

RESOLUTION NO. 19- _____

ADOPTING THE 2019 HERCULES TRANSPORTATION IMPACT FEE NEXUS STUDY, APPROVING A TRANSPORTATION IMPACT FEE, AND AMENDING THE CITY'S MASTER FEE SCHEDULE TO REPLACE THE TRAFFIC FACILITIES FEE WITH SAID TRANSPORTATION IMPACT FEE AT THE RATES SHOWN HEREIN

WHEREAS, the City of Hercules ("City") is a city organized and existing under and by virtue of the general law of the State of California and is a "local agency" as defined in the Mitigation Fee Act (California Government Code Section 66000 et seq.); and

WHEREAS, the City conducted a comprehensive review of the City's existing traffic impact fees to determine whether those fees are adequate to offset the cost of facilities related to future development; and

WHEREAS, the City undertook and caused to be prepared a study entitled "2019 Hercules Transportation Impact Fee Nexus Study" which, among other things, identified transportation facilities that will be impacted or necessitated by future development; and

WHEREAS, the 2019 Hercules Transportation Impact Fee Nexus Study recommended an increase to the City's existing transportation impact fees (currently called the "Traffic Facilities" impact fee) and substantiated the amount of the increase by explaining the nexus between the imposition of the fees and the impact of future development to transportation facilities; and

WHEREAS, the City Council has reviewed the 2019 Hercules Transportation Impact Fee Nexus Study and has found it to contain substantial evidence that supports increasing the City's existing transportation impact fee consistent with the requirements of the Mitigation Fee Act and applicable case law, and has determined that the City needs to increase the level of the existing transportation impact fee in order to offset all or a portion of the cost of transportation facilities impacted or necessitated by future development; and

WHEREAS, the City Council has further determined that it needs to amend its current development impact fee ordinance consistent with the findings contained in this Resolution and the 2019 Hercules Transportation Impact Fee Nexus Study.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HERCULES AS FOLLOWS:

SECTION 1. – Adoption of Study.

The City Council has considered the specific project descriptions and cost estimates provided in the 2019 Hercules Transportation Impact Fee Nexus Study and finds them reasonable as the basis for calculating and imposing certain development impact fees and hereby approves, adopts, and incorporates herein by reference the 2019 Hercules Transportation Impact Fee Nexus Study

SECTION 2 – Mitigation Fee Act Findings.

The City Council finds and determines that the transportation development impact fee imposed by this Resolution is supported by the 2019 Hercules Transportation Impact Fee Nexus Study, and that the study:

- a) Identifies the purpose of the fee;
- b) Identifies the use to which the fee will be put;
- c) Determines how there is a reasonable relationship between the use of the fee and the type of development project on which the fee is imposed;
- d) Demonstrates a reasonable relationship between the need for the transportation facilities and the type of development projects on which each fee is imposed; and
- e) Demonstrates a reasonable relationship between the amount of the fee and the cost of the transportation facilities or portion of the transportation facilities attributable to the development on which the fee is imposed.

SECTION 3 – Adoption of Fees.

The City Council has considered the 2019 Hercules Transportation Impact Fee Nexus Study's maximum potential justifiable fee for each land use category shown below, and hereby approves and adopts a reduced "Transportation Facilities " impact fees as follows: **THIS WILL BE DETERMINED AT THE CITY COUNCIL MEETING**

<u>Land Use</u>	<u>Maximum Justifiable Transportation Facilities Impact Fee</u>	<u>Reduced Transportation Facilities Impact Fee</u>
Single Family (per unit)	\$7,129	
Multi-Family (per unit)	\$4,033	
Office (per sq. ft.)	\$8.35	
Retail (per sq. ft.)	\$9.59	
Industrial (per sq. ft.)	\$7.77	
Hotel (per room)	\$3,927	
Fast Food (per sq. ft.)	\$43.80	
Fuel Station (per pump)	\$7,678	
Other, consistent with the Transportation Impact Fee Nexus Study		

SECTION 4 – Consistency with General Plan.

The City Council finds that the projects and fee methodology identified in the 2019 Hercules Transportation Impact Fee Study are consistent with the City's General Plan.

SECTION 5 – Differentiation Among Fees.

The City Council finds that the Transportation Facilities impact fee (previously known as the Traffic Facilities impact fee) recommended in the 2019 Hercules Transportation Impact Fee Study are separate and different from other fees the City may impose as a condition of final map approval, building permit issuance or tentative or parcel map approval pursuant to its authority under the Subdivision Map Act, the Quimby Act, and the City's implementing ordinances, as may be amended from time to time.

SECTION 6 – Amendment to Fee Schedule.

The section of the City's Master Fee Schedule, related to Traffic Facilities Development Impact Fees, is hereby amended as follows effective July 1, 2019, with all other impact fees remaining unchanged:

COMMUNITY DEVELOPMENT DEPARTMENT
Development Impact Fees

<u>FEE</u>	<u>LEGAL AUTHORITY</u>	<u>Changes Effective 7/1/2019</u>
Single Family (Per dwelling unit)		
Traffic / Transportation Facilities	Reso 19-	\$
Multi-Family (per unit)		
Traffic / Transportation Facilities	Reso 19-	\$
Retail (Per building square foot)		
Traffic / Transportation Facilities	Reso 19-	\$
Office (Per building square foot)		
Traffic / Transportation Facilities	Reso 19-	\$
Industrial (Per building square foot)		
Traffic / Transportation Facilities	Reso 19-	\$
Hotel (Per room)		
Traffic / Transportation Facilities	Reso 19-	\$
Other Community Development Fees		
Other Traffic / Transportation Facilities	Reso 19-	
Fast Food (per sq. ft.)		\$
Fuel Station (per pump)		\$

SECTION 7 – CEQA.

The adoption of the 2019 Hercules Transportation Impact Fee Nexus Study, approval of the Transportation Facilities impact fee, and amendment to the Master Fee Schedule do not constitute a “project” as that term is defined by or used in the California Environmental Quality Act (Cal. Pub. Res. Code section 21000 et seq.; “CEQA”) or the CEQA Guidelines (Cal. Code of Regulations Title 14, Division 6, Chapter 3). Accordingly, the City Council finds that the provisions of CEQA and the CEQA Guidelines are not applicable thereto. Also, the City Council finds that the City will not expend funds from the Transportation Facilities impact fee on any specific development prior to completion of environmental review for such specific development, so the adoption of this Resolution is not a “project” under CEQA.

In the event that the action is found to constitute a “project,” the City Council hereby finds that the action is exempt from CEQA because CEQA does not apply to the establishment, modification, or approval of rates, tolls, fares or other charges for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, or (4) obtaining funds for capital projects necessary to maintain service within existing service areas. The City Council finds that its action falls within one or more of those exemptions.

Finally, the City Council also finds that, pursuant to CEQA Guidelines section 15061(b)(3), it can be seen with certainty that there is no possibility that adoption of this Resolution may have a significant effect on the environment, so this action is not subject to CEQA or the CEQA Guidelines.

SECTION 8 – Severability.

If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have adopted the Resolution, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

SECTION 9 – Effective Date of 2019 Transportation Facilities Impact Fee

This Transportation Facilities Impact fee (which effectively replaces the current Traffic Facilities impact fee) shall be in effect on July 1, 2019 contingent upon the companion Ordinance # _____ being adopted and in effect 60 days following adoption consistent with California Government Code section 66017(a).

SECTION 10 – Imposition and Payment of Fees Upon Permit Issuance

All development impact fees shall be imposed upon the issuance of any development permit and shall be paid at the earliest time allowed by City ordinance, resolution or policy, subject only to such later payment as may be required by applicable law.

~~A "Development permit" means any permit or approval from the City including, but not limited to, subdivision map, final planned development, building permit or other permit for construction or reconstruction.~~

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SECTION 11 – Annual Index Adjustment

Effective July 1, 2020 and on each subsequent anniversary date of such date, the amount of each of the Transportation Facilities Impact Fees, set forth above, shall increase or decrease by the annual percentage change in the Engineering News Record Construction Cost Index for the San Francisco Bay Area for the twelve month period ending with the February index of the same calendar year. The percentage change will be calculated by staff and presented to City Council with the annual update to the Master Fee Schedule.

SECTION 12 – Incorporation of Recitals.

The recitals in this Resolution are true and correct and are incorporated into this Resolution by reference.

THE FOREGOING RESOLUTION was duly and regularly adopted at first read at a regular meeting of the Hercules City Council on the ____ day of _____, 2019, and was passed and adopted at a meeting of the Hercules City Council on the ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dan Romero, Mayor

Lori Martin, Administrative Services Director &
City Clerk