

RESOLUTION NO. [REDACTED]

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES ELECTING TO RETAIN THE HOUSING ASSETS AND HOUSING FUNCTIONS PREVIOUSLY PERFORMED BY THE HERCULES REDEVELOPMENT AGENCY PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

WHEREAS, the City of Hercules (“City”) is a California municipal corporation; and

WHEREAS, the Hercules Redevelopment Agency (“Agency”) was a public body, corporate and politic established by adoption of City Ordinance No. 168 on October 13, 1982 and organized under the California Community Redevelopment Law (California Health and Safety Code (“HSC”) Sections 33000 et seq.); and

WHEREAS, on December 29, 2011, the California Supreme Court issued its final decision in the litigation of *California Redevelopment Association v. Matosantos*, upholding Assembly Bill x1 26 (codified as HSC 34161-34191) (“ABx1 26”) and invalidating Assembly Bill x1 27 (the legislation that would have permitted redevelopment agencies to continue operation if their sponsoring jurisdiction agreed to make certain payments for the benefit of schools and special districts); and as a result, all California redevelopment agencies were dissolved, effective February 1, 2012; and

WHEREAS, HSC 34176(a) enables the City to elect to retain the housing assets and functions previously performed by the Agency, as a housing successor. If the City elects to do so, all rights, powers, duties, obligations, and housing assets, excluding any amounts on deposit in the Low- and Moderate-Income Housing Fund (“Housing Fund”) and enforceable obligations retained by the successor agency, shall be transferred to the City; and

WHEREAS, on January 10, 2012, the City elected not to retain the housing assets and functions of the Agency by adoption of Resolution No. 12-005; and

WHEREAS, HSC 34176(b) states if a city does not elect to retain the housing functions previously performed by a redevelopment agency, all rights, powers, assets, duties and obligations associated with the housing activities of the former redevelopment agency shall be transferred to the local housing authority in the territorial jurisdiction of the former redevelopment agency; and

WHEREAS, the Contra Costa County Housing Authority (“Housing Authority”) became the Housing Successor to the Hercules Redevelopment Agency (“Hercules Housing Successor”) by operation of law pursuant to HSC 34176(b). This was documented in a letter from the California Department of Finance (“DOF”) to the Housing Authority dated September 17, 2012 (attached hereto as Exhibit A); and

WHEREAS, the Housing Authority never formally accepted nor had control over the housing assets of the former Agency. A letter from the Housing Authority to DOF dated

September 21, 2012 (attached hereto as 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; and

WHEREAS, over twelve years have passed since the dissolution of the Agency. The City would like to formally accept the role of the Hercules Housing Successor so it can legally administer housing assets and functions of the former Agency, such as outstanding loans issued to low income homeowners by the former Agency who request payoff and refinancing; and

WHEREAS, the City wishes to express its intention to have the City assume all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Agency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hercules that the City Council hereby:

- (1) Rescinds Resolution No. 12-005 that elected not to retain the housing assets and functions of the Agency.
- (2) The City Council now elects to have the City of Hercules retain the housing assets and functions previously performed by the Hercules Redevelopment Agency in accordance with HSC Section 34176. This includes:
 - a) Any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low- and moderate-income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds.
 - b) Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)) unless required in the bond covenants to be used for repayment purposes of the bond.
 - c) Any loan or grant receivable, funded from the Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

- d) Any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.
 - e) A stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing.
 - f) Repayments of loans or deferrals owed to the Housing Fund pursuant to subparagraph (G) of paragraph (1) of subdivision (d) of Section 34171, which shall be used consistent with the affordable housing requirements in the Community Redevelopment Law (Part 1 (commencing with Section 33000)).
- (3) Exhibit C attached to this Resolution presents a Housing Asset Transfer List documenting known assets to be retained by the City. The City shall retain all revenues generated by such assets from February 1, 2012, as permitted by HSC 34176 and 34176.1.
- (4) Pursuant to HSC 34175(a), amounts on deposit in the Housing Fund upon dissolution are excluded from assets transferred from the Agency to the Hercules Housing Successor.
- (5) The Successor Agency to the Hercules Redevelopment Agency ("Successor Agency") conducted a Low- and Moderate-Income Housing Asset Fund Due Diligence Review ("DDR") as required by HSC 34179.6. The DDR determined the Housing Fund amounts on deposit upon dissolution that were available for distribution to taxing entities.
- (6) The California Department of Finance made a determination on October 21, 2016, that the total amount of Housing Funds available upon dissolution was \$213,689. The Successor Agency remitted this amount to the Contra Costa County Auditor-Controller on October 28, 2016.
- (7) No other pre-dissolution Housing Funds are available. All funds generated by Agency housing assets excluding the aforementioned DDR payment are to be retained as Low- and Moderate-Income Housing Asset Funds by the City as Hercules Housing Successor as permitted by HSC 34176 and 34176.1.
- (8) The City Manager and their designee(s) are directed to take other and further actions, and sign such other and further documents, as is necessary in order to implement this Resolution on behalf of the City.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 27th day of February 2024 by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dan Romero, Mayor

ATTEST:

Eibleis Melendez, City Clerk

EXHIBIT A
DOF LETTER DATED SEPTEMBER 17, 2012

EXHIBIT B
HOUSING AUTHORITY LETTER DATED SEPTEMBER 21, 2012

EXHIBIT C
HERCULES HOUSING ASSET TRANSFER LIST