

## **ORDINANCE NO. 518**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES AMENDING TITLE 10, CHAPTER 18 OF THE HERCULES MUNICIPAL CODE RELATING TO TRANSPORTATION IMPACT FEES**

**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 and substantiated the need for 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 adopted the 2019 Hercules Transportation Impact Fee Nexus Study and approved the increased transportation impact fee concurrent with this Ordinance by way of Resolution 19-011; and

**WHEREAS**, the City has determined that it needs to amend its current development impact fee ordinance in order to offset all or a portion of the cost of transportation facilities identified in the 2019 Hercules Transportation Impact Fee Nexus Study.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES  
HEREBY ORDAIN AS FOLLOWS:**

#### **SECTION 1.**

Title 10, Chapter 18, Article 16 of the Hercules Municipal Code entitled “Development Impact Fees” is hereby amended to read as depicted on Exhibit A, attached hereto and made a part hereof.

#### **SECTION 2 – CEQA.**

The adoption of the 2019 Hercules Transportation Impact Fee Nexus Study and approval of the transportation impact fee 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. 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. Moreover, the City Council 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 ordinance may have a significant effect on the environment, so this action is not subject to CEQA or the CEQA Guidelines.

### **SECTION 3 – SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, 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.

If state law repeals or otherwise supersedes the amendments to Title 10, Chapter 8 contained in Exhibit A hereto, the existing text of Title 10, Chapter 8 shall automatically be reinstated and the City shall impose the Traffic Facilities Fee adopted and set by Resolution 09-136 on September 8<sup>th</sup>, 2009 and as amended by Resolution 10-88 on June 22, 2010 (the “2010 Traffic Facilities Fee”). Nothing in this section shall prohibit the City Council from adopting or setting any fee by resolution following any such reinstatement of the 2010 Traffic Facilities Fee.

### **SECTION 4. Publication and Effective Date.**

a. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:

1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or
2. Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or
3. Publishing a summary of the Ordinance in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.

b. This Ordinance shall go into effect sixty (60) days after the date of its passage and adoption per California Government Code Section 66017(a) regarding adoption of impact fees.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the \_12th\_\_\_ day of \_\_\_March\_\_\_\_\_, 2019, and was passed and adopted at a regular meeting of the Hercules City Council on the \_26th\_\_\_ day of \_\_\_March\_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Dan Romero, Mayor

\_\_\_\_\_  
Lori Martin, Administrative Services Director &  
City Clerk

Exhibit A: Amending Title 10, Chapter 18 – Development Impact Fees , Article 6 –  
Transportation Facilities Impact Fees