

RESOLUTION NO. 18-____

ADOPTING THE 2017 FIRE FACILITIES IMPACT FEE STUDY AS APPROVED BY THE BOARD OF THE RODEO-HERCULES FIRE PROTECTION DISTRICT BY RESOLUTION 2018-01, ESTABLISHING NEW LEVELS OF FIRE FACILITIES DEVELOPMENT IMPACT FEES, UPDATING THE FIRE FACILITIES IMPACT FEES ON THE MASTER FEE SCHEDULE, AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH.

WHEREAS, the City of Hercules 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 Rodeo-Hercules Fire Protection District has undertaken and caused to be prepared a study entitled *Fire Facilities Impact Fee Study* dated October 14, 2017 (the "2017 RHFPD DIF Study") and adopted by the Rodeo-Hercules Fire Protection District on January 11, 2018 which identifies fire protection facilities in Hercules that will be impacted or necessitated by future development; and

WHEREAS, the Rodeo-Hercules Fire Protection District has requested that the City of Hercules implement the updated Fire Facilities Impact Fee adopted by the District;

WHEREAS, the City of Hercules has determined that it needs to increase the level of the Fire Facilities Impact Fee to offset the effect of inflation; and

WHEREAS, the 2017 RHFPD DIF Study explains the nexus between the imposition of the fees and the estimated reasonable cost of providing the service for which the fees are charged; and

WHEREAS, the updated Fire Facilities Impact Fees need to be added the City's Master Fee Schedule.

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

SECTION 1. Adoption of Studies

- a) The 2017 RHFPD DIF Study is hereby approved, adopted and by this reference incorporated herein.

SECTION 2. Findings Pursuant To The Mitigation Fee Act (California Government Code section 66000 et seq.)

The City Council finds and determines that the Fire Facilities Impact fee established, increased or imposed by this Resolution is supported by the 2017 RHFPD DIF Study in that it:

- a) Identifies the purpose of each fee evaluated therein;

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

SECTION 3. Approval of Items in Studies

The Board of the Rodeo-Hercules Fire Protection District has considered and approved the specific project descriptions and cost estimates provided in the 2017 RHFPD DIF Study, and the City Council accepts such project descriptions, cost estimates and inflation adjustments and finds them reasonable as the basis for calculating and imposing certain development impact fees.

SECTION 4. Consistency with General Plan

The City Council finds that the projects and fee methodology identified in the 2018 RHFPD DIF Study, are consistent with the City's Five-Year Capital Improvement Plan and City's General Plan.

SECTION 5. Differentiation Among Fees

The City Council finds that the development impact fees recommended in the 2017 RHFPD DIF 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, for, among other projects, the construction of storm drainage, major thoroughfares and bridges and the acquisition of parkland.

SECTION 6. Findings Under The California Environmental Quality Act

The City Council hereby finds and determines, based upon substantial evidence in the record before it, as follows:

- a) The adoption of the 2018 RHFPD DIF Study, and the approval of the development impact fees adopted by this resolution do not constitute a "project" as that term is defined by or used in the California Environmental Quality Act (California Public Resources Code Section 21000 et seq, hereinafter "CEQA"), the California Code of Regulations Title 14, Division 6, Chapter 3 "Guidelines for Implementation of the California Environmental Quality Act" (the "CEQA Guidelines"), or any court or attorney general opinion construing the same. Accordingly, the City Council finds that the provisions of CEQA and the CEQA Guidelines are not applicable thereto.
- b) In the event that it is found that said action constitutes a "Project" as defined by or used in CEQA or the CEQA Guidelines, which finding would be contrary to the City's opinion of its

action, the City Council hereby finds that said action is exempt from CEQA and the CEQA Guidelines, for the following reasons:

(1) The action is covered by Public Resources Code Section 21080(b)(8) and Section 15273 of the CEQA Guidelines which provide that CEQA does not apply to the establishment, modification, structuring, restructuring or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are 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 said exemptions.

(2) The action is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the action is not subject to CEQA or the CEQA Guidelines. See CEQA Guidelines Section 15061(b)(3). It can be seen with certainty that the City's action cannot possibly have a significant effect on the environment.

c) The City Manager or his designee is hereby authorized and instructed to file a Notice of Exemption from the provisions of CEQA.

SECTION 7. Prior Resolutions and Ordinances Superseded.

The Fire Facilities Impact Fee approved and adopted by this resolution shall supersede comparable fees adopted in prior resolutions that establish development impact fees.

SECTION 8. Master Fee Schedule.

Whereas it is appropriate to add updated fees and fines to the Master Fee Schedule, delete old fees and fines, and to make adjustments to existing fees and fines in order for the Schedule to reflect current fees and charges. The City Council hereby authorizes amendments to the existing Master Fee Schedule, approving additions, deletions and adjustments to Fire Facilities Impact Fees in the highlighted sections of the attached Master User Fee Schedule to become effective upon adoption of this resolution.

SECTION 9. Severability.

If any section, subsection, sentence, clause or phrase of this resolution or the imposition of a development impact fee for any public facility described in the 2017 RHFPD DIF Study, or the application thereof to any person or circumstance is held invalid, unenforceable or unconstitutional by the final judgment of a court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this resolution or other fees levied by this resolution.

SECTION 15. Incorporation of Recitals

The recitals in this resolution are true and correct statements of fact and are incorporated into this resolution by this reference.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 13th day of March, 2018 by the following vote of the Council:

AYES:

NOES:

ABSENT:

Chris Kelley, Mayor

ATTEST:

Lori Martin, City Clerk