

RESOLUTION NO. 98-23

**A RESOLUTION OF THE COUNCIL OF THE CITY OF RICHMOND DETERMINING
AND DECLARING CITY-OWNED LAND TO BE EXEMPT SURPLUS LAND
PURSUANT TO
GOVERNMENT CODE SECTION 54221(f)(1)(A)**

WHEREAS, the City of Richmond (“**City**”) is the owner of that certain real property located within the City consisting of approximately 1.2 acres, and more particularly described and depicted in Exhibit A-1 attached hereto (“**Subarea 1**”).

WHEREAS, pursuant to that certain Disposition and Development Agreement dated as of April 11, 2002, and executed by and among the San Francisco Bay Area Rapid Transit District (“**BART**”), the Successor Agency to the former Richmond Community Redevelopment Agency, and Richmond Transit LLC (“**Richmond Transit**”) (as subsequently amended, to among other things, reflect the addition of the City as a party and the substitution of Pacific West Communities, Inc. (“**Pacific**”) for Richmond Transit, hereafter referred to as the “**DDA**”), BART will convey to the City the property located adjacent to Subarea 1 (as more particularly described in Exhibit A-2 attached hereto, “**Subarea 2**” and “**Subarea 3**”). Subarea 1, Subarea 2, and Subarea 3 are collectively referred to herein as the “**Property**.”

WHEREAS, pursuant to and subject to the terms and conditions set forth in the DDA, the City will convey the Property to private developers for the development of a three-phased master planned transit-oriented development that will include approximately 520 residential units, of which not less than 40% (208 units) will be restricted for sale or rental to low-income households at affordable rent or affordable sales prices for terms of not less than 55 years.

WHEREAS, the City and Pacific have agreed upon terms for the City’s ground lease of Subarea 1 to an affiliate of Pacific (“**Subarea 1 Ground Lease**”), and have agreed that the project to be developed on Subarea 1 will be a 150-unit multifamily rental residential project in which at least 149 apartments will be affordable to households whose income does not exceed sixty percent (60%) of Area Median Income (“**AMI**”), of which 38 apartments will be affordable to households whose income does not exceed thirty percent (30%) of AMI and 36 apartments will be affordable to households whose income does not exceed fifty percent (50%) of AMI.

WHEREAS, pursuant to the DDA, the City will require Subarea 2 and Subarea 3 to be developed with no fewer than 370 residential units of which no fewer than 59 units (or such greater number as necessary to satisfy the requirements of Government Code Section 37364) will be restricted for sale or rental to households whose income does not exceed sixty percent (60%) of AMI, and at least one-half of such restricted units will be restricted for sale or rental to households whose income does not exceed fifty percent (50%) of AMI.

WHEREAS, the master plan for development of the Property as set forth in the DDA requires that in the aggregate no fewer than 40% of the residential units developed on the Property (149 units on Subarea 1 and at least 59 units on Subareas 2 and 3) (collectively the “**Restricted Units**”) will be restricted for sale or rental to households whose income does not exceed 60% of AMI, and in the aggregate no fewer than 104 of the Restricted Units (50% of the Restricted Units including 74 units on Subarea 1 and at least 30 units on Subareas 2 and 3) will be restricted for sale or rental to households whose income does not exceed 50% AMI.

WHEREAS, the Surplus Land Act (Government Code Section 54220 *et. seq.*) was enacted to promote affordable housing development on unused or underutilized public land throughout the State to respond to the affordable housing crisis, and now requires public agencies, including charter cities, to follow certain procedures to dispose of “surplus land” or declare land to be “exempt surplus land” at a regular public meeting prior to disposition.

WHEREAS, pursuant to Government Code Section 54221(f)(1)(A), surplus land that is transferred pursuant to Government Code Section 37364 qualifies as “exempt surplus land.”

WHEREAS, Government Code Section 37364 authorizes cities to sell, lease, or otherwise dispose of real property to provide housing affordable to persons and families of low- or moderate-income provided that (i) at least 80% of the area of the property will be used for development of housing, and (ii) at least 40% of the housing units developed on the property will be affordable to households whose income is not greater than 60% AMI (75% of the upper limit for “lower income households”), of which at least one-half will be affordable to households of very low-income (50% AMI).

WHEREAS, the DDA requires the Property to be developed for residential uses consistent with the affordability restrictions set forth in Government Code Section 37364.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE RICHMOND CITY COUNCIL, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, THAT:

1. The City Council adopts the recitals set forth above as findings of fact.
2. The City Council has determined, and hereby affirms that the Property will be used to provide housing affordable to persons and families of low- or moderate-income, that this use is in the City’s best interests, and that development of the Property in accordance with the requirements of the DDA will satisfy the requirements of Government Code Section 37364.
3. The City Council further makes the following findings, pursuant to Government Code Section 37364:
 - a. Consistent with the requirements set forth in the DDA, not less than 80% of the Property will be developed for housing, consisting of 520 residential units, including 150 units in a first phase developed on Subarea 1, and approximately 370 units in a second and third phase developed on Subarea 2 and Subarea 3.
 - b. Consistent with the requirements set forth in the DDA, not less than 40% of the residential units developed on the Property will be affordable to households whose incomes are not greater than 75% of the maximum income of lower-income households (equivalent to 60% of AMI), at least one-half of which will be affordable to very low-income households (up to 50% AMI).
 - c. Consistent with the requirements of the DDA, the Subarea 1 Ground Lease, and a separate regulatory agreement that will be recorded against Subarea 1 (“**Subarea 1 Regulatory Agreement**”), 149 of the residential units developed on Subarea 1 will be restricted for occupancy at affordable rents by households with household incomes between 30% and 60% of AMI. The Subarea 1 Ground Lease and the Subarea 1 Regulatory Agreement will restrict 75 units for occupancy at affordable rents by households whose incomes are not greater than 60% AMI, and 74 units for occupancy at affordable rents by households whose incomes are not greater than 50% AMI. The affordability restrictions will be set forth in both the Subarea 1 Ground Lease which will have a term of 99 years, and in the Subarea 1 Regulatory Agreement that will be recorded against Subarea 1 in the official records of Contra Costa County. The Subarea 1 Regulatory Agreement will be binding upon successors in interest, and will require compliance with the foregoing rent and household income restrictions for a term of not less than 55 years.
 - d. Consistent with the requirements of the DDA and separate regulatory agreements that will be recorded against Subarea 2 and Subarea 3 (“**Subarea 2 and 3 Regulatory Agreements**”), at least 59 residential units (or such greater number as necessary to satisfy the requirements of Government Code Section 37364) developed on Subarea 2 and Subarea 3 will be restricted for sale or rental to households whose income does not exceed sixty percent (60%) of AMI, and at least one-half of such restricted units will be restricted for sale or rental to households whose income does not exceed fifty percent (50%) of AMI. The Subarea 2 and Subarea 3 Regulatory Agreements will be recorded against Subarea 2 and Subarea 3 in the official records of Contra Costa County, will be binding upon successors in interest, and will require compliance with the foregoing rent, sale price, and household income restrictions for a term of not less than 55 years.

4. Based upon the foregoing, the City Council hereby determines and declares the Property to be exempt surplus land under Government Code Section 54221(f)(1)(A) as property transferred pursuant to Government Code Section 37364.

I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond at a regular meeting thereof held on October 3, 2023, by the following vote:

AYES: Councilmembers Bana, Jimenez, Willis, Zepeda, Vice Mayor McLaughlin, and Mayor Martinez.
 NOES: None.
 ABSTENTIONS: None.
 ABSENT: Councilmember Robinson.

PAMELA CHRISTIAN

 CLERK OF THE CITY OF RICHMOND
 (SEAL)

Approved:

EDUARDO MARTINEZ
 Mayor

Approved as to form:

DAVE ALESHIRE
 City Attorney

State of California }
 County of Contra Costa } : ss.
 City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 98-23**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on October 3, 2023.

Certified as a True Copy

PAMELA CHRISTIAN
 CLERK OF THE CITY OF RICHMOND, CALIFORNIA

BY *Isabella Lundy*
 ASSISTANT

Attachments:

Exhibit A-1
 Exhibit A-2

Exhibit A-1

SUBAREA 1

[Legal Description, Site Plan]

Legal Description

SUBAREA 1

Portion of Portola Avenue as shown on the Amended Map of the City of Richmond, filed March 31, 1905, Book D of Maps, page 74, Contra Costa County Records, described as follows:

Beginning on the northeastern line of said Portola Avenue at the northwestern corner of the parcel of land described in the deed to the City of Richmond, recorded December 9, 1909, Book 151 of Deeds, page 85; said corner also being a point on the southwesterly line of Lot 20, Block 100 of said map; thence northwesterly along said northeastern line of Portola Avenue to a point being the northwestern corner of Lot 1, Block 100 of said Map; thence westerly along the western extension of the north line of said Lot 1 to a point on the southwestern line of said Portola Avenue; thence southeasterly along said southwestern line of said Portola Avenue to the intersection with the westerly extension of the north line of said City of Richmond parcel (151 D 85); thence easterly along said westerly extension to the point of beginning.

APN: 514-050-010



Subarea	Unit Count	1 Bedroom	2 Bedroom	3 Bedroom	Parking Provided	P.R. (Stalls)
SUBAREA 3	5 STORY OVER 1 LEVEL OR RAISED PODIUM 280 UNITS	40 UNITS	160 UNITS	80 UNITS	150 STALLS	6.8 STALLS/OU
SUBAREA 2	5 STORY OVER 1 LEVEL OR RAISED PODIUM 150 UNITS	35 UNITS	80 UNITS	35 UNITS	80 STALLS	5.3 STALLS/OU
SUBAREA 1	5 STORY OVER 1 LEVEL OR RAISED PODIUM 150 UNITS	35 UNITS	80 UNITS	35 UNITS	80 STALLS	5.3 STALLS/OU

Phase 2 Project

- SUBAREA 3
- SUBAREA 2
- SUBAREA 1



DATE: 04-07-2011
 JOB NO.: 2015112
 144 NORTH ORANGE ST., ORANGE, CA 92666
 (714) 639-9860



RICHMOND BART MODULAR HOUSING
 AMG & ASSOCIATES

RICHMOND, CA

Exhibit A-2

SUBAREAS 2 AND 3

[Insert legal description.]

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**EXHIBIT "A"
LEGAL DESCRIPTION
BART Parcel number O-R901-X1**

Real property situate in the City of Richmond, County of Contra Costa, state of California described as follows:

PARCEL ONE:

Lots 17 through 21, inclusive and 34 through 40, inclusive, Block 107, Map of Amended Map of the City of Richmond, filed March 31, 1905, Map Book D, Page 74, Contra Costa County Records.

EXCEPTING THEREFROM:

A portion of Lot 54, as shown on the "Map of the San Pablo Rancho Accompanying and forming a part of the Final Report of the Referees in Partition," filed March 1, 1894 in Map Rack No. 2 in the Office of the Recorder of Contra Costa County, California, also being shown as "S.P.R.R. Co." on the Amended Map of the City of Richmond, City of Richmond, Contra Costa County, California, filed in the Office of the Recorder of said County on March 31, 1905, in Map Book D at Page 74 and more particularly described as follows;

Beginning at a point which is the intersection of the Northern line of Macdonald Avenue and the Eastern line of the Southern Pacific Company Right of Way, as shown on said Amended Map; thence South 88° 58' 20" East, 145.0 feet, more or less, along said Northern line to the Western line of Portola Avenue as shown on said Amended Map; thence Northwesterly 44.2 feet, more or less, along the said Western line of Portola Avenue to a point 34.0 feet at right angles Northerly from the said Northern line of Macdonald Avenue; thence North 88° 58' 20" West, 145.0 feet, more or less, and parallel with said Northern line of Macdonald Avenue to said Eastern line of Southern Pacific Company Right of Way; thence Southeasterly 44.2 feet, more or less, along said Eastern right of way line to the point of beginning, containing 0.113 acre, more or less.

PARCEL TWO:

Portions of Lots 29, 30, 31, 32, 33, 41 and 42, Block 107, Amended Map of the City of Richmond, filed March 31, 1905, Map Book D, Page 74, Contra Costa County Records, being more particularly described as follows:

Beginning at the Northwest corner of said Lot 29; thence Easterly along the Northern line of said Lot 29, 92.5 feet to a point on a line parallel with the Eastern line of said Block 107 at a perpendicular distance of 20.00 feet, said Eastern line also being the Western line of Nineteenth Street, as shown on said Map;

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thence Southerly along said parallel line 231.5 feet to a point on the Southern line of said Lot 42; thence Westerly along the said Southern line of Lot 42 and the Southern line of said Lot 41, 30.00 feet to the Southwest corner of Lot 41; thence Northerly along the Western line of said Lot 41, 106.5 feet to the Northwest corner of Lot 41, said point being on the Southern line of said Lot 33; thence Westerly along said Southern line of Lot 33, 62.5 feet to the Southwest corner of Lot 33; thence Northerly along the Western lines of said Lots 33, 32, 31, 30 and 29, 125.0 feet to the point of beginning.

EXCEPTING THEREFROM:

That portion of said property lying below a depth of 500 feet measured vertically from the corner of the surface thereof without the right of access to said reserved area from the surface of the parcel hereby conveyed.

PARCEL THREE:

Block 105 and 106, Amended Map of the City of Richmond, filed March 31, 1905 Map Book D, Contra Costa County Records.

EXCEPTING THEREFROM:

That portion thereof conveyed in the Deed to City of Richmond, recorded April 9, 1970, Book 6103 Official Records, Page 173.

PARCEL FOUR:

That certain real property in the City of Richmond, Contra Costa County, as shown on the Amended Map of the City of Richmond, filed March 31, 1905, Map Book D, Page 74, Contra Costa County Records, being more particularly described as follows:

Beginning at the most Southern corner of Block 105, as shown on said Map; thence North 1° 36' 30" East, 182.79 feet along the East line of said Block 105 to a point on the South line of Parcel Three described in the Deed to the City of Richmond, recorded April 9, 1970, Book 6103 Official Records, Page 173; thence North 81° 36' 29" East, 60.91 feet along the South line of said City Parcel (6103 Official Records, Page 173) to the West line of Block 106, as shown on said Map; thence South 1° 31' 33" West, 267.81 feet along the West line to the Northeast line of Portola Avenue, as shown on said Map; thence South 33° 27' 30" West, 280.90 feet along said Northeast line to the North line of Nevin Avenue, as shown on said Map; thence South 88° 53' 45" East, 64.00 feet along said North line of Nevin Avenue to the East line of 18th Avenue.

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Northwesterly 605.50 feet along said 9398.34-foot radius curve, through a central angle of 3° the Southwest corner of said City parcel (6103 OR 173); thence North 81° 36' 29" East, 39.85 feet South line of said City Parcel to the West line of said Block 105; thence South 34° 24' 02" East, feet along the West line of said Block 105 to the point of beginning.

PARCEL FIVE:

That certain real property in the City of Richmond, County of Contra Costa, as shown on the A Map of the City of Richmond, filed March 31, 1905, Map Book D, Page 74, Contra Costa Count more particularly described as follows:

Beginning at the Southeast corner of Block 106, as shown on said Map; thence North 1° 30' 43" East, 231.87 feet along the East line of said Block 106; thence South 88° 54' 22" East, 60.00 feet to the East line of Block 107, as shown on said Map; thence South 1° 30' 43" West, 231.45 feet along said line to the Southwest corner of said Block 107; thence North 88° 53' 45" West, 60.00 feet to the point of beginning.

EXCEPTING THEREFROM

BART Parcel Number O-R901-1A

A portion of said Block 105 ('D' M 174) and a portion of that city street formerly known as Por Avenue, more particularly described as follows:

BEGINNING at the point of intersection between the southerly line of Parcel 3 as said parcel is in the deed to the City of Richmond recorded on April 9, 1970, in Book 6103 Contra Costa County Records, Page 173, and the northeasterly line of that parcel of land granted to the San Francisco Area Rapid Transit Agency in that document recorded on September 3, 1970 in book 6207 Contra Costa County Official Records, at page 222;

Thence along said southerly line North 81° 36' 29" East 109.33 feet;

Thence leaving said southerly line South 1° 35' 33" West 133.33 feet;

Thence South 37°28'51" East 21.25 feet;

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Northwesterly 605.50 feet along said 9398.34-foot radius curve, through a central angle of 3° the Southwest corner of said City parcel (6103 OR 173); thence North 81° 36' 29" East, 39.85 feet South line of said City Parcel to the West line of said Block 105; thence South 34° 24' 02" East, feet along the West line of said Block 105 to the point of beginning.

PARCEL FIVE:

That certain real property in the City of Richmond, County of Contra Costa, as shown on the A Map of the City of Richmond, filed March 31, 1905, Map Book D, Page 74, Contra Costa Count more particularly described as follows:

Beginning at the Southeast corner of Block 106, as shown on said Map; thence North 1° 30' 43" East, 231.87 feet along the East line of said Block 106; thence South 88° 54' 22" East, 60.00 feet to the West line of Block 107, as shown on said Map; thence South 1° 30' 43" West, 231.45 feet along said line to the Southwest corner of said Block 107; thence North 88° 53' 45" West, 60.00 feet to the point of beginning.

EXCEPTING THEREFROM

BART Parcel Number O-R901-1A

A portion of said Block 105 ('D' M 174) and a portion of that city street formerly known as Por Avenue, more particularly described as follows:

BEGINNING at the point of intersection between the southerly line of Parcel 3 as said parcel is in the deed to the City of Richmond recorded on April 9, 1970, in Book 6103 Contra Costa County Records, Page 173, and the northeasterly line of that parcel of land granted to the San Francisco Area Rapid Transit Agency in that document recorded on September 3, 1970 in book 6207 Contra Costa County Official Records, at page 222;

Thence along said southerly line North 81° 36' 29" East 109.33 feet;

Thence leaving said southerly line South 1° 35' 33" West 133.33 feet;

Thence South 37°28'51" East 21.25 feet;

7/18/2022

And containing 4.5 acres of land, more or less.

A Plat, Exhibit B is attached hereto and made a part hereof.

David Baumann, PLS 7309

This Real Property Description has been prepared by me or under my direction in conformance with the Professional Land Surveyor's Act.