



STAFF REPORT TO THE CITY COUNCIL

DATE: February 27, 2024

TO: Mayor and Members of the City Council

VIA: Dante Hall, City Manager

SUBMITTED BY: Edwin Gato, Director of Finance

SUBJECT: Consideration of Adopting a Resolution Electing to Retain the Housing Assets and Functions Previously Performed by the Hercules Redevelopment Agency

RECOMMENDED ACTION:

Adopt a resolution electing to retain the housing assets and functions previously performed by the Hercules Redevelopment Agency pursuant to Health and Safety Code Section 34176.

BACKGROUND:

The Hercules Redevelopment Agency ("Agency") was dissolved on February 1, 2012, under California Redevelopment Dissolution Law (Health and Safety Code or "HSC" Section 33000 et seq.). The City elected to become the Successor Agency to the Hercules Redevelopment Agency ("Successor Agency") to wind down *non-housing* assets and liabilities.

The City did not elect to become the Housing Successor to the Hercules Redevelopment Agency ("Housing Successor") to retain *housing* assets and functions. The City declined the role of Housing Successor in 2012 because there was no funding for the management or monitoring of housing assets and functions at the time, and because the City believed the Contra Costa County Housing Authority ("Housing Authority") would take responsibility of Agency housing assets.

HSC 34176(b) states if a city does not elect to become Housing Successor, that role shall be transferred to the local housing authority. The Housing Authority automatically became

the Housing Successor by operation of law. However, when the City attempted to transfer Agency assets to the Housing Authority, the Housing Authority declined Housing Successor responsibilities. The California Department of Finance (“DOF”) wrote a letter to the Housing Authority dated September 17, 2012, explaining they do not have the legal basis for declining the role of Housing Successor Agency (Attachment 1, Exhibit A).

A letter from the Housing Authority to DOF dated September 21, 2012 (Attachment 1, Exhibit B) states that the United States Department of Housing and Urban Development (“HUD”) provides funding to the Housing Authority to manage Section 8 and other housing programs. HUD prohibits housing authorities from using such funding for other purposes. The Housing Authority did not formally accept the Agency’s housing assets to avoid jeopardizing HUD funding.

The Housing Authority’s refusal of Housing Successor responsibilities has left 45 loans with an outstanding balance of over \$4.3 million and \$5.3 million in deposits from loan repayments in a state of limbo since 2012. The City does not have the legal authority to administer loans and spend money generated by Agency housing assets (“Housing Asset Funds”) because they are restricted as Housing Successor assets under HSC 34176 and 34176.1.

ANALYSIS:

Housing Authority Discussions

On September 27, 2022, City Council authorized staff to initiate discussions and negotiate an agreement with the Housing Authority to legally transfer the role of Housing Successor, including all housing assets and functions of the Agency, from the Housing Authority to the City. This will allow the City to actively administer the \$4.3 million in outstanding loans and access the \$5.3 million in Housing Asset Funds to pay for Housing Successor administrative costs and affordable housing development.

During communications with the Housing Authority’s Executive Director, the Authority acknowledged the City’s desire to reclaim its status as Housing Successor Agency. The City sent a letter informing the Housing Authority of the City’s intent to elect to become Housing Successor at this time.

Housing Successor Assets

Agency housing assets include:

- 45 loans receivable with an outstanding balance of over \$4.3 million owed to the Housing Successor
- \$5.3 million in cash from loan repayments deposited into the Agency’s Low- and Moderate-income Housing Fund; these monies would be transferred to a new Low-

and Moderate-Income Housing Asset Fund set up by the City as Housing Successor ("Housing Asset Fund")

The Housing Asset Transfer List (Attachment 1, Exhibit C) provides a detailed list of loans receivable at the time of dissolution.

Housing Successor Responsibilities and Costs

If the City becomes Housing Successor, it will incur costs to administer loans, prepare annual reports due to the California Department of Housing and Community Development ("HCD"), and report on the Housing Asset Fund in the City's audited financial statements.

Administrative costs are estimated to be \$200,000 to \$225,000 in the first year to set up the Housing Asset Fund, catch up on annual reports, and review outstanding loan balances and payoff status. Ongoing annual administrative costs are estimated to be \$100,000 to \$150,000 based on a review of other housing successors. State law permits a maximum annual administrative allowance of \$200,000 per year adjusted for inflation. The limit in fiscal year 2022-23 was \$254,500.

The Housing Successor may also incur costs to fund affordable housing development and homeless prevention and rapid rehousing activities described in the next section.

Housing Successor Opportunities

Housing Asset Funds may be spent on affordable housing development for extremely low to low income households. There are three major requirements on how the funds may be spent:

- at least 30% of Housing Asset Funds must be spent assisting extremely low income rental housing,
- no more than 20% of Housing Asset Funds may assist low income households (60-80% of the Area Median Income), and
- no more than 50% of units assisted may be restricted to seniors.

Housing Successors may also spend up to \$250,000 per year on homelessness prevention and rapid rehousing services, if eligible. Hercules is most likely eligible because the Agency met its inclusionary housing production obligations as of 2009; eligibility would be confirmed after analyzing housing activity between 2009-2012.

If the City becomes Housing Successor, it should set-aside at least \$500,000 to \$1 million in Housing Asset Funds for administrative costs from the \$5.3 million Housing Asset Fund balance funded by prior loan repayments. The remainder could be used to assist affordable housing. It is important to note there is no ongoing revenue source for housing successors. The only revenue source for the Hercules Housing Successor is loan repayments. If the

Housing Successor assists affordable housing development, the assistance is commonly structured as a 55-year loan.

FISCAL IMPACT:

Adoption of the resolution will enable the City to actively administer and collect payments on \$4.3 million in outstanding loans issued by the Agency and spend approximately \$5.3 million in Housing Asset Funds that have accumulated since the dissolution of redevelopment in 2012.

ATTACHMENTS:

1. Resolution electing to retain the housing assets and functions previously performed by the Hercules Redevelopment Agency pursuant to Health and Safety Code Section 34176
2. Exhibit A – DOF Letter to CCC Housing Authority
3. Exhibit B – CCC Housing Authority's Response to DOF Letter
4. Exhibit C - Hercules Redevelopment Agency Housing Assets List