

**AMENDMENT No. 4 TO THE DEVELOPMENT AND OWNER PARTICIPATION  
AGREEMENT FOR THE HILL TOWN PROJECT (DOPA 07-01) BY AND BETWEEN  
THE CITY OF HERCULES AND THE SANTA CLARA VALLEY HOUSING GROUP**

This AMENDMENT No. 4 TO THE DEVELOPMENT AND OWNER PARTICIPATION AGREEMENT (this "Amendment No. 4") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024 between the City of Hercules, a municipal corporation (the "City") and Santa Clara Valley Housing Group, Inc., a California corporation ("Owner"). The City and Owner are collectively "Parties" to this Amendment.

**RECITALS**

A. The City and Owner are Parties to that certain Development and Owner Participation Agreement adopted by ordinance 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 as Document No. 2008-0256803-00 (the "Development Agreement"), with respect to the development of approximately 44 acres of certain real property located in the City of Hercules, California and described in Exhibit "A" attached to the Development Agreement (the "Project Site"). Unless otherwise defined in this Amendment No. 4, all capitalized terms have the meanings given to those terms in the Development Agreement.

B. The Development Agreement addresses, among other things, the potential development of up to 640 residential dwelling units a neighborhood retail facility, a series of public and private open space amenities, and a network of roadways (the "Project") in accordance with all required Project Approvals.

C. The Development Agreement was previously amended three times by the City Council. The first Amendment was made by the City Council in May of 2018 to approve certain amendments, including but not limited to removal of the Redevelopment Agency as a party to the Development Agreement and an extension of the term of the Development Agreement ("Amendment No. 1"). The City Council also amended the Development Agreement a second time in January of 2019 in order to further extend the term ("Amendment No. 2"). A third amendment ("Amendment No. 3) was approved by City Council in December of 2019, which modified the land use term, created a payment date for the remaining Environmental Impact Report funds and clarified the affordable housing timing.

D. The City and Owner desire to further amend certain provisions of the Development Agreement as described in this Amendment No. 4, including but not limited to the term of the Development Agreement.

E. On \_\_\_\_\_, 2024, after duly noticed public hearings, the City Council of the City of Hercules adopted Ordinance No. \_\_\_\_\_ approving this Amendment No. 4, which ordinance is incorporated herein by reference.

## AGREEMENT

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE CITY AND THE OWNER AGREE THAT THE DEVELOPMENT AGREEMENT IS AMENDED AS FOLLOWS:

1. Term Amendments. Section 2.2 is hereby amended in full to read as follows:

“2.2 Land Use Term. The Land Use Term of this Agreement shall commence on the Effective Date and shall continue in full force and effect until **April 14, 2029**, unless the Land Use Term is extended or terminated as provided in this section or sections 8.1 or 10.2. All Project approvals shall be effective for the Land Use Term.”

2. Successor and Assigns. This Amendment No. 4 shall be binding upon and inure to the benefit of the City, the Owner, and their respective successors and assigns.
3. Integration. Except as expressly provided to the contrary herein, all provisions of the initial Development Agreement as amended, which is incorporated herein by reference, shall remain in full force and effect. The Development Agreement and this Amendment No. 4 shall hereafter be collectively referred to as the Development Agreement. The Development Agreement, as amended herein, integrates all of the terms and conditions of agreement between the Parties and supersedes all previous agreements between the Parties with respect to the subject matter hereof. To the extent that the terms of the initial Development Agreement as amended and this Amendment No. 4 conflict, the terms of this Amendment No. 4 shall prevail and control.
4. Authority to Execute. The person or persons executing this Amendment No. 4 on behalf of Owner warrant(s) and represent(s) that they have the authority to execute this Amendment No. 4, that they are the proper interest holders and/or successors in interest to the previous Parties executing the Development Agreement, and they further warrant that they have the authority to bind their respective Owner to the performance of the obligations hereunder. Signatories shall defend, indemnify, and hold harmless the City, and its agents, officers, and employees, from any challenge related to the authority of any person or persons signing this Amendment No. 4.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 4 as of the date set forth above.

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Patrick Tang  
City Attorney

**CITY:**

CITY OF HERCULES  
a municipal corporation

By: \_\_\_\_\_  
Dante Hall  
City Manager

By: \_\_\_\_\_  
Dan Romero  
Mayor

**OWNER:**

SANTA CLARA VALLEY HOUSING  
GROUP, INC., a California Corporation

By: \_\_\_\_\_  
Stephen E. Schott  
Vice President