

**CITY OF HERCULES ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING THE ADOPTION OF AMENDMENT #4 TO EXTEND THE TERM OF THE DEVELOPMENT AND OWNER PARTICIPATION AGREEMENT (DOPA 07-01) BY AND BETWEEN THE CITY OF HERCULES AND THE SANTA CLARA VALLEY HOUSING GROUP, INC. AND TO EXTEND THE EXPIRATION DATE OF THE VESTING TENTATIVE MAP NO. 9533 FOR THE HILL TOWN PROJECT**

**WHEREAS**, a Development and Owner Participation Agreement (“Development Agreement”) between the City of Hercules (“City”), the Redevelopment Agency (“Agency”), and the Santa Clara Valley Housing Group (“Owner”) was adopted by Ordinance 442 on September 23, 2008, a memorandum of which is recorded in the Office of the Contra Costa County Recorder, State of California, on November 25, 2008 through document 2008-0256803-000, with respect to the development of approximately 44 acres of certain real property located in the City of Hercules, California; and

**WHEREAS**, on May 8, 2018, the Development Agreement was amended, through the adoption of Ordinance 509 – Amendment No. 1, which was recorded on May 29, 2018 through document 2018-0083953-00; and

**WHEREAS**, on January 8, 2019, an additional amendment was approved, through the adoption of Ordinance No. 516 – Amendment No. 2, which was recorded on February 27, 2019 through document 2019-0026425-00 and modified key performance dates; and

**WHEREAS**, on December 10, 2019, an additional amendment was approved, through the adoption of Ordinance No. 525 – Amendment No. 3, recorded on December 18, 2019 through document 2019-0227264-00, which modified the land use term, payment date for the remaining Environmental Impact Report funds and clarified the affordable housing timing; and

**WHEREAS**, the City and Owner desire to further amend key performance dates set forth in the Development Agreement as amended, attached hereto (Attachment 2B) and incorporated by reference herein (aka Amendment No.4); and

**WHEREAS**, the Hill Town Vesting Tentative Map #9533 was approved by the City Council on April 14, 2020; and

**WHEREAS**, the Owner provided financial documentation of off-site public improvements, allowing an administrative extension of the Vesting Tentative Map #9533, thus modifying the expiration date to April 14, 2024; and

**WHEREAS**, California Government Code 66452.6(a) allows a Vesting Tentative Map on property that is subject to a development agreement to be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement; and

**WHEREAS**, California Government Code 66452.6(e) provides that a Vesting Tentative Map shall be automatically extended for up to 60 days while an application for an extension is under review; and

**WHEREAS**, the Owner has requested that the approval timeframe of both the Development Agreement and Vesting Tentative Map #9533 be extended to April 14, 2029; and

**WHEREAS**, the Planning Commission did hold a properly noticed public hearing on March 4, 2024 to consider the proposed Amendment #4 to extend the term of the development and owner participation agreement (DOPA 07-01) by and between the City of Hercules and the Santa Clara Valley Housing Group, Inc. and to extend the expiration date of the Vesting Tentative Map No. 9533 for the Hill Town project and did hear and use its independent judgement to consider all said reports, recommendations and testimony hereinabove set forth; and

**WHEREAS**, the Planning Commission at its March 4, 2024 meeting passed Resolution #24-01 recommending City Council adoption of an ordinance to modify the Development Agreement by extending the term and extending the expiration date of the Vesting Tentative Map No. 9533 to April 14, 2029; and

**WHEREAS**, on March 26, 2024, the City Council held a duly noticed public hearing to consider the proposed Ordinance related to the Hill Town Development Agreement and Vesting Tentative Map No. 9533, received the staff report and staff presentation, received comments from the public and interested parties and discussed the matter.

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

**SECTION 1. Recitals.** The City Council hereby incorporates the above recitals into this Ordinance by this reference.

**SECTION 2. CEQA.** The City Council finds and determines that the proposed Amendment No. 4 to the Hill Town development agreement is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of California Environmental Quality Act Guidelines. This Exemption is known as the "Common Sense Exemption" that CEQA applies only to projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, therefore the activity is not subject to CEQA.

**SECTION 3.** The City Council finds that the provisions of the proposed amendments are consistent with the general plan and any applicable specific plan as recommended by the Planning Commission Resolution 24-01 approved March 4, 2024 after the Commission's public hearing.

**SECTION 4.** The City Council hereby approves the proposed Amendment No. 4 to the Hill Town Development Agreement as attached hereto (Attachment 2A) and incorporated by reference herein. The City Council hereby authorizes the City Manager to execute all related documents, substantially similar to the attached Development Agreement, with Santa Clara Valley Housing Group, Inc.

**SECTION 5. 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.

**SECTION 6. Effective Date and Publication.** The City Clerk shall certify the adoption of this Ordinance and shall publish or post the Ordinance as required by law. This Ordinance shall be effective thirty (30) days from date of final adoption.

**THE FOREGOING ORDINANCE** was first read at a regular meeting of the Hercules City Council on the 26th day of March, 2024, and was passed and adopted at a regular meeting of the Hercules City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Dan Romero, Mayor

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Eibleis Melendez  
City Clerk