

RESOLUTION NO. 63-07

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
CONDITIONALLY APPROVING DESIGN REVIEW PERMIT (DR 1101112) FOR THE
POINT RICHMOND SHORES RESIDENTIAL CONDOMINIUM PROJECT, A 13.36-ACRE
SITE LOCATED AT 1500 DORNAN DRIVE AND BRICKYARD COVE ROAD

WHEREAS, in December 2004, Toll Brothers, Inc. (the Project Sponsor [as used hereinafter shall mean Toll Brothers, Inc., its successors and assigns]) filed applications for a General Plan Amendment, Rezoning to Planned Area District (PA), Design Review approval and Vesting Tentative Map with the City of Richmond (City) for the Point Richmond Shores residential development condominium project (the Project). The proposed Project would occupy a 13.36-acre site, commonly known as "Terminal One," located at on Brickyard Cove Road near Dornan Drive in the Point Richmond community (the Project Site). In 2005, the Project Sponsor revised the proposed Project. As then proposed, the Project would include development of up to 330 residential condominium units in two 5-story buildings over a podium and parking garage; a public park and shoreline open space; and access via Dornan Drive and Brickyard Cove Road, improved public streets, and Ferry Point Way, a new shoreline street. Following a charrette process in which the community was invited to participate in a professionally facilitated design workshop, the Project Sponsor revised the Project to include up to 258 condominiums in six buildings over podium parking, a shoreline City park and Bay Trail improvements;

WHEREAS, the Project Site is owned by the City and is currently developed with improvements associated with the previous port shipping and industrial activities. In 2004, the City approved and entered into a Land Disposition Agreement (LDA) with the Project Sponsor setting forth the terms and conditions for sale of this property to the Project Sponsor;

WHEREAS, on June 16, 2004, the California Regional Water Quality Control Board (RWQCB) issued a final order (Final Order R2-2004-0045) directing the City, as property owner, to conduct an environmental remediation program for the clean-up of certain hazardous substances present on the Project Site. Consistent with the final order, a Remedial Action Plan (RAP) has been prepared and approved (Geomatrix Consultants, 2004), and several phases of the site remediation have been completed. The most significant phase of remediation, the in-situ thermal desorption process (essentially a heating of the soil to vaporize soil and groundwater toxins), has been completed. Soil test results disclose that toxic levels have been reduced to acceptable levels for residential re-use, as outlined in the RAP. The next phases of soil and groundwater remediation, as well as the removal of the existing buildings and site improvements will be completed by the Richmond Community Redevelopment Agency (Agency) prior to the conveyance of any portion of the Project Site. The last phase of the remediation program will be implemented in accordance with the mitigation measures set forth in the Point Richmond Shores EIR (further defined below) concurrent with site grading;

WHEREAS, the City prepared an Initial Study and determined that an EIR is necessary for the Project. A Notice of Preparation (NOP) was published and filed with the State of California Office of Planning and Research on July 22, 2005. The Initial Study and NOP were circulated for public comment from July 22, 2005 to August 22, 2005;

WHEREAS, a Draft Environmental Impact Report (DEIR) was prepared for the Project (SCH# 2004092101). The DEIR was prepared and circulated in accordance with state law and local guidelines;

WHEREAS, on June 1, 2006, the City of Richmond Planning Commission opened a public hearing to consider certification of the FEIR, approval of a Design Review Permit and Vesting Tentative Map for the Project, and recommendation to the City Council regarding a General Plan Amendment and Rezoning for the Project;

WHEREAS, on September 7, 2006, the Planning Commission closed the public hearing, denied certification of the EIR, instructed staff to revise the EIR, and declined to consider Project approvals prior to certification of the EIR;

WHEREAS, on September 18, 2006, the Project Sponsor appealed the Planning Commission's decision to the City Council, asserting that the Planning Commission's action was a de facto denial of the Project; and

WHEREAS, on November 14, 2006, the City Council conducted a duly noticed public hearing to consider the points raised on appeal, to review the adequacy of the FEIR, and to consider Project approvals; and

WHEREAS, after considering all oral and written information regarding the FEIR presented at or before the public hearing, the City of Richmond City Council certified the FEIR, approved the General Plan Amendment for the Project and postponed decision on the Design Review Permit and the Vesting Tentative Map to allow City staff to facilitate a series of design charrettes involving Project Sponsor, members of City staff and a design consultant to address neighborhood concerns and project feasibility; and

WHEREAS, at a duly noticed public hearing on December 12, 2006, the City Council considered the resolution and ordinance prepared by City staff setting forth the Council's decisions of November 14, 2006 and by majority vote adopted Resolution No. 131-06 certifying the EIR, adopting the MMRP, approving the General Plan amendment and directing further review of the Design Review Permit and Vesting Tentative Map for the Project; and

WHEREAS, at a duly noticed public hearing on December 12, 2006, the City Council introduced an ordinance amending the zoning for the Project Site to Planned Area (PA) District and at a duly noticed public hearing on February 20, 2007 adopted Ordinance Number 4-07 rezoning the Project Site; and

WHEREAS, in January 2007, two lawsuits were filed challenging the City Council's certification of the EIR and alleging that the sale of the Project Site to the Project Sponsor constitutes a gift and waste of public funds and property. One of the two lawsuits was filed by Scott Littlehale and the other of the two lawsuits was filed by the Coalition of Concerned Citizens of Point Richmond (CCCPR) and Beverly Galloway; and

WHEREAS, on December 14, 2006, January 27, 2007 and February 24, 2007, City staff conducted public workshops among the Project Sponsor, CCCPR, Beverly Galloway, and the public to facilitate public and professional input regarding the design of the Project. Through and in response to these design charrettes, a conceptual proposal to refine the Vesting Tentative Map and the Design Review Permit was developed; and

WHEREAS, at a duly noticed public hearing on March 20, 2007 City Council directed City Staff and the Project Sponsor to prepare project plans and materials necessary to present the modified proposal for action on the Vesting Tentative Map and Design Review Permit to the City Council; and

WHEREAS on May 9, 2007 the Project Sponsor submitted a revised plan set setting forth design and subdivision map changes, including a reduction from approximately 330 residential units to 258 residential units; and

WHEREAS following submittal of the May 9, 2007 plan set, the Project Sponsor continued to negotiate with CCCPR and Beverly Galloway regarding design modifications and conditions of project approval; and

WHEREAS on June 2, 2007, on behalf of the CCCPR Beverly Galloway signed a letter of support for the Project subject to certain modifications and conditions to which the Project Sponsor agreed; and

WHEREAS on June 12, 2007 the Project Sponsor submitted further revised plans reflecting the agreement reached with CCCPR,

NOW, THEREFORE, BE IT RESOLVED that the City Council makes the following findings (Section I) and approves Design Review Permit No. 101112 subject to the following conditions (Section II):

SECTION I: FINDINGS FOR APPROVAL OF DESIGN REVIEW PERMIT DR 101112

- 1. The proposed design is suitable for its purpose, is harmonious with and relates properly to, the surrounding neighborhood, contiguous parcels, and the site itself.**

Statement: Criterion conditionally satisfied. The proposed Project would be harmonious with the surrounding neighborhood and the Project Site if conditioned as set forth in Section II of this resolution. The residential and open space uses that would be developed as part of the Project would be compatible with open space and marina uses immediately adjacent to the Project Site. The development of a public park and landscaped areas along the Bay shoreline would create physical connections between the Richmond Yacht Club, residential neighborhoods to the east, and Miller-Knox Regional Shoreline Park, and would enhance community integrity.

Additionally, the proposed design involves the creation of parcels that are of a sufficient size, are of an appropriate configuration, and are accessed by a fully improved public street, which would accommodate the proposed development and approved land uses. Secondly, the Project Site is level, and has shoreline frontage along the San Francisco Bay front. Following the remediation of the site by the Richmond Redevelopment Agency, the Project Site will be appropriate for redevelopment and suitable for multiple-family residential use.

The Project also includes two main design components to allow for increased views and vistas of the Bay: (1) the number of buildings on the site was reduced from nine to six, condensing the building footprint on the center of the site to allow for greater views around the buildings from the east and west, and (2) a loop shoreline roadway was incorporated to provide open, expansive, and continuous views of the San Francisco Bay. The location of the six buildings provides views around the buildings, and the corridors between the buildings will enhance access to those views.

- 2. The location, size, design, and characteristics of the proposed Project will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing in or working in or adjacent to the proposed Project.**

Statement: Criterion conditionally satisfied. As conditioned, the overall site design does not pose any detrimental impacts to public health, safety, or welfare of persons residing in or working in or adjacent to the proposed Project. The new housing would not introduce any public health or safety problems for the existing residents or surrounding neighborhood.

The FEIR prepared for the Project assessed the potential for public health hazard impacts associated with the Project Site and development. The FEIR determined that the existing site contains hazardous materials associated with the previous industrial and port operation uses that would impact residential use of the property. The Richmond Redevelopment Agency currently is implementing a soil and groundwater remediation program consistent with a Final Order issued by the Regional Water Quality Control Board (RWQCB). The final phases of the remediation program would occur during the site grading process for the proposed Project; therefore the EIR concludes that the Project would result in two potentially significant impacts related to hazardous materials and public health and safety. Measures (Mitigation HAZ-1 and HAZ-2) to mitigate these impacts are incorporated into the Project as conditions of map approval. Following the remediation of the site, the site will be suitable for multiple family residential use.

- 3. The overall design will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood.**

Statement: Criterion conditionally satisfied. As conditioned in Section II of this resolution, the proposed new residential housing will be attractive and will preserve the integrity of, and upgrade the existing neighborhood. The Project Site consists of an inactive industrial site. The site is bordered by Miller-Knox Regional Shoreline Park to the north; Richmond Yacht Club to the east; the Harbor Channel of San Francisco Bay to the south; and San Francisco Bay and Miller-Knox Regional Shoreline Park to the west. The proposed Project includes 3.63 acres of public open space, including the 2.38-acre public park and existing public pier with associated public parking, and a 1.25-acre shoreline band, which would include walking trails and a paved segment of the Bay Trail, along the shoreline of San Francisco Bay. Public access would extend from the proposed public park along the shoreline to the Richmond Yacht Club. The development of a public park and landscaped areas along the Bay shoreline would create

physical connections between the Richmond Yacht Club, residential neighborhoods to the east, and Miller-Knox Regional Shoreline Park, and would enhance community integrity.

4. The design of the proposed Project is in accordance with the General Plan of the City of Richmond and all applicable provisions of the Zoning Ordinance.

Statement: Criterion conditionally satisfied. As conditioned in Section II of this resolution, the design and improvements of the proposed Project are consistent with the 1994 Richmond General Plan and all applicable provisions of the Zoning Ordinance. The proposed lots are appropriately sized for their intended uses, including improvements for public park, emergency access and utilities, which would be consistent with the recreation and public safety goals and policies of the 1994 Richmond General Plan. Further, the Project Site fronts on and receives access from Ferry Point Way, which is proposed as a fully improved public street that will be developed to serve the Point Richmond Shores community.

Moreover, the Point Richmond Shores project is consistent with key General Plan policies regarding land use, transportation, visual and aesthetics, biological resources, cultural resources, geology and soils, hazards and hazardous materials, noise, emergency services, hydrology and water quality as further evaluated in the Point Richmond Shores Residential Condominium Project EIR incorporated herein by reference.

The design and improvements of the Project also are consistent with the Planned Area (PA) zoning and Point Richmond PA Plan. The PA Plan states: “The PA Plan provides a general description of the development of the Project Site. The Project is subject to Tentative Map and Design Review approvals. Final architectural and landscape design and site planning will occur at the time of Design Review and no formal amendment of this PA Plan will be required as long as the materials submitted to the Design Review Board are in substantial conformance with this PA Plan as well as the Richmond General Plan. Adjustments in the number, size and configuration of condominium units or alterations of the condominium buildings shall not require an amendment to the PA Plan as long as the following conditions are met: The maximum number of dwelling units does not exceed 330 dwelling units; the upper limit of the density range for the High Density Residential land use designation (43 du/net acre) is not exceeded.” The City Council is conducting Design Review, and is sitting as the design Review Board for this Project. Accordingly, this Design Review Permit adjusts the number, size and configuration of the condominium units, without the need for a formal amendment of the PA Plan. As proposed and conditioned, the design and improvements of the Project are consistent with the PA Plan in that:

- i. The maximum number of dwelling units does not exceed 330 dwelling units, and the upper limit of the density range for the High Density Residential land use designation (43 du/net acre) is not exceeded.
- ii. The site design of the individual buildings varies from that contemplated by the PA Plan in that rather than two buildings, there will be six independent buildings, each built upon its own parking garage. There would be a total of approximately 550 covered parking spaces within the 6 garages and approximately 82 surface parking spaces for a total project parking space count of approximately 632. These variations are allowed by the PA Plan.

5. The proposed Project, which is expected to generate over 100 peak-hour vehicle trips, is consistent with level-of-service (LOS) standards and adopted action plans for routes of regional significance, and complies with performance standards for public services.

Statement: Criterion satisfied. The Point Richmond Shores project is consistent with LOS standards and adopted action plans for routes of regional significance, and complies with performance standards for public services as further evaluated in the Point Richmond Shores Residential Condominium Project EIR, incorporated herein by reference.

**SECTION II: CONDITIONS OF APPROVAL FOR DESIGN REVIEW PERMIT DR
101112**

Design Conditions

1. Prior to issuance of any permits for grading at the Project Site, the Project Sponsor shall submit a grading and construction dust mitigation plan. The Director of Planning and Building Services or his or her designee shall determine that the construction dust mitigation plan is consistent with the adopted MMRP and all conditions of project approval.
2. Prior to issuance of any permits for construction at the Project Site, the Project Sponsor shall submit the following materials: (i) A landscaping plan indicating the location of all existing and proposed landscape plant materials, including a plant list showing quantities, sizes, common and botanical names; design details for such items as walls, fences, lighting, paving, arbors, benches, and other site features; and preliminary irrigation plans including basic location, types, sizes, and quantities of fixtures. The removal and/or replacement of existing vegetation shall be clearly shown either on the submitted landscape plan or on a separate tree removal map; (ii) building floor plan(s) of sufficient clarity to indicate the nature and extent of the proposal and to illustrate in detail that it will conform to the provisions of all relevant laws, codes, ordinances, rules, and regulations; (iii) a complete set of building elevations of sufficient clarity to indicate the nature of the exterior appearance of the proposal and its relationship to its surroundings; (iv) typical building cross sections indicating the general nature of the method of construction along with screening of any roof-top mechanical equipment; and (v) color and material samples showing all proposed materials and colors of the exterior elevations. (Collectively, the materials required under this Condition 2 shall be called the “Final Project Plans.”) The City Council shall determine that the Final Project Plans are consistent with the adopted MMRP and all conditions of project approval such that working drawings may be completed. The Project Sponsor shall seek the determination by City Council at the point applicant believes that the Project plans have been refined to the degree that is sufficient for Council’s determination that the Project plans are consistent with the adopted MMRP and all preconstruction conditions of approval. At the Council hearing, the Council shall determine only whether Project plans conform to this Condition 2 and shall not impose any additional conditions.
3. The Project Sponsor shall revise the off-site improvement and landscaping design of the intersections at the northeastern and northwestern corners of the project site (*i.e.*, the intersection of Dornan Drive and Brickyard Cove Road and the intersection of Ferry Point Way and Brickyard Cove Road) to de-emphasize Brickyard Cove Road as a through street and to emphasize the shoreline road along Ferry Point Way as the main roadway. Except as altered in response to requests by the City Engineer or Fire Department, these intersections shall be designed and constructed in accordance with the attached exhibits titled (a) Traffic Calming Alternative (two-page plan prepared by P/A Design Resources, Inc. and dated May 25, 2007) and (b) Landscape Enlargements: Traffic Calming Alternative Brickyard Cove Road (plan prepared by Van Dorn Abed Landscape Architects, Inc. dated June 12, 2006). These improvements include the commuter trail along the northern side of Brickyard Cove Road from Dornan Drive to Ferry Point Way. These improvements shall be completed prior to the issuance of a certificate of occupancy for the first residential unit in the last residential building.
4. Property and other rights necessary to construct the improvements required in Condition 3 may need to be obtained from other property owners (for example, the East Bay Regional Park District, among possibly others). The Project Sponsor shall use its best efforts, in cooperation with the City, to cause such rights (such as easements and construction license agreements) to be granted by the relevant property owners; “best efforts” shall not include a requirement that the project sponsor pay to acquire such rights, but does include obtaining (at the Project Sponsor's cost) a survey if and as necessary to determine from which persons or entities the necessary property and other rights must be obtained. At the Project Sponsor’s request, City staff shall initiate and lead contacts and negotiations with the relevant property owners.

If, prior to September 1, 2007, all required easements and construction license agreements from appropriate property owners have not been obtained as reasonably necessary to construct the improvements as required in Condition 3, the project sponsor shall return to City Council at the next meeting in September to consider (a) extensions of time to obtain the necessary easements, agreements and rights, or (b) alternative design solutions that would achieve the goal of Condition 3 within the limits of property rights available to the City and the Project

Sponsor.

The improvements required by Condition 3 shall be completed prior to the issuance of a certificate of occupancy for the first residential unit in the last residential building regardless of whether the improvements are redesigned after September 1, 2007, as described in the preceding paragraph.

5. The Project design calls for two vehicular entrances to the parking garages to be from Brickyard Cove Road. Property and other rights necessary for the entrances, as currently planned, to be feasible may need to be obtained from other property owners (for example, the East Bay Regional Park District, among possibly others). The Project Sponsor shall use its best efforts, in cooperation with the City, to cause such rights (such as easements and construction license agreements) to be granted by the relevant property owners; “best efforts” shall not include a requirement that the Project Sponsor pay to acquire such rights, but does include obtaining (at the Project Sponsor's cost) a survey if and as necessary to determine from which persons or entities the necessary property and other rights must be obtained. At the Project Sponsor’s request, City staff shall initiate and lead contacts and negotiations with the relevant property owners.

If, prior to September 1, 2007, all required rights and agreements from appropriate property owners have not been obtained as necessary to construct the improvements as shown on the current plan, the Project Sponsor shall return to City Council at the next meeting in September to consider (a) extensions of time to obtain the necessary rights and agreements, or (b) alternative design solutions such as relocation of the building entrances to Ferry Point Way.

6. The Project Sponsor shall ensure that there is adequate vehicular access for routine and emergency maintenance to the sanitary sewer pump station at the corner of Dornan Drive and Brickyard Cove Road.
7. The Project Sponsor shall relocate the main trash receptacle from the East side of the Project to a location north of the Project buildings (the “Trash Relocation”). The preferred location is near the pump station that is located near the northwestern intersection of Brickyard Cove Road and the shoreline loop road. The second alternative location is anywhere that is feasible on the north side of Brickyard Cove Road. The Project Sponsor shall cooperate with the City of Richmond in good faith to obtain all required rights and agreements from the appropriate property owners, including possible use of City property, for any improvements to implement the Trash Relocation. The Project Sponsor shall provide overall leadership, design and coordination regarding the Trash Relocation. The City, in coordination with Project Sponsor, shall lead contacts and negotiations with other property owners as necessary to accomplish the Trash Relocation. If, following good faith efforts by the Project Sponsor and the City of Richmond, all required rights and agreements for the Trash Relocation are not obtained from the appropriate property owners prior to the first building permit for the first residential building, this Condition 7 shall expire and the Project Sponsor shall design a well screened trash and recycling facility, including a trash compactor and excluding open trash bins, at the location shown on the plans dated May 7, 2007 or any other feasible location as approved by the City Engineer.
8. Final location and access to the trash enclosure shall be approved by the City Engineer. The materials and design of the trash enclosure shall be approved by the Director of Planning and Building Services or his or her designee.
9. The Project Sponsor shall construct two segments of the Bay Trail in accordance with Bay Trail Design Guidelines: (i) a commuter trail along the northern side of Brickyard Cove Road from Dornan Drive to Ferry Point Way as provided in Condition 3, and (ii) a paved two-way multi-use shoreline Bay Trail as depicted on the site plans submitted by the Project Sponsor on March 29, 2006 (but bearing the date of the intended hearing on April 6, 2006). In addition, the Project Sponsor shall, at its election, either (i) acquire all necessary access and property rights and construct a link between the commuter trail along the northern side of Brickyard Cove Road and the Bay Trail segment at Brickyard Landing, or (ii) reimburse the City costs not to exceed one hundred twenty-five thousand dollars (\$125,000.00) for acquiring all necessary access and property rights and for constructing a link between the commuter trail along the northern side of Brickyard Cove Road and the Bay Trail segment at Brickyard Landing. The applicant’s obligation to reimburse the City shall accrue upon the City’s completion of the link and presentation of records demonstrating the amount expended.

10. Ferry Point Way, the shoreline Bay Trail and Park improvements shall be constructed as shown on the attached diagram entitled, "Schedule of Bay Trail and Shoreline Improvements." Per this diagram, Phase I (the area South of Buildings 2, 3 and 4) of the shoreline trail, open space and park improvements, together with the final road surface improvements of Ferry Point Way from the northeastern corner of the project site to the eastern motor court (including public access to this portion of the road, trail, open space and improvements) shall be fully completed prior to issuance of the first certificate of occupancy for a residential unit in Building #2. Phase II (all of the remainder of Ferry Point Way, the shoreline trail and open space and park improvements) shall be completed and open to the public within four years of the issuance of the first building permit for Building #2. Alternatively, if the project's construction is phased in the reverse order, the Bay Trail and shoreline improvements shall be completed in the reverse order, tied to the first building permit and the first residential unit certificate of occupancy for Building #1.
11. Prior to issuance of any building permit for the Project, the Project Sponsor shall post a bond to secure completion of construction for the entire Ferry Point Way, shoreline Bay Trail, open space and public park.
12. The Project Sponsor shall provide distinctive paving at all private and public pedestrian crossings and intersections and at the entrance to each residential structure. The distinctive paving shall be made to the satisfaction of the Director of Planning and Building Services or his or her designee.
13. All rooftop equipment shall be positioned and screened to be out of view of persons using the East Bay Regional Park lands north of the Project Site.
14. The Project Sponsor shall eliminate the six on-street parking spaces shown on the plans dated May 7, 2007 along the south side of Ferry Point Way just south of Building 4, to provide an approximate 500 linear foot segment of street, unobstructed by bayside on-street parking. These six surface parking spaces shall be eliminated only if the Bay Conservation and Development Commission (BCDC) does not object. The City will participate in seeking the approval of Bay Conservation and Development Commission for the relocation of these spaces. If the Planning Department determines that the Project requires 636 parking spaces, the six parking spaces shall be relocated to any other locations within the Project.
15. The Project Sponsor shall provide dimensions for all parking stalls on the podium parking plan and shall provide a subtotal and total for each of the proposed parking stall types. Though the final parking configuration and count has not yet been determined, it may for example be:

Standard	X = 9 x 18.5	348
Compact	C = 8 x 16	29
Tandem	T = 8 x 16	151
Lift	L = 8 x 16	6
Accessible	H = 9 x 18.5	16
		550 Total Covered Parking Spaces
Surface Parking Spaces		82
		632 Total Project Parking Spaces
16. The Project Sponsor shall provide entries to all first floor patios from podium or ground, as is feasible.
17. The Project Sponsor shall provide loading area(s) for moving vans/delivery trucks.

Landscaping

18. The complete landscaping plan required in Condition 2 shall include fixture lighting details for the Pier.
19. All outdoor lighting shall be indirect and designed to prevent hazards to navigation at night.

General Conditions

20. The Project Sponsor shall be responsible for implementing all mitigation measures presented in the Final Environmental Impact Report for the Point Richmond Shores Residential Condominium Project (FEIR) and the accompanying Mitigation Monitoring and Reporting Program (MMRP), on file with the Planning Department.

21. The Project Sponsor shall underground all utilities serving the Project Site, including utilities serving the pier structure. In consultation with the Port of Richmond, the Richmond Community Redevelopment Agency and the San Francisco Bay Conservation and Development Commission (BCDC), and to the greatest extent possible given the environmental constraints of the Project Site, the Project Sponsor shall preserve or restore all existing utilities to the pier to a condition adequate for future use of the pier for maritime-related purposes.
22. In consultation with BCDC, the guardrail along the pier shall be designed to allow both safe public access as close as practicable to the water's edge and the occasional mooring of boats on the pier. The Point Richmond Shores Homeowners' Association shall assume no liability for damages resulting from the mooring of boats on the pier.
23. This Design Review Permit shall expire two years after its date of approval unless a building permit has been issued and construction diligently pursued or a certificate of occupancy has been issued or the design review approval has been renewed in accordance with the provisions of the Richmond Municipal Code.

I certify that the foregoing resolution was adopted by the City Council of the City of Richmond at a regular meeting held on June 19, 2007:

Ayes: Councilmembers Bate, Butt, Lopez, Marquez, Rogers, Sandhu,
Thurmond, Viramontes, and Mayor McLaughlin

Noes: None

Abstention: None

Absent: None

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to Form:

LOUISE RENNE, Interim
City Attorney

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

I certify that the forgoing is a true copy of Resolution No. 63-07, finally passed and adopted by the Council of the City of Richmond at the meeting held on June 19, 2007.

RESOLUTION NO. 63-07a

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND CONDITIONALLY APPROVING VESTING TENTATIVE MAP (TM 1101112) FOR THE POINT RICHMOND SHORES RESIDENTIAL CONDOMINIUM PROJECT.

WHEREAS, in December 2004, Toll Brothers, Inc. (the Project Sponsor [as used hereinafter shall mean Toll Brothers, Inc., its successors and assigns]) filed applications for a General Plan Amendment, Rezoning to Planned Area District (PA), Design Review approval and Vesting Tentative Map with the City of Richmond (City) for the Point Richmond Shores residential development condominium project (the Project). The proposed Project would occupy a 13.36-acre site, commonly known as "Terminal One," located at on Brickyard Cove Road near Dornan Drive in the Point Richmond community (the Project Site). In 2005, the Project Sponsor revised the proposed Project. As then proposed, the Project would include development of up to 330 residential condominium units in two 5-story buildings over a podium and parking garage; a public park and shoreline open space; and access via Dornan Drive and Brickyard Cove Road, improved public streets, and Ferry Point Way, a new shoreline street. Following a charrette process in which the community was invited to participate in a professionally facilitated design workshop, the Project Sponsor revised the Project to include up to 258 condominiums in six buildings over podium parking, a shoreline City park and Bay Trail improvements;

WHEREAS, the Project Site is owned by the City and is currently developed with improvements associated with the previous port shipping and industrial activities. In 2004, the City approved and entered into a Land Disposition Agreement (LDA) with the Project Sponsor setting forth the terms and conditions for sale of this property to the Project Sponsor;

WHEREAS, on June 16, 2004, the California Regional Water Quality Control Board (RWQCB) issued a final order (Final Order R2-2004-0045) directing the City, as property owner, to conduct an environmental remediation program for the clean-up of certain hazardous substances present on the Project Site. Consistent with the final order, a Remedial Action Plan (RAP) has been prepared and approved (Geomatrix Consultants, 2004), and several phases of the site remediation have been completed. The most significant phase of remediation, the in-situ thermal desorption process (essentially a heating of the soil to vaporize soil and groundwater toxins), has been completed. Soil test results disclose that toxic levels have been reduced to acceptable levels for residential re-use, as outlined in the RAP. The next phases of soil and groundwater remediation, as well as the removal of the existing buildings and site improvements will be completed by the Richmond Community Redevelopment Agency (Agency) prior to the conveyance of any portion of the Project Site. The last phase of the remediation program will be implemented in accordance with the mitigation measures set forth in the Point Richmond Shores EIR (further defined below) concurrent with site grading;

WHEREAS, the City prepared an Initial Study and determined that an EIR is necessary for the Project. A Notice of Preparation (NOP) was published and filed with the State of California Office of Planning and Research on July 22, 2005. The Initial Study and NOP were circulated for public comment from July 22, 2005 to August 22, 2005;

WHEREAS, a Draft Environmental Impact Report (DEIR) was prepared for the Project (SCH# 2004092101). The DEIR was prepared and circulated in accordance with state law and local guidelines;

WHEREAS, on June 1, 2006, the City of Richmond Planning Commission opened a public hearing to consider certification of the FEIR, approval of a Design Review Permit and Vesting Tentative Map for the Project, and recommendation to the City Council regarding a General Plan Amendment and Rezoning for the Project;

WHEREAS, on September 7, 2006, the Planning Commission closed the public hearing, denied certification of the EIR, instructed staff to revise the EIR, and declined to consider Project approvals prior to certification of the EIR;

WHEREAS, on September 18, 2006, the Project Sponsor appealed the Planning Commission's decision to the City Council, asserting that the Planning Commission's action was a de facto denial of the Project; and

WHEREAS, on November 14, 2006, the City Council conducted a duly noticed public hearing to consider the points raised on appeal, to review the adequacy of the FEIR, and to consider Project approvals; and

WHEREAS, after considering all oral and written information regarding the FEIR presented at or before the public hearing, the City of Richmond City Council certified the FEIR, approved the General Plan Amendment for the Project and postponed decision on the Design Review Permit and the Vesting Tentative Map to allow City staff to facilitate a series of design charrettes involving Project Sponsor, members of City staff and a design consultant to address neighborhood concerns and project feasibility; and

WHEREAS, at a duly noticed public hearing on December 12, 2006, the City Council considered the resolution and ordinance prepared by City staff setting forth the Council's decisions of November 14, 2006 and by majority vote adopted Resolution No. 131-06 certifying the EIR, adopting the MMRP, approving the General Plan amendment and directing further review of the Design Review Permit and Vesting Tentative Map for the Project; and

WHEREAS, at a duly noticed public hearing on December 12, 2006, the City Council introduced an ordinance amending the zoning for the Project Site to Planned Area (PA) District and at a duly noticed public hearing on February 20, 2007 adopted Ordinance Number 4-07 rezoning the Project Site; and

WHEREAS, in January 2007, two lawsuits were filed challenging the City Council's certification of the EIR and alleging that the sale of the Project Site to the Project Sponsor constitutes a gift and waste of public funds and property. One of the two lawsuits was filed by Scott Littlehale and the other of the two lawsuits was filed by the Coalition of Concerned Citizens of Point Richmond (CCCPR) and Beverly Galloway; and

WHEREAS, on December 14, 2006, January 27, 2007 and February 24, 2007, City staff conducted public workshops among the Project Sponsor, CCCPR, Beverly Galloway, and the public to facilitate public and professional input regarding the design of the Project. Through and in response to these design charrettes, a conceptual proposal to refine the Vesting Tentative Map and the Design Review Permit was developed; and

WHEREAS, at a duly noticed public hearing on March 20, 2007 City Council directed City Staff and the Project Sponsor to prepare project plans and materials necessary to present the modified proposal for action on the Vesting Tentative Map and Design Review Permit to the City Council; and

WHEREAS on May 9, 2007 the Project Sponsor submitted a revised plan set setting forth design and subdivision map changes, including a reduction from approximately 330 residential units to 258 residential units; and

WHEREAS following submittal of the May 9, 2007 plan set, the Project Sponsor continued to

negotiate with CCCPR and Beverly Galloway regarding design modifications and conditions of project approval; and

WHEREAS on June 2, 2007, on behalf of the CCCPR Beverly Galloway signed a letter of support for the Project subject to certain modifications and conditions to which the Project Sponsor agreed; and

WHEREAS on June 12, 2007 the Project Sponsor submitted further revised plans reflecting the agreement reached with CCCPR,

NOW, THEREFORE, BE IT RESOLVED that the City Council makes the following findings (Section I) and approves the Vesting Tentative Map subject to the following conditions (Section II):

SECTION I: FINDINGS FOR APPROVAL OF VESTING TENTATIVE MAP TM 101112

- 1. Prior to approving the Vesting Tentative Map, the City of Richmond has completed environmental review in accordance with the California Environmental Quality Act.**

Statement: Criterion satisfied. On December 12, 2006, the City Council adopted Resolution 131-06 certifying an EIR for the project. There have been no substantial changes with respect to the circumstances under which the EIR for the Point Richmond Shores project was certified, nor is there any significant new available information which was not known and could not have been known at the time the EIR was certified. Since certification of the EIR, the Point Richmond Shores project has been modified, but those modifications will not result in any new significant impacts, nor will they make previously examined impacts more severe. The project modifications reduce the number of residential units, and therefore reduce traffic and traffic-related air quality and noise impacts of the project. The modifications do not result in any new or increased aesthetic impacts, nor do they result in any other new or increased impact. Therefore, no supplemental or subsequent EIR is required.

- 2. As proposed, the Vesting Tentative Map is consistent with the provisions and requirements of the General Plan adopted by the City of Richmond in 1994, as amended; with the provisions and requirements of the Richmond Redevelopment Plan adopted by the Richmond Community Redevelopment Agency in 1999, as amended; and with the Planned Area (PA) Zoning District and PA Plan for the Site.**

Statement: Criterion conditionally satisfied. As proposed and conditioned, the Vesting Tentative Map is consistent with applicable plans as follows:

- a) As amended on December 12, 2006, the General Plan designates a portion of the Project Site High Density Residential/944 and designates a portion of the Project Site Water-Related Commerce Recreation. The Vesting Tentative Map would authorize the subdivision of the Project Site into twenty-one legal parcels, consistent with the high-density residential land use designation that governs the residential portion of the site. The high density residential land use designation allows residential densities of 28 to 43 units per acre. As modified following the design charrettes, the revised project would include 258 residential units and would result in a net residential density of 24 to 40 dwelling units per acre, depending upon the land area that is used to calculate density. Use of the entire 13.36-acre project site area to calculate density would result in a project density of 24 dwelling units per net acre, while use of the residential developable area 8.03-acre portion of the site (excluding public park, shoreline open space and roadways) for the calculation would result in a higher project density of 40 dwelling units per net

acre. Neither density calculation would result in an inconsistency with the General Plan. While the General Plan expresses a preference for a slightly higher density than is proposed if the entire site is used to calculate density, the General Plan states that residential densities lower than the lower end of the stated range can be allowed. In this case, given the extensive public input that has resulted in the current proposal, the City Council finds that the Project's residential density is consistent with the General Plan's high density residential land use designation. Another portion of the Project Site would be developed as a public park, consistent with both the existing recreation land use designation and proposed water-related commerce land use designation. The City Council finds that the Vesting Tentative Map is consistent with the land use designations of the General Plan. As proposed and conditioned, the Vesting Tentative Map is consistent with the 1994 Richmond General Plan, as amended, in that:

- i. The map would create Lots 1 - 6 for residential use. As proposed, Lots 1 - 6 would contain podiums and parking garage footprints and residential units. Residential units would be sold through the sale of 'airspace' within Lots 1 - 6. This use is consistent with the high-density residential land use designation for the property.
 - ii. The map would create Parcel A and B for dedication of a permanent, public City Park. This parcel area and use would be consistent with the water-related commerce and commercial recreation land use designation.
 - iii. The map would create Parcels D, E and P for dedication of a permanent publicly-accessible street, public access easement for shoreline public park use and the shoreline Bay Trail, access to the project parking garage and surface parking designated for both the project and the park. This parcel area and use is consistent with the high-density land use designation.
 - iv. The map would create Parcels F, G, H, J, K L, M, N and Q for ancillary uses including common area for residences, project access, and water and utility improvements. This parcel area and use is also consistent with the high-density land use designation.
- b) Because the proposed Project is consistent with the objectives, policies, general land uses, and programs specified in the 1994 General Plan, as amended (as discussed more fully below), the City Council finds that the Vesting Tentative Map is consistent with the General Plan.
 - c) The Project Site is located within the boundaries of the Redevelopment Plan Project Area 11-A. The proposed subdivision is consistent with the policy and goals of the Redevelopment Plan to revitalize the area with residential development.
 - d) The Project Site is located within an area zoned Planned Area (PA), as approved by the City Council by ordinance on February 20, 2007. The PA Ordinance for the Site includes and incorporates the "Point Richmond Shores PA Plan," which states: "The PA Plan provides a general description of the development of the Project Site. The Project is subject to Tentative Map and Design Review approvals. Final architectural and landscape design and site planning will occur at the time of Design Review and no formal amendment of this PA Plan will be required as long as the materials submitted to the Design Review Board are in substantial conformance with this PA Plan as well as the Richmond General Plan. Adjustments in the number, size and configuration of condominium units or alterations of the condominium buildings shall not require an amendment to the PA Plan as long as the following conditions are met: The maximum number of dwelling units does not exceed 330 dwelling units; The upper limit of the density range for the High Density Residential land use designation (43 du/net acre) is not exceeded." The City Council is conducting Design Review, and is sitting as the Design Review Board for this Project, at the same time it is reviewing the Vesting Tentative Map. As proposed and conditioned, the Vesting Tentative Map is consistent with the PA Plan in that:
 - i. The maximum number of dwelling units does not exceed 330 dwelling units, and the upper limit of the density range for the High Density Residential land use designation (43 du/net

acre) is not exceeded.

ii. The site design of the individual buildings varies from that contemplated by the PA Plan in that rather than two buildings, there will be six independent buildings, each built upon its own parking garage. There would be a total of not less than 544 covered parking spaces within the 6 garages and not less than 86 surface parking spaces for a total project parking space count of not less than 630. These variations are allowed by the PA Plan.

3. Pursuant to Government Code Section 66473.5, the Vesting Tentative Map, together with the provisions for its design and improvements, is consistent with the objectives, policies, general land uses, and programs specified in the General Plan approved by the City in 1994.

Statement: Criterion conditionally satisfied. As proposed and conditioned, the Vesting Tentative Map is consistent with the 1994 Richmond General Plan as amended in that:

- a) The General Plan seeks to provide attractive residential neighborhoods with a variety of dwelling types affordable to all segments of the population. The proposed Project would further that goal by providing a variety of condominiums in a beautified waterfront setting.
- b) The General Plan encourages a level of urban design and beautification that improves aesthetic and economic values of individual properties and neighborhoods for existing and future residents. The proposed Project would further that goal by converting an abandoned industrial site into an attractively designed high-density residential community and waterfront park with improved views of the San Francisco Bay.
- c) The General Plan seeks to provide a safe, attractive and efficient circulation system that ensures ongoing convenient access to all residential, business, and recreation areas by all modes of transportation. The proposed Project would further that goal by improving circulation in the Project area. Specifically, approval of the Vesting Tentative Map is conditioned upon the dedication of a new permanent local street (Ferry Point Way which extends bay ward from the Dornan Drive/Brickyard Cove Road intersection, running along and parallel to the shoreline and eastern property boundary, ultimately connecting with Dornan Drive) to provide access to the public shoreline and Project parking.
- d) Land uses discussed in the General Plan include High-Density Residential (28 – 43 units per net acre). The Vesting Tentative Map would authorize the subdivision of the property for high-density residential development and sale of condominium units. As explained above, a residential density of 24-40 units per net acre is consistent with the High Density Residential land use designation for this site.
- e) The General Plan encourages new development to provide a legacy of the history of the area for present and future residents. The proposed Project includes historical references in the design of the shoreline park and building details.
- f) The General Plan seeks to promote projects that improve Richmond's aesthetic and economic values. The proposed Project would promote that goal by converting an abandoned industrial facility into an attractive residential development and park that would enhance the City's economic values.
- g) The General Plan encourages the preservation and enhancement of open space. The proposed Vesting Tentative Map and associated improvements provide for the creation of a new public waterfront park.
- h) The General Plan encourages the preservation and enhancement of scenic vistas. The proposed Vesting Tentative Map and associated improvements enhance the visual character of the Project

Site and surrounding areas.

- i) The General Plan seeks to provide a high level of security and safety to the maximum extent possible through the prevention or reduction of crime to persons and property. The proposed Vesting Tentative Map and associated improvements further that goal through secured underground parking for Project residents, lighting and design features to minimize the opportunities for criminal activity.
- j) The General Plan encourages the establishment of a public access trail along Point Richmond. The proposed Vesting Tentative Map and associated improvements include dedication of an improved Bay Trail.
- k) The General Plan encourages the creation of parks and recreational facilities. The proposed Vesting Tentative Map and associated improvements include dedication of an improved public park.

4. Pursuant to Section 66474 of the Government Code, the Commission finds that:

(a) The proposed subdivision is consistent with the applicable general and specific plans.

Statement: Criterion conditionally satisfied. As proposed and as conditioned, the Vesting Tentative Map is consistent with the 1994 Richmond General Plan for the reasons stated above in Section I:2. There are no adopted specific plans for the Project Site. The Vesting Tentative Map is consistent with the General Plan's Water Related Commerce and Commercial Recreation and High Density Residential land use designations, and would provide for the orderly growth and development of the Brickyard Cove neighborhood in accordance with General Plan polices and goals.

(b) The design and improvements of the proposed subdivision are consistent with the applicable general and specific plans.

Statement: Criterion satisfied. As discussed above in Section I:2, the design and improvements of the proposed subdivision are consistent with the 1994 Richmond General Plan. As noted, the design of the proposed lots are appropriate for their intended use and improvement, including improvements for public park, emergency access and utilities, which would be consistent with the recreation and public safety goals and policies of the 1994 Richmond General Plan. Further, the Project Site fronts on and receives access from Ferry Point Way, a proposed fully improved public street that will be developed to serve the Point Richmond Shores community.

(c) The site is physically suitable for the type of development.

Statement: Criterion satisfied: The approval of the Vesting Tentative Map would result in the creation of parcels that are of a sufficient size, are appropriate configuration, and are accessed by a fully improved public street, which would accommodate the proposed development and approved land uses. Secondly, the Project Site is level, and has shoreline frontage along the San Francisco Bay front, which make it appropriate for redevelopment and suitable for multiple-family residential use. Following the remediation of the site by the Richmond Redevelopment Agency, the site will be appropriate for redevelopment and suitable for multiple-family residential use. Thirdly, the residential and open space uses that would be developed as part of the Project would be compatible with open space and marina uses immediately adjacent to the site. The development of a public park and a landscaped area along the shoreline, as part of the Project, would enhance the connectivity of the Richmond Yacht Club and Miller-Knox Regional Shoreline Park, and would benefit surrounding uses, including the residential neighborhoods to the north of Brickyard Cove Road. Lastly, the Project includes two main design components to allow for increased views and vistas of the Bay: (1) the number of buildings on the site was reduced from its original

configuration of nine to six, condensing the building footprint on the center of the site to allow for greater views around the buildings from the east and west, and (2) a loop shoreline roadway, Ferry Point Way, was incorporated to provide open, expansive, and continuous views of the Bay. When the City Council approved the General Plan Amendment for the Project, the City and applicant contemplated that the Project would be configured with two residential buildings. Subsequently, through City-directed design charrettes, the Project was reconfigured to include six residential buildings. The location of the six buildings continues to allow for views around the buildings, and the corridors between the buildings will enhance access to those views.

(d) The site is physically suitable for the proposed density of development.

Statement: Criterion satisfied. The subdivision would approve the mapping that would permit the sale of 258 residential units, resulting in a project density of 24-40 dwelling units per acre (net). This project density would enable the construction of a mid-rise building of up to 80 feet in height, which would be consistent with the Planned Area District zoning. The subdivision and the accompanying development are suitable for the Project Site given that the property is level and fronts San Francisco Bay. The proposed project would constitute infill development on a previously developed site, which is considered by most regional planning agencies to be an efficient and environmentally-sound way to add housing to growing metropolitan regions.

The project includes two main design components to allow for increased views and vistas of the Bay: (1) the number of buildings on the site was reduced from nine to six, condensing the building footprint on the center of the site to allow for greater views around the buildings from the east and west, and (2) a loop shoreline roadway, Ferry Point Way, was incorporated to provide open, expansive, and continuous views of the Bay; structures would be prohibited between Ferry Point Way and the Bay. The Project density and building height is suitable for the area and would be generally compatible with the massing and scale of existing buildings in the area. Moreover, the proposed project includes 3.63 acres of public open space, including the 2.38-acre public park and existing public pier with associated public parking, and a 1.25-acre shoreline band, which would include walking trails and a paved segment of the Bay Trail, along the shoreline of San Francisco Bay. Public access would extend from the proposed public park along Ferry Point Way to Brickyard Cove Road. Therefore, although the project would result in the development of residential uses on a former industrial, underutilized site, these residential uses would not create a physical barrier to the travel around the project site nor would it result in the division of an established community.

The proposed improvements will be constructed in accordance with plans prepared by a licensed structural engineer following a detailed geological survey to ensure that construction meets or exceeds all safety requirements. The proposed subdivision includes the dedication of a fully-improved public street to improve access for emergency and non-emergency vehicles in the area.

(e) The design of the subdivision and the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Statement: Criterion conditionally satisfied. As recommended by conditions of approval, the design of the subdivision and the type of improvements would not cause substantial environmental damage, nor would it substantially and avoidably injure fish or wildlife or their habitat. An analysis of potential biological resources was completed and incorporated in the Final Environmental Impact Report for the Point Richmond Shores Residential Condominium Project (FEIR: EID 1101112), February 2006. While the Project Site does not contain habitat for rare or endangered species, this report recommends a mitigation measure to address potential disruption to on-site nesting birds during grading and

construction. This measure (Mitigation BIO-1) has been incorporated as a condition of map approval. Additionally, while small depressions with ponding water were observed on the site, these pools did not exhibit soil or vegetation characteristics constituting wetlands within the jurisdiction of the US Army Corps of Engineers. The Environmental Impact Report recommends a mitigation measure to address construction of emergency overland release outfalls at the southern and western edges of the site which could impact of jurisdictional wetlands. This measure (Mitigation BIO-2) has been incorporated as a condition of map approval.

(f) The design of the subdivision and improvements is not likely to cause serious public health problems.

Statement: Criterion satisfied. The FEIR prepared for the Project assessed the potential for public health hazard impacts associated with the Project Site and development. The FEIR determined that the existing site contains hazardous materials associated with the previous industrial and port operation uses that would impact residential use of the property. A soil and groundwater remediation program is being implemented consistent with a Final Order issued by the Regional Water Quality Control Board (RWQCB). The final phases of the remediation program would occur during the site grading process for the proposed Project. The Environmental Impact Report concludes that the Project could result in two potentially significant impacts related to hazardous materials and public health and safety but the implementation of mitigation measures would reduce these impacts to a less-than-significant level. Mitigation measures related to hazardous materials and public health and safety (Mitigation Measures HAZ-1 and HAZ-2, set forth at pages 192 and 193 of the Draft Environmental Impact Report prepared for the Project) have been incorporated as conditions of map approval.

(g) The design of the subdivision and the type of improvements will not conflict with easements of record, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Statement: Criterion satisfied. The Project Site is owned by the City of Richmond and the public at large has no easements of record for access through or use of the proposed subdivision. As conditioned, the Vesting Tentative Map includes the dedication of easements for public access, emergency vehicle access and utilities.

5. Pursuant to Section 66474.6 of the Government Code, the discharge of waste from the proposed subdivision into an existing community sewer system would not result in or add to violation of existing requirements prescribed by the San Francisco Bay Regional Water Quality Control Board.

Statement: Criterion conditionally satisfied. The approval of the Vesting Tentative Map is conditioned to comply with City of Richmond and San Francisco Bay Regional Water Quality Board (RWQCB) requirements to construct new sanitary sewer lines. As conditioned, the Project will require the extension of new water and wastewater service lines from Brickyard Cove Road and a new underground wastewater pump station and generator along the western portion of Ferry Point Way. In addition, a sewer connection fee will be imposed on the Project Sponsor to cover the costs of infrastructure maintenance and system upgrades.

6. Approval of the Vesting Tentative Map, in conjunction with the Design Review Permit (DR 1101112), which jointly permit development of the Project Site with a mid-rise, high-density residential condominium project, will not result in significant adverse impacts on the environment.

Statement: The EIR prepared for the Project concluded that the Project would not result in any significant, unavoidable impacts. All potentially significant Project impacts can be eliminated or reduced to a less-than-significant level with the implementation of mitigation measures. All measures set forth in the EIR are hereby made conditions of approval for the Vesting Tentative Map.

7. **Pursuant to Section 15.08.160 of the Richmond Municipal Code, the subdivision fronting upon the shoreline provides or has available reasonable public access by fee or easement from public highways to land below the ordinary high-water mark or any ocean coastline or bay shoreline within or at a reasonable distance from the subdivision.**

Statement: Criterion satisfied. The Project Site is primarily served by a single regional roadway facility, Interstate 580 (I-580), extending between U.S. 101 in Marin and Interstate 5 south of Tracy. Three lanes are generally provided in each direction on this freeway near the project site. The closest ramps from the I-580 to the Project Site are at Canal Boulevard interchange. Canal Boulevard provides reasonable public access from the I-580 highway to the Project Site.

8. **Government Code Section 66452.6(c) provides that the life of the Vesting Tentative Map shall not include time periods during which a lawsuit involving the approval the Vesting Tentative Map is pending before a court of competent jurisdiction.**

Statement: Criterion satisfied. There are two lawsuits are pending in Contra Costa Superior Court and the subject matter of the lawsuits involves the approval of the Project and the Vesting Tentative Map and the running of the initial term of the Vesting Tentative Map under Condition 2 below should be stayed until the resolution of the lawsuits.

SECTION II: CONDITIONS OF APPROVAL FOR VESTING TENTATIVE MAP TM 101112

1. Prior to approval of a Final Map for the Project, the Project Sponsor shall submit revised Site Plans and materials that comply with all conditions set forth in this resolution and the requirements of Richmond Municipal Code Section 15.08.125. Except as modified by these conditions, the grades, utilities, and drainage shown on the revised Site Plans and recorded Final Map shall be in substantial compliance with the Vesting Tentative Map prepared by P/A Design Resources, Inc., dated July 15, 2005, revised February 9, 2006, revised May 7, 2007 on file in the City of Richmond Planning Department.
2. This Vesting Tentative Map shall be valid for twenty-four (24) months from the date of this action. This action shall become null and void unless a Final Map is recorded within this period or a time extension to the approved Vesting Tentative Map is granted in accordance with Richmond Municipal Code Section 15.08.180.
3. The Project Sponsor shall be responsible for implementing all mitigation measures for the Project in the Final Environmental Impact Report (FEIR) for the Point Richmond Shores Residential Condominium Project and accompanying Mitigation Monitoring and Reporting Program (MMRP) adopted by City Council Resolution Number 131-06, on file with the Planning Department and incorporated herein by reference. See conditions of approval for Design Review #DR1101112 for conditions requiring the implementation of mitigation measures not included with this Vesting Tentative Map approval.
4. The revised Site Plans and Final Map shall be prepared to include the following:

- a. A permanent, public access easement shall be offered to the City and BCDC over the portion of Parcel D (shorefront parcel), which, with Parcels A & B already owned by the City, is to serve as a public park within the shoreline band.
 - b. An access easement shall be offered to the City over Parcels E and P, to be developed with a public street that has a travel lane width of twelve (12) feet. The street shall be designed to the satisfaction of the City Engineer.
 - c. Plan sheet C9.0 (Utility Plan) as revised May 7, 2007 shall be further revised to state that all utilities serving the Project Site shall be undergrounded shall be designed to the satisfaction of the City Engineer.
 - d. The Final Map shall include the granting of all necessary easements to the City for purpose of accessing on-site utility service system.
5. The establishment of a Homeowners' Association (HOA) is required. The HOA shall be responsible for maintaining the on-site improvements, which shall be specified in Conditions, Covenants and Restrictions (CC&Rs) prepared and submitted with the Final Map. The CC&R's shall be reviewed and approved by City Attorney and shall include the following:
 - a. The maintenance and repair of all exterior building improvements, including but not limited to, exterior building surfaces and materials, landscaping, common grounds and recreation facilities and associated improvements.
 - b. The permanent landscape maintenance of the shoreline park area within Parcel A, B, C, and D.
 - c. Landscape maintenance of the shoreline band and rip-rap area for erosion control on HOA property (Mitigation Measure GEO-2).
 - d. A program designed to mitigate potential water quality degradation of runoff from all portions of the completed development and schedule for the long-term maintenance of on-site storm water drainage facilities including, but not limited to baffle boxes, catch basins, and hydrodynamic vortex-type separators (Mitigation Measure HYD-2b).
 - e. The maintenance and repair of all common interior building improvements, including services and infrastructure (e.g., water system, utility rooms) and the parking garage.
6. The project sponsor and the City shall enter into a Maintenance Agreement, in which the City will maintain or accept dedication of Ferry Point Way after final completion and acceptance of the improvements, and the Point Richmond Shores HOA will maintain Brickyard Cove Road along the project frontage after final completion and acceptance of the improvements.
7. Prior to the approval of the Final Map by the City Engineer, the following shall be met or completed:
 - a. Secure approval of all on-site and off-site improvement and utility plans.
 - b. Provide required security bonds for all improvements for the condominium project.
 - c. Pay all applicable fees.
 - d. Submit a complete package for the Final Condominium Map including all necessary documents for review and process approval of the map.
 - e. The Final Map shall be prepared in compliance with the Subdivision Map Act and Richmond Municipal Code.
8. The Project shall comply with all site grading and construction-related requirements set forth in the conditions of approval for Design Review Permit #1101112.
9. The Project Sponsor shall submit a Final Map, prepared by a person authorized to practice land surveying in California, delineating all parcels created or deleted and all changes in lot lines. The Final Subdivision Map shall be approved by the City Engineer and recorded by the County prior to the issuance of the Site Grading Permit or the first building permit. It is the Project Sponsor's

responsibility to check with a title company and the County to determine the time necessary to have the map recorded after City approval.

10. The subdivider shall enter into a subdivision agreement with the City to guarantee the construction and installation of public and private improvements as required by Chapter 15.08.420 of the Municipal Code. Performance of the subdivision agreements shall be guaranteed by securities as specified in Chapter 5 of the Subdivision Map Act.
11. The Project Sponsor shall comply with all terms and conditions set forth in the Land Disposition Agreement between the City of Richmond, the Richmond Redevelopment Agency, and Toll Brothers, Inc., dated October 31, 2003, as amended.
12. Fire Department Conditions of Approval:
 - a. Fire apparatus roadways shall have a minimum unobstructed width of 12 feet and unobstructed vertical clearance of not less than 13 feet 6 inches (4 meters). Vertical clearances may be increased when in the opinion of the Chief, vertical clearances or widths are not adequate to provide fire apparatus access. (UFC, 2001, Sec. 902.2.2.1)
 - b. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities. (UFC, 2001, Sec. 902.2.2.2)
 - c. (Dead-ends) Fire apparatus access roads in excess of 150ft. in length shall be provided with approved provisions for the turning around of fire apparatus. (UFC, 2001, Sec. 902.2.2.4)
13. The subdivider shall design and construct an extension of the San Francisco Bay Trail as shown on approved plans, in accordance with the Association of Bay Area Governments (ABAG) Trail Design Guidelines for a Class I, two-way, multi-use trail.
14. The subdivider and the City of Richmond currently have an indemnification agreement concerning existing challenges to the Project. To the fullest extent permitted by law, the subdivider shall defend, indemnify, and hold harmless the City of Richmond, its council, boards, commissions, agents, officers, employees, consultants, successors and assigns from and against any and all future claims, demands, obligations, proceedings, actions, causes of action, suits, losses, judgments, fines, penalties, damages, liabilities, costs and expenses (including without limitation attorney's fees, disbursements, and all other professional or expert fees and costs) (individually a "Claim," collectively "Claims") which may arise to attack, set aside, void, or annul the CEQA documents prepared for the Project, Project approvals, or any Project condition imposed by the City or any of its agencies, departments, commissions, boards, agents, officers, employees, or council concerning said Project, which Claim, is brought in accordance with all applicable laws related thereto and within the time period provided by law, including but not limited to any claim for private attorney general fees claimed by or awarded to any party from City. This condition is binding upon the subdivider only if the City promptly notifies the subdivider of any such Claim. In the event of inconsistency between this condition of approval and any contracts or agreements between the City and the subdivider, the contract shall govern.

Prior to the Issuance of a Permit or Certificate, as Indicated

Planning Department and Building Department

15. Prior to issuance of a building permit, the Project Sponsor shall submit a numbered list to the Planning Department stating how each condition of approval contained in this resolution is or will be satisfied. The list shall be submitted to the Project Planner, who will oversee the development phases of the Project.

16. Except as conditioned herein and in the accompanying Design Review Permit, the building materials, elevations, landscaping, infrastructure and appearance of the Project, as presented for approval, shall be in substantial conformance with the plans approved in conjunction with this resolution and with the accompanying Design Review Permit.
17. Prior to issuance of a grading permit, the Project Sponsor shall submit written proof of permit approval and/or clearance from other regulatory or responsible agencies, which may include the Bay Conservation and Development (BCDC), California Regional Water Quality Control Board (RWQCB) and State Department of Toxic Substance Control (DTSC).
18. Prior to initiating construction of the overland release outfalls or improvements on the existing 57-inch storm drain, the applicant will obtain any necessary permits and authorization from the Army Corps of Engineers (Corps) and RWQCB. If the existing storm drain footprint is not expanded and BMPs are employed, impacts to Corps jurisdiction will be short-term and temporary, and mitigation may not be required. However, both agencies shall be contacted before any construction activity below the high-tide line (i.e., along the seawall) occurs. (Mitigation Measure BIO-2)
19. Prior to issuance of a building permit and in accordance with the conditions of Design Review approval, detailed final landscape and irrigation plans shall be prepared and submitted for approval by the Planning Department. The final landscape and irrigation plans shall be approved by BCDC.
20. Prior to issuance of a building permit and in accordance with the conditions of Design Review approval, a detailed lighting plan shall be prepared and submitted for the approval by the Planning Department. A photometric plan shall accompany the detailed lighting plan, presenting lighting intensity. Use of sodium vapor lighting standards is prohibited. The selected light standards shall include shields to direct illumination downward so as to reduce glare. Lighting intensity shall not be overly bright and must be approved by the Planning Department and the Police Department.
21. Prior to issuance of a building permit and in accordance with the conditions of Design Review approval, a roof plan shall be submitted to include a detailed program for the screening of rooftop mechanical equipment. The roof material that is selected shall have a minimum 10-year guarantee.
22. Mechanical ventilation (such as air conditioning) shall be installed in the proposed residential units located within 84 feet of the roadway centerline of Brickyard Cove Road to ensure that the windows can remain closed for prolonged periods of time. (Mitigation Measure NOI-1)
23. Prior to issuance of a building permit, the Project Sponsor shall pay all applicable impact fees in proportion to the scope of the permit.

Public Works Department

24. The Project shall be subject to and comply with City Public Works Department standard conditions of approval.
25. All public improvements shall be made in accordance with the latest adopted City Standard Drawings and Specifications. All work shall conform to applicable City ordinances. Good housekeeping practices shall be observed at all times during the course of construction. Adjacent

public right-of-way shall be kept clear of all job related dirt and debris. Dirt and debris shall not be washed into storm sewers. The storing of goods and materials on the sidewalk and/or street will not be allowed unless a special permit is issued. The owner's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way in accordance with this condition may result in the City performing the required maintenance at the Project Sponsor's expense.

26. The Project Sponsor shall notify the Department of Public Services' Inspection Division at least twenty-four (24) hours prior to starting any work pertaining to on-site drainage facilities, grading, or paving and all work in the City's right-of-way. Failure to do so will result in rejection of work that proceeded without inspection.
27. The Project Sponsor shall repair or replace all existing improvements not designated for removal which are damaged or removed as a result of its operations. Improvements such as, but not limited to, curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, or signs shall be repaired and replaced to a condition equal to or better than the original condition.
28. The Project Sponsor shall install all utility services, including telephone, electric power, cable and other communication lines underground in accordance with City of Richmond policy.
29. All storm drainage runoff shall be directed to the public street with a minimum grade of two percent (2%) over landscaped areas and one-half per cent (1/2%) over paved areas. Where necessary, sidewalk drains per City Standard Drawing 5-AA-1059 shall be provided to direct the water under the sidewalk and through the curb. In addition, discharge must conform to any non-point source permit issued by the Regional Water Quality Control Board. A detailed drainage plan shall be submitted for review and approval by the Public Works Department. The drainage plan shall be prepared by a registered civil engineer and shall include the following:
 - a. All storm drainage shall be designed to collect onsite and be conveyed underground to the public storm drain system. This requirement shall be shown on the construction plans. Underground parking areas should be dry-swept or, if washdown water is used, the effluent should be discharged to the sanitary sewer system under permit from the West County Wastewater District.
 - b. Storm drainage runoff shall be conveyed over landscaped areas, bio-swales or similar natural filtration feature, before discharging into the public system.
 - c. The area within all refuse/trash enclosures shall drain to the sanitary sewer system. The outside perimeter of the enclosure shall be graded to prevent storm water from draining into the sanitary sewer system.
 - d. All storm water catch basins within the parking garage shall be provided with oil traps and/or other filtering devices as per Department of Public Services specifications.
30. For all storm water discharges associated with construction activity which involved land disturbance of one or more acres, including clearing, grading, or excavation, the Project Sponsor shall submit a Notice of Intent (NOI) form with the applicable fees.
31. Prior to issuance of a grading permit, the Project Sponsor shall submit 'will serve' letters from the appropriate utilities and agencies demonstrating that utilities and services are provided to the Project.

32. Prior to issuance of a grading permit, a General Construction Activity Storm water Permit shall be secured from the RWQCB. Approval shall require compliance with erosion and sediment control measures/standards and implementation of Best Management Practices (BMPs). See conditions below regarding the preparation and submittal of an Erosion Control Plan and implementation of BMPs. (Mitigation Measure GEO-1)
33. Prior to issuance of a grading permit, a detailed grading plan shall be submitted for review and approval by the City Engineer and Building Department. The grading plan shall include all proposed and finished grades and quantities of cut and fill.
34. Prior to issuance of a grading permit, a detailed drainage plan shall be submitted for review and approval by the City Engineer. The drainage plan shall be prepared by a registered civil engineer and shall include the following:
 - a. All storm drainage shall be designed to collect onsite and be conveyed underground to the public storm drain system. This requirement shall be shown on the construction plans.
 - b. Pretreatment of storm drainage water runoff may be required as determined by the Public Works Department.
 - c. The area within all refuse/trash enclosures shall drain to the sanitary sewer system. The outside perimeter of the enclosure shall be graded to prevent storm water from draining into the sanitary sewer system.
 - d. All storm water catch basins within the parking garage shall be provided with oil traps and/or other filtering devices as per Department of Public Services specifications.
 - e. On-site and immediately adjacent off-site storm drain inlets shall be marked with signage indicating that the drains discharge to the bay and that dumping substances such as oil, paints and other contaminants is prohibited.
35. Prior to issuance of a building permit, a detailed site utility plan shall be prepared and submitted for review and approval by the Public Works Department. The plan shall show the existing and proposed sanitary sewer and storm drainage facilities, mains, laterals, connections, etc.
36. Prior to issuance of a building permit, detailed improvement plans and supporting documentation shall be prepared and submitted for proposed sanitary sewage and storm drainage work shall be submitted for review and approval.
37. Prior to issuance of a grading permit, the Project Sponsor shall prepare and submit complete structural calculations to verify that soil, foundation and other structural members are adequate for all structures.
38. Prior to issuance of a building permit, the Project Sponsor shall obtain written approval from the Richmond Sanitary Service that the proposed refuse collection plan is sufficient for the development.
39. The final grading and drainage plans for the Project must demonstrate through detailed hydraulic analysis that implementation of the proposed drainage plans would include drainage components that are designed in compliance with City of Richmond standards. The condition of the 57-inch storm drainage pipe shall be confirmed, either by direct visual inspection or remote technology. If necessary the 57-inch pipe shall be cleared and/or repaired to City standards by the Project proponent at no expense to the City. The grading and drainage plans shall be reviewed for compliance with these requirements by the City of Richmond Department of Public Services.

Any improvements deemed necessary by the City will be reflected in the final grading and drainage plans for the Project. (Mitigation Measure HYD-1).

40. **STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** – The Project Sponsor shall submit a SWPPP designed to reduce potential impacts to surface water quality through the construction period of the Project. The SWPPP must be maintained on-site and made available to City inspectors and/or RWQCB staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, which must include both dry and wet weather inspections. (Mitigation Measure HYD-2a). The SWPPP shall include provisions for the proper management of construction-period dewatering. At minimum, all dewatering shall be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary to ensure that only clear water is discharged to the storm or sanitary sewer system, as appropriate. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater shall be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the Project proponent shall acquire the appropriate permit(s) prior to discharge of the dewatering. Discharge of the dewatering would require a permit from the RWQCB (for discharge to the storm sewer system or to San Francisco Bay) and/or the West County Wastewater District (for discharge to the sanitary sewer system). (Mitigation Measure HYD-3).
41. **BEST MANAGEMENT PRACTICES (BMPs)** - The Project design shall include features and operational Best Management Practices to reduce potential impacts to surface water quality associated with operation of the Project to the maximum extent practicable. These features shall be included in the Project drainage plan and final development drawings. Specifically, the final design shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. In general, “passive”, low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred over active filtering or treatment systems. An operations and maintenance plan shall be developed and implemented to inspect and maintain BMPs in perpetuity. The final design team for the development project shall review and incorporate as many concepts as practicable from Start at the Source, Design Guidance Manual for Storm water Quality Protection and the California Storm water Quality Association’s Storm water Best Management Practice Handbook, Development and Redevelopment. The final design team should also consider installing “end-of-pipe” treatment systems, including, but not limited to, baffle boxes, catch basins, and hydrodynamic vortex-type separators. Any use of end-of-pipe treatment systems must be accompanied by a viable maintenance program to be administered by the HOA. Underground parking areas shall not be drained to the storm water conveyance system. The garages should be dry-swept or, if wash down water is used the effluent should be discharged to the sanitary sewer system under permit from the West County Wastewater District. The City Public Services Department shall review and approve the SWPPP and drainage plan prior to approval of the grading plan. City staff may require more stringent storm water treatment measures, at their discretion. Implementation of this mitigation would reduce the level of significance of this impact to a less-than-significant level. (Mitigation Measure HYD-2b).
42. Any grading work done between the dates of October 1st and May 1st requires an erosion control plan approved by the Building Department.

43. Any graded areas that will be left incomplete or un-landscaped by October 1st will require an erosion control plan approved by the Building Department.
44. All exposed slopes shall be re-vegetated for erosion and sediment control prior to the issuance of a certificate of occupancy. Revegetation shall conform to the standards set forth in the Association of Bay Area Governments' "Manual of Standards for Erosion and Sediment Control Measures."
45. The Project Sponsor shall repair and replace to City standards, any sidewalk that is damaged now or during construction of the Project. Except as specified in conditions of Project approval, sidewalk repair shall match existing color, texture and design. Limits of sidewalk repair will be determined by the Public Works Construction Inspector during the construction of the Project.
46. The Project Sponsor shall remove and replace to City standards any curb and gutter that are damaged now or during construction of the Project. Limits of curb and gutter repair will be determined by the Public Services Construction Inspector during the construction of the Project.
47. To the satisfaction of the City Engineer and in accordance with all City requirements, the Project Sponsor shall install an appropriately sized sewer lateral connection to the sewer main located in the street right-of-way. The installation shall be done in accordance with all applicable City standards and include a two-way cleanout.
48. Prior to the commencement of site grading, the Project Sponsor shall prepare and submit a Construction Noise Management Plan (CNMP) specifying hours of construction. The CNMP shall include the following noise-reduction measures:
 - a) Limit noise generating construction activities to hours of 7am to 7pm, Monday through Friday and 8:30am to 6:00pm on Saturday, Sunday and on holidays.
 - b) Restrict vibration-generating activity (pile driving) to between the hours of 7:00am and 7:00pm, Monday through Friday (not permitted on weekends or holidays). (Mitigation Measure NOI-2)
 - c) Pre-drilling of pile holes shall be investigated as an option, which would minimize the number of percussions required to 'seat' the pile.
 - d) Noise and vibration abatement measures such as mufflers, barriers or noise dampening devices shall be installed on construction equipment and vehicles.
 - e) Stationary, noise-generating equipment shall be located as far as practicable from recreation uses (Bay Trail and Miller-Knox Regional Shoreline Park).
 - f) Quiet construction equipment, particularly air compressors shall be used whenever feasible.
 - g) The Project Sponsor shall designate a Noise Disturbance Coordinator who is to be responsible for responding to complaints. Contact information for the Noise Disturbance Coordinator shall be posted at the Project Site during construction and shall be maintained by the City of Richmond Public Works Department and/or Building Department.
 - h) All occupants of land uses located within 200 feet of the site shall be notified, in writing, of the Project construction schedule, as well as the name and telephone number of the Noise Disturbance Coordinator. Proof of notification shall be submitted to the City.
 - i) All aggregate materials transported to and from the site shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
49. The Project Sponsor shall provide a construction parking plan that minimizes the effect of construction worker parking in the neighborhood and shall include an estimate of the number of workers that will be present on the site during the various phases of construction and indicate

where sufficient off-street parking will be provided. Said plan shall be subject to the review and approval by the City Engineer prior to issuance of City permits and shall be enforced by the Project Sponsor during construction. (See also Condition 80, below.) Failure to enforce the parking plan may result in suspension of the City permits.

50. The Project Sponsor shall install necessary street markings of a material and design approved by the City and replace any which are damaged during construction. These include but are not limited to all pavement markings, painted curbs and handicap markings. All permanent pavement markings shall be thermoplastic. Color and location of painted curbs shall be shown on the plans and subject to approval by the City Engineer. Any existing painted curb or pavement markings no longer required shall be removed by grinding if thermoplastic, sand blasting if in paint.
51. Prior to any plan checking, the Project Sponsor shall deposit with the City, funds to pay for, at the adopted rate, all plan-checking, engineering, inspection and survey services that may be required during review and construction of the Project. Plan checking cannot proceed until the fee deposit is paid. The amount of the deposit shall be determined by the City based on the amount of work estimated. The Project Sponsor shall be required to increase the deposit or be billed monthly at the discretion of the City for any costs in excess of the deposit. If billed monthly, invoices must be paid within 30 days of mailing. Any and all bills from the City to the Project Sponsor shall be paid in full before a certificate of occupancy will be issued for the Project. If any portion of the deposit has not been utilized at the time the Project Sponsor applies for a certificate of occupancy, the City shall refund the remainder within 30 days.
52. The Project Sponsor shall have street improvement plans prepared for all work in the public right-of-way by a licensed civil engineer and obtain Department of Public Services written approval prior to the issuance of the encroachment permit (see Condition 55, below).
53. The Project Sponsor shall submit to the Public Works Department a proposed address plan. Said plan shall include the proposed address of each building and its relative location to other buildings, location of all streets, public or private, and their names. Said submittal shall be approved by Building Regulations, Police Dept. and Fire Dept. prior to issuance of the Building Permit.
54. Prior to commencing any work in the public right-of-way or prior to any cutting and restoration work in existing public streets for utility trenches, the Project Sponsor shall obtain an encroachment permit, posting the required bonds and insurance, for all work to be done in the public right-of-way. Issuance of said permit shall not be unreasonably withheld or delayed. All work performed in the right-of-way shall conform to City standards.
55. The Project Sponsor shall submit a site grading and drainage plan with all supporting data, including hydraulic calculations, in accordance with requirements of the City's Subdivision Ordinance. No overloading of downstream drainage facilities will be allowed. The plan shall be prepared by a registered Civil Engineer and be approved by the Department of Public Services prior to the issuance of any City permits.
56. All grading and earth work performed under any City permit shall be in accordance with the approved plans and soils report and shall be under the continuous supervision of a soils engineer. Upon completion of the work, Project Sponsor shall submit a letter to the City, from its soils engineer, describing the work authorized by the permit and the work performed and attesting that the work was performed in accordance with the approved plans and soils report recommendations.

57. Upon completion of the grading and excavation, Project Sponsor shall submit a letter to the City, from its soils engineer, verifying the adequacy of the foundation excavations.
58. A design-level geotechnical and soils report shall be prepared and submitted to the City of Richmond Department of Public Works for review and approval in accordance with adopted City standards. This report shall address the final specifications for design and construction intended to limit the effects of seismic hazards to structures and utilities, including but not limited to: foundation design, driven piles, utility corridor design, excavation subgrade preparation, fill materials and compaction specifications, retaining walls and concrete pavement specifications, and drainage and dewatering design. The report shall include recommendations for limiting effects of settlement on structures and utilities (e.g., pile-supported foundations and lightweight backfill). The report shall also include recommendations for setbacks from the shoreline to ensure that structures would not be affected by potential slope failures, and a slope stability analysis of the proposed shoreline rip-rap slope to recommend whether or not stabilization or additional shoreline protection is required as part of the Project. The structural designs shall adhere to the latest UBC requirements for Seismic Zone 4. Examples of the kinds of measures typical to meet these requirements include pile-supported foundations, use of pre-stressed concrete materials, slab reinforcement, compaction specifications, drainage requirements, use of control joints, and appropriate safety factors. The report shall identify specific building techniques appropriate for minimizing damage from seismic events, including liquefaction (e.g. pre-stressed concrete pile or H-pile foundations that are founded in bedrock or a properly designed friction pile foundation). The analysis presented in the geotechnical report shall conform to the California Division of Mines and Geology recommendations presented in the Guidelines for Evaluating Seismic Hazards in California. All design criteria and specifications set forth in the design-level geotechnical and soils report shall be implemented as a condition of Project approval. (Mitigation Measure GEO-1)
59. The Home Owner's Association (HOA) shall be responsible for maintenance of the shoreline band and rip-rap area as described in the design-level geotechnical and soils report. (Mitigation Measure GEO-2)
60. The Project Sponsor shall submit a proposed material hauling route, disposal areas, stockpile sites and schedule. Said submittal shall be approved by the Department of Public Works prior to issuance of a building or grading permit. All material hauling activities, including but not limited to adherence to approved route, hours of operation, dust control and street maintenance shall be the responsibility of the Project Sponsor. Tracking of dirt onto City streets and walks will not be allowed. The Project Sponsor shall provide an approved method of cleaning tires and trimming loads on-site. Any job-related dirt and/or debris deposited on the public right-of-way shall be removed immediately. All material hauling activities shall be done in accordance with applicable City ordinances and conditions of approval. Violation of such may be cause for suspension of work and/or fine. (See also Conditions 81 and 82, below.)
61. Prior to the issuance of a grading permit, the Project Sponsor shall prepare a site-specific health and safety plan (HSP) for all invasive activities at the site, such as excavation, dewatering, grading, and utility installation that require a Soil Management Plan (SMP) under the RWQCB Order for the Project Site. At a minimum, the HSP shall include health and safety provisions for monitoring exposure to construction workers and the general public; provide procedures to be undertaken in the event that previously unreported contamination or subsurface hazards are discovered; incorporate construction safety measures for excavation activities; establish procedures for the safe storage and use of hazardous materials at the Project Site, if necessary; provide emergency response procedures; and designate personnel responsible for implementation

of the HSP. In proposed utility corridors, additional representative soil sampling shall occur to demonstrate that contaminants of concern are below the OSHA 8-hour exposure limits; if concentrations exceed this limit, the material shall be removed and replaced with clean fill. (Mitigation Measure HAZ-1).

62. The Health and Safety Plan (HSP), Soil Management Plan (SMP), and Storm Water Pollution Prevention Plan (SWPPP) for the Project Site shall include emergency procedures for incidental hazardous material releases (see Mitigation Measure HAZ-1, and Mitigation Measure HYD-1a). Use, storage, disposal, and transport of hazardous materials during construction activities shall be performed in accordance with existing local, state, and federal hazardous materials regulations. (Mitigation Measure HAZ-2).
63. AS-BUILT DRAWINGS – All design plans and final ‘as-builts’ must be submitted in both hard copy version and electronic format. Electronic format should be on standard compact disk (CD-R/CD-R/W) and provided in one of the following acceptable formats:
 - a) Acceptable formats include:
 - b) CAD (.dxf – preferred; .dwg – OK)
 - c) shapefile (.shp)
 - d) coverage
 - e) geodatabase (.mdb)
 - f) For all the above, attributes need to be stored as database fields and not simply as annotation.
 - g) Geographic Parameters:
 - h) Precision: Up to 10 digits
 - i) Coordinate system: State Plane Coordinate System (SPCS), Zone 3
 - j) Unit of measurement: Feet
 - k) Projection system: Lambert conformal conic
 - l) Horizontal Datum: NAD83
 - m) Vertical Datum: NAVD1988
64. The Richmond Sanitary District shall approve the sewer layout prior to the issuance of grading permits.
65. All roof downspouts shall be piped to the gutter under sidewalk through curb.
66. Retaining wall design shall be approved by the Building Department prior to the issuance of building permits.
67. The Project Sponsor shall submit drainage calculations to the Public Services Department to demonstrate whether a catch-basin is needed, and shall construct a catch-basin if directed to do so by the City Engineer.
68. The Project Sponsor shall strategically position the subdivision’s street lights in accordance with City standards, Design Review approvals and the instructions of the City Engineer.

Fire Department

69. Prior to issuance of a building permit, a Hydrant Plan shall be submitted for review and approval by the Fire Marshal.

70. Automatic fire sprinkler systems are required for all buildings including the parking garages. The Project will also require interior standpipes with fire hose connections. Automatic Fire Sprinkler Systems must comply with NFPA 13. Fire Standpipes must comply with NFPA 14. All fire pumps must comply with NFPA 13, and NFPA 20. The Fire Department shall determine the connection locations.
71. Fully automatic and manual fire alarm systems are required for all buildings including the parking garages. All fire alarm systems shall comply with NFPA 72.
72. Prior to issuance of a building permit, building construction plans and plans required for fire protection systems shall be submitted to and approved by the Fire Prevention Division. All applicable plan review and inspection fees shall be paid at the time of plan submittal. The entire project must comply with NFPA 1, 2001 California Building Code and 2001 California Fire Code.
73. All security gates including the garage access gate shall be specified on the building construction plans and approved by the Fire Department. The security gates shall be designed and equipped with a locking system and "Knox Box" acceptable to the Fire Department.

Police Department

74. All perimeter walls, fences and trash enclosure areas shall be designed, built and lighted to prevent unauthorized access to the parking garages and residential structures.
75. All vehicle entrance gates shall be equipped with 'Click to Entry' access system, which allows access for emergency vehicles by use of Police/Fire radios. The system shall be indicated and described on the building construction plans and installed prior to issuance of a certificate of occupancy.
76. Emergency phones designed for 911 'dial-out' shall be installed in the parking garage. The location and specifications of these emergency phones shall be indicated and described on the building construction plans and installed prior to issuance of a certificate of occupancy.

Prior to Commencement of Site Grading and/or Construction

Planning Department

77. A comprehensive sign program for on-site building identification and addressing shall be developed and submitted to the Planning Department for review and approval prior to commencement of construction.
78. All trees and shrubs (i.e., coyote brush and blue gum) within the construction zone that will be removed as part of the Project should be cut during the non-breeding season (September 1 – January 31) in the year prior to the start of grading. If tree and shrub removal cannot occur in the non-breeding season then a pre-construction survey for active bird nests will be required. During the breeding season (February – August), pre-construction surveys to determine the presence of nesting birds will be conducted by a qualified wildlife biologist no more than 30 days prior to the initiation of any construction activities. If birds (excluding non-native species) are observed nesting on or adjacent to the site during these surveys, minimum 250-foot construction buffers will be established around all active nests. All Project-related activity will occur outside of the exclusion area until a qualified biologist has determined that the young have fledged from the nest. (Mitigation Measure BIO-1)

Public Works Department and Building Department

79. Prior to the commencement of site grading, the Project Sponsor shall prepare and submit a Construction Impact Management and Traffic Control Plan (addressing construction logistics). This plan shall include a details and specifications showing the extent of the construction zone (fenced area) all staging areas, truck routes, off-haul destination and hours of operation. (See also Condition 50, above.)
80. Prior to the commencement of site grading and in accordance with conditions of Design Review approval, the Project Sponsor shall prepare and submit a Dust Control Plan to control construction dust and emissions. The plan shall be implemented through all phases of site grading and project construction. (See also Condition 61, above, and Condition 82, below.) Project compliance with City and Bay Area Air Quality Management District (BAAQMD) engineering and building standards shall include the following dust control measures:
- a. All active construction areas shall be watered at least twice daily.
 - b. All trucks hauling soil, sand, and other loose materials shall be covered with tarpaulins or other effective covers.
 - c. All unpaved access roads, parking areas, and staging areas at the construction site shall be paved; otherwise, water or non-toxic soil stabilizers shall be applied to all unpaved access roads. In addition, paved access roads, parking areas, and staging areas shall be swept daily with a water sweeper. Streets shall be swept daily with a water sweeper in areas where visible soil material is carried onto adjacent public streets.
 - d. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded area inactive for ten days or more).
 - e. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - f. Limit traffic speeds on unpaved roads to 15 miles per hour.
 - g. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - h. Replant vegetation in disturbed areas as quickly as possible.
 - i. The Project Sponsor shall construct a gravel pad at all exits used by construction equipment or trucks to minimize soil adhering to the vehicle tires or tracks from leaving the construction site. The pads would be constructed by placing crushed aggregate (greater than 3 inches and smaller than 6 inches) over geotextile fabric to at least 12 inches in depth. The pad shall be a minimum of 20 feet wide and 50 feet in length.
 - j. During periods when trucks are transporting soil to or from the site, dirt that may have been tracked off the site shall be removed daily from the street. The area to be cleaned is to extend to the limit of noticeable dirt tracked from the site or for a distance of 75 feet on each side of a vehicle entrance or exit, whichever is greater. If water is used to clean the street then the quantity of water used shall not result in sediment being washed into the storm sewer catch basins. Street sweepings shall be disposed of as a waste along with waste soil in accordance with applicable regulations.
 - k. The applicant shall terminate excavation and grading activities when winds exceed 25 mph or when fugitive dust emissions are visible for a distance of 100 or more feet from the origin of such emissions, and there is visible evidence of wind driven fugitive dust. Wind speed will be determined when an on-site anemometer registers at least two wind gusts in excess of 25 miles per hour within a consecutive 30-minute period.
 - l. The idling time of all construction equipment used at the site shall not exceed 5 minutes. Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.

- m. All equipment shall be properly tuned and maintained in accordance with the manufacturer's specifications. Emissions from all off-road diesel powered equipment used on the Project Site shall not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. A visual survey of all in-operation equipment shall be made at least weekly throughout the duration of Project construction. A record of the inspection shall be maintained on-site. The BAAQMD and/or other officials may conduct periodic site inspections to determine compliance.
 - n. Require construction contractors to install particulate traps when appropriate on diesel engines.
 - o. Use the minimum practical engine size for construction equipment.
 - p. Gasoline-powered equipment shall be equipped with catalytic converters, where feasible. (Mitigation Measure AIR-1 and AIR 2).
81. Prior to the commencement of site grading, the Project Sponsor shall prepare and submit a detailed Erosion and Sediment Control Plan for approval by the Public Works Department. The plan shall include best management practices (BMPs) to control erosion of stockpiled dirt and exposed soil per the mitigation measure. The plan shall be implemented through all phases of site grading and project construction (Mitigation Measure HYD-2a, HYD-2b). (See also Conditions 61 and 81, above.)
82. Prior to the commencement of site grading, the Project Sponsor shall prepare and submit a Storm water Pollution Prevention Plan (SWPPP) per the Mitigation Measure HYD-2a at pages 165 to 166 of the Draft Environmental Impact Report prepared for the Project. (See also Conditions 39 and 63, above.)
83. All structures shall be designed so that potential for surface water flow into the underground parking structures is minimized. Specifically, the entrances and exits to the below-ground parking structures shall be protected from surface water inflow either by grade control and/or berms at the entrances and exits. In addition, the portions of the building that may come into contact with groundwater shall be waterproofed using accepted building practices approved by the City of Richmond Building Official. The methods used in waterproofing may include the placement of membranes or coatings (e.g. modified asphalt, urethanes, or rubber polymers) on the exterior surfaces of the below grade foundation components. (Mitigation Measure HYD-4)
84. Prior to approval of construction plans, provide bonds and pay applicable fees. Bonding shall be provided to the City in the form of a "Performance Surety" and a separate "Labor and Materials Surety" in amounts stipulated by City ordinance.

During Grading and Construction

Public Works Department and Building Department

85. During construction, the Project Sponsor shall ensure that contractors and subcontractors provide for safe traffic control in and around the site. This may include but not be limited to signs, flashing lights, barricades and flag persons.
86. The Project Sponsor shall ensure that all contractors and subcontractors comply with the noise-reduction measures set forth in the Construction Noise Management Plan. (See Condition 49, above.)

87. All construction inspection shall be coordinated with the Public Works Department and Building Department and no construction shall deviate from the approved plans.
88. The City will hold the Project Sponsor responsible for repairing any and all public improvements that are damaged by the Project Sponsor's contractor during project grading and construction. (See Condition 27, above.)
89. The Project design engineer shall be responsible for the Project plans. If plan deviations are necessary, the Project engineer must first prepare a revised plan or details of the proposed change for review by the Public Works Department. Changes shall be made in the field only after approval by the City. At the completion of the Project, the Project design engineer must prepare and sign the record drawings.

Fire Department

90. (During Construction) When approved by the Fire Department, temporary access roads of a width, vertical clearance and surface which provide access for fire department apparatus are allowed to be used until permanent roads are installed. (UFC, 2001, Sec. 8704.2 – exception)

Prior to the Completion and Final Inspection for Occupancy

Planning Department

91. All landscaping as shown on the final, approved landscape plan shall be installed and properly maintained prior to the issuance of the last certificate of occupancy for the Project.
92. The Project landscape architect shall confirm, in writing, that the landscaping has been installed in accordance with all aspects of the approved landscape plans, that the irrigation has been installed and tested for timing and function.

Public Works Department

93. All of the improvements required by the Public Works Department shall be installed, including but not limited to streets and utilities.
94. Prior to occupancy/final building inspection, any broken curb, gutter, sidewalk or driveway approach caused by the Project Sponsor's contractor shall be removed and replaced as directed in the field by the Public Works Department. (See Conditions 26 and 89, above.)

Police Department

95. Illuminated diagrams of the building complex shall be installed at each building entrance, showing the location of the viewer and the location of uses throughout the building.

Post-Construction Monitoring

Public Works Department

96. Following building occupancy, the Project Sponsor shall contact the Public Works Department for an inspection of all exterior lighting. Inspections shall occur thirty (30) days following installation and full operation of the on-site lighting (exterior and street lighting). All lighting shall be in general conformance with the approved photometric plan.
97. The HOA shall be responsible for the maintenance of on-site improvements, including landscaping, and irrigation. (See Condition 5, above.)

CLOSING STATEMENT: Nothing in these conditions of approval is intended to authorize or approve any aspects of the design, construction or installation that do not strictly comply with all applicable codes and standards. In the event of a conflict between the conditions set forth in this resolution and the mitigation measures set forth in the adopted MMRP, the more restrictive provisions shall apply. The Richmond Fire Department Fire Prevention Bureau, Building Department, Public Works Department and City Engineer are not responsible for inadvertent errors or omissions pertaining to this document and/or subsequent field inspection(s) i.e., additional comments may be added during subsequent drawing or field inspections.

I certify that the foregoing resolution was adopted by the City Council of the City of Richmond at a regular meeting held on June 19, 2007:

Ayes: Councilmembers Bate, Butt, Lopez, Marquez, Rogers, Sandhu,
Thurmond, Viramontes, and Mayor McLaughlin

Noes: None

Abstention: None

Absent: None

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to Form:

LOUISE RENNE, Interim
City Attorney

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

I certify that the forgoing is a true copy of Resolution No. 63-07a, finally passed and adopted by the Council of the City of Richmond at the meeting held on June 19, 2007.