

DRAFT Equitable Public Land Disposition Policy Framework

An **Equitable Public Land Disposition Policy** for affordable housing is a process and set of criteria established by a local government to lease or sell parcels of publicly controlled land at below market prices to improve affordability of housing and maximize public good. The reduced land price lowers the cost of development and allows for lower rents and greater affordability.

The City of Richmond's Equitable Public Land Disposition Policy proposal outlines the goals for developing affordable housing on city-owned land and criteria to guide the process to select and then lease or sell parcels of surplus city-owned land in order to prioritize the creation of affordable housing, with a strong preference for development proposals that maximize affordability and create permanent affordability through a community land trust development model. This DRAFT policy framework includes policy goals, a summary of the policy purpose, key definitions, and key policy parameters to be considered for a final policy.

1. Policy Goals

- 1.1. Maximize public good on public land.**
- 1.2. Preserve housing affordability for longtime Richmond residents.**
- 1.3. Ensure generational housing security through permanent affordability, utilizing 99-year ground leases, and/or innovating housing models such as community land trusts.**
- 1.4. Proactively prevent gentrification and the displacement of Richmond residents.**

2. Policy Purpose

- 2.1. Establish Policy Standards:** The primary purpose of this policy is to establish a set of standards to guide the City's process for the disposition, which can include either the lease or sale of city-owned land, ensuring alignment with the goals of the Equitable Public Land Policy.

- 2.2. Maximize Permanently Affordable Housing^{1,2}:** The policy sets forth a clear objective that all housing built on public lands in Richmond should maximize the amount of affordable housing at extremely low, very low-, low-, and moderate-income affordability levels, and ideally produce permanent affordable housing.
- 2.3. Promote Community Serving Uses:** In addition to maximizing affordable housing potential, this policy supports the development of neighborhood serving commercial and recreational spaces such as community gardens, playgrounds, grocery stores, community centers, and other businesses/services that contribute to the health, education, safety, and general wellbeing of residents. Projects will be favored where commercial uses promote community control by utilizing co-operative ownership models.
- 2.4. Ensure Transparency and Community Involvement:** The policy aims to ensure transparency in the City's property lease or disposition process and requires the active involvement of local communities in the entire process, including developer selection, proposal review, and the project development itself.
- 2.5. Sustain Inventory Maintenance:** The policy requires that the City establish a standardized process for assessing City-owned land, including a staff lead, and, that no later than one year following approval of the policy, begin providing an annual inventory of surplus and underutilized sites for City Council and public notice, promoting efficient land use.
- 2.6. Promote Community Control:** The City seeks to promote community-controlled permanent affordable housing, favoring project proposals that meet or exceed affordability requirements and establish community ownership and/or permanent affordability through a 99-year ground lease, Community Land Trust, or similar model.
- 2.7. Enable Land Discounts:** Projects that meet the criteria of the "Equitable Public Land Policy" and maximize affordability may receive land discounts if the reduced development costs enable housing affordability beyond minimum requirements.

¹ The Public Land Policy aligns with the City of Richmond's Affirmatively Furthering Fair Housing (AFFH) Analysis from the 6th Cycle Housing Element Update. It addresses Fair Housing Contributing Factors, such as market-force displacement and the lack of historic public investments in specific neighborhoods. To tackle displacement due to rising rents, the AFFH analysis recommends expanding land trust programs and prioritizing affordable housing development in public land policies. The Public Land Policy also aims to counter historic disinvestment in low-income neighborhoods of color by repurposing vacant City-owned parcels for community-serving affordable housing.

² The Public Land Policy complements other City of Richmond development initiatives, including the Inclusionary Ordinance and the 6th Cycle Housing Element Sites Inventory. The Sites Inventory, which identifies potential sites for housing development across the city, proposes diverse development, including moderate, mixed, and above-moderate sites in neighborhoods with surplus city-owned land. By promoting affordable housing on this surplus land, the aim is to ensure these neighborhoods have a range of housing options, not limited to moderate and above-moderate or low-income alone. Simultaneously, the Inclusionary Ordinance secures affordable housing opportunities in higher-income and resource-rich neighborhoods. Collectively, these policies and plans work together to provide affordable housing options for low-income and housing-cost-burdened households throughout the City of Richmond. See AFFH Appendix F 151-156.

- 2.8. Codify Anti-Speculation Measures:** Conveyances of city-owned property under this policy must include covenants that prohibit any developer from reselling, transferring, or subleasing the property at a profit, incorporating "anti-speculation" requirements.

3. Definitions

- 3.1. Equitable development**, also known as "equity-centered development," is an approach to urban planning, policymaking, and community development that aims to create more just and fair outcomes for historically marginalized residents. Importantly, this differs from equality which focuses on treating everyone the same. Instead, equity seeks to address disparities in access to resources, opportunities, and quality of life generated by historic and current structural inequalities, ensuring that everyone has the same opportunity to succeed by accounting for and addressing differences in circumstances.
- 3.2. Community Controlled Housing** refers to housing developments that are owned, managed, or governed by a local community or a community-based organization, rather than by private landlords or corporations. In such housing arrangements, the community or a community-based entity has a significant say in decision-making related to the housing, including ownership, maintenance, rent levels, and tenant selection. The primary goal of community-controlled housing is to provide affordable and stable housing options while allowing the community itself to have a more direct influence on the management and policies of the housing units. This approach is often seen as a way to address housing issues and strengthen local communities by empowering residents to take control of their housing needs and promote long-term community stability. Community-controlled housing can take various forms, such as housing cooperatives or community land trusts.
- 3.3. Permanent Affordability** is a real estate arrangement in which a piece of land is leased to a property owner or developer for a period of 99 years while retaining control over the land itself. The primary objective of this model is to ensure the long-term affordability of housing or other developments on the leased land. Key features of this concept include:
- 3.3.1. Ground Lease:** The landowner (which may be a government entity, nonprofit organization, or community land trust) enters into a ground lease agreement with the developer or property owner. This lease typically spans 99 years, effectively granting the lessee the right to use and develop the land for an extended period.
 - 3.3.2. Affordability Provisions:** The ground lease agreement includes provisions that enforce affordability restrictions for the development. These restrictions could include rent or resale price caps, income limits for occupants, or other mechanisms designed to keep the property affordable for the duration of the lease.
 - 3.3.3. Long-Term Commitment:** The "99-year" aspect of the model signifies a long-term commitment to maintaining affordability. By retaining ownership of the land and imposing affordability conditions, the entity controlling the

land can prevent market-driven price increases or speculative activities that might otherwise threaten affordability.

3.3.4. Community Stewardship: In many cases, the entity controlling the land, such as a land trust or government agency, plays a role in managing and stewarding the property to ensure that it continues to meet the needs of the community and adheres to the affordability provisions.

3.4. The 99-year ground lease model is a strategy used to create and maintain permanently affordable housing or community assets, preventing gentrification and displacement in rapidly changing real estate markets. It allows for homeownership or occupancy with a strong focus on preserving affordability and community stability over an extended period. See permanent affordability.

3.5. Community Land Trust A community land trust (CLT) is a nonprofit, community-based organization that acquires and holds land for the benefit of a specific community or neighborhood. The primary goal of a community land trust is to provide and preserve affordable housing, as well as other community assets, in perpetuity. Note, this is not the same as a land trust focused on the conservation of open space. The key features of a community land trust typically include:

3.5.1. Ownership of Land: The CLT owns and maintains ownership of the land on which housing and other structures are built. This land is usually held in trust, preventing it from being sold for speculative purposes.

3.5.2. Affordable Housing: Community land trusts develop, sell, or lease housing units on the land to individuals or families within the community at affordable prices, often with income restrictions in place to maintain affordability.

3.5.3. Community Governance: Community members often have a strong say in the decision-making processes of the CLT. This can include involvement in setting rental or resale prices, managing the trust, and participating in the governance of the organization.

3.5.4. Permanence: CLTs are designed to ensure the long-term affordability and community benefits of the land and housing. Restrictions are typically placed on resale prices to prevent excessive profit and to maintain affordability for future generations.

3.5.5. Stewardship: CLTs are responsible for the stewardship of the land, ensuring that it remains a valuable community resource. They may also be involved in community development and other community-building activities.

- 3.6. Limited-Equity Cooperative** is a type of housing cooperative in which the resale value of individual member-owned units is limited, typically by a predetermined formula or agreement. The primary purpose of limited equity co-ops is to maintain long-term housing affordability for their members while also promoting cooperative ownership and democratic decision-making. Key characteristics of a limited equity housing cooperative include:
- 3.6.1. Affordable Ownership:** Members of the cooperative purchase shares or memberships in the cooperative, which entitle them to occupy a housing unit within the cooperative. The purchase price for these shares is usually set at an affordable level to make homeownership accessible to a wider range of income levels.
 - 3.6.2. Resale Restrictions:** To maintain affordability and prevent excessive profiteering, limited equity co-ops impose resale restrictions on the units. These restrictions typically limit the resale price to a predetermined formula or a modest rate of appreciation. The intention is to keep the units affordable for future members.
 - 3.6.3. Democratic Governance:** Limited equity co-ops operate under a democratic governance structure, where members have a say in the decision-making processes of the cooperative. Members often participate in meetings and voting on cooperative policies and practices.
 - 3.6.4. Community Stewardship:** Limited equity co-ops are often committed to the long-term stewardship of the housing community, ensuring that it remains affordable and well-maintained for current and future residents.
 - 3.6.5. Support for Low and Moderate-Income Households:** Limited equity co-ops are designed to serve the housing needs of low and moderate-income households, offering a form of homeownership that is more accessible than traditional market-rate housing.
- 3.7. Local Community Presence** refers to an entity that can demonstrate engagement with Richmond residents on their development project; participates in local community events; can receive at least 3 letters of recommendation from local community members or local nonprofits that speaks to the local presence of the developer.
- 3.8. Community-Led Development** is a development approach in which local community members work together to identify goals that are important to them, develop and implement plans to achieve those goals, and create collaborative relationships internally and with external actors—all while building on community strengths and local leadership. Key elements of this approach are the participation and amplification of the voice of all residents particularly those marginalized by the housing system, inclusive collective planning and building transformative capacity where residents by creating a vision for themselves and designing pathways to achieve that vision see themselves as agents who can affect change and have greater ownership in their community.

- 3.9. Affordable Homeownership** refers to the ability of individuals or families to purchase and maintain a home without experiencing excessive financial burden. Achieving affordable homeownership involves several factors and strategies. These include community land trusts, limited-equity and or shared-equity models. Other strategies including access to affordable financing, down payment assistance, and mortgage assistance may also be used.

4. Policy Parameters

- 4.1. Alignment with State Law:** The policy acknowledges the relevance of State law, including Government Code Section 54227 et seq. (the "State Surplus Land Act"), in the disposition of surplus City Property. Under the State Surplus Land Act, certain procedures must be followed to designate land surplus or surplus exempt and when disposing of surplus real property, especially when affordable housing developers approved by the California Housing Finance Agency (CALHFA) are involved.
- 4.1.1. Exempt Surplus Land:** If the City declares land to be exempt surplus land pursuant to Govt Code 54221(f)(1)(A) because the land will be restricted for development of affordable housing in compliance with Government Code Section 37364, then the following provisions of this Policy will not apply; however compliance with (4.3.4) Transparency and Community Involvement; (4.3.5) Financial Strength, Capacity and Development Experience; and (4.3.6) Covenant for Affordable Housing will be required.
- 4.2. Compliance with Richmond's Community Benefit Law (ARTICLE 15.04.816):** The policy acknowledges the relevance of the City of Richmond's Community Benefit Law, Article 15.04.816 of the Municipal Code, for certain large developments for which public or private parties negotiate voluntary agreements with the City. Under the Community Benefit Law, certain procedures must be followed, and baseline community benefits met. This strategic alignment underscores Richmond's commitment to upholding the principles of the Community Benefit Policy. By ensuring adherence to the established law, Richmond aims to promote social equity and economic progress, creating a more inclusive and sustainable community that benefits all residents.

- 4.3. Proposal Solicitation and Evaluation:** The City will solicit competitive requests for proposals from CalHFA “Housing Sponsors”, as defined by Health and Safety Code [Section 50074](#), that have notified the California Housing and Community Development Department (HCD) of its interest in surplus land. The selection panel will evaluate and rank qualifying responses to the competitive bidding process based on each respondent’s relevant ability and preparedness to develop the property, their financial strength, and their status as a non-profit developer with a history/record of serving Richmond residents. In addition, scores will be allocated based upon the project’s responsiveness to this policy’s goals of maximizing affordability and/or establishing permanent affordability through a 99-year ground-lease; providing community-ownership, affordable homeownership or shared-equity housing; and promoting community serving commercial and recreational uses, as outlined below.
- 4.3.1. Local Non-Profit Preference:** The City’s evaluation will give preference to 501(c)3 nonprofit entities or development partnerships that include at least one 501(c)3 non-profit entity. Furthermore, priority will be given to non-profit entities that have a local community presence and positive history/record of serving Richmond residents or have strong community ties with the City.
- 4.3.2. Promotion of Community-Controlled Permanently Affordable Housing:** The policy strongly promotes community-controlled permanently affordable housing, reflecting the city’s commitment to establishing equitable, stable, and community-centric housing solutions. Project selection will prioritize proposals that maximize rental affordability and/or establish permanent affordability through a 99-year ground-lease; provide community-ownership, affordable homeownership or shared-equity housing that can be achieved for low-income families with sustainable subsidy levels. Project selection must meet minimum affordable housing requirements (25%) and prioritize the deepest affordability levels as established by the State Surplus Land Act.
- 4.3.3. Promotion of Community Serving Commercial/Mixed, Open/Green, and Recreation Uses:** The incorporation of community serving commercial and recreational spaces such as community gardens, playgrounds, grocery stores, community centers, and other civic or open spaces will be considered. See [15.04.406.040 Mix and Design of Civic and Open Spaces of Livable Corridors Form Based Code](#) for detailed definition, types, and standards.
- 4.3.4. Transparency and Public Involvement:** The policy underlines the importance of transparency and community involvement in the property lease or disposition process, ensuring that the public’s interests and concerns are considered. The project selection panel will include at least two Richmond residents impacted by the housing crisis. Additionally, through active public participation, developers must involve communities most impacted by the housing crisis in the visioning and design of the projects and make sure community priorities shape the overall plans. This can include (1) outreach through mailers (2) at least two public forums (3) and other ongoing feedback mechanisms.

- 4.3.5. Financial Strength, Capacity and Development Experience:** Proposals must demonstrate the developer's financial strength, capacity, and experience in accordance with the City's Request for Proposal's Requirements as described below.
- 4.3.5.1. Financial Strength & Capacity:** The City of Richmond seeks project financing plans that are cost-effective but propose realistic assumptions for both costs and sources. Proposals will be rated on readiness and realistic success of funding strategies that are presented for completing the rehab/development of the proposed units in a timely manner. Bidders will need to present financial records to verify their capacity to develop the units.
- 4.3.5.2. Developer Experience:** The City of Richmond will request descriptions of the development team experience. This may include the organization's track record of carrying out similar projects, the organization's role in these past projects, a list of comparable projects and a contact person/reference for each, the role key members of the proposed development team played in these past projects (if any) and/or a description of the partners in these projects.
- 4.3.5.3. Developer Capacity:** The City of Richmond will request descriptions of the development team's capacity, including planned roles, responsibilities, and allocation of staff time of each identified team member. As well as previous experience (if any) with community revitalization, construction of affordable housing development, and previous experience working with socio-economically diverse populations.
- 4.3.5.4. Local Emerging Affordable Housing Developers:** This policy recognizes the importance of emerging affordable housing developers. While these developers may not have the same level of experience or market presence as more established firms, local emerging developers are likely to bring innovative approaches and fresh perspectives to affordable housing development. They may explore new design concepts or financing models to address challenges in creating affordable housing, and often have a strong local focus, concentrating on specific communities or regions where they have a more intimate understanding of housing. The City's proposal assessment process will explicitly consider a developer's emerging status when evaluating both financial capacity and developer experience.
- 4.3.6. Covenant for Affordable Housing:** Disposition of City-owned land under the Equitable Public Land policy, whether a lease or sale, must include covenants that require the property to be used for affordable housing and prohibit any developer from reselling, transferring, or subleasing the property at a profit, ensuring the long-term affordability and protection against speculation.

- 4.3.7. Reduction of Development Costs:** Projects that meet the policy criteria and maximize affordability will be considered for land discounts if the reduced development costs enable the housing affordability. The provision of land discounts to projects that meet affordability and equity criteria aims to reduce development costs, ultimately leading to more accessible and affordable housing options.
- 4.3.8. Authorization to Develop Departmental Rules:** This Policy may be amended over time to reflect changes in the City's and its communities' needs and evolve with the rapid and often dramatic changes in applicable laws. The Director of Community Development or designee is directed and authorized to make non-substantive changes to make the Equitable Public Land Policy internally consistent or to address any non-substantive changes or amendments requested by City Council.
- 4.3.9. Reversion Clause:** If a successful bidder fails to meet the Public Land Policy requirements, to execute significant elements of its proposed plan, or to proceed in a timely manner to develop the project, the City of Richmond reserves the right to rescind the transfer/sale of the units to the developer and re-market the units.
- 4.3.10. Severance Clause:** This policy is intended to be consistent with state law. Any provision of this policy that is determined by a court of competent jurisdiction to be unconstitutional or invalid, shall not affect the validity of the remaining provisions of this policy. The unconstitutional or invalid provision shall be considered severed from this ordinance, and the remainder of the ordinance shall continue in full force and effect.

By incorporating these parameters into the Equitable Public Land Disposition Policy, the City of Richmond is poised to establish a robust policy framework that prioritizes affordable housing, community control, and long-term affordability. This policy framework seeks to address the critical housing needs of the community while fostering economic and social equity.