

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The People of the City of Richmond Do Hereby Ordain as Follows:

Section 1. Title.

This initiative measure (this “Initiative”) shall be known as the Richmond Riviera Residential Development Initiative.

Section 2. Purposes and Findings.

A. Purposes. The Purposes of this Initiative are as follows:

1. To amend the General Plan and adopt development standards to allow a 59 unit single family detached project on an approximate 4.92 acre site south of the intersection of Marina Way South and Hall Avenue, as more particularly described on Exhibit A attached to this Initiative (“Property”); this project is referred to as the Richmond Riviera Project (“Project”).

2. To confirm that the Project is consistent with the Richmond General Plan 2030 (“General Plan”) land use designations of “High-Intensity Mixed-Use (Major Activity Center)” and “Medium-Intensity Mixed-Use (Commercial Emphasis)” that apply to the Property.

3. To approve development standards, and if necessary, amend the Richmond Municipal Code, as amended, (the “Municipal Code”) to include development standards for the existing Plan Area (PA) District zoning designation on the Property.

4. To enter into a development agreement consistent with state law covering the planning and development of the Property and Project.

5. To allow the City to meet its housing needs for all economic segments of the population.

6. To insure the Ford Peninsula in Marina Bay area is developed as contemplated by the General Plan with a mix of uses, including single family detached units.

B. Findings. The people of the City find and declare the following:

1. This Initiative will:

a. Amend the General Plan to allow a single family detached project to proceed on the Property.

b. Confirm that the General Plan land use designations on the site allow a density of 59 units on the Property.

c. Provide development standards to allow the development of the Project to proceed.

2. The General Plan designations of “High-Intensity Mixed-Use (Major Activity Center)” and “Medium-Intensity Mixed-Use (Commercial Emphasis)” apply to the Property. These land use designations allow a mix of uses, including single family units, at a density of 12 dwelling units per acre. These designations further allow a residential only project on the Property.

3. The Project implements the vision of the General Plan as it relates to the Ford Peninsula in the Marina Bay area by including single family detached homes in an area planned with a mix of retail, office, housing and entertainment related uses.

4. The development standards adopted by this Initiative are consistent with the General Plan, as amended by this Initiative, and the zoning designation of Plan Area (PA) District as shown on the City’s zoning map for the Property.

5. This Initiative allows the City to continue to meet the housing needs of all economic segments of its population, while encouraging sound planning.

6. The development agreement adopted by this Initiative is consistent with the General Plan, as amended by this Initiative, and complies with state laws regarding development agreements.

7. For all of the foregoing reasons, this Initiative serves the public health, safety, and welfare of the City.

Section 3. General Plan.

A. Land Use Designations.

The General Plan designates the Property as High-Intensity Mixed-Use (Major Activity Center). Section 3. Land Use and Urban Design at page 3-17 includes the following definition:

High-Intensity Mixed-Use (Major Activity Center): Includes mid and high-rise mixed-use development a major activity centers to serve the community and region. Office, retail, entertainment and residential uses are allowed. Areas with this designation are characterized by streets with minimal setbacks, wide sidewalks and public spaces that cater to pedestrians and transit riders. Medium-Intensity Mixed-Use (Commercial Emphasis) is allowed within this land use designation.

Density: Up to 125 du/ac Intensity: 1.0 to 5.0 FAR Height 15 to 135 feet

The High-Intensity Mixed-Use (Major Activity Center) designation also permits Medium-Intensity Mixed-Use (Commercial Emphasis) which is defined at page 3.15 of the General Plan as follows:

Medium-Intensity Mixed-Use (Commercial Emphasis): Includes mixed-use development with commercial or office/light industrial uses encourage at street-level along corridors. This classification is distinguished from the Medium-Density Mixed-Use (Residential Emphasis) land use classification in that it allows residential-only or commercial-only

development. Residential uses may include condominiums, townhouse or apartments and commercial use may include small to large- scale retail or office. New development must have a pedestrian-oriented building design with minimal setbacks and parking located to the sides or rear of buildings preferred.

Density: Up to 50 du/ac Intensity: .025 to 2.0 FAR Height 15 to 55 feet

This Initiative confirms that these land use designations do not include a minimum density but rather only a maximum density. This Initiative further confirms that the Project, at a density of 12 dwelling units/acre, is consistent with the density requirements in these land use designations. This Initiative further confirms that the land use designations allow a residential only project.

B. General Plan Amendments.

Text to be inserted in the General Plan is indicated in **bold** standard type. Text in italics currently appears in the General Plan and is not being amended by this Initiative and is shown for reference purposes only.

1. Land Use designation Medium-Intensity Mixed-Use (Commercial Emphasis) at page 3.15 is hereby amended as follows:

*Medium-Intensity Mixed-Use (Commercial Emphasis) Includes mixed-use development with commercial or office/light industrial uses encourage at street-level along corridors. This classification is distinguished from the Medium-Density Mixed-Use (Residential Emphasis) land use classification in that it allows residential-only or commercial-only development. Residential uses may include **detached and attached single family units**, condominiums, townhouse or apartments and commercial use may include small to large- scale retail or office. New development must have a pedestrian-oriented building design with minimal setbacks and parking located to the sides or rear of buildings preferred.. the*

2. The following graphic is hereby inserted at page 3.26 of the General Plan:

Exhibit B attached to this Initiative shows a conceptual plan of the Richmond Riviera Project, and is hereby inserted into the General Plan at page 3.26 under the discussion “Ford Peninsula in Marina Bay (CA-3).”

Section 4. Municipal Code.

The City’s zoning map identifies the Property as Plan Area (PA) District but there are no development standards associated with this designation for the Property. Attached as Exhibit C to this Initiative sets forth the development standards for the Property and to the extent necessary and required, shall be incorporated into the Richmond Municipal Code.

Section 5. Development Agreement.

Attached as Exhibit D is a Development Agreement between the City and the holder of the legal interest in the real property described in Exhibit A to the Development Agreement. In order to implement the provisions of this Initiative, and pursuant to the authority of Government Code Section 65867.5 specifying that a development agreement is a legislative act, the Development Agreement attached as Exhibit D is hereby adopted as an ordinance of the City and approved. Not later than five days following the effective date of this Initiative, the City shall complete the intentionally omitted information in the Introductory Paragraph of the Development Agreement and the City shall enter into and record the Development Agreement in accordance with Section 2.1 thereof and state law governing development agreements.

Section 6. Implementation of this Initiative.

A. Upon the effective date of this Initiative, the provision in Section 3 of this Initiative are hereby inserted into the General Plan; except that if the four amendments of the mandatory elements of the General Plan permitted by state law for any calendar year have already been utilized in the year in this Initiative becomes effective, the General Plan amendments set for in this Initiative shall be the first amendments inserted into the General Plan on January 1 of the next year.

B. Upon the effective date of this Initiative, the provisions of Section 4 of this Initiative are hereby adopted as an ordinance of the City and to the extent required and necessary are inserted into the Municipal Code. Upon the effective date of this Initiative, any provisions of the Municipal Code, as reflected in the Code itself or the City's zoning map, that are inconsistent with the General Plan shall not be enforced.

C. Upon the effective date of this Initiative, City staff is directed to take promptly such administrative and clerical steps as may be required to implement this Initiative.

D. The General Plan in effect at the time the Notice of Intent to circulate this Initiative ("Notice Date"), and the General Plan as amended by this Initiative, comprise an integrated, internally consistent, and compatible statement of policies for the City. In order to ensure that the General Plan remains an integrated, internally consistent, and compatible statement of policies for the City as required by state law and to ensure that the actions of the voters or the City Council in enacting this Initiative are given effect, any provision of the General Plan that is adopted between the Notice Date and the date that the General Plan is amended by this Initiative shall, to the extent that such interim-enacted provision is inconsistent with the General Plan provisions adopted by Section 3 of this Initiative, be amended as soon as possible and in the manner and time required by state law to ensure consistency between the provisions adopted by this Initiative and other elements of the General Plan.

E. To the extent permitted by law, the voters of the City hereby authorize and direct the City to amend any elements or provisions of the General Plan and Municipal Code, including all exhibits and figures, and all other City ordinances, policies, and implementation programs or policies, as soon as possible, in order to implement this Initiative and to ensure consistency and correlation between this Initiative and other elements of the General Plan and Municipal Code. The preceding sentence shall be interpreted broadly pursuant to *Pala Band of Mission Indians v. Board of Supervisors* (1997) 54 Cal.App.4th 565, to promote the requirement that a general plan constitute an integrated and consistent document.

F. The City shall reorganize, reorder, and renumber the General Plan and the Municipal Code as and if necessary to further the purposes of this Initiative.

G. Upon the effective date of this Initiative, the City shall take actions as outlined in Section 5 of this Initiative and implement the Development Agreement to ensure the Project is developed in accordance with this Initiative and the Development Agreement.

Section 7. Interpretation and Severability.

A. This Initiative shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part, or portion is found to be invalid. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application. Specifically, the General Plan, amendments to the Municipal Code and the Development Agreement can remain valid independent of the other.

B. This Initiative shall be broadly construed in order to achieve the purposes stated in this Initiative. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth herein.

Section 8. Amendment and Repeal.

Until December 31, 2020 and unless specifically provided for otherwise in this Initiative, this Initiative may be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with state law. After December 31, 2020, this Initiative may be amended or repealed by any procedure authorized by state and local law.

Section 9. Exhibits.

The following exhibits are attached to this Initiative and incorporated herein for all purposes.

Exhibit A – Legal Description of the Property.

Exhibit B – General Plan Conceptual Graphic of Richmond Riviera Project

Exhibit C – PA District Development Standards

Exhibit D - Development Agreement

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that real property situate in the City of Richmond, County of Contra Costa, State of California, being all of PARCEL C and a portion of PARCEL A as both parcels are shown on Parcel Map MS 753-98, filed in Book 176 of Parcel Maps at Page 11 through 13, Contra Costa County Records, State of California, more particularly described as follows:

BEGINNING at the Southwest corner of said Parcel C; thence North $01^{\circ} 08' 16''$ East, 640.49 feet; thence South $88^{\circ} 44' 30''$ East, 292.00 feet to the exterior boundary of said Parcels A and C; thence along said exterior boundary the following ten (10) courses:

- 1) South $01^{\circ} 08' 16''$ West, 48.05 feet;
- 2) along a tangent curve concave to the east, having a radius of 1000.00 feet, through a central angle of $18^{\circ} 08' 16''$, an arc length of 316.57 feet;
- 3) South $17^{\circ} 00' 00''$ East, 2.98 feet;
- 4) South $73^{\circ} 00' 00''$ West, 4.50 feet;
- 5) South $17^{\circ} 00' 00''$ East, 131.50 feet;
- 6) along a non-tangent curve concave to the east, having a radius of 50.00 feet; a radial line through said beginning of curve bears North $66^{\circ} 27' 51''$ West; through a central angle of $76^{\circ} 02' 53''$, an arc length of 66.36 feet to a point of cusp;
- 7) from a tangent that bears South $36^{\circ} 23' 38''$ West, along a curve concave to the southeast, having a radius of 101.00 feet, through a central angle of $35^{\circ} 15' 22''$, an arc length of 62.15 feet;
- 8) South $01^{\circ} 08' 16''$ West, 21.70 feet;
- 9) along a tangent curve concave to the northwest, having a radius of 12.00 feet, through a central angle of $90^{\circ} 00' 00''$, an arc length of 18.85 feet;
- 10) North $88^{\circ} 51' 44''$ West, a distance of 365.35 feet to the **POINT OF BEGINNING**.

CONTAINING 213,987 square feet, more or less.

(APN 560-181-098-8 and portion of 560-181-096-2)

EXHIBIT B

**GENERAL PLAN CONCEPTUAL GRAPHIC OF RICHMOND RIVIERA
PROJECT**



EXHIBIT C

PA DISTRICT DEVELOPMENT STANDARDS

The development standards, as defined below, for the Property, known as the Richmond Riviera Project, are herein incorporated into this ordinance, and are binding upon said Property.

Maximum Density:	<i>12.0 du/ac (59 units @ 4.92 acres)</i>
Maximum Number of Units:	<i>59 units</i>
Minimum Lot Size:	<i>1,700 sf</i>
Minimum Lot Width:	<i>28'-0"</i>
Open Space Requirement:	<i>Provided common open space – 5,373 sf</i>
Minimum Front Yard Setbacks:	<i>10'-0" face of bldg., 5'-0" to porch</i>
Parking and Driveways:	<i>118 garage (2/unit) 15 on-street 133 total provided</i>
Minimum Side Yard Setbacks:	<i>3'-0"</i>
Minimum Rear Yard Setbacks:	<i>3'-0"</i>
Accessory Structure Setbacks:	<i>N/A</i>
Maximum Building Height:	<i>3 stories (34'-2" max)</i>

EXHIBIT D

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into on this ____ day of _____, 2015 by and between the CITY OF RICHMOND, a municipal corporation (“City”), and _____ (“Applicant”). The City and Applicant are sometimes hereafter referred to collectively as the “Parties,” or individually as a “Party.”

RECITALS

A. Applicant owns approximately 4.92 acres of real property located in the City, as described in Exhibit A (the “Property”) which it plans to develop with 59 single family detached units (“Project”).

B. The Parties desire to enter into this Agreement to set forth the terms and conditions to allow Applicant to proceed with the development of the Project.

C. California Government Code §§ 65864 et seq. authorizes the City to enter into an agreement for the development of real property with any entity having a legal or equitable interest in such property in order to establish certain development rights.

D. A citizen’s initiative entitled “Richmond Riviera Residential Development Initiative (“Initiative”)” was circulated to affirm the City’s planning vision for the Property while proposing additional development requirements. The Initiative includes 1) confirmation that the Richmond General Plan 2030 (“General Plan”) land use designations of “High-Intensity Mixed-Use (Major Activity Center)” and “Medium-Intensity Mixed-Use (Commercial Emphasis)” on the Project site allow development of 59 single family homes, 2) an amendment to the General Plan to emphasize that detached units are allowed under the land use designations for the Property, 3) development standards for the existing Plan Area District zoning designation on the Property, and 4) this Agreement (“Legislative Approvals”).

E. This Agreement vests Applicant with the right to develop the Property consistent with the Legislative Approvals and any other necessary approvals required by the City that are consistent with and necessary to implement the Project (“Subsequent Approvals”).

F. This Agreement is consistent with the General Plan as confirmed by the Initiative.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, City and Applicant agree as follows:

AGREEMENT

Section 1 Description of Property.

The Property which is the subject of this Agreement is described in Exhibit A.

Section 2 Effective Date and Term.

Section 2.1 Effective Date.

This Agreement shall be entered into and dated within ten (10) days of the later of the effective date of the Initiative or the Legislative Approvals (“Execution Date”). The rights, duties and obligations of the Parties shall be effective, and the term shall commence on the later of (i) the Execution Date, or (ii) the date the election results on the Initiative approving the Agreement and the Legislative Approvals are certified by the City Council in the manner provided in the Elections Code (“Effective Date”). Not later than ten (10) days after the Effective Date, City, by and through its Mayor, shall execute this Agreement, and, provided this Agreement is first executed by the Applicant, not later than (10) ten days after the Effective Date, the City Clerk shall cause this Agreement to be recorded in the Official Records of Contra Costa County.

Section 2.2 Term.

The term of this Agreement (“Term”) shall commence on the Effective Date and extend until December 31, 2020, unless the Term is otherwise terminated, modified or extended by mutual consent of the Parties.

Section 2.3 Life of Subdivision Maps, Development Plans and other Approvals.

The term of any time-limited City approval, such as tentative subdivision maps and development plans, if initially shorter than the term or remaining term of this Agreement, shall automatically be extended for the duration of this Agreement (including any extensions). The term of any approval, including any Subsequent Approvals, that is longer than the remaining Term of this Agreement shall only be extended as provided by State or City law. The Term of this Agreement and the term of any project approvals or Subsequent Approvals shall not include any period of time during which a development moratorium (including, but not limited to, a water or sewer moratorium or water and sewer moratorium) or the actions of other public agencies that regulate land use, development or the provision of services to the land, prevents, prohibits or delays the construction of the Property or a lawsuit involving any such development approvals or permits is pending.

Section 3 Use of the Property.

Section 3.1 Right to Develop.

Applicant shall have the vested right to develop the Property in accordance with the terms and conditions of the Legislative Approvals, Subsequent Approvals and this Agreement.

Section 3.2 Permitted Uses.

The permitted uses of the Property, the density and intensity of use, the height, bulk and size of proposed buildings, general provisions for reservation or dedication of land for public purposes and general location and maintenance of on-site and off-site improvements, general location of public utilities, and other terms and conditions of development applicable to the

Property, shall be those set forth in the Legislative Approvals, Subsequent Approvals and this Agreement.

Section 3.3 Timing of Project Construction and Completion.

Notwithstanding any provision of this Agreement, City and Applicant expressly agree that there is no requirement that Applicant initiate or complete development of the Property or any particular phase of the Property within any particular period of time, and City shall not impose such a requirement on any project approvals or Subsequent Approvals, except to ensure that necessary infrastructure is completed in an orderly fashion. Applicant's discretion regarding the timing of construction and completion of the Property shall not affect Applicant's obligation to diligently pursue to completion all phases of the development once initiated. The Parties otherwise acknowledge that Applicant cannot at this time predict when or the rate at which or the order in which phases will be developed. Such decisions depend upon numerous factors that are not within the control of Applicant, such as market orientation and demand, interest rates, competition and other similar factors. In light of the foregoing, the Parties agree that Applicant shall be able to develop in accordance with Applicant's own time schedule as such schedule may exist from time to time, and Applicant shall determine which part of the Property to develop first, and at Applicant's chosen schedule. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the Parties' desire to avoid that result by acknowledging that Applicant shall have the right to develop the Property in such order and at such rate and at such times as Applicant deems appropriate within the exercise of its subjective business judgment. Nothing in this Agreement shall exempt Applicant from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof, nor shall this section of the Agreement affect the term of this Agreement or any related project approvals or Subsequent Approvals.

Section 4 Applicable Law.

"Applicable Law" shall mean the City's ordinances, resolutions, rules, regulations and official policies, as modified by the Legislative Approvals, in force and effect on the Effective Date, governing the (i) permitted and conditional permitted uses of the Property, (ii) density and intensity of use of the Property and the maximum height, bulk and size of proposed buildings, (iii) design, construction and improvements for the Project, (iv) development-related impact fees or other fees that may be imposed by the City against the Project. Notwithstanding the foregoing, Applicant may elect at its sole discretion to comply with or receive the benefits of changes in Applicable Law by providing written notice to City of said election.

Section 5 Moratorium Not Applicable.

Notwithstanding anything to the contrary contained herein, in the event an ordinance, resolution or other measure is enacted, whether by action of City, by initiative, referendum, or otherwise, that imposes a building moratorium, a limit on the rate of development, or a voter-approval requirement which affects the Applicant's ability to develop all or any part of the Property, City agrees that such ordinance, resolution or other measure shall not apply to the

Property, this Agreement or the Subsequent Approvals unless lawfully imposed by City as part of a validly adopted declaration of a local emergency.

Section 6 Subsequent Approvals. The Subsequent Approvals shall be deemed tools to implement those final policy decision reflected in the Legislative Approvals and shall be issued by City so long as they comply with this Agreement and Applicable Law and are not inconsistent with the Legislative Approvals. Consistent with the Initiative, unless agreed to by Applicant, the City shall not require further legislative level entitlements to enable Applicant to build out the Project. Any Subsequent Approval or amendment thereto shall, upon approval or issuance, be automatically vested and incorporated into the Agreement.

Section 7 Amendments to this Agreement. Amendments to the Agreement shall be accordance with state law.

Section 8 Periodic Review. Throughout the Term of this Agreement, at least once every twelve (12) months following the recordation of the Agreement City shall review the extent of good-faith compliance by Applicant with this Agreement.

Section 9 Default. Upon the occurrence of an event of default, the Parties may pursue all other remedies at law or in equity that are not otherwise provided for in this Agreement or in City's regulations governing development agreements, expressly including the remedy of specific performance of this Agreement.

Section 10 Severability.

The unenforceability, invalidity or illegality of any provisions, covenant, condition or term of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

Section 11 Attorneys' Fees and Costs.

If City or Applicant initiates any action at law or in equity to enforce or interpret the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs in addition to any other relief to which it may otherwise be entitled. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement, or City's actions pursuant to this Agreement, the Parties shall cooperate in defending such action.

Section 12 Transfers and Assignments.

Section 12.1 Right to Assign.

Applicant may sell, transfer or assign portions of the Property to others (each such other Applicant is referred to as a "Transferee"). In connection with any such sale, transfer or assignment to a Transferee, Applicant may sell, transfer or assign to such Transferee any or all rights, interests and obligations of Applicant arising hereunder that pertain to the portion of the Property being sold or transferred, to such Transferee. No person or entity may receive or take advantage of the benefits under this Agreement without also assuming the obligations under this Agreement. Applicant shall be released from any obligations hereunder sold, transferred or assigned to a Transferee, provided that such obligations are expressly assumed by Transferee.

EXHIBIT A

LEGAL DESCRIPTION

All that real property situate in the City of Richmond, County of Contra Costa, State of California, being all of PARCEL C and a portion of PARCEL A as both parcels are shown on Parcel Map MS 753-98, filed in Book 176 of Parcel Maps at Page 11 through 13, Contra Costa County Records, State of California, more particularly described as follows:

BEGINNING at the Southwest corner of said Parcel C; thence North 01° 08' 16" East, 640.49 feet; thence South 88° 44' 30" East, 292.00 feet to the exterior boundary of said Parcels A and C; thence along said exterior boundary the following ten (10) courses:

- 1) South 01° 08' 16" West, 48.05 feet;
- 2) along a tangent curve concave to the east, having a radius of 1000.00 feet, through a central angle of 18° 08' 16", an arc length of 316.57 feet;
- 3) South 17° 00' 00" East, 2.98 feet;
- 4) South 73° 00' 00" West, 4.50 feet;
- 5) South 17° 00' 00" East, 131.50 feet;
- 8) along a non-tangent curve concave to the east, having a radius of 50.00 feet; a radial line through said beginning of curve bears North 66° 27' 51" West; through a central angle of 76° 02' 53", an arc length of 66.36 feet to a point of cusp;
- 9) from a tangent that bears South 36°23'38" West, along a curve concave to the southeast, having a radius of 101.00 feet, through a central angle of 35° 15' 22", an arc length of 62.15 feet;
- 8) South 01° 08' 16" West, 21.70 feet;
- 11) along a tangent curve concave to the northwest, having a radius of 12.00 feet, through a central angle of 90° 00' 00", an arc length of 18.85 feet;
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