

RESOLUTION NO. 94-08

[CORRECTED] A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND UPHOLDING THE PLANNING COMMISSION APPROVAL OF CONDITIONAL USE PERMIT NUMBER 1101974 AND DESIGN REVIEW PERMIT NUMBER 1104423 FOR THE CHEVRON ENERGY AND HYDROGEN RENEWAL PROJECT

WHEREAS, Chevron Products Company (“Chevron”) submitted an application to the City of Richmond (“City”) on April 6, 2005 for a Conditional Use Permit (“CUP”) for the Chevron Energy and Hydrogen Renewal Project (“Project”); and

WHEREAS, Chevron submitted an application to the City on November 7, 2007 for a Design Review Permit for the Project; and

WHEREAS, on January 31, 2008, the Design Review Board held a duly noticed public hearing to consider the Design Review Permit application and voted to recommend approval of the proposed Project’s design of the following Project components to the Planning Commission with certain recommended conditions: Continuous Catalyst Regeneration (“CCR”) Reformer process unit structure, Cogeneration process unit structure (“CoGen”), Hydrogen Plant process unit structure flare, control room, eight new storage tanks and 10 replacement storage tanks; and

WHEREAS, the Final Environmental Impact Report for the Chevron Energy and Hydrogen Renewal Project (State Clearinghouse No. 2005072117) (“Final EIR” or “EIR”) includes the Draft Environmental Impact Report (“Draft EIR”), Volumes 1 and 2; comments on the Draft EIR, responses to those comments, and text revisions, Volumes 3, 4 and 5; a “Consolidated Volume” (Volume 6); and errata dated March 5, 2008 and June 5, 2008; and

WHEREAS, on June 5, 2008, the Planning Commission approved Resolution 08-02, certifying that the Final EIR was completed in compliance with the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*, and the City of Richmond’s Guidelines and Procedures for Implementation of CEQA, Resolution No. 125-03 (adopted September 23, 2003); and

WHEREAS, the Planning Commission held duly noticed public hearings on March 20, 2008, April 10, 2008, June 5, 2008, and June 19, 2008; and

WHEREAS, two appeals to the certification of the Final EIR were filed on June 16, 2008, one by Communities for a Better Environment, Asian Pacific Environmental Network, West County Toxics Coalition, Richmond Greens, Richmond Progressive Alliance and Atchison Village Environmental Committee (CBE, et al.) and one by Chevron; and

WHEREAS, the Planning Commission reviewed and considered the proposed CUP and Design Review Permit (“DRP”) (together, “CUP/DRP”); the proposed Conditions of Approval, including the Design Review Board’s recommended conditions of approval; and all information received orally and in writing at or before the public hearing; and

WHEREAS, on June 19, 2008, the Planning Commission approved Planning Commission Resolution 08-03 adopting Conditional Use Permit and Design Review Findings; adopting Supplemental Findings (Exhibit A to Resolution 08-03); approving Conditional Use Permit Number 1101974 and Design Review Permit Number 1104423 subject to the Conditions of Approval contained therein (Exhibit B to Resolution 08-03), voting not to add proposed Conditions C16 and C17 and to delete Conditions H5, H9, J4, J5 and J6; and directing the Director of Planning and Building Services to write a letter to the State Lands Commission requesting certain conditions of approval related to the Bay Trail, identifying two ships for “cold ironing,” and the operating temperature of the marine vapor recovery system be incorporated by the State Lands Commission into the lease renewal for the Long Wharf; and

WHEREAS, on June 20, 2008, Chevron filed an appeal of Conditions of Approval C1, C3, C4, C6, C7, C10-C14, D1, D3-D8, E1, E2, G2, G9, G10, H2-H4, H6, H8, J1-J3, J7-J9, and K1, stating as the reasons for its appeal that these conditions lack a “lawful nexus” to the Project, are “not supported by substantial evidence in the record,” are “arbitrary and capricious,” “interfere with operation of the refinery without corresponding environmental benefit,” and are “directed to the Refinery as a whole rather than any specific impacts of the Renewal Project;” and

WHEREAS, on June 30, 2008, CBE, et al. filed an amendment to their June 16, 2008 appeal to include an appeal of the Planning Commission's decision to issue the CUP/DRB permit, stating as reasons for the appeal, among others, that the decision was "not in accordance with the purposes of the Richmond zoning ordinance," and that the Planning Commission had "fail[ed] to include CUP conditions necessary to protect the health, safety, and welfare of Richmond residents and workers;" and

WHEREAS, the City Council conducted a duly notice public hearing on July 15, 2008 on the appeals of the Planning Commission's decision to approve the CUP/DRP, which was continued to July 16, 2008 and ended on the morning of July 17, 2008; and

WHEREAS, the City Council denied the appeals of the certification of the Final EIR on July 17, 2008 and upheld the decision of the Planning Commission to certify the Final EIR; and

WHEREAS, during the course of the public hearings on the Project, the "Richmond Community Benefits Agreement between the City of Richmond and Chevron Products Company," proposed by Chevron Products Company and dated July 15, 2008, was presented to the City Council; and

WHEREAS, after consideration of the Final EIR and the record of proceedings before the Planning Commission and Design Review Board, the Staff Report to the City Council dated July 15, 2008 and the Attachments thereto, including the expert report of Dr. Ranajit Sahu, and oral and written public testimony.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RICHMOND, having independently considered the environmental effects of the Chevron Energy and Hydrogen Renewal Project as shown in the Final EIR:

1. The City Council denies the appeals of Chevron and CBE, et al., and upholds the Planning Commission decision to approve Conditional Use Permit Number 1101974 and Design Review Permit Number 1104423, subject to the Conditions of Approval contained therein.
2. The City Council hereby adopts the following Conditional Use Permit and Design Review Findings ("Findings").

Having reviewed the application, plans, and materials submitted for the Project, the recommendations of the Design Review Board, and all information received orally and in writing at or before the public hearing on the Project, the Council finds as follows, pursuant to Richmond Municipal Code ("RMC") sections 15.04.910.050.A, 15.04.820.025.B, and 15.04.930.110.A:

Finding 1: The location of the proposed conditional use is in accordance with the general plan of the City of Richmond (RMC § 15.04.910.050.A.1).

Statement: Criteria satisfied. All components of the Project will be constructed within existing Refinery operational areas and continue the existing use of land that has already been developed for Refinery-related operations. Most of the areas where Project components are sited are designated in the General Plan as *Heavy Industry*. (See Consolidated Volume, Figure 4.9-2, "General Plan Land Use Designations: Refinery and Vicinity," and accompanying text.) The Land Use Element of the General Plan states that the heavy industry category "accommodates a wide variety of industrial land uses including, but not limited to, oil refining, contractor storage yards, warehouses, machine shops, co-generation plants, and other 'heavy' industrial type uses." (See 1994 General Plan, page LU-8.) Thus, the location of Project components within the *Heavy Industry* area is appropriate and in accordance with the Richmond General Plan.

Some of the new tanks will be constructed on land designated in the General Plan as 908 -- *Recreation Lands*. However, the location of these new tanks—adjacent to existing tank facilities on land currently owned by the Refinery— will not directly conflict with existing recreational uses or potential future uses along the shoreline, such as the Bay Trail. The tanks will be constructed well away from the public shoreline. (See Section 4.9 of the Consolidated Volume for further discussion.) The General Plan specifically states that the Community Open Space category within the *Recreational Lands* designation includes "storage tank farms to serve adjacent industrial uses," and that "[t]hese areas are not inconsistent with other recreational lands." (1994 General Plan, page LU-13.) The equipment and structures constructed by the Project, including the new tanks, would be similar to other facilities within the Refinery, and the Project does not expand the Refinery site. For these reasons, and the others stated

above, the Commission finds that the location of the proposed Project is consistent with the General Plan.

Finding 2: The location, size, design, and operating characteristics of the proposed use will be compatible with and will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the proposed conditional use and the surrounding neighborhood (RMC § 15.04.910.050.A.2).

Statement: *Criteria conditionally satisfied.* The characteristics of the Projects and its significant environmental impacts on the public health, safety and welfare of persons residing and working at the Refinery and in the surrounding communities have been disclosed and analyzed in the EIR. Among other issues, the EIR analyzes and responds to public comments regarding the following environmental issues related to the Project: aesthetics, air emissions, dust, odor, water pollution, noise, vibrations, flaring, public health, worker safety, and hazards. (See, e.g. Sections 4.1, 4.3, 4.8, 4.10, 4.12, and 4.13 of the Consolidated Volume.) For those Project impacts that the EIR found to be significant under the California Environmental Quality Act, mitigation measures that will reduce these impacts to a less-than-significant level have been adopted and made conditions of Project approval. The adopted mitigation measures are set forth in their final form in Table 2-1 (Revised) in the Consolidated Volume.

The conditions of approval adopted pursuant to RMC sections 15.04.910.050.A, 15.04.820.025.B, and 15.04.930.110.A, Exhibit B hereto, further ensure that Project will not be detrimental to the public health, safety or welfare. For example, Conditions E1 and E2 address greenhouse gas (GHG) emissions; Conditions B1-B3 address air emissions from construction; Conditions D2-D5 and D8 address flaring; Conditions C3 and C6 address odor; Conditions C4 and C5 address NOx emissions; Condition C7 addresses particulate matter (PM) emissions and diesel emissions; Condition C10 addresses mercury emissions; Conditions C2, C8, C9, C11, C14 and C15 address compliance with air quality regulations, permit conditions and health risk assumptions for the Project; Conditions C12, C13, D2 and G2 address the expected and potential changes in the crude oil slate and gas oils processed by the Refinery; Conditions C10 and F1-F4 address water quality and water demand; Condition I2 addresses lighting and glare; Conditions D3-D5 and D8 and G1-G9 and G11 address monitoring, reporting and record keeping; and Conditions J1-J3 address employment opportunities and job training, as well as tax revenues from the Project.

Finding 3: The proposed use complies with all applicable provisions of the Richmond Zoning Ordinance, Chapter 15.04 of the Richmond Municipal Code (RMC § 15.04.910.050.A.3).

Statement: *Criteria conditionally satisfied.* The majority of the Project site is zoned M-3 -- *Heavy Industrial*. (See Figure 4.9-3: Zoning Districts: Refinery and Vicinity; Zoning Map, Amended by Ordinance No. 31-97 and 9-04 N.S. in the Consolidated Volume.) RMC section 15.04.330.010 states that “[t]he M-3 zone is intended to create, preserve, and enhance areas containing a wide variety of industrial uses including but not limited to manufacturing and related establishments” Pursuant to RMC section 15.04.330.040, “petroleum refining and related industries” in the M-3 District may be permitted by conditional use permit. All Project components other than the storage tanks (discussed below) will be located well within the Refinery boundary and will be, on average, one-half mile from non-industrial areas of the City. (See Figure 3-2, “Locations of Major Components of the Renewal Project” and Figure 3-3, “Chevron Refinery Existing General Features Layout” in the Consolidated Volume.)

Two oil tanks will be rebuilt on land zoned M-4 -- *Marine Industrial* and one tank will be constructed on land zoned CRR -- *Community and Regional Recreational District*. “Petroleum storage facilities” for a Port/Marine Terminal are permitted in the M-4 District pursuant to RMC section 15.04.340.020. Pursuant to RMC section 15.04.420.030, “storage tank farms adjacent to industrial uses” may be permitted by conditional use permit in the CRR District. Pursuant to the table in RMC section 15.04.820.020, bulk storage of moderately hazardous materials in the M-3 and M-4 districts, including flammable liquids, that would be stored in the new and replacement tanks as part of the Project, also requires a conditional use permit.

As modified by the adopted mitigation measures and other conditions of approval, and explained below, the Project complies with the applicable provisions of the Zoning Ordinance for each of these districts.

The EIR analyzes compliance with the Noise Ordinance in Section 4.10 of the Consolidated Volume. Mitigation Measures 4.10-1a and 4.10-1b (as revised) require Chevron to take a number of

precautions to ensure that noise levels remain below prescribed levels and require ongoing monitoring of actual noise levels during Project construction. Thus, the Commission finds that the Project is in compliance with the applicable noise standards (RMC § 15.04.840.020).

The EIR analyzes the Project's odor impacts in the Consolidated Volume 1 on pages 4.3-37 to 4.3-38 and concludes that the Project would not be expected to cause an increase in the Refinery's potential to frequently expose substantial numbers of people to objectionable odors. Conditions of approval C3 and C6 further address H₂S emissions, which are both odorous and harmful to the public health. The conditions of approval also include the mitigation measures adopted in the EIR to address dust and other particulate matter that might be detectable by a reasonable person outside of the Refinery boundary (see pages 2-11 to 2-15 of the Consolidated Volume). Thus, the Project satisfies the odor, particulate matter, and air contaminants standard set forth in RMC section 15.04.840.030.

The EIR analyzes light and glare that would be produced by the Project in Section 4.1 of the Consolidated Volume, pages 4.1-26 to 4.1-27, and determines that the impact would be less-than-significant. In addition, Condition I2 requires all external light fixtures to be directed toward specific targets of illumination. Accordingly, the Project complies with RMC section 15.04.840.040.

RMC section 15.04.840.050 (Tree Preservation) does not apply because the Project does not affect landmark trees or major groves. The Sidewalk and Street Tree Standards in RMC section 15.04.840.100 apply only to public streets and therefore are not applicable to the Project, which takes place entirely on Refinery property.

The Project would not affect any creek, stream or riparian corridors because there are none on or adjacent to the sites of the Project components; therefore, no building setbacks are required. (Section 4.4 of the Consolidated Volume, page 4.4-22.) Project impacts on special status fisheries were determined to be less-than-significant in the EIR (Consolidated Volume 1, Impact 4.4-1) because all wastewater discharge by the Project would be required to comply with the Regional Water Quality Control Board's NPDES permit. Furthermore, the Project will result in a net reduction of total process wastewater flow, and all wastewater draining from Project soil stockpiles will be treated at a wastewater treatment plant before discharge. (See pages 4.8-24 and 4.8-25 of the Consolidated Volume.)

The Council finds that the Fire Department has approved the storage, use, transportation and production of flammable or explosive materials as part of the Project; therefore, the Project is in compliance with RMC section 15.04.840.080.

The Zoning Ordinance requirement for screening of outdoor activities and mechanical equipment (RMC §15.04.840.120, §15.04.820.013) are not applicable to the Project due to the size of most of the outdoor equipment (e.g., the CCR Reformer will be approximately 300 feet high). However, Condition H4, recommended by the Design Review Board and adopted by the Planning Commission, provides for an alternate method of screening and additional landscaping around the Refinery site. Moreover, the EIR determined through visual simulations that the Project would not have a negative aesthetic impact on views toward the Refinery. (See Section 4.1 of the Consolidated Volume.) Thus, the Council finds that the Project is in compliance with applicable landscaping and screening standards.

As explained in the EIR, Sections 4.9 (Hydrology and Water Quality), 4.13 (Public Safety), and 4.17 (Utilities and Service Systems) of the Consolidated Volume, the Project will comply with all regulations, licenses and approvals of the local and state agencies with jurisdiction over the discharge of liquid and solid waste. Thus, the Project meets the standard set forth in RMC section 15.04.840.090.

Pursuant to Mitigation Measures 4.3-1a, 4.3-1b, 4.8-2, 4.10-1a, and 4.10-1b, and Conditions B2 and B3, the Project will meet the construction operation standards set forth in RMC section 15.04.840.110.

Condition I1 requires Chevron to maintain the Project site and surrounding areas in an orderly fashion during both construction and operation. Thus, the Council finds that the Project is in compliance of RMC section 15.04.840.130, which requires property to be maintained in good order.

RMC section 15.04.340.050 generally requires that development in M-4 District provide for free public, pedestrian access to the shoreline, unless such public access would create a safety hazard. (See section 15.04.340.050(1)(b).) As explained in the EIR, placement of the tanks in the M-4 District will not have any impact on public access to the shore, because tanks are already located in the same area. In addition, as reported in the Consolidated Volume 1, pages 4.15-3 to 4.15-4, Chevron has stated that

permitting public access to this area, including bicycle access, could be a threat to public safety and Refinery equipment. (See EIR, Volume 3, responses to letter 3.10.) Thus, the Council finds that the Project is in compliance with the M-4 district development standards found in RMC section 15.04.340.050.

On January 31, 2008 the Design Review Board reviewed and recommended conditional approval of the exterior design of certain Project components. Pursuant to Condition H10, the exterior design of the new maintenance facility and the new central control room must undergo design review prior to issuance of a building permit. Thus, the Project meets the design standards in the Zoning Ordinance.

With regard to parking, the Refinery currently has approximately 2,000 parking spaces, of which 500 are reserved for administrators and 500 are reserved for mechanics, operators and technicians. The remaining 1,000 spaces are reserved for use by contractors during turnarounds. Chevron states that major turnarounds occur between zero and three times per year; each process plant is on its own turnaround schedule. Employees generally are not allowed to drive within the Refinery but are bused from the parking lot to the control rooms or process blocks where they work. The Project would add 10 new employees to the Refinery, and there would be adequate on-site parking for these new personnel. To the extent that the 3-4 new employees per shift that would operate the new hydrogen plant would need to park near the new control room, which is similar in use to a business or professional office, the Zoning Ordinance requires seven parking spaces and 20 spaces will be provided. (RMC § 15.04.850.060.) Therefore, the Project would meet the parking standards in the Zoning Ordinance.

Pursuant to RMC section 15.04.330.050, Table, Footnote 3, and RMC section 14.04.420.040, Table, Footnote 1, height limits do not apply to processing equipment and structures in the M-3 or CRR zoning districts. The tanks to be constructed in the M-4 district are less than 75 feet in height (see Consolidated Volume, page 4.1-23). None of these tanks is within 100 feet of the shoreline. Thus, the Council finds that the Project complies with the height standards in RMC sections 15.04.340.050.

Finding 4: The site of the proposed use is adequately served by highways, streets and other public service facilities (RMC § 15.04.910.A.4).

Statement: *Criteria conditionally satisfied.* Section 4.14 of the Consolidated Volume analyzed the Project's impacts on public services and utilities, including police protection, fire protection and prevention, and other services such as schools, libraries, and hospitals. The Project's impact on public roadways was analyzed in Section 4.16 of the Consolidated Volume. The Project sites are located entirely within the Refinery, with internal circulation leading to public access on Castro Street and regional access via Interstate Highway 580. The Refinery site has adequate first and second response public emergency services available.

During construction of the Project, the number of persons working at the Refinery is expected to increase by an average of 300 construction workers, and by up to 750 construction workers (or approximately 50% of the current employee base of 1,500) during the peak six months of construction. (See EIR, Consolidated Volume, page 4.11-4.) Recognizing that this temporary increase in the amount of traffic to the Refinery could burden the Richmond police and fire departments during the construction phase of the Project and that construction vehicles could worsen both traffic congestion in the area and the condition of public roads, the City is requiring certain mitigation measures as part of the Project. These measures were developed in consultation with the Public Works, Fire, and Police Departments. Specifically, Chevron must hire additional security officers, enforce rules and regulations with respect to the conduct of construction personnel, assist the City in training firefighters in industrial firefighting, implement traffic control measures at certain intersections, and repair any public roads damaged by Project construction. (See Mitigation Measures 4.14-1 through 4.14-2, and 4.16-1 through 4.16-4.) In order to ensure that these measures can be effectively carried out and that the City remains apprised of issues concerning the Project's effect on public services, Condition G3 requires Chevron to notify the Police, Public Works, and Engineering Departments and meet with designated representatives of these departments in advance of construction and monthly, or as otherwise agreed, during construction, to coordinate issues related to construction traffic and the implementation of traffic control mitigation measures.

Section 4.17 of the EIR Consolidated Volume 1 also discusses and analyzes the Project's impact on municipal water demand, wastewater and sewer treatment, and solid waste, and determines that the existing services are sufficient to support the Project. (See pages 4.17-1 to -6 and 4.17-11 to -13.) In addition, Condition I1 requires Chevron to divert demolition and construction debris from the waste stream, and to prepare and present a policy that will achieve this waste diversion.

As discussed in the EIR, the Project will result in an increase of 10 permanent workers at the Refinery, and will not directly or indirectly induce substantial population growth in the area. (See EIR, Consolidated Volume 1, Section 4.11 and Section 4.14, pages 4.14-6 to 4.14-8.) Thus, there would be no additional burden on public services such as schools, libraries, hospitals, or recreational facilities.

Finding 5: The activity will not create an unreasonable risk to the public health and safety or to the surrounding properties and activities (RMC § 15.04.820.025.B.1).

Statement: *Criteria conditionally satisfied.* See Finding 2, above. Section 4.12 of the Consolidated Volume of the EIR analyzes whether the Project would create a significant hazard to the public through the routine transport, use, or disposal of hazardous materials during Project construction and operation. Section 4.13 of the Consolidated Volume analyzes the potential risk of accidental releases of hazardous materials at the Refinery and how those risks would change as a result of the Project. The EIR responds to public comments on hazardous materials issues in Volume 3. (See, e.g., EIR, Volume 3, pages 3.13a-33 to 3.13a-35, and 3.28-1 to 3.28-2.) The Bay Area Air Quality Management District (“BAAQMD”) has confirmed that a health risk assessment prepared for the Project concluded that the Project would not have an unacceptable health risk due to emissions of toxic air contaminants. (E-mail from Barry Young, BAAQMD, dated January 7, 2008.) Based on these analyses, and the many procedures, plans, controls, and regulations in place governing the handling of hazardous materials at, from, and to the Refinery, the EIR concludes, and the Council finds, that the Project’s use of hazardous materials would not cause a significant impact or unreasonable risk to public health and safety or to surrounding properties and activities.

Finding 6: The activity is consistent with the character and economic function of the surrounding area (RMC § 15.04.820.025.B.2).

Statement: *Criteria satisfied.* See Finding 1, above. The components, structures and equipment that make up the Project will be located entirely within the existing Refinery site. The Refinery currently uses hazardous materials that fall into the categories identified in the table in RMC section 15.04.820.023 as “moderately hazardous materials, including...flammable gases, flammable liquids...,” and will continue to do so after implementation of the Project. The Project facilities and equipment will replace older, existing facilities and equipment located entirely within the boundaries of the existing Refinery, which is located in the M-3, M-4 and CRR zoning districts. The EIR concludes either that the impact from the Project on all land uses would be less than significant or would result in no impact. The EIR also concludes that the Project would not conflict with established plans, policies and ordinances. The Project, as conditioned, therefore will be consistent with the character and economic function of the surrounding area.

Finding 7: The proposed activity with any conditions will not result in significant impact on environmentally sensitive areas (RMC § 15.04.820.025.B.3).

Statement: *Criteria satisfied.* Section 4.4 of the Consolidated Volume of the EIR analyzed the impacts of the Project on environmentally sensitive areas, including wetlands and habitat for special status species, and concluded that the Project would not have a significant environmental impact.

Finding 8: The request has been approved by the Fire Department (RMC § 15.04.820.015.B.4).

Statement: *Criteria satisfied.* The Fire Department has reviewed the application materials and the applicable sections of the EIR, and has approved the request for a Conditional Use Permit for the Project.

Finding 9: The proposed design is suitable for its purpose, is harmonious with and relates properly to, the surrounding neighborhood, contiguous parcels, and the site itself (RMC § 15.04.930.110.A.1).

Statement: *Criteria conditionally satisfied.* The Project will replace existing facilities and equipment within the Refinery and add new facilities and equipment. Neither the replacements nor the new facilities and equipment will change the basic size, design or characteristics of the Refinery or the surrounding area. As described in the EIR, the Project is consistent with the General Plan and M-3 Heavy Industrial Zoning District where most of the improvements will be located. All components of the Project will be constructed within existing Refinery operational areas and continue the existing, industrial land use. All Project components, other than the new and replacement storage tanks, are located approximately one-half mile from the Refinery boundaries.

The EIR analyzed the Project's impacts on aesthetics, visual quality, and light and glare, and determined that the design of the Project would not have a significant adverse impact on the surrounding neighborhoods. (See EIR, Consolidated Volume, pages 4.1-22 to 4.1-27.) Measures to mitigate potential construction noise, vibration, and dust impacts have been adopted and made conditions of Project approval. (See EIR, Consolidated Volume, pages 4.10-10a to 4.10-16a, Mitigation Measures 4.10-1a and 4.10-1b). Conditions C3 and C6 also address odorous or other noxious emissions that may result from implementation of the Project.

The following conditions recommended by the Design Review Board and approved by the Council, or independently adopted by the Council, also serve to ensure that the design of the Project is harmonious with the surrounding neighborhoods:

- Condition H4 requires Chevron to implement plans developed by a landscape architect or arborist for successful additional landscaping on the Refinery property, which will include fire- and drought-resistant species and replacing exotic species with native species.
- Condition H7 requires Chevron to remove all stacks that are retired as a result of the Project within one year of their shut down.
- Condition I1 requires Chevron to maintain the Project site and surrounding areas in an orderly fashion, including removal of litter and debris.
- Condition I2 requires that all Renewal Project external light fixtures be directed toward specific targets of illumination so as not to interfere with the vision of nearby residents, motorists, bicyclists and pedestrians.

Therefore, as conditioned and mitigated, the Project will relate properly to and be harmonious with the contiguous parcels, the surrounding neighborhoods, and the site itself.

Finding 10: 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 (RMC § 15.04.930.110.A.2).

Statement: *Criteria conditionally satisfied.* See Finding 2, above.

Finding 11: The overall design will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood (RMC § 15.04.930.110.A.3).

Statement: *Criteria conditionally satisfied.* As discussed in Finding 9, above, the Project will not change the character of the existing neighborhood. Furthermore, the screening and landscaping conditions of approval proposed by the Design Review Board and incorporated into the Project will help to upgrade the aesthetics of the Refinery site.

Finding 12: 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 (RMC § 15.04.930.110.A.4).

Statement: *Criteria satisfied.* See Findings 1 and 3, above.

3. The City Council hereby adopts the Supplemental Findings for Conditional Use Permit Number 1101974 and Design Review Permit Number 1104423, Chevron Energy and Hydrogen Renewal Project, attached hereto as "Exhibit A."
4. The City Council finds that the Final EIR has been completed in compliance with CEQA and the State Guidelines and the City's procedures, and that the City Council has reviewed and considered the information contained in the EIR and found it adequately discusses the environmental effects of the Project.
5. Having made the foregoing Findings, the City Council hereby approves Conditional Use Permit Number 1101974 and Design Review Permit Number 1104423, attached hereto as "Exhibit B," subject to the Conditions of Approval contained therein.

6. The City Council directs the City Manager to write a letter to the State Lands Commission requesting that the conditions of approval for the renewal of Chevron's lease of the Long Wharf include the following:
 - a. No later than five (5) years after approval of the Long Wharf Lease renewal, Chevron shall complete the Bay Trail improvements from the Long Wharf to the Richmond-San Rafael Bridge Toll Plaza and from the Toll Plaza to Point Molate Beach in accordance with the Association of Bay Area Governments Bay Trail Plan.
 - b. No later than one (1) year after approval of the Long Wharf lease renewal, Chevron shall identify at least two tanker vessels eligible for electrical hook-ups. No later than five (5) years after approval of the Long Wharf lease renewal, Chevron shall (i) provide funding to provide on-ship electrical infrastructure for these tanker vessels, and (ii) install on-shore electrical infrastructure (cold ironing).
 - c. No later than one (1) year after approval of the Long Wharf lease renewal, Chevron shall submit a plan to the Bay Area Air Quality Management District for operating and/or retrofitting the marine vapor recovery system to operate at a minimum temperature of 1400 degrees Fahrenheit to achieve a minimum 98% VOC destruction efficiency. No later than two (2) years after approval of the Long Wharf lease renewal, Chevron shall file all necessary permit applications to achieve the plan. No later than five (5) years after approval of the Long Wharf lease renewal, Chevron shall complete implementation of necessary operations and/or retrofits to achieve the above target emission rates. Chevron shall continuously monitor and record the temperature of the recovery system. This requirement applies to: S-9322 Berth #2 Long Wharf 18 Risers, S-9323 Berth #3 Long Wharf 6 Arms, S-9324 Berth #4 Long Wharf 5 Arms, S-9325 Berth #9 Long Wharf 15 Risers, abated by A-0900 Marine Vapor Recovery system.
7. The City Council hereby approves the Richmond Community Benefits Agreement, authorizes its execution by the City Manager, and directs staff to make certain changes and add certain standard legal provisions and technical cleanup provisions suggested by the City Attorney.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Richmond at a regular meeting held on July 17, 2008.

As to actions 1-6, above:

Ayes: Councilmembers Bates, Lopez, Marquez, Sandhu, and Viramontes

Noes: Councilmembers Butt, Thurmond, Rogers, and Mayor McLaughlin

Abstain: None

Absent: None

As to action 7, above:

Ayes: Councilmembers Bates, Lopez, Rogers, Marquez, Sandhu, and Viramontes

Noes: Mayor McLaughlin

Abstain: Councilmember Thurmond

Absent: Councilmember Butt

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

JOHN MARQUEZ
Vice Mayor

Approved as to form:

LOUISE RENNE
City Attorney

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

I certify that the foregoing is a true copy of Resolution No. 94-08, finally passed and adopted by the Council of the City of Richmond at a meeting held on July 17, 2008.