vacant and underutilized industrial landscape into a thriving destination including convention center facilities, a resort hotel, marinas, restaurants, and public spaces on the Chula Vista waterfront; and

WHEREAS, in 2012, the California Coastal Commission approved the Chula Vista Bayfront Master Plan (CVBMP), a joint planning effort between the District, the City of Chula Vista, and Pacifica Companies. The purpose of developing a master plan, which included certification of the CVBMP Final Environmental Impact Report (FEIR) and Port Master Plan Amendment (PMPA), was to create a blueprint for the transformation of the Chula Vista waterfront into a world-class destination for local residents and visitors; and

WHEREAS, a significant aspect of the Chula Vista Bayfront is the construction of an approximately 275,000 square foot convention center, including a 1,600-space parking garage primarily intended to serve the convention center; and

WHEREAS, a significant number of cars rented from rental car companies conducting business on District tidelands will have the Chula Vista Bayfront convention center facilities on District-owned land as a destination and, therefore, will have a significant impact on the requirement for parking facilities; and

WHEREAS, an analysis conducted by Keyser Marston & Associates, Inc., evidences the connection between cars rented from rental car companies conducting business on District tidelands and the requirements for parking at the Chula Vista Bayfront convention center facilities, that the Chula Vista Bayfront convention center facilities will increase the demand for rental cars on District tidelands, that collection of the previously adopted User Fee will not negatively impact the demand for rental cars from rental car companies conducting business on District tidelands, and, finally, that the overall project will have significant economic benefits to the entire region; and

WHEREAS, District staff recommends resuming collection of the previously adopted User Fee to fund one or more parking structures located on District-owned property and adjacent to and intended principally to serve the convention center facilities on District-owned land in Chula Vista. Use of this fee is consistent with the principle that users of District facilities who enjoy the opportunities and benefits that such facilities create, pay for such opportunities and benefits – including, in this case, car renters utilizing District property related to rental car transactions and, additionally, a portion of these car renters utilizing the parking facilities to be funded by the fee and the adjacent convention center.

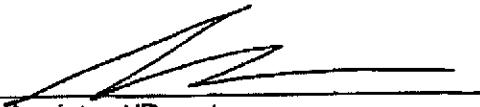
NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, as follows:

Section 1. The Board finds that a significant number of cars rented from rental car companies conducting business on District tidelands will have the Chula Vista Bayfront convention center facilities on District-owned land as a destination and, therefore, will have a significant impact on the requirement for parking facilities, and that the previously-adopted user fee amount is a reasonable amount to charge for the benefit of using District tidelands related to rental car transactions and, additionally, the availability of the parking facilities to be funded by the fee.

Section 2. Beginning May 10, 2018, in accordance with Ordinance 2030, each rental car company conducting business on District tidelands shall commence collection of the User Fee previously adopted by Ordinance 2030 on behalf of the District and pay collected User Fees to the District.

Section 3. Collected User Fees shall be used to fund one or more parking structures located on District-owned property and adjacent to and intended principally to serve the Chula Vista Bayfront convention center facilities on District-owned land.

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 10th day of April, 2018, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Valderrama, and Zucchet
NAYS: None.
EXCUSED: None.
ABSENT: None.
ABSTAIN: None.


Rafael Castellanos, Chairman
Board of Port Commissioners

ATTEST:


Donna Morales
District Clerk

(Seal)

EXHIBIT 2

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2030

**AN ORDINANCE ADOPTING A USER FEE
TO BE COLLECTED
BY TRANSPORTATION VENDORS
DOING BUSINESS ON DISTRICT TIDELANDS**

WHEREAS, the San Diego Unified Port District (District) was established to manage San Diego Harbor, operate San Diego International Airport, Lindbergh Field, (Airport) and administer non-military tideland areas on San Diego Bay; and

WHEREAS, the Board of Port Commissioners governs the District and Twenty Seven (27) miles of coastal property in the member cities of Chula Vista, Coronado, Imperial Beach, National City and San Diego; and

WHEREAS, the District is the owner, joint operator and proprietor of the San Diego Convention Center (Convention Center); and

WHEREAS, many transportation vendors such as car rental companies operate on District property, both at the Airport and off-Airport on District tidelands; and

WHEREAS, some car rental companies, though not located on District tidelands, serve customers originating on District tidelands, including the Airport; and

WHEREAS, many of these rental cars have the Convention Center as a destination and, therefore, have a significant impact on the Convention Center parking facilities; and

WHEREAS, this impact will be exacerbated by the expansion of the Convention Center which is currently ongoing; and

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WHEREAS, these policies and practices require that the costs and expenses for facilities be paid by the users of such facilities who enjoy the commercial opportunities and benefits that such facilities create, and that such users also pay fees for such opportunities and benefits; and

WHEREAS, Government Code Section 50474 has been amended to allow the District to require a transportation vendor conducting business on District tidelands, including the Airport, to collect a fee from its customers to finance parking structures and would specify further conditions if the vendor is a car rental agency; and

WHEREAS, any parking structures to be constructed with revenues produced from such a fee will be located on District-owned property and will be intended to serve the Convention Center, NOW, THEREFORE,

The Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

Section 1. Each rental car company conducting business on District tidelands shall collect, in addition to any other charges and fees, a fee of Three Dollars and Fifty Cents (\$3.50) on each rental car transaction. For purposes of this ordinance, a rental car transaction is a contract between the rental car company and its customer for the rental of a vehicle, regardless of the term of the rental period. Each individual contract shall be a separate rental car transaction for which the fee will be payable.

Section 2. If a rental car company conducting business on District tidelands operates a facility not located on District tidelands, then the rental car company shall be subject to the fee requirement of this Section if either of the following occurs:

- a. The customer is picked up from a location on District tidelands, including the Airport and is transported to the rental car company's

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b. The customer enters into a car rental agreement with the rental car company within Twenty Four (24) hours of arrival at the Airport and rental car arrangements or reservations were made by the customer using a telephone located at the Airport information board.

Section 3. In addition to the requirements of Civil Code Section 1936, the rental car company shall do all of the following:

- a. Collect the fee on the District's behalf.
- b. Disclose the fee in any quotation, communication or advertisement.
- c. Disclose the amount of the fee and the location where it will be imposed.
- d. Separately identify the fee on its rental agreement.

Section 4. Each rental car company shall:

- a. Segregate and earmark each transaction fee imposed pursuant to this ordinance as property of the District.
- b. Pay to the District, on a monthly basis, all transaction fees imposed on its customers as required by this ordinance.
- c. Comply with such other rules or regulations as may be established by the Executive Director from time to time for the collection, handling and remittance of transaction fees.

Section 5. That the proposed project is statutorily exempt under the California Environmental Quality Act, Resources Agency Guidelines, Section 15273 and District Resolution 97-191.

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Section 7. This ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners; upon becoming effective, the provisions of said ordinance shall be operative and implemented commencing January 15, 1999.

**RG:sw
12/15/98**

San Diego Unified Port District

Office of the Clerk

CERTIFICATION OF VOTE

Passed and adopted by the Board of Port Commissioners of the San Diego Unified Port

District on December 15, 1998, by the following vote:

<u>Commissioners</u>	<u>Yeas</u>	<u>Nays</u>	<u>Excused</u>	<u>Absent</u>	<u>Abstained</u>
Susan Lew	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
David Malcolm	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
J. Michael McDade	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Patricia McQuater	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Paul H. Speer	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Frank J. Urtasun	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Jess Van Deventer	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

AUTHENTICATED BY:



Chair of the Board of Port Commissioners

CHRISTINE M. STEIN

Clerk of the San Diego Unified Port District

By: 

Deputy Clerk

(Seal)

Resolution Number: _____

or

Ordinance Number: 2030

Adopted: 12/15/98