

**RESOLUTION NO. 19-\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES ADOPTING A REASSESSMENT REPORT, CONFIRMING AND ORDERING THE REASSESSMENT BY SUMMARY PROCEEDINGS AND AUTHORIZING AND DIRECTING RELATED ACTIONS**

**WHEREAS**, the City Council (the “City Council”) of the City of Hercules (the “City”) has previously undertaken proceedings pursuant to the terms and provisions of the Municipal Improvement Act of 1913 (Division 12 of the Streets and Highways Code of the State of California) to form the City of Hercules Assessment District No. 2005-1 (John Muir Parkway) (the “Assessment District”), and confirm assessments on the parcels therein; and

**WHEREAS**, the City issued improvement bonds in the amount of \$6,550,345 known as the “City of Hercules Assessment District No. 2005-1 (John Muir Parkway) Limited Obligation Improvement Bonds” (the “2005 Bonds”) in the manner provided in the Improvement Bond Act of 1915 (Division 10 of said Streets and Highways Code); and

**WHEREAS**, the outstanding 2005 Bonds are secured by the unpaid assessments on properties in the Assessment District; and

**WHEREAS**, the public interest requires the refunding of the 2005 Bonds and this City Council intends to accomplish the refunding through the levy of reassessments and the issuance of the Refunding Bonds (as defined below) upon the security thereof; and

**WHEREAS**, the City desires to provide for the issuance of refunding bonds (the “Refunding Bonds”) by the Reassessment District (as defined below) pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the California Streets and Highways Code (the “Refunding Act”), which Refunding Bonds shall refund the 2005 Bonds; and

**WHEREAS**, on November 12, 2019, this City Council adopted its “Resolution of the City Council of the City of Hercules Declaring its Intention to Levy Reassessments and to Issue Refunding Bonds” (the “Resolution of Intention”) in and for the City of Hercules Reassessment District No. 2005-1 (John Muir Parkway) (the “Reassessment District”), and therein directed the making and filing of a reassessment report (the “Report”) in writing, all in accordance with and pursuant to the Refunding Act; and

**WHEREAS**, the Report was duly made and filed, and duly considered by this City Council with the aid of City staff and found to be sufficient in every particular, and the Report shall stand for all subsequent proceedings under and pursuant to the Resolution of Intention.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Council of the City of Hercules as follows:

1. Conditions Satisfied. Pursuant to Section 9525 of the Refunding Act, and based upon the Report, this City Council finds that all of the following conditions are satisfied:
  - (a) Each estimated annual installment of principal and interest on the reassessment as set forth in the Report is less than the corresponding annual installment of principal and interest on the

portion of the original assessment being superseded and supplanted as also set forth in the Report, by the same percentage for all subdivisions of land within the Reassessment District;

- (b) The number of years to maturity of all Refunding Bonds proposed to be issued is no more than the number of years to the last maturity of the 2005 Bonds; and
- (c) The principal amount of the reassessment on each subdivision of land within the Reassessment District is less than the unpaid principal amount of the portion of the original assessment being superseded and supplanted by the same percentage for each subdivision of land in the Reassessment District.

The reassessments, as set forth in the Report, shall not be deemed to be an assessment within the meaning of, and may be ordered without compliance with the procedural requirements of, Article XIID of the Constitution of the State of California.

- 2. Public Interest. The public interest, convenience and necessity require that the reassessment be made.
- 3. Boundaries Approved. All property specially benefited by the reassessments and to be included in the Reassessment District, and the exterior boundaries thereof, are as shown by the reassessment diagram thereof on file in the office of the City Clerk, which diagram is made a part hereof by reference thereto.
- 4. Report Approved. Pursuant to the findings hereinabove expressed with respect to Section 9525 of the Refunding Act, the conditions, and all of them are deemed satisfied, and the following elements of the Report are hereby finally approved and confirmed without further proceedings, including the conduct of a public hearing under the Refunding Act, to wit:
  - (a) a schedule setting forth the unpaid principal and interest on the 2005 Bonds to be refunded and the total amounts thereof (and assessments being continued);
  - (b) an estimate of the total principal amount of the reassessment and of the Refunding Bonds and the maximum interest rate thereon, together with an estimate of cost of the reassessment and of issuing the Refunding Bonds, including all costs of issuing the Refunding Bonds as defined in subdivision (a) of California Streets and Highways Code Section 9600;
  - (c) the auditor's record kept pursuant to Section 8682 of the California Streets and Highways Code showing the schedule of principal installments and interest on all unpaid original assessments and the total amounts thereof;
  - (d) the estimated amount of each reassessment, identified by reassessment number corresponding to the reassessment number of the reassessment diagram, together with a proposed auditor's record for the reassessment prepared in the manner described in Section 8682 the California Streets and Highways Code; and
  - (e) a reassessment diagram showing the Reassessment District and the boundaries and dimensions of the subdivisions of land therein and assigning a separate number to each such subdivision of land, including each separate condominium interest as defined in Section 783 of the California Civil Code.

Final adoption and approval of the Report as a whole, estimate of the costs and expenses, the reassessment diagram and the reassessment, as contained in the Report, as hereinabove determined and ordered, is intended to and shall refer and apply to the Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this City Council.

5. Reassessment Levied; Assessments Continued. The reassessment, including all costs and expenses thereof, is hereby approved, confirmed and levied. Pursuant to the provisions of the Refunding Act, reference is hereby made to the Resolution of Intention for further particulars. The reassessment shall be reduced in the event that City staff determines that to do so is necessary and advisable to further the purposes of this Resolution, and, if such determination is made, City staff is hereby authorized and directed to record said reduced reassessment in the manner set forth in Section 8 hereof, and to take any further actions required to finalize said reduction, without further action of the City Council.
6. Actions Directed. The City Clerk and other appropriate officer or officers of the City are hereby authorized and directed to carry out the following, including the payment of any and all fees required by law in connection therewith:
  - (a) Deliver the reassessment to the official of the City who is its Superintendent of Streets, together with the reassessment diagram, as approved and confirmed by this City Council, with a certificate of such confirmation and of the date thereof, executed by the City Clerk, attached thereto. The Superintendent of Streets shall record each of the reassessments and the reassessment diagram in a suitable book to be kept for that purpose, and append thereto a certificate of the date of such recording, and such recordation shall be and constitute the applicable reassessment roll herein.
  - (b) File and record, respectively, the reassessment diagram and a notice of reassessment in substantially the form specified by Section 3114 of the California Streets and Highways Code and executed by the City Clerk in the office of the County Recorder of the County of Contra Costa (the "County").
  - (c) Provide a copy of this resolution to the Auditor of the County at the time of the delivery of the debt service records for the refunding bonds secured by the reassessments.

From the date of recording of the notice of reassessment, all persons shall be deemed to have notice of the contents of such reassessment, and each reassessment shall thereupon be a lien upon the subdivision of land against which it is made and shall supersede and supplant the assessment confirmed and levied in 2020 with respect to the 2005 Bonds, other than the unpaid installments as described in Section 9538 of the Refunding Act.

The appropriate officer or officers of the City are hereby authorized to pay any and all fees required by law in connecting with the above.

7. Levy of Reassessments. The Finance Director shall keep the record showing the several installments of principal and interest on the reassessments which are to be collected each year during the term of the Refunding Bonds. An annual apportionment of each reassessment, together with annual interest on said reassessment, shall be payable in the same manner and at the same time and in the same installments as the general property taxes and shall be payable and become

delinquent at the same time and in the same proportionate amount; provided that any reassessments on possessory interests shall be collected on the unsecured tax roll and shall be payable and become delinquent at the same time as other taxes levied on said unsecured roll. Each year the annual installments shall be submitted to the County Auditor-Controller for purposes of collection, and the County Auditor-Controller shall, at the close of the tax collecting period, promptly render to the Finance Director a detailed report showing the amount of such installments, interest, penalties and percentages so collected.

8. Revision of the Report. The City Manager or the Finance Director are each hereby authorized and directed (a) to revise the Report to reduce the applicable reassessments, as confirmed pursuant to Section 6 hereof, if and to the extent necessary so that the aggregate amount thereof does not exceed the initial principal amount of the Refunding Bonds, (b) to amend the reassessment and reassessment diagram to reflect such reductions, and (c) to promptly record the reassessment, together with the reassessment diagram, as so amended, in the office of the person acting as the Superintendent of Streets of the City. Immediately thereafter, a copy of the reassessment diagram, as so amended, shall be filed in the office of the County Recorder and a Notice of Reassessment, referring to the reassessment diagram, shall be recorded in the office of the County Recorder, all pursuant to the provisions of Division 4.5 of the California Streets and Highways Code.
9. Effective Date. This resolution shall take effect from and after its adoption.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 12th day of November, 2019 by the following vote of the Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Dan Romero, Mayor  
Mayor

Attest:

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Lori Martin, MMC  
Administrative Services Director/City Clerk