

**BEFORE THE BOARD OF DIRECTORS OF THE  
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**In the matter of declaring land owned  
by the San Francisco Bay Area Rapid  
Transit District to be exempt surplus land  
pursuant to Government Code  
section 54221(f)(1)(G)**

Resolution No. \_\_\_\_\_

**RESOLUTION**

**WHEREAS**, the San Francisco Bay Area Rapid Transit District (“**BART**”) is the owner of approximately 4.4 acres of property located at the Ashby BART Station (as more particularly described in Exhibit A attached hereto and referred to herein as the “**Property**”; and

**WHEREAS**, pursuant to Government Code Section 54220 *et. seq.* (the “**Surplus Land Act**”) the BART Board of Directors (the “**Board**”) must declare the Property to be either “surplus land” or “exempt surplus land” before the Board may act to dispose of the Property; and

**WHEREAS**, Government Code Section 54221(f)(1)(G) defines “exempt surplus land” to include surplus land that is subject to an agency’s open, competitive solicitation provided that all entities identified in subdivision (a) of Government Code Section 54222 will be invited to participate in the open, competitive solicitation process, for a mixed-use development that is more than one acre in area, that includes not less than 300 residential units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing; and

**WHEREAS**, pursuant to Government Code section 54230.5(b)(2) the California Department of Housing and Community Development (“**HCD**”) was directed to, among other things, adopt guidelines to establish uniform standards to implement the Surplus Land Act; and

**WHEREAS**, on December 3, 2024, BART initiated an open, competitive solicitation process for development of a mixed-use development on the Property, notified all entities identified in Government Code Section 54222(a) of the solicitation, and invited them to participate; and

**WHEREAS**, BART is in the process of negotiating a lease option agreement with a development team that was selected pursuant to the open, competitive solicitation process that will result in a project that meets or exceeds the requirements of Government Code section 54221(f)(1)(G); and

**WHEREAS**, pursuant to the Surplus Land Act, the Board must take formal action in a regular public meeting to declare that the Property is exempt surplus land, as supported by written findings; and

**WHEREAS**, pursuant to the Surplus Land Act Guidelines issued by the California Department of Housing and Community Development (“**HCD**”), any determination by a local agency that its surplus lands are exempt from the Surplus Land Act must be provided to HCD for its review at least 30 days prior to disposition.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors adopts the recitals set forth above as findings of fact.

**BE IT FURTHER RESOLVED** that the Board of Directors hereby declares, pursuant to Government Code Sections 54221(b)(1) and 54221(f)(1)(G), that for the purposes of the Surplus Lands Act the Property is exempt surplus land because BART: 1) i notified all entities identified in Government Code Section 54222(a) of the open, competitive solicitation process to select a developer for the Property, 2) will not enter into a lease option agreement for the Property unless it will result in a mixed-use development that includes not less than 300 housing units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code for a minimum of 55 years, and 3) the foregoing requirements will be contained in one or more ground lease agreements, a memorandum of each of which shall be recorded against the land, and which ground lease requirements will be enforceable against any owner of restricted housing units who violates said requirements.

**BE IT FURTHER RESOLVED** that the Board of Directors hereby authorizes the General Manager, or his designee, to submit a copy of this Resolution to HCD and to take any actions and execute any documents necessary to ensure compliance with the Surplus Land Act.

PASSED AND ADOPTED by the Board of Directors of the San Francisco Bay Area Rapid Transit District, this \_\_\_\_ day of \_\_\_\_\_, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Signed: \_\_\_\_\_  
Board President

Attest: \_\_\_\_\_  
District Secretary

**Exhibit A**  
**Description of Property**

Real property in the City of Berkeley, County of Alameda, State of California, described as follows:

**PARCEL ONE:**

Being lots 1 through 42, inclusive, Block 6, as shown on that certain map entitled "Amended Map of Central Park, Alcatraz and Newbury Stations, Oakland Twp.", which map was filed in the Office of the Recorder of the County of Alameda, State of California on March 14, 1889, in Book 10 of Maps Page 40.

Said Lots 1 through 42, are as shown on the San Francisco Bay Area Rapid Transit District Record Maps of Right of Way RRW 9 and RRW 10A.

Said RRW 9 in Book 68 of Maps at Page 150, filed for record on December 22, 1971, in Book 68 of Maps at Pages 147-157, Document 71-167837, in the Office of the Recorder of Alameda County.

Said RRW 10A in Book 68 of Maps at Page 127, filed for record on September 20, 1971, in Book 68 of Maps at Pages 122-146, Document 71-122851, in the Office of the Recorder of Alameda County.

EXCEPTING THEREFROM the interest conveyed to City of Berkeley by Grant Deed recorded November 5, 1971, as Instrument No. 71-146356 in Reel 2989, Image 645 of Official Records and being more particularly described as follows:

Parcel R9-1 as shown on the San Francisco Bay Area Rapid Transit District Record Map of Right of Way RRW 9, in Book 68 of Maps at Page 150, filed for record on December 22, 1971, in Book 68 of Maps at Pages 147-157, Document 71-167837, in the Office of the Recorder of Alameda County.

APN: 053-1597-039-04

**PARCEL TWO:**

Parcel R9-2 as shown on the San Francisco Bay Area Rapid Transit District Record Map of Right of Way RRW 9, in Book 68 of Maps at Page 150, filed for record on December 22, 1971, in Book 68 of Maps at Pages 147-157 as Document 71-167837, in the Office of the Recorder of Alameda County.

APN: non-assessed parcel.