

RESOLUTION NO. 131-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA, CERTIFYING THE ENVIRONMENTAL IMPACT REPORT ("EIR") PREPARED FOR THE POINT RICHMOND SHORES RESIDENTIAL CONDOMINIUM DEVELOPMENT PROJECT (THE "PROJECT," APPLICATION NUMBER 101112), ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, APPROVING A GENERAL PLAN AMENDMENT, AND DIRECTING FURTHER REVIEW OF DESIGN REVIEW PERMIT AND TENTATIVE MAP APPROVAL FOR THE 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 currently proposed, the Project would include development of (a) up to 330 residential condominium units in two 5-story buildings over a podium and parking garage, and (b) a public park and shoreline open space. The Project would be accessed and served by Dornan Drive and Brickyard Cove Road, improved public streets, and Ferry Point Way, a new shoreline street;

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 on 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 includes four Project Alternatives, including the No Project Alternative. On October 18, 2005, a Notice of Completion (NOC) was published commencing a forty-five (45) day public review period for the DEIR. On December 1, 2005, the Planning Commission (the "Commission") held a public hearing and the public review period for comment on the DEIR closed on December 1, 2005;

WHEREAS, following closure of the public review period on the DEIR, the City responded to comments on the DEIR received during the review period. In response to comments, the City incorporated some minor textual clarifications and revisions into the FEIR. The changes do not constitute significant new information as defined in CEQA Guidelines, Section 15088.5 nor warrant recirculation pursuant to said section;

WHEREAS, pursuant to the responsibility given to the Planning Director of the City of Richmond by City Council Resolution No. 125-03 for the general administration of the California

Environmental Quality Act (CEQA) as set forth in the City of Richmond's Guidelines and Procedures for Implementation of CEQA, and the State CEQA Guidelines, and in accordance with CEQA, as amended, a Final Environmental Impact Report (FEIR), incorporating the DEIR and all comments thereon and responses to comments, was prepared for the Project;

WHEREAS, on February 2, 2006, the FEIR was published and made available for review. As required by CEQA, a separate Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure implementation of mitigation measures presented in the FEIR and is attached hereto as **Exhibit A**;

WHEREAS, Section 65358 of the California Government Code provides for the amendment of all or part of an adopted general plan and the City has complied with the requirements of the Local Planning Law (Government Code section 65300 et seq.), the current State of California General Plan Guidelines, and the City's applicable ordinances and resolutions with respect to approval of the proposed General Plan Amendments ("GPA");

WHEREAS, in the existing General Plan, which was adopted by Resolution No. 164-94 on August 15, 1994, and as subsequently amended, the Project Site is designated Water-Related Commerce and Commercial Recreation/910 and Recreation Lands/908;

WHEREAS, the Project application includes a request for a General Plan Amendment to change the land use designations of the Project Site from Recreation Lands (908) and Water-Related Commerce and Commercial Recreation (910) to High Density Residential (944) and Water-Related Commerce and Commercial Recreation in accordance with **Exhibit B** attached hereto;

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 public hearing to consider the points raised on appeal, to review the adequacy of the FEIR, and to consider Project approvals, **and on December 12, 2006 conducted a public hearing regarding the resolution and ordinance memorializing the Council's decision of November 14, 2006.** After reviewing all oral and written evidence in the public record regarding the adequacy of the EIR and project approvals, the City Council of the City of Richmond hereby finds and resolves follows:

A. CEQA FINDINGS AND FINDINGS OF FACT REGARDING POINT RICHMOND SHORES ENVIRONMENTAL IMPACT REPORT

1. In accordance with Public Resources Code Section 21081 and Title 14 of the California Code of Regulations, Sections 15091, 15092, and 15093, and in support of its certification of the Point Richmond Shores Final Environmental Impact Report, the Council hereby finds:

After reviewing the analysis in the EIR and all comments regarding the EIR, the City Council finds that the Project would not result in any significant environmental effects that cannot be mitigated and that none of the proposed project alternatives set forth in the EIR can feasibly substantially lessen or avoid the significant adverse environmental effects that will not be substantially lessened or avoided by the adoption of all feasible mitigation measures.

2. **IMPACTS DETERMINED TO BE INSIGNIFICANT OR LESS-THAN-SIGNIFICANT IN THE INITIAL STUDY CHECKLIST**

During the preparation of the Initial Study Checklist, it was determined that a number of possible environmental effects of the Project would be insignificant, less-than-significant or

would be adequately addressed through the City's development review process. For these topics, no need for further environmental assessment was required for the preparation of the FEIR.

The Initial Study Checklist prepared on July 22, 2005 determined that the Project would have no impact or a less-than-significant impact on following Initial Study topics:

- The Project would not cause the conversion of farmland or conflicts with agricultural use zoning (e.g., Williamson Act contract).
- The Project would not involve other changes in the existing environment, which due to their location or nature, could result in conversion of farmland to non-agricultural use.
- The Project would not interfere with the movement of any native resident or migratory fish species.
- The Project would not conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance.
- The Project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan.
- The Project would not cause a substantial adverse change in the significance of a historic resource as defined in Government Code Section 15064.5.
- The Project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
- The Project would not result in any airport safety hazards for people living or working in the area.
- The Project would not require the routine transport of hazardous materials or the release of hazardous materials into the environment.
- The Project would not use of mineral resources or impacts to a designated, known mineral resource or resource recovery site.
- The Project would not displace people or housing.
- The Project would not expose people or property to the risk of wildfire.
- The Project would have a less-than-significant impact on solid waste service and landfill capacity.

Finding

Consistent with CEQA Guidelines 15128, Section 17.5 of the FEIR contains a statement as to why such effects were determined to be insignificant or less-than-significant.

Facts in Support of Finding

- There is no agricultural use or farmland on the Project Site, which is zoned for Water-Related Commerce and Commercial Recreation. The zoning of the Project Site does not include agricultural uses.
- There is no agricultural use or farmland in the vicinity of the Project Site and zoning in the vicinity of the Project Site does not include agricultural uses. Therefore the Project would not cause the conversion of an agricultural use or farmland.
- The Project Site does not contain any riparian conditions. It is bordered by submerged tidelands, however the proposed Project is designed to create a buffer between the Project and tidelands.
- The proposed Project is consistent with all applicable local policies regarding the protection of biological and open space resources.
- The Project Site is not subject to any regional or local adopted Habitat Conservation Plan.
- Historical surveys show that there are no historic resources on the Project Site nor in the area of potential Project impact.
- The Project Site is level and previously developed. It does not contain any unique geologic feature or conditions that would be characteristic of a unique paleontological resource.
- The Project Site is not within the boundaries of an adopted airport land use plan, nor within 2 miles of a public airport or private airstrip.
- The proposed Project involves the development of residential uses and includes no commercial or industrial activities that would generate hazardous waste or require the use, storage or handling of hazardous materials.

- The Project Site is not designated as a locally-important mineral resource site. Environmental assessments show that there are no known deposits of mineral resources on the Project Site and the development of the Project would not adversely impact mineral resource recovery in the area.
- The Project Site would create housing on a former industrial site.
- The Project Site represents urban infill as it is bordered by developed properties and regional park land and is served by improved public streets (Dornan Drive and Brickyard Cove Road). It is not in an wildfire hazard area.
- The proposed Project is consistent with the Richmond Redevelopment Plan, which concludes that existing landfills have adequate capacity to accommodate development within the Redevelopment Plan Area including the Project Site.

3. IMPACTS FOUND TO BE LESS-THAN-SIGNIFICANT IN THE FEIR

a. **Project Impacts on Scenic Vistas**

Facts in Support of Finding

As stated on pages 218 through 225 of the DEIR, the proposed Project structures and landscaping would not substantially eliminate, block, or obscure a unique, existing view or scenic vista through the site from surrounding vantage points. The General Plan designates the Brickyard Cove area as a “Scenic Corridor.” While elements of the Project would block views of the Bay along Brickyard Cove Road, the Project would create a new vista of the Bay along Dornan Drive. Further, the development of the proposed Bay Trail segment and shoreline park would increase publicly accessible views along the Bay front. Therefore, the Project would not result in significant impacts to scenic vistas and no mitigation is required.

b. **Project Impacts on Scenic Resources**

Facts in Support of Finding

As stated on page 225 of the DEIR, the Project Site is relatively level and does not include any visually distinctive ridgelines, rock outcroppings, or other special features. While the proposed Project would reduce and obscure existing views from and through segments of the site, it would not impact any significant on-site visual amenities. In addition, the Project Site does not contain any historic structures, rock outcroppings, topographic features, or other scenic resources. Therefore, the Project would not result in a significant impact to scenic resources and no mitigation is required.

c. **Project Changes in Visual Character**

Facts in Support of Finding

As stated on page 225 of the DEIR, the Project would change the visual character of the site by introducing uses that are different in type and intensity from the existing use of the property. Under present conditions, the Project Site is characterized by vacant land, volunteer vegetation, and blight. The Project would introduce a high-density residential development set back from the waterfront and create a new vista of the Bay along Dornan Drive. In addition, the development of the proposed Bay Trail segment and shoreline park would increase publicly accessible views along the Bay front. The Design Review Board has reviewed the proposed Project to ensure a high quality of design that is compatible with and enhances its surroundings. The visual changes that would result from the Project are consistent with the Redevelopment Plan for the area and with the General Plan Policy LU-E.1, which gives high priority to preserving and enhancing the potential amenities of the shoreline’s variety of edges and the landmark character of the regional landscape. For these reasons, the change in visual character has been determined to be less-than-significant and no mitigation is required.

d. **Project Changes in Existing and Projected (Cumulative) Traffic Conditions**

Facts in Support of Finding

Based on a detailed traffic study prepared for the Project, on pages 86 through 100 and in Appendix C the DEIR concludes that the Project will generate approximately 2,146 average daily trips and the addition of Project traffic will not cause the level of service (LOS) at local or freeway intersections in either the short-term (baseline) or under build-out (cumulative) conditions to degenerate below the LOS C rating. Based on the detailed analysis prepared

for the EIR, no increase in transit service will be required to serve the proposed Project. Therefore, traffic impacts have been determined to be less-than-significant and no mitigation is required.

e. Parking Impacts

Facts in Support of Finding

As stated on page 104 of the DEIR, the Project would exceed the minimum parking requirements set forth by the Richmond Municipal Code and would exceed the demands for parking estimated using the Institute of Transportation Engineers (ITE) criteria. Therefore, parking impacts have been determined to be less-than-significant and no mitigation is required.

f. Short-Term Traffic Impacts from Project Construction

Facts in Support of Finding

As stated on page 105 of the DEIR, the Project would generate approximately 411 construction vehicle trips per day during construction, more than sixty-three thousand construction vehicle trips over a three year construction period. Construction traffic would be limited to City-designated truck routes. The number of daily construction-related trips would be less than twenty percent of the number of daily vehicles trips generated by the Project at build-out, which has been determined to be less than significant. Therefore, construction traffic has been determined to be less-than-significant and no mitigation is required.

g. Long-Term Air Quality Impacts

Facts in Support of Finding

As stated on pages 119 through 124 of the DEIR, the Project would be consistent with the Bay Area Air Quality Plan and operational emissions, odor impacts, toxic air contaminants and carbon monoxide levels generated by the Project would be below thresholds of significance. Therefore, the Project would result in less-than-significant long-term air quality impacts and no mitigation is required.

h. Noise Impacts from Aircraft, Rail and the Port of Richmond

Facts in Support of Finding

As stated on page 136 of the DEIR, the Project would not be exposed to excessive noise generated from aircraft, local rail of the Port of Richmond. The Project Site is relatively isolated from local rail and port activities. The impacts from these noise sources would be less-than-significant and no mitigation is required.

i. Project Exposure to Potential Flooding

Facts in Support of Finding

As stated on page 162 of the DEIR, the Project Site is not located within the 100-year flood hazard zone, nor is it within an identifiable zone of danger from coastal flooding, tsunami, extreme high tides or sea level rise. Therefore, Project-generated exposure to flooding would be less-than-significant and no mitigation is required.

j. Project Demands on Utilities and Infrastructure

Facts in Support of Finding

As stated on pages 195 through 201 of the DEIR, there is adequate water supply to provide service to the Project. Further, there is adequate capacity in the wastewater treatment system at the Richmond Water Pollution control Plant to accommodate the Project. Therefore, the Project's impact on demands for utilities and infrastructure would be less-than-significant and no mitigation is required.

k. Project Demands on Park and Recreation Services

Facts in Support of Finding

As stated on pages 207 and 208 of the DEIR, the Project would add approximately 934 new

residents to the area, creating an estimated demand for 2.8 acres of park area per City park standards. The Project is located near the Miller-Knox Regional Shoreline, a 306-acre public park with five miles of trails, and adds more than three acres of public park land to area. In addition, the Project includes a 14-foot wide continuous loop to the Bay Trail, and a publicly accessible shoreline band with landscaped pedestrian and bicycle trails accented with amenities such as benches and ground-level lighting. The proposed park and trail improvements would exceed projected demand for park and recreation facilities for the new residents. Therefore, the Project's impact on demand for parks and recreation services would be less-than-significant and no mitigation is required.

I. School Impacts

Facts in Support of Finding

As stated on pages 211 and 212 of the DEIR, the Project would generate approximately 54 new students in the kindergarten through 12th grade. The growth within the school population is well within the existing and projected school capacity. The Project Sponsor would be required to pay school impact fees. School impacts would be considered less-than-significant and no mitigation is required.

m. Project Impacts on the Demand for Fire Protection Services

Facts in Support of Finding

As stated on pages 205 and 206 of the DEIR, the Project would introduce new residents to the area and increase the need for fire and emergency services. The Project, in addition to projected, cumulative development in the area, would not require the provision of new or physically altered fire facilities (e.g., fire station). In addition, the Project will be equipped with an automatic fire sprinkler system and other structural fire suppression provisions, which are significant fire prevention measures that assist in reducing service needs. Consequently, the Project would result in a less-than-significant impact on the demand for fire protection services and no mitigation in addition to the provision of on-site fire suppression systems is required.

n. Project Impacts on Demands for Police Services

Facts in Support of Finding

As stated on pages 204 and 205 of the DEIR, the Project would increase the number of emergency calls to the Richmond Police Department. However, the slight increase in the number of emergency calls would not require the construction of new facilities. The Project Site is located in a relatively low-crime area and the proposed Project is designed to include secured resident parking (gated parking garage) and secured grounds. Therefore, the Project would result in a less-than-significant impact and, no mitigation is required.

4. POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO LESS-THAN-SIGNIFICANT WITH MITIGATION

The EIR identifies several potentially significant impacts of the proposed Project that can be reduced to a less-than-significant level through changes to the Project and imposition of mitigation measures as conditions of approval. The mitigation measures described in the EIR and as amended by the Council on November 14, 2006 are feasible, and therefore will become binding upon the Project Sponsor and affected landowners and their assigns or successors in interest if and when the City Council approves the Project. The mitigation measures set forth in the EIR and those measures added by the Council at its meeting of November 14, 2006 are hereby incorporated into the description of the proposed Project and their implementation will be tracked through the Mitigation Monitoring and Reporting Program (MMRP). The City Council hereby binds itself, all landowners within the Project area, the Project Sponsor and their assigns and successors in interest to implement those measures. The imposition of such measures is within the City's jurisdiction and is appropriate and feasible. Based upon the FEIR and the entire record before the City Council, the City Council finds that implementation of the following mitigation measures and practices would reduce the Project's potentially significant impacts to a less-than-significant level. These findings are not merely informational but constitute a binding set of obligations that will come into effect if and when the City Council approves the Project.

a. Impact AIR-1: Short-term PM10 Emissions

Potentially Significant Impact

As described on pages 124 through 127 of the DEIR, during the construction phases of the Project, construction activities would result in short-term PM10 emissions.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation AIR-1**, as presented on pages 125-126 of the DEIR. This measure requires that the Project Sponsor comply with and implement specific dust control measures prescribed by the City and Bay Area Air Quality Management District (BAAQMD). These measures will be implemented during all phases of construction.

b. Impact AIR-2: Short-Term Exhaust Emissions from Construction Equipment

Potentially Significant Impact

As described on pages 127 through 128 of the DEIR, during the construction phases of the Project, construction activities would result in short-term exhaust emissions from construction equipment.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation AIR-2**, as presented on pages 127 of the DEIR. This measure requires that the Project Sponsor limit hours of operation of heavy duty equipment; restrict the idling time for construction equipment and vehicles to five minutes; ensure that construction equipment is properly tuned and maintained so that 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; require construction contractors to install particulate traps where appropriate on diesel engines; use minimum practical engine size for construction equipment; and equip gasoline-powered equipment with catalytic converters, where feasible. These measures will be implemented during all phases of construction.

c. Impact NOI-1: Local Traffic Exceeding Long-term Noise Levels

Potentially Significant Impact

As described on pages 136 through 140 of the DEIR, local traffic projected along Brickyard Cove Road could cause noise to exceed normally acceptable levels at the Project Site. Residential units facing Brickyard Cove Road and Dornan Drive will be exposed to the increased noise levels.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation NOI-1**, as presented on page 140 of the DEIR. This measure requires that mechanical ventilation be installed in all residential units located within 84 feet of the centerline of Brickyard Cove Road, which would permit unit windows to remain closed for prolonged periods of time.

d. Impact NOI-2: Short-term Noise Impacts from Construction Activities

Potentially Significant Impact

As described on pages 140 through 141 of the DEIR, construction activities, including pile driving, would result in significant short-term increases in noise levels, which would exceed City standards.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation NOI-2**, as presented on page 141 of the DEIR. This measure requires that construction activities be limited to the hours of 7:00 am to 7:00 pm on weekdays and weekends, 8:30 am to 6 pm on Saturdays and legal holidays, and that pile driving occur on weekdays only and not on legal holidays. Mitigation NOI-2 would mitigate short-term noise impacts on surrounding land uses, including residential uses and the Miller-Knox Regional Shoreline Park, to a less-than-significant level.

e. Impact GEO-1: Project Occupants Subject to Seismic Hazards

Potentially Significant Impact

As described on pages 150 through 152 of the DEIR, the Project Site contains artificial fill over a depth of bay mud. These site conditions are vulnerable during a seismic event, which could subject future occupants to seismic hazards.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation GEO-1**, as presented on pages 151 and 152 of the DEIR. This measure requires that a detailed geotechnical report be prepared and submitted to the City prior to any site grading or construction. This geotechnical report will include construction and foundation design measures for minimizing exposure to seismic hazards. **In accordance with direction from the Richmond City Council on November 14, 2006 and December 12, 2006, the geotechnical report will be completed after the existing pier structure at the project site is cleared of equipment, buildings, etcetera and will also assess potential risks to the public associated with converting the pier into a public park. The geotechnical report will recommend measures to preserve the public safety and uphold a fifty-year use.** The City Engineer or his or her designee will review the geotechnical report and the Project Sponsor will implement all mitigation measures recommended by the City Engineer, or his or her designee, following review of the geotechnical report. **The Project Sponsor and the Richmond Community Redevelopment Agency will, per the contract, enter into negotiations regarding costs of the necessary repairs to the existing pier structure.**

f. Impact GEO-2: Structural Damage from Localized Slope Failure and Liquefaction

Potentially Significant Impact

As described on pages 152 through 153 of the DEIR, the Project Site contains artificial fill over a depth of bay mud, which are conditions that are susceptible to liquefaction and localized slope failure along the bay front during a seismic event.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation GEO-2**, as presented on pages 152 and 153 of the DEIR. This measure requires that a detailed geotechnical report be prepared and submitted to the City prior to grading and construction. This geotechnical report will include grading and building design measures to minimize damage from potential liquefaction and localized slope failure in accordance with established engineering standards. **As described in Mitigation Measure GEO-1, the geotechnical report will include assessment of the existing pier structure to be converted into a public park and recommend measures to ensure that the pier is suitable for fifty years of use.** The Project Sponsor will implement all mitigation measures recommended by the City Engineer, or his or her designee, following review of the geotechnical report. **The Project Sponsor and the Richmond Community Redevelopment Agency will, per the contract, enter into negotiations regarding costs of any necessary repairs to the existing pier structure.**

g. Impact HYD-1: Exceeding the Capacity of Downstream Storm Water Conveyance Structures

Potentially Significant Impact

As described on pages 162 through 163 of the DEIR, approximately 65% of the Project Site would be covered with impervious surfaces. While the Project has been designed to adequately convey storm water runoff, an existing 57-inch drainage structure located west of the Project Site may not be adequately sized to accept site runoff from the Project. This drainage structure disposes site runoff into the San Francisco Bay.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation HYD-1**, as presented on page 163 of the DEIR **and as amended by the Council at its meeting of November 14, 2006.** This measure requires that the Project Sponsor prepare a detailed hydraulic analysis, **which includes an**

assessment of the condition of the 57-inch storm drainage structure at the project site. The City Engineer, or his or her designee, will review the hydraulic analysis and the Project Sponsor will implement all mitigation measures to ensure the adequacy of storm drainage facilities recommended by the City Engineer, or his or her designee, following review of the hydraulic analysis.

h. Impact HYD-2: Degradation of Water Quality from Construction Activities and Project Potentially Significant Impact

As described on pages 163 through 167 of the DEIR, project construction activities, as well as post construction site uses, could result in the degradation of water quality in the Bay by reducing the quality of storm water runoff. Water quality could be impacted as a result of silt and erosion, solvents, paints, oil, and long-term use of herbicides and pesticides.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation HYD-2a**, as presented on pages 165 and 166 of the DEIR and **Mitigation HYD-2b**, as presented on pages 166 and 167 of the DEIR. Measure HYD-2a requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared and implemented during site grading and construction. The SWPPP will include Best Management Practices (BMPs) for minimizing erosion and controlling runoff during construction. Measure HYD-2b requires that BMPs be integrated into Project design and operation. Long-term BMP measures include the installation of grassy-lined swales to filter Project runoff, directing drainage from parking areas into the sanitary sewer system for treatment, and controlled use of pesticides and herbicides.

i. Impact HYD-3: Worker Exposure to Contaminants Associated with Site Grading Potentially Significant Impact

As described on pages 167 through 168 of the DEIR, the Project Site contains ground water, which would need to be removed or 'dewatered' during the site grading process. The ground water may contain contaminants that could be a hazard to construction workers and the general environment.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation HYD-3**, as presented on pages 167 and 168 of the DEIR. This measure requires that the SWPPP required by Measure HYD-2a include specific measures to minimize potential hazards from dewatering during construction. At a minimum, all dewatering shall be contained prior to discharge to allow sediment to settle out.

j. Impact HYD-4: Groundwater Inundation During Extreme Storm Events Potentially Significant Impact

As described on page 168 of the DEIR, the below-grade parking garage could be inundated during extreme storm events and/or by infiltration of ground water.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Mitigation HYD-4**, as presented on page 168 of the DEIR. This measure requires that parking garage incorporate waterproofing measures and grade control measures at the entrance of the parking, such as berms, to protect the garage from surface water inflow.

k. Impact BIO-1: Potential Disruption of On-Site Nesting Birds Potentially Significant Impact

As described on page 180 of the DEIR, the Project could result in the destruction or the disturbance of active white-tailed kite or other bird nests during initial site grading and construction. The Project Site contains trees and shrubs that provide nesting opportunities for some bird species. Removal of trees and shrubs for construction and grading in the vicinity of the bird nests could result in nest abandonment, nest failure or premature fledging.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Measure BIO-1**, as presented on page 180 of the FEIR. This measure recommends tree and shrub removal be conducted during the non-breeding season (September 1 through January 31). However, if tree and shrub removal is proposed during the breeding season, the Project Sponsor is required to conduct pre-construction protocol spring nesting surveys for one or more nesting species. If it is determined that one or more nesting species are occupying the site, no tree or shrub removal shall be permitted until fledging occurs.

I. Impact BIO-2: Potential Disturbance to Jurisdictional Wetlands

Potentially Significant Impact

As described on page 181 of the FEIR, the construction of the emergency overland release outfalls at the southern and western edges of the site could impact jurisdictional wetlands under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Measure BIO-2**, as presented on page 181 of the FEIR. This measure requires that prior to the construction of overland release outfalls or improvements on the existing 57-inch storm drain, all necessary permits and authorizations shall be secured from the US Army Corps of Engineers and the California Regional Water Quality Control board (RWQCB).

m. Impact HAZ-1: Potential Exposure to Hazardous Concentrations of Contaminants

Potentially Significant Impact

As described on page 192 of the FEIR, development of the Project could expose construction workers and future project maintenance workers to hazardous concentrations of contaminants from soil and ground water remaining at the site following completion of the remediation plan.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Measure HAZ-1**, as presented on page 192 of the FEIR. This measure requires the preparation of a site-specific health and safety plan (HSP) before any invasive activities, such as excavation, dewatering, grading, or utility installation take place at the Project Site. At a minimum, the HSP shall include safety provisions for monitoring exposure to contaminants; provide procedures to be undertaken in the event that hazards are encountered; incorporate safety measures for excavation activities; establish procedures for the safe storage and use of hazardous materials at the site; provide emergency response procedures; and designate personnel responsible for the implementation of the HSP.

n. Impact HAZ-2: Improper Use or Transport of Hazardous Materials During Construction

Potentially Significant Impact

As described on pages 192 and 193 of the FEIR, the improper use or transport of hazardous materials during construction activities could result in releases affecting construction workers and the general public.

Mitigation

The impact listed above would be reduced to a less-than-significant level with the implementation of **Measure HAZ-2**, as presented on page 193 of the FEIR. This measure requires that the HSP, the Soil Risk Management Plan (SMP) and the SWPPP required by Measure HYD-2a include emergency procedures to implement in the event of incidental hazardous material releases.

2. The Council certifies that the Point Richmond Shores Final Environmental Impact Report,

which consists of the Draft Environmental Impact Report dated October 2005, the Technical Appendices dated October 2005, the Response to Comments dated February 2006, and the May 23, 2006 Errata, has been prepared, circulated, and presented to the decisionmaking body of the lead agency in accordance with the requirements of the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (14 Cal. Code Regs. Section 15000 et seq).

3. The Council certifies that it reviewed and considered the information contained in the Final EIR, and all oral and written comments regarding the FEIR, before approving the Project, and that the FEIR constitutes an adequate, accurate, objective and complete analysis addressing all issues relevant to Project approval.
4. The Council certifies the FEIR reflects the independent judgment and analysis of the City.
5. The Council hereby adopts the Mitigation Monitoring and Reporting Program prepared for the Project, as amended by the Council at its meeting of November 14, 2006 (attached hereto as **Exhibit A**), and requires implementation of all mitigation measures therein.

B. GENERAL PLAN AMENDMENT

1. This Resolution incorporates, and by this reference makes a part hereof, that certain General Plan Amendment (“GPA”) substantially in the form on file with the City Clerk shown on **Exhibit B** (“General Plan Amendment Exhibit”).
2. The City Council finds and determines as follows:
 - a. The proposed GPA would amend the General Plan Land Use Diagram adopted August 1994, as amended through 2006, to reflect the proposed Point Richmond Shores land uses. The General Plan land use designations for the project site would be amended to *High Density Residential/944* to allow development of up to 330 dwelling units on the Project Site and *Water-Related Commerce Recreation/910* for the public park and pier portions of the proposed Project. The High Density Residential designation permits mixed-use commercial and residential development. Allowable residential densities are 28 to 43 units per net acre. The residential portion of the Project would be set back from the shoreline by an approximately three-acre park and trails, thus providing an appropriate transition to the lower density residential and marina uses of the Brickyard Cove neighborhood.
 - b. The proposed GPA is in the public interest of the people of the City of Richmond because it would allow for the improvement of a former industrial site with high-quality residential development; enhance the image and quality of life in the City of Richmond; increase the diversity of housing types and housing opportunities in the Point Richmond area; improve the City’s economic base; allow for the improvement of the Bay Trail; and contribute to new employment opportunities for Richmond residents.
 - c. The proposed GPA provides for continuing internal consistency with the General Plan Land Use Element, Circulation Element, Community Facilities Element, Economic Development Element, Growth Management Element, Housing Element, Noise Element, Open Space and Conservation Element, and Safety Element because the GPA furthers the goals and objectives of the General Plan by providing residential and commercial land use designations to meet the future housing needs of the City, in a manner compatible with the existing neighborhoods and designed to meet Safety Element standards. Moreover, the proposed General Plan designations would allow the development of a public park and pier along the shoreline.
 - d. The proposed Project is consistent with the objectives, policies, general land uses, and programs specified in the 1994 General Plan, as amended.
3. By this Resolution, the City Council approves the General Plan Amendment set forth in **Exhibit B**.

C. DESIGN REVIEW AND SUBDIVISION MAP APPROVAL

1. The City Council resolves to continue consideration of design review and subdivision map approval for the Project until completion of a design charrette to be completed by March 12, 2007.
2. The City Council directs the Project Sponsor and staff while participating in the design charrette to consider the Design Review Board's recommended terraced option, community recommendations, and San Francisco Bay Trail issues, including completion of Bay Trail improvements on the Project Site concurrent with completion of public park improvements **and negotiations with adjacent land owners for owner-approved access for future northern trail access.**

D. RECORD OF PROCEEDINGS AND CUSTODIAN OF RECORD

The record of proceedings for the City's findings and determinations consists of the following documents and testimony, at a minimum:

- The 2004 Notice of Preparation and 2005 Revised Notice of Preparation and other public notices issued by the City in conjunction with the Project and environmental review of the Project.
- All written and oral comments submitted by during the public review period for the NOP and DEIR and all records pertaining to public hearings or meetings regarding Project review.
- All other public reports, documents, studies, memoranda, maps, or other planning documents related to the Project, prepared by the City, consultants to the City, or responsible or trustee agencies.
- The City of Richmond General Plan, as amended, and all environmental review documents for the General Plan, including findings and statements of overriding considerations related thereto.
- The Richmond Community Redevelopment Agency Redevelopment Plan for Project Area 11-A.
- All other public reports, documents, studies, memoranda, maps, or other planning documents related to the Land Disposition Agreement between the City and the Project Sponsor regarding the Project Site.
- All other public reports, documents, studies, memoranda, maps or other planning documents related to environmental remediation of the Project Site, prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with CEQA, the Harbour 11-A Redevelopment Plan, and the Land Disposition Agreement.
- All matters of common knowledge to this Council, including, but not limited to (1) the Richmond General Plan and other applicable policies, (2) the Richmond Zoning Ordinance and other applicable ordinances, (3) information regarding the City's fiscal status, (4) applicable City policies and regulations, (5) reports, projections, and documentation regarding development within and surrounding the City, and (6) federal, state, and county laws, regulations, guidelines, and publications.

The documents described above comprising the record of proceedings are located in the offices of the Planning Department, City of Richmond, 1401 S. Marina Way, Richmond, CA 94804. The custodian of these documents is the Planning Director or his designee.

I certify that the foregoing resolution was adopted by the City Council of the City of Richmond, California at a meeting held on December 12, 2006:

Ayes: Councilmembers Bates, Griffin, Marquez, Thurmond, Viramontes and Mayor Anderson
Noes: Councilmembers Butt, McLaughlin, and Rogers
Abstentions: None
Absent: None

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

IRMA L. ANDERSON
Mayor

Approved as to Form:

JOHN EASTMAN
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. 131-06, finally passed and adopted by the Council of the City of Richmond at a meeting held on December 12, 2006.