



September 12, 2023

Cynthia Roberts, Foreperson
2022-2023 Contra Costa County Civil Grand Jury
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

Dear Ms. Roberts and members of the Grand Jury,

Thank you for your June 16, 2023 letter and the accompanying Grand Jury Report No. 2306, "Affordable Housing: A Plan Without a Home," in which you highlighted several findings that align with the prevailing trends and challenges in our jurisdiction. Please consider this to be the City of Hercules' response.

As part of our review process, we carefully considered your concerns, and we acknowledge that some findings may lack context. As you highlighted in your letter and report, one significant challenge is the lack of funding for affordable housing initiatives. Additionally, even when funding is available, the competition for these dollars often discourages developers from pursuing projects with a lower probability of receiving funding. However essential it is to emphasize that local jurisdictions play a pivotal role in fostering housing development, including affordable housing options, development activity will often follow the path of least resistance.

Your letter and report indicate that all findings and recommendations uniformly apply to Contra Costa County and the 19 incorporated towns/cities. While we acknowledge the similarities in many challenges we face as a region, we also recognize the uniqueness of each community and therefore the specific challenges and associated solutions for Contra Costa County are different, based on geography/location, demographics, market conditions, land availability and associated costs, and land use/transportation options. Individual jurisdictions may also face unique constraints, especially environmental constraints, which may compromise a jurisdiction's ability to address housing needs.

Here in Hercules, our community is divided by two railways and two freeways, which create significant pedestrian and bicycle barriers between many of our development opportunity sites and existing retail and other services. Our waterfront sites, which are governed by a master plan and development agreement that together create a dense, mixed-use and mixed-income neighborhood focused on our transit center site, have experienced challenges in the current economic climate. We expect considerable additional demand in the future when the planned Hercules Hub is funded and completed, thereby bringing rail and potentially ferry service to the waterfront.

Finally, among the key points from our review and your findings, unfunded mandates from the State that add to the administrative burden continue to impact local jurisdictions and their ability to take proactive steps to increasing housing production. On January 1, 2023, additional housing laws went into effect, including changes to the State Density Bonus law and the Accessory Dwelling Unit (ADU) law. On July 1, 2023, two additional laws came into effect, requiring local jurisdiction staff to create handouts and checklists and re-prioritize workloads to process housing applications on commercial corridors. Before January 1, 2024, local building and public works departments need to develop specific submittal requirements for post-entitlement permit applications, and all such applications, such as building and grading permits, will be subject to a "shot clock" to review and approve permits. The expectations and costs to local jurisdictions and their staff are significant and, without adequate funding and resources, impact local jurisdictions' ability to focus their resources on implementation.

The key points from our review and partially your findings are as follows:

- **Lack of Funding:** The shortage of funding poses a significant obstacle to the development of affordable housing projects in our jurisdiction. This scarcity hampers the progress of initiatives aimed at addressing the housing needs of our community.
- **Competition for Funding:** When funding becomes available, developers often face stiff competition. This intense competition can lead developers to focus only on projects that have a higher likelihood of receiving funding, potentially leaving out projects that may cater to specific, underserved demographics.
- **Jurisdictions' Role in Housing Development:** Local jurisdictions do not directly produce housing. However, they play a crucial role in creating an environment that encourages housing development, including affordable housing options. The Housing Element and Housing Plan of each jurisdiction serve as essential frameworks for addressing housing concerns.
- **Tools and Collaborative Efforts:** To proactively address the housing needs of our community, jurisdictions utilize various tools provided by the State and local government. This includes setting goals, policies, and actions in their Housing Element and Housing Plan. Collaborative efforts involving developers, community organizations, and other stakeholders are crucial in achieving sustainable and inclusive housing solutions.

The housing crisis has become a pressing concern in our jurisdiction and beyond, with far-reaching implications for individuals and communities. Escalating housing costs, coupled with stagnant wages and limited housing supply, have led to an increasing number of individuals and families struggling to secure decent and affordable housing.

The lack of accessible housing options has particularly impacted vulnerable populations, including low-income households, seniors, disabled, and individuals experiencing homelessness. As local jurisdictions endeavor to tackle this crisis, they are confronted with the daunting challenge of vying for limited resources and funding. The competition among

jurisdictions with diverse capacities and needs often accentuates the difficulty of implementing comprehensive and equitable housing solutions.

Your letter has shed some light on critical aspects of the housing crisis we face today and affirmed that we are not alone as a jurisdiction in facing these challenges. Despite potential areas of partial disagreement, we acknowledge the factual basis of your findings and recognize the interconnectedness of the underlying conditions that have given rise to the current challenges.

According to page 19 of the Report, Hercules is required to respond to Findings FI-F13 and Recommendations RI-RIO.

Findings:

FI. Within existing city or County infrastructure there is no clear owner who is responsible for achieving RHNA permitting targets.

Partially Disagree. We partially disagree with Finding 1 because while a single entity is responsible for reporting on RHNA permitting targets, jurisdictions do not develop housing projects. State Housing Law only requires that jurisdictions plan to address barriers to development, accommodate all types of housing based on the RHNA allocations, and report their progress towards RHNA. Nevertheless, the City facilitates the development of housing through a number of planning tools, including but not limited to specific plans and density bonus incentives. The Community Development Department is also responsible for preparing the Annual Progress Report (APR) as required by State Housing Law. These reports are presented before the City Council early in the calendar year, prior to submission to HCD. Furthermore, each jurisdiction's Housing Element identifies the department responsible for carrying out the Housing Element's Plans and Programs.

F2. City and County officials see no direct path to meet state-mandated regional housing (RHNA) targets.

Partially Disagree. We partially disagree with Finding 2 because while City and County officials recognize the challenges ahead, our Housing Element identifies a clear path to accommodate the RHNA targets and we are actively exploring and implementing strategies to work towards meeting state-mandated regional housing (RHNA) targets. Despite acknowledging the complexity of the task, officials are committed to finding viable solutions and collaborating with stakeholders to address the housing needs of the region. Through ongoing assessments and adaptive planning, they aim to identify feasible pathways to make progress toward meeting RHNA targets. While it may be a challenging endeavor, the dedication and proactive approach of City officials demonstrate their commitment to addressing the housing crisis and fulfilling their obligations in accordance with state mandates. However, the cities and County are not housing developers and do not construct the units.

F3. There are currently no measurable penalties if a city or a County does not achieve RHNA targets in an approved housing element plan.

Partially Disagree. We partially disagree with Finding 3 because while there are no legal or financial penalties if the cities and County do not achieve their RHNA targets, there are penalties for not accommodating RHNA in a Housing Element, and the consequences for not issuing adequate permits can be considered punitive.

In addition, jurisdictions are subject to penalties if they do not adopt a Housing Element that is certified by the State, including designating adequate sites to accommodate the RHNA targets. For example, cities and the County may be subject to litigation from individuals, housing rights' organizations, developers, and/or HCD. Depending on court decisions, local control may further diminish, beyond that prescribed in State law, including, for example, suspending the cities' or County's authority to issue building permits or approve certain land use permits. Cities and the County may also be subject to court-issued fines, court receivership, and streamlined approval processes that remove local discretion.

Regardless of the reasons for lack of building permit activities, if the cities or County do not issue building permits that meet the RHNA targets, developers may choose to use a ministerial process for housing projects that meet specified criteria (SB 35). In addition, a developer could choose to construct housing on sites that the cities or County have not designated for housing.

F4. Data published by ABAG shows that Contra Costa County and most of its cities have missed their current RHNA targets for very low- and low-income housing allocations. The allocation requirements continue to increase (16x for very low-income and 4x for low-income residents).

Partially Disagree. It is true that many cities and the County as a whole missed their RHNA targets for very low and low-income housing, and that RHNA Allocation for very low- and low-income housing has continued to increase. However, the increase in RHNA allocation is not to the extent mentioned in this report. RHNA numbers from the past 3 cycles indicate that the current (6th) cycle has had the largest increase of 2.5x from the previous cycle in very low- and low-income housing requirements.

Cycle	Very Low	% permitted	Low	% permitted	Source
1999 - 2006	6,481	44%	3,741	48%	link
2007 - 2014	6,512	21%	4,325	24%	link
2015 - 2020	5,264	16%	3,086	55%	link
2023 - 2031	13,346	n/a	7,685	n/a	link

F5. Many obstacles hinder the development of AH at the local level, specifically for very low and low-income housing, including:

- **Limited availability of land;**
- **Restrictive zoning policies specific to AH development;**
- **Limited developer interest to bring projects forward;**
- **Limited available funding;**
- **Lack of community support;**
- **NIMBY opposition & city council response to NIMBY opposition.**

Partially Disagree. Though the above list of obstacles can hinder the development of affordable housing, the City has addressed each item in their Housing Element programs, policies, and actions to the extent feasible and considered acceptable to HCD.

Hercules's Housing Element includes many new programs aimed at overcoming these barriers:

a. Limited availability of housing:

Program H2-2: Mixed-Use and TOD Sites Lot Consolidation

Program H2-5: Alternative Housing Models

Program H2-6: No Net Loss

Program H2-7: Replacement of Units on Sites

Program H2-8: Development on Nonvacant Sites

b. Restrictive zoning policies specific to affordable housing development:

Program H3-1 : Density Bonuses

Program H3-2: Housing for Extremely Low-Income and Low-income Households

c. Limited developer interest to bring projects forward:

Program H3-3: Development Process Streamlining

Program H3-4: Reduce Parking Constraints for New Development

d. Limited available funding:

Program HI -2: Affordable Housing Partnerships and Funding Sources

Program HI-1 : First-Time Homebuyer Assistance Programs

e. Lack of community support:

Program H4-2: Fair Housing Services

Program H4-4: Outreach Plan

f. NIMBY opposition and city council response to NIMBY opposition

NIMBY opposition has not been a significant factor in Hercules. Since May 2017, the Planning Commission and City Council have approved six major project

entitlements that together will provide over 1,500 homes, nearly all of which are multifamily units, and more than 400 of these homes have been built within the past five years, despite the pandemic and economic downturn. The detail and clarity of the City's desired vision for development as expressed in its Form-Based Codes has been instrumental in facilitating development approvals that are accepted by the community and Council.

F6. Zoning changes are generally addressed only when a project is presented for development. Zoning obstacles include:

- **Housing element plans that offer poor land choices for AH development;**
- **Restrictive height and high-density zoning policies;**
- **Lack of inclusionary housing ordinance(s) in many cities.**

Partially Disagree. AB 1397 set forth strict criteria for adequate sites. These criteria are somewhat arbitrary (e.g., not smaller than 0.5 acre and not larger than 10 acres). The requirement to demonstrate substantial evidence that existing uses do not impede redevelopment also tends to steer sites selection to neighborhoods with declining uses and lower and moderate resource areas.

Most jurisdictions consider amending/changing the zoning while reviewing their Housing Element and/or updating the General Plan, not just when a project is proposed for development.

- a. Pursuant to Government Code Section 65583.2(b), Housing Element sites must include information on the number of dwelling units that a site can realistically accommodate, the RHNA income category the parcel is anticipated to accommodate, whether the parcel has available or planned and accessible infrastructure, and the existing use of the site, amongst other details. When selecting sites to accommodate the lower income RHNA, HCD provides jurisdictions with best practices to consider factors such as:

- (1) Proximity to transit
- (2) Access to high performing schools and jobs
- (3) Access to amenities, such as parks and services
- (4) Access to health care facilities and grocery stores
- (5) Locational scoring criteria for Low-Income Housing Tax Credit (TCAC) Program funding
- (6) Proximity to available infrastructure and utilities
- (7) Sites that do not require environmental mitigation
- (8) Presence of development streamlining processes, environmental exemptions, and other development incentives.

However, sites that meet these locational criteria do not always meet the other existing use criteria needed to demonstrate substantial evidence for existing uses to discontinue within the planning period. These include high vacancies, deteriorating conditions, marginally operating businesses, underutilization of sites, etc. These conditions are often directly contrary to

access to high performing schools and jobs, amenities, adequate infrastructure, and clear of environmental hazards.

In addition to the above requirements and pursuant to AB 686 (Government Code Section 65583(c)(10)), Housing Elements due on or after January 1, 2021, sites must be identified throughout the community in a manner that affirmatively furthers fair housing (AFFH). AFFH means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

Very often the approach to sites selection is to target declining areas for redevelopment. Without tax increment financing as a reinvestment tool, jurisdictions must rely on private investments as catalyst to induce redevelopment in declining neighborhoods. Housing is the best catalyst. For jurisdictions that take a neighborhood revitalization approach to accommodating the RHNA, place-based strategies that focus on public improvements, economic development, prioritization of funding, and targeted outreach are used to complement the sites inventory strategies.

As such, Housing Element plans provide an inventory of land that addresses the unique conditions of each jurisdiction.

- b. According to State Density Bonus Law (SDBL), local agencies are required to allow increased density, reduced standards, and development incentives based on the number and type of affordable housing units proposed in a project. The SDBL applies to housing projects, including mixed-use developments, new subdivisions, or common-interest development. Developers may request incentives and concessions from the jurisdiction's regulatory or development standards that result in actual and identifiable cost reductions to provide for affordable housing costs or rents. The number of required incentives is based on the percentage of affordable units provided in the qualifying project. For example, developers may ask for increased height above that allowed by the zoning regulations. As such, height and density do not represent a restriction to development. Furthermore, many sites are located in transit-oriented neighborhoods where recent State laws have preempted restrictions on height and density.
- c. Due to economic conditions, the loss of redevelopment authority, and previous court decisions regarding inclusionary requirements on rental housing, Hercules suspended its inclusionary housing ordinance in 2012, and most major projects approved since then have had inclusionary housing as negotiated on a case-by-case basis.

F7. Penalties directed at cities and the County (financial, loss of control over local planning) are tied to not meeting state deadlines for Housing Element plan approval.

Partially Disagree. We agree that there are penalties that are directly related to not meeting statutory deadline of the Housing Element. Builder's Remedy, where individuals may apply for a building permit on land that is not designated for housing, is one such penalty that is directly linked to meeting state deadlines for Housing Elements.

We partially disagree with Finding 7 because there are other penalties that are not directly tied to the statutory deadline. There are penalties associated with lawsuits, which are rarely brought forward for simply missing the statutory deadline, but more due to a perception of continued inactions. Penalties also include eligibility for funding, including some of the grants needed to fund the design and construction of the Hercules Hub.

As stated in the response to Finding 3, cities and the County may be subject to litigation from individuals, housing rights' organizations, developers, and/or HCD. Depending on court decisions, the cities and the County may lose additional local control, such as suspension of authority to issue building permits or approve certain land use permits; and/or cities and the County may be subject to court-issued fines, court receivership, and streamlined approval processes that remove local discretion.

In addition, depending on specific programs, eligibility for some state funds requires a certified Housing Element (such as PLHA and State HOME funds). Finally, loss of local control is not limited to jurisdictions that do not meet specified timeframes for a certified housing element. For example, SB 35, the Housing Accountability Act, the No Net Loss Act, Density Bonus Law, and AB 2011/SB 6 specify what types of projects local jurisdictions must approve and where such projects must be approved, regardless of whether jurisdictions meet state deadlines for Housing Elements.

Link to information on HCD's accountability efforts and enforcement authority:
<https://www.hcd.ca.gov/planning-and-community-development/accountabilityand-enforcement>

F8. *Builder's Remedy and SB35 projects do not address ingrained local obstacles identified in this report that prevent the completion of approved AH projects.*

Partially Disagree. While Builder's Remedy and SB35 projects are valuable tools that can expedite affordable housing development, they may not comprehensively address all the ingrained local obstacles identified in this report that hinder the completion of approved AH projects. The effectiveness of these streamlined processes can vary from jurisdiction to jurisdiction, and while they can help overcome certain barriers like restrictive zoning policies and prolonged approval timelines, other challenges mentioned in the report, such as limited available funding, community support, and NIMBY opposition, may continue to persist in diverse degrees in different locations. To achieve the successful completion of approved AH projects and effectively address these obstacles, a multifaceted and jurisdiction-specific approach is required, taking into account the unique circumstances and complexities faced by each locality.

F9. *When local Redevelopment Agencies (RDAs) were discontinued by the state in 2012, the County and cities did not address the loss of funding for affordable housing or find alternative funding to support affordable housing projects until voters passed Measure X in November 2020. Projects that target very low- and low-income residents were particularly impacted.*

Partially Disagree. While the County and cities did not create or find new sources of funds for affordable housing after the State discontinued 452 RDAs, State law limits local jurisdictions' ability to create new funding sources. Voters need to approve virtually all new funding or financing mechanisms to generate the revenues or funds needed to preserve existing affordable housing and construct or finance new affordable housing. The Board of Supervisors and Town/City Councils cannot, for example, float bonds any longer without voter approval.

While Measure X, the countywide 20-year 1/2 cent sales tax was approved in November 2020, Measure X is projected to provide *up to* \$12 million annually for "housing and related services" for the entire County (emphasis added). This amount of funding represents only a fraction of what is needed to mitigate the housing crisis in a meaningful magnitude. Measure X Affordable Housing funds will be distributed through a Notice of Funding Availability (NOFA) process, a competitive process. The criteria for weighing funding applications no doubt will favor certain communities over others, while all communities are faced with the same critical need for funding.

F10. *Measure X housing funds are not fully dedicated to building AH for very low- and low-income residents,*

Agree. Hercules agrees with this finding.

F11. *Local funding provided by bonds like Measure X Housing Fund is a critical component of a developer's overall ability to raise funds for an AH development.*

Partially Disagree. Bond funding requires voters' approval. Depending on the timing (economic conditions and bond measures for other competing interests), bond financing has not been the most significant source of affordable housing financing. While local funding provided by bonds like Measure X Housing Fund in Contra Costa County are a beneficial component to help fund affordable housing construction, the amount of funding available from Measure X is not high enough to be a critical factor in a developer's overall ability to raise funds for an affordable housing (AH) development. Under the Measure X Program Allocation Summary, only \$10 million dollars (about 13% of FY 2022-23 funding and about 4.5% of total funding) were allocated to a Local Housing Trust Fund; for FY 202324, \$12 million dollars were allocated. The Measure X Housing Funds are to be dispersed by the Department of Conservation and Development (DCD) and the Health Services' Health, Housing and Homeless (HSD-H3) Services and the Housing Authority of the County of Contra Costa. While a contributing factor, Measure X dollars allocated to housing production is not critical to the overall ability of the jurisdictions to meet their RHNA requirements for affordable housing.

F 12. Cities that proactively engage citizens, address zoning obstacles, make reasonable zoning concessions, work collaboratively with developers, provide local funding support, and are united in addressing NIMBY opposition, have been successful in attracting AH projects.

Partially Disagree. Hercules agrees that proactive strategies can help attract affordable housing developers and mitigate the barriers to housing production; however, proactive strategies alone do not result in affordable housing projects being constructed. For example, while Hercules engages in all of the above, a variety of other obstacles towards affordable housing development exist beyond a local jurisdiction's control. This includes the gap in financing between constructing market-rate versus affordable housing, land costs, the land-to-building ratio when a property contains an underutilized building, the cost to upgrade or renovate an existing nonresidential building to accommodate housing, infrastructure costs (on- and off-site), fees for public utilities (particularly for non-municipal utilities), etc.

F13. The latest RHNA targets for cities and unincorporated Contra Costa County show a significant increase in the number of units that are expected to be permitted for very low- and low-income housing.

Partially Disagree. It is true that RHNA Allocation for very low- and low-income housing has continued to increase. However, the increase in RHNA allocation is not to the extent mentioned in this report. RHNA numbers from the past 3 cycles indicate that the current (6th) cycle has had the largest increase of 2.5x from the previous cycle in very low- and low-income housing requirements. Please see the response to Finding 4 for detailed RHNA numbers from previous Housing Element cycles.

Recommendations

RI. Each city and the County should consider assigning a staff position with clear leadership, ownership and accountability to achieve allocated RHNA targets. The individual in this position would be responsible for establishing and promoting an operational plan to achieve the RHNA goals set forth in the housing element plan.

The recommendation has been implemented. California's Housing Element Law acknowledges that, in order for the private market to adequately address the housing needs and demands of Californians, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain) housing development. Cities and Counties are not responsible for the development and construction of housing to achieve the allocated RHNA targets. Instead, they are responsible for the effective implementation of their housing elements and associated programs to address any existing constraints to housing and for tracking and reporting the jurisdiction's progress toward achieving their RHNA. The Community Development Department is assigned with the responsibility of the above tasks.

R2. Each city and the County should report AH progress and lack of progress using data across all four measured income groups. Special attention should be paid to tracking the housing needs of residents categorized as very low- and low-income. Cities and the County should communicate their progress, biannually, against RHNA targets at council and supervisor meetings.

The recommendation has been implemented. State Law (S65400) requires each jurisdiction (city council or board of supervisors) to prepare an annual progress report (APR) on the jurisdiction's status and progress in implementing its housing element (HE) using forms and definitions adopted by the California Department of Housing and Community Development (HCD).

The HE APR allows HCD to track the progress of the implementation of a jurisdiction's Housing Element and requires its submission as a threshold requirement for several State housing funding programs ([source](#)).

Through the forms and tables provided by HCD ([link](#)), jurisdictions must report annual data on housing in the APR, including the following:

- Housing development applications received (including proposed number of units, types of tenancy, and affordability levels)
- Building/construction activity
- Progress towards the RHNA
- Sites identified or rezoned to accommodate a shortfall in housing need
- Program implementation status
- Local efforts to remove governmental constraints to the development of housing
- Projects with a commercial development bonus
- Units rehabilitated or preserved
- Locally owned lands included in the sites inventory that have been sold
- Locally owned surplus sites

Government Code S65400 requires the planning agency to provide this report to the legislative body (i.e., local Council or Board), HCD, and OPR by April 1 of each year (covering the previous calendar year). APRs must be presented to the local legislative body for its review and acceptance, usually as a consent or discussion on a regular meeting agenda.

The statute does not specify in which order they be provided, and HCD does not require the report to be submitted to the legislative body prior to submitting it to HCD. However, HCD recommends that planning departments provide the report to the local legislative body prior to sending it to HCD and OPR ([source](#)). Biannual reporting would divert staff time from other housing programs.

R3. Each city and the County should consider creating a dedicated AH commission comprised of a multi-disciplinary team of diverse citizens and led by a current, nonelected, city expert in planning. Each commission would be charged with providing a community voice in the process and helping to

identify and address obstacles that hinder the development of affordable housing projects in their community.

The recommendation will not be implemented. We appreciate the thoughtful recommendation to create a dedicated Affordable Housing (AH) commission comprised of a multi-disciplinary team of diverse citizens, led by a current, non-elected, city expert in planning. While we acknowledge the potential benefits of such a commission, after careful consideration, we have decided not to pursue its implementation due to the following reasons:

Existing Planning Mechanisms: Our city already has established planning mechanisms responsible for addressing affordable housing issues, including the City's Planning Commission and its participation in the County's Advisory Committee on Aging and the Citizens Advisory Committee to the Contra Costa Transportation Authority. These existing structures provide platforms for community engagement and collaboration, making the formation of a separate commission redundant and potentially duplicative of efforts.

Resource Constraints: Establishing and maintaining a dedicated AH commission would require additional financial and administrative resources. At present, our city and County are already allocating resources to multiple initiatives aimed at addressing affordable housing needs. Adding another commission might spread resources too thin and hinder the efficiency of current efforts.

Efficient Decision-Making: By involving a diverse range of citizens and experts in our existing planning commission, we maintain a balanced and inclusive approach. This integration ensures streamlined decision-making processes and comprehensive representation of community interests without creating an additional layer of bureaucracy.

R4. Each city and the County should consider reviewing existing processes and identifying changes that would address or resolve the specific obstacles identified in this report that hinder achieving RHNA allocation targets for very low- and low-income housing in their community.

The recommendation has been implemented.

Comprehensive Process Review: As required by State Law, jurisdictions have reviewed existing processes and identified programs to address any potential constraints to development through the Housing Element's Constraints and Zoning Analysis Section. Hercules has conducted a thorough review of existing processes related to affordable housing development, permitting, and zoning regulations. This review aimed to identify any inefficiencies or barriers ("constraints") that may have contributed to the challenges in meeting RHNA allocation targets. Programs targeted to reviewing existing processes and identifying changes that would address or resolve specific obstacles include the following:

- Program H2-3 Review/revise Development Code to provide appropriate standards for development of senior housing

- Program H3-2 Housing for Extremely Low-Income and Low-income Households
- Program H3-3 Development Process Streamlining
- Program H3-6 Infrastructure Master Planning

Stakeholder Engagement: To ensure a comprehensive and inclusive approach, stakeholders, including community members, developers, housing advocates, and relevant government agencies, were actively engaged throughout the process. Feedback and input from these stakeholders played a pivotal role in shaping the subsequent actions.

Identifying Key Obstacles: Based on the review and stakeholder input, specific constraints hindering the achievement of RHNA allocation targets were identified. These included issues related to funding constraints and limited developer interest.

Development of a Housing Plan: With a clear understanding of the obstacles, each city and the County developed tailored action plans to address the identified challenges. These action plans outlined concrete steps, timelines, and responsible parties for implementation that have been or are in the process of being deemed appropriate by the State Department of Housing and Community Development.

Policy and Regulatory Reforms: To streamline affordable housing development, policy and regulatory reforms were introduced to the broader community at both the Planning Commission and City Council levels and noticed public hearings. These reforms aimed to remove unnecessary barriers, expedite permitting processes, and incentivize the construction of affordable housing.

Outcomes Achieved: As a result of these actions, tangible progress can be made towards meeting RHNA allocation targets for very low- and low-income housing in each community. The review and reforms will lead to a more efficient and supportive environment for affordable housing development.

New inclusionary housing projects have been approved and initiated, increasing the overall housing stock for low-income residents. The engagement of stakeholders has fostered a collaborative approach to address housing challenges, and community support for affordable housing initiatives has grown significantly.

The City's 2021 decision to partner with the California Community Housing Agency to facilitate its acquisition of one of the new waterfront multifamily buildings, the Exchange at Bayfront, has resulted in the creation of 172 workforce units affordable to households earning 80% to 120% of median income.

While challenges persist, the ongoing commitment of the jurisdiction to address the obstacles identified in the report demonstrates significant strides in advancing affordable housing goals. Continued efforts and collaboration will be crucial in achieving sustained progress and ensuring housing accessibility for all members of our communities.

R5. Each city and the County should consider developing a public dashboard to report progress against RHNA targets.

The recommendation has been implemented. Each jurisdiction (city council or board of supervisors) must prepare an annual progress report (APR) on the jurisdiction's status and progress in implementing its housing element using forms and definitions adopted by the California Department of Housing and Community Development (HCD). (Government Code Section 65400.) Each jurisdiction's APR must be submitted to HCD and the Governor's Office of Planning and Research (OPR) by April 1 of each year (covering the previous calendar year (CY)). HCD compiles and showcases all APRs through their interactive digital data dashboard with downloadable data sets. ([link](#))

In addition, all jurisdictions are subject to Government Code Section 65863 (No Net Loss Law), which was amended in 2017 with SB 166, and requires jurisdictions to maintain adequate sites to accommodate remaining unmet RHNA at each income level throughout the life of an adopted Housing Element. The No Net Loss Law restricts cities and the County from approving a housing project at a lower density, or with fewer units than identified in the Housing Element unless a corresponding number of units are accommodated and identified elsewhere in the cities or County. To assist with the monitoring, cities and the County are developing standard language to include in staff reports when housing projects come forward to decisionmakers for approval and are exploring a No Net Loss Tool to help monitor RHNA progress.

R6. Each city and the County should consider, in their individual Housing Element plans, putting forth land zoned "suitable for residential use, " without development obstacles, and located strategically close to existing services, for AH purposes.

The recommendation has been implemented. As required by State Law, jurisdictions are required to prepare a site inventory identifying land suitable and available for residential development to meet the locality's regional housing needs by income level. Please see the response to Finding 6(a) for details. Further, in addressing HCD's Affirmatively Furthering Fair Housing (AFFH) requirements there is a thorough review of the site selection via the Tax Credit Allocation's Committee (TCAC) Resource Map that designates areas of low-, moderate-, high-, and highest-resource within a jurisdiction and requires specific justification for placing affordable housing projects within low-resources areas.

R7. Each city and the County should consider reviewing their zoning policies to identify restrictive zoning policies unique to their jurisdiction that impede AH projects and consider making zoning changes in light of that review that will support AH in their community.

The recommendation has been implemented. Through the Housing Element process, jurisdictions have reviewed their zoning policies and identified potential affordable housing development constraints unique to their jurisdiction. The

Housing Element Program Section outlines forthcoming changes to their zoning policies with specified timeframes to address the identified constraints.

R8. *Cities should consider adopting an inclusionary housing ordinance as part of their standard development policy by the end of 2023 (if not already in place).*

This recommendation will not be implemented. On June 12, 2012, the City of Hercules suspended its inclusionary housing ordinance indefinitely due to the dissolution of redevelopment and the City opting out of managing the affordable housing obligations of the former Hercules Redevelopment Agency due to lack of funding. The Housing Authority of Contra Costa County became the Housing Successor by operation of law but did not formally accept the Hercules RDA's housing assets to avoid jeopardizing HUD funding. Since September 2022, the City has been engaged in discussions with the Housing Authority regarding the City's desire to resume the role of affordable housing successor agency, so it can legally administer housing assets and functions of the former Hercules RDA, such as outstanding loans issued to low-income homeowners by the former Hercules RDA who request payoff and refinancing. The City provided a draft agreement for the County's review in March 2023.

Currently, inclusionary housing in the City is negotiated on a case-by-case basis. An Inclusionary Housing Ordinance was not determined to be necessary when the Fifth Cycle Housing Element was adopted in April of 2015. The draft Sixth Cycle Housing Element also has not determined that an Inclusionary Housing Ordinance was necessary. However, the jurisdiction will be conducting an analysis of the current approach and the number of units developed or proposed to be developed for the 6th cycle as an action item in the City's housing plan. Currently, affordable housing requirements are negotiated and memorialized in development agreements, that currently include, on average, that 5% of the housing units produced will be affordable units.

R9. *Each city and the County should consider how to prioritize the implementation of housing projects that promote development of very low- and low-income housing.*

The recommendation has been implemented. According to local ordinance, it is mandatory for cities and counties to assess all development projects within specified timelines. Nevertheless, jurisdictions have implemented incentives and expedited permitting processes for certain categories of housing type or tenure.

City and County officials have reviewed and revised zoning regulations to incentivize the development of very low- and low-income housing projects. By designating specific zones for affordable housing and providing waivers, concessions and/or density bonuses for qualifying projects, the goal is to encourage developers to prioritize these types of housing developments.

Collaborative efforts between public entities and private developers have been fostered to maximize available resources and expertise. Through these

partnerships, the County and cities leverage private sector investments to create a greater number of affordable housing units.

Further, the preservation and promotion of naturally occurring affordable housing (NOAH), is also part of our affordable housing strategy. While developing housing that is affordable to lower income households is important and a key strategy, preservation of affordable units is equally important and requires additional resources. It may, in some cases, be more cost effective to preserve existing units. Additionally, the promotion of Accessory Dwelling Units, as NOAH, is a key strategy identified in our Housing Plan.

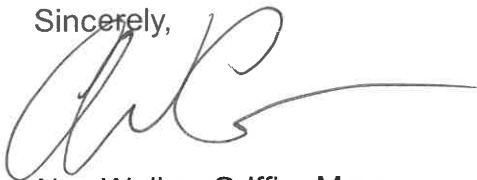
R10. Each city and the County should consider prioritizing Measure X funding requests that support projects that address RHNA targets for very low- and low-income residents. Each city and County should consider reporting regularly to their residents on the use of Measure X funds for such purposes.

The recommendation will not be implemented. Measure X is a countywide 20 year, 1/2 cent sales tax approved by Contra Costa County voters on November 3, 2020 "to keep Contra Costa's regional hospital open and staffed; fund community health centers, emergency response; support crucial safety-net services; invest in early childhood services; protect vulnerable populations; and for other essential county services." Under the Measure X Program Allocation Summary, only \$10 million dollars (about 13% of FY 2022-23 funding and about 4.5% of total funding) were allocated to a Local Housing Trust Fund; for FY 2023-24, \$12 million dollars were allocated. The Measure X Housing Funds are to be dispersed by the Department of Conservation and Development (DCD) and the Health Services' Health, Housing and Homeless (HSD-H3) Services and the Housing Authority of the County of Contra Costa. The use of Measure X funds for housing are reported by the County here: <https://www.contracosta.ca.gov/8530/Measure-X>

By working collaboratively and understanding the broader context of the housing crisis, we strive to develop more effective strategies and policies to address this pressing issue and create a more inclusive and sustainable housing landscape for all members of our community.

We hope this letter is responsive to your request.

Sincerely,



Alex Walker-Griffin, Mayor