

ORDINANCE NO. 18-

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING AMENDMENTS TO THE HILLTOWN DEVELOPMENT AND OWNER PARTICIPATION AGREEMENT TO REMOVE THE REDEVELOPMENT AGENCY AS A PARTY TO THE AGREEMENT, CONDITIONALLY EXTEND THE TERM OF THE AGREEMENT, AND TO CLARIFY THE DEVELOPER'S OBLIGATIONS REGARDING AFFORDABLE HOUSING, STORMWATER AND CLEAN WATER REQUIREMENTS, AND THE IN-LIEU SPORTS FACILITY FEE

WHEREAS, the City of Hercules ("City"), the Redevelopment Agency ("Agency"), and the Santa Clara Valley Housing Group ("Owner") entered into a ten year Development and Owner Participation Agreement ("Development 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, with respect to the development of approximately 44 acres of certain real property located in the City of Hercules, California; and

WHEREAS, Pursuant to the State's Redevelopment Dissolution Law (ABx1 26 and subsequent amendments; together, the "Redevelopment Dissolution Law"), the Agency was dissolved as of February 1, 2012 and the Successor Agency to the City of Hercules Redevelopment Agency ("Successor Agency") undertook the responsibility of winding up the affairs of the Agency; and

WHEREAS, consistent with those efforts, after duly noticed public hearings, the Successor Agency on April 24, 2018, adopted Resolution No. SA 18-018 approving Amendments to the Development Agreement to remove itself as a party to the Development Agreement, which resolution is incorporated herein by reference; and

WHEREAS, 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 new roadways (the "**Project**") in accordance with all required Project Approvals; and

WHEREAS, the City and Owner desire to amend certain provisions of the Development Agreement as described in the proposed Amendment to the Development Agreement, attached hereto and incorporated by reference herein, including but not limited to conditionally extending the term of the Development Agreement and removing the Agency as a party to the Development Agreement; and

WHEREAS, the City and Owner desire to amend other provisions of the Development Agreement including:

-Clarifying that the Owner is responsible for all design, construction, and installation of required stormwater control and clean water requirements applicable to the Project at time of construction,

-Clarifying that the in-lieu sports facility fee can be used by the City for any recreational and park related purpose, and

-Clarifying Owner's obligation to provide affordable housing.

WHEREAS, the City Council finds that the provisions of the proposed amendment are consistent with the general plan and any applicable specific plan; and

WHEREAS, the City Council finds and determines that the proposed amendments to the Hilltown development agreement are Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the covered by the 'general rule', as the project will not have a significant effect on the environment. The City Council determines that the proposed amendments to the Hilltown Development Agreement are categorically exempt from CEQA pursuant to section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the amendments will not have a significant effect on the environment. The City Council also determines that the proposed amendments are categorically exempt from CEQA pursuant to section 15303(a) of the CEQA Guidelines.

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

The City Council of the City of Hercules hereby approves the proposed amendments to the Hilltown Development Agreement as attached hereto and incorporated by reference herein.

BE IT FURTHER ORDAINED:

a. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:

1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or

2. Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or

3. Publishing a summary of the Ordinance in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.

b. This Ordinance shall go into effect thirty (30) days after the date of its final passage

and adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 24TH day of April, 2018, and was passed and adopted at a regular meeting of the Hercules City Council on the 8th day of May, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chris Kelley, Mayor

Lori Martin, Administrative Services Director &
City Clerk