

VOLUNTARY NOTICE TO BONDHOLDERS POTENTIAL ASSET SALE

The City of Hercules (the "City") hereby provides notice of the following voluntary notice related to the following bond issues (collectively, the "Bonds"):

- Hercules Public Financing Authority Refunding Revenue Bonds (Electric System Project), Series 2010 (the "Refunding Bonds")
- Hercules Public Financing Authority Revenue Bonds (Electric System Project), Series 2010 (the "Revenue Bonds")

Each maturity of the Bonds is identified by the corresponding CUSIP Number set forth below:

<u>Maturity Dates</u>	<u>Refunding Series 2010 CUSIPs</u>	<u>Series 2010 CUSIPs</u>
August 1, 2013	427065AA5	427065AN7
August 1, 2014	427065AB3	427065AP2
August 1, 2015	427065AC1	427065AQ0
August 1, 2016	427065AD9	427065AR8
August 1, 2017	427065AE7	427065AS6
August 1, 2018	427065AF4	427065AT4
August 1, 2019	427065AG2	427065AU1
August 1, 2020	427065AH0	427065AV9
August 1, 2022		427065AW7
August 1, 2025	427065AJ6	
August 1, 2028		427065AX5
August 1, 2030	427065AK3	
August 1, 2033		427065AY3
August 1, 2038	427065AL1	
August 1, 2040		427065AZ0

Note: The CUSIP Numbers above are provided for the convenience of Bondholders. The City is not responsible for the accuracy or completeness of such numbers.

Voluntary Notice – Potential Asset Sale: In January 2012, the City Council adopted Resolution No. 12-012 determining that the Hercules Municipal Utility ("HMU") be sold in a manner specified by the Public Utilities Code and directed staff to prepare an ordinance to call for a special election schedule for February 2012. In February 2012, City Council approved to submit the proposition of whether to sell the HMU to qualified voters of the City. In June 2012, the voters granted the City the authority to sell the HMU. A copy of Ordinance No. 471 which described the procedures leading to the current state of the HMU sell is attached hereto as Exhibit A.

The City is currently soliciting offers from prospective bidders for the purchase of the HMU. Bond counsel has advised the City that if the City sells the HMU, the City may be required to defease the Bonds, in whole or in part, in order for the interest income to remain exempt from federal income tax. Therefore, the City anticipates the proceeds derived from the sale of the HMU will be used to defease the Bonds and pay other contractual obligations, with any remaining proceeds to be allocated to the City's general fund. No assurance can be provided that the sale of the HMU will occur or that the amount of proceeds derived from the sale of HMU will result in amount sufficient to defease all the Bonds. However, the City currently holds approximately \$4.5 million of bond proceeds from the Series 2010 that will be applied toward the repayment of the Bonds if the HMU is sold.

The City anticipates that the process to sell the HMU will take at least 8-9 months. No assurance can be provided that the sale process will be completed within such time period and may take longer depending on its negotiations

with qualified buyers.

Payment of Debt Service, No General Fund Advances

HMU does not currently produce sufficient net revenues to pay debt service on the Bonds. On August 1, 2012, pursuant to written direction from the City the Trustee applied the amounts of \$361,775.00 and \$384,637.50, respectively, from proceeds of the Refunding Bonds and the Revenue Bonds, to make up the shortfall in debt service. This leaves the amounts of \$241,436.29 and \$4,382,649.52, respectively, on deposit in the Acquisition and Construction Funds for the Refunding Bonds and the Revenue Bonds. The City expects to use \$807,000 of the Revenue Bond Acquisition and Construction Fund for capital projects in Fiscal Year 2012/13. Remaining amounts will be used to make up shortfalls in net revenues to pay debt service on the Bonds until such amounts are exhausted, or until the Bonds are redeemed or defeased in connection with a sale of HMU.

In connection with the issuance of the Refunding Bonds and the Revenue Bonds, the City entered into Cooperation Agreements with the Authority pursuant to which the City agreed to make advances from available funds in its General Fund to cover shortfalls in debt service on the Bonds. The City does not anticipate that there will be any available funds to make such advances in the foreseeable future and does not expect to make any such advances.

Other Matters - This notice is provided pursuant to the Continuing Disclosure Agreements dated June 1, 2010 and August 1, 2010 (the "Disclosure Agreements"). The filing of this notice does not constitute or imply any representation regarding any other financial or operating information about the City or any representation that no other circumstances or events have occurred which may have a bearing on the City's financial condition or an investor's decision to buy, sell or hold the Bonds.

Dated: September 25, 2012

CITY OF HERCULES

By: /s/ Steve Duran
City Manager

Exhibit A
Ordinance No. 471

ORDINANCE NO. 471

AN ORDINANCE OF THE PEOPLE OF HERCULES CONCERNING THE SALE OF THE HERCULES MUNICIPAL UTILITY

WHEREAS, the Hercules Municipal Utility (“HMU”) was established by the City of Hercules (“City”) as an enterprise fund within the City’s structure on January 9, 2001, with initial operation of the Utility beginning in March, 2003, and

WHEREAS, the purpose of creating the HMU was to establish the City as a provider of safe and reliable electric services to retail end-use customers located within certain parts of the City and the Water Pollution Control Plant jointly owned by the City and the City of Pinole and to generate revenue for the City, and

WHEREAS, HMU accepts electric power from the California grid via interconnect to Pacific Gas and Electric facilities owns and operates a 12,000 Volt distribution system consisting of conduits, vaults, cables, switches and transformers, and

WHEREAS, HMU serves in an area generally bounded by San Pablo Bay, San Pablo Avenue, Hercules Avenue and Linus Pauling Drive, in virtually all the Redevelopment Areas of the City, and currently serves over 800 residential and commercial customers, and

WHEREAS, at the time the HMU was established, the forecast was that the HMU service area would serve over 1800 new homes, with expansion of service to the Business Park, and

WHEREAS, the projected growth in the service area did not materialize due to a number of factors including a downturn in the economy, and

WHEREAS, the profitability of the HMU has been hampered by a lack of a sound business plan and best management practices, and

WHEREAS, HMU has never made a profit, and its operations have been and continue to be subsidized by the City, with current annual losses of over \$330,000 projected for 2012 and over \$730,000 forecasted for 2013, due to debt service and bond obligations, and

WHEREAS, due to the likelihood of continued losses for the immediate future, and the difficulties involved in the day-to-day running of a utility, the City proposes to entertain the possible sale, lease or other disposition of the Utility, and

WHEREAS, Article 2, Chapter 1, Division 5 of the California Public Utilities Code (“Code”) authorizes California municipal corporations to sell and dispose of any public utility they own; and

WHEREAS, the Public Utilities Code requires the City Council to order the proposition of selling the HMU to be submitted to the qualified voters of Hercules at a special election called by ordinance and held for that purpose; and

WHEREAS, the Public Utilities Code specifies that the votes of two-thirds of all voters voting at the election are necessary to authorize the sale of the HMU; and

WHEREAS, on January 24, 2012, the City Council adopted Resolution No. 12-012 on a 5-0 affirmative vote determining that the public interest and necessity demand that the HMU be sold in the manner specified by the Public Utilities Code and directing City staff to prepare this Ordinance calling for a special election, the Ordinance to be considered at a public hearing scheduled for February 14, 2012, and,

WHEREAS, due to a software error, the Agenda Notice for the February 14, 2012 Regular Council Meeting was not posted on the City's website 72 hours in advance of the meeting; and

WHEREAS, in order to meet the time specified in the California Elections Code for a June 5, 2012 election, the Council must now have a first reading of the Ordinance at a special Council meeting; and

WHEREAS, on February 16, 2012, Ordinance No. 466 was introduced and on first reading was approved by a 5-0 affirmative vote of the Council to submit the proposition of whether to sell the HMU to the qualified voters of the City, and

WHEREAS, on February 28, 2012, the City Council approved final passage of Ordinance No. 466 by a 5-0 affirmative vote to submit the proposition of whether to sell the HMU to the qualified voters of the City, and

WHEREAS, at the June 5, 2012, Special Election to authorize the sale of the Hercules Municipal Utility, the voters approved the Measure by an affirmative vote of greater than a two thirds margin to grant the City the authority to sell the Utility.

Now, Therefore, the People of the City of Hercules do hereby ordain as follows:

Section 1. That the City Council shall have the power and authority to sell and dispose of the Hercules Municipal Utility, established by the City as an enterprise fund in January 2001, pursuant to Article 2, Chapter 1, Division 5 of the California Public Utilities Code.

Section 2. That the net proceeds from any such sale of the Hercules Municipal Utility shall be for repayment of the Utility's debt and other contractual obligations, with any remaining proceeds allocated to the City's general fund.

Section 3. Election to Approve Ordinance; Effective Date. The provisions of this Ordinance shall be effective ten (10) days after the City Council certifies the results of the June 5, 2012 Special Election.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The People of the City of Hercules hereby declare that it would have passed each section, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, sentences clauses or phrases be held unconstitutional, invalid or unenforceable.

Section 5. Publication. The City Clerk shall cause this Ordinance to be published or posted in accordance with applicable law.

APPROVED by the following vote of the People of the City of Hercules on June 5, 2012:

Measure N	Sell Hercules Municipal Utility	Yes	2,987
		No	908


ADOPTED by Declaration of the vote by the City Council of the City of Hercules on July 24, 2012:

AYES: Boulanger, Delgado, de Vera, Wilkins, Romero

NOES: None

ABSENT: None

ABSTAIN: None



Dan Romero, Mayor

ATTEST

