

RESOLUTION NO. 67-14

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
APPROVING CONDITIONAL USE PERMIT AND DESIGN REVIEW PERMIT
NUMBER PLN11-089 FOR THE CHEVRON REFINERY MODERNIZATION
PROJECT, DECIDING APPEAL(S) OF PLANNING COMMISSION RESOLUTION 14-
12, AND APPROVING AN ENVIRONMENTAL AND COMMUNITY INVESTMENT
AGREEMENT BETWEEN THE CITY AND CHEVRON**

WHEREAS, Chevron Products Company, a division of Chevron U.S.A. Inc. ("Chevron") owns and operates the Chevron Richmond Refinery ("Facility"), located along the western edge of the City of Richmond ("City"), which Facility processes crude oil blends, externally sourced gas oils, and natural gas into a number of products, including motor gasoline, jet fuel, diesel fuel, and lubricant base oils, as well as fuel oil, liquefied petroleum gas, and sulfur; and

WHEREAS, in 2005, Chevron applied to the City for permits for the proposed Chevron Hydrogen and Energy Renewal Project ("2008 Project") at the Facility; and

WHEREAS, in 2008, the City certified the Chevron Hydrogen and Energy Renewal Project EIR Consolidated Volume ("2008 EIR") and approved design review and conditional use permits ("2008 Permits") for the 2008 Project; and

WHEREAS, following issuance of the 2008 Permits, Chevron began construction of certain portions of the 2008 Project; and

WHEREAS, in 2009, the Contra Costa Superior Court invalidated the 2008 EIR and associated 2008 Permits, and issued an injunction halting further construction; and

WHEREAS, following an appeal, in 2010, the California Court of Appeal affirmed in part and reversed in part the Superior Court decision and, on March 14, 2011, the Contra Costa Superior Court issued a writ of mandamus ordering that the 2008 EIR and 2008 Permits be set aside on certain grounds; and

WHEREAS, in 2011, the City Council of the City of Richmond ("Council") adopted Resolution 15-11 encouraging Chevron to resubmit its application; and

WHEREAS, on May 23, 2011, Chevron submitted an application to the City for a Conditional Use Permit ("CUP") for the Chevron Refinery Modernization Project ("Project" or "Modernization Project"), a smaller version of the 2008 Project; and

WHEREAS, in February 2014, Chevron submitted an application to the City for a Design Review Permit for the Project; and

WHEREAS, the Modernization Project consists of the modification, replacement, and installation of various equipment and structures at the Facility, including the Hydrogen Plant Replacement, Sulfur Removal Improvements, and emission-reducing Project Design Features, all as described in the Environmental Impact Report for the Chevron Refinery Modernization Project (State Clearinghouse No. 2011062042) ("EIR"), a project-level environmental impact report prepared pursuant to the California Environmental Quality Act ("CEQA"), specifically Public Resources Code sections 21165-21177 and CEQA Guidelines sections 15161. The EIR consists of a Draft Environmental Impact Report, Volumes 1 and 2A/2B ("Draft EIR") and a Final Environmental Impact Report (Responses to Comments and text revisions), Volumes 3A/3B and 4 ("Final EIR"); and

WHEREAS, on March 18, 2014, the Draft EIR was circulated for public review through May 2, 2014, for a total of 45 days; and

WHEREAS, on April 2, 2014, the City convened two public workshops - one in the morning and one in the evening - to describe the Project and the Draft EIR and to permit members of the public to ask City staff and its EIR consultants questions about, and submit written comments concerning, the Draft EIR; and

WHEREAS, the April 3, 2014, the Planning Commission ("Commission") conducted a Draft EIR study session; and

WHEREAS, on April 17, 2014, the Commission held a public comment hearing on the Draft EIR; and

WHEREAS, on April 23 and April 30, 2014, the Design Review Board held two duly noticed public hearings to consider the Design Review Permit application and voted to recommend approval of the proposed Project's design to the Commission with certain recommended conditions; and

WHEREAS, on May 28, 2014, the City convened a public community workshop to receive recommendations from the public for health and wellness programs serving Richmond and the incorporated and unincorporated areas of North Richmond ("North Richmond") to be funded by Chevron in connection with the proposed Modernization Project; and

WHEREAS, the May 28, 2014 public workshop was attended by approximately 81 members of the public; and

WHEREAS, on June 3, 2014, the Council introduced Ordinance No. 12-14 (first reading), amending Section 3.20.080 of the Richmond Municipal Code ("RMC") to establish new procedures for matters previously considered by the Council that have been returned to the City for additional action by a court (the "Ordinance 12-14"); and

WHEREAS, during preparation of the Draft EIR and Final EIR, City staff and its EIR consultants had multiple meetings with the Attorney General's office to keep that office informed of the scope and content of the EIR, to receive comments on the EIR from the Attorney General's office and to incorporate EIR revisions recommended by the Attorney General's office that staff and the EIR consultants agreed were appropriate;

WHEREAS, on June 6, 2014, three days prior to publication of the Final EIR, the Attorney General's office submitted a letter recognizing with appreciation the City's willingness to discuss the EIR with the Attorney General's office, to reiterate its recommendations, and to document its understanding that the City would make changes to the Final EIR in response to discussions with the Attorney General's office; and

WHEREAS, in its discussions with the City prior to publication of the Final EIR, the Attorney General and other members of the public recommended that the Final EIR evaluate an alternative that combined the Reduced Sulfur Processing alternative and the Hydrogen Cap alternative evaluated in the Draft EIR; and

WHEREAS, in response to the Attorney General and other public comments received on the Draft EIR, the Final EIR included two new alternatives that both combine the Reduced Sulfur Processing alternative and a modified form of the Hydrogen Cap alternative; and

WHEREAS, one of the new alternatives included in the Final EIR is the Reduced Sulfur Processing/No Increase In Refinery Greenhouse Gas Emissions Alternative ("Preferred Alternative"); and

WHEREAS, the Preferred Alternative is sometimes colloquially known as, and is thus sometimes colloquially referred to in this matter's administrative record as, "Alternative 11," a name sometimes informally applied the Preferred Alternative because it is the eleventh alternative described in EIR and because it is analyzed in EIR, Volume 1, Section 6.5.11; and

WHEREAS, the Preferred Alternative is generally the same as the Modernization Project, except that it would enforceably restrict the Refinery's future physical greenhouse gas emissions so as not to exceed the average annual Baseline level (i.e., 4,602,947 metric tons per year). Also, the Preferred Alternative would limit sulfur removal to 750 long tons per day, which is 150 long tons higher than what is currently permitted, but only half of the 300 long tons capacity increase proposed by the Modernization Project. The Preferred Alternative assumes the same physical

improvements associated with the proposed Modernization Project and would be constructed within the same development footprint as the proposed Modernization Project; and

WHEREAS, on June 9, 2014, the Final EIR Volumes 3A/B and 4, was issued for public review; and

WHEREAS, the Final EIR determined that, compared to the Modernization Project, the Preferred Alternative would reduce overall environmental impacts to a greater extent and, in this respect, is environmentally superior to the Modernization Project; and

WHEREAS, on June 12, 2014, the City convened a second public community workshop to review and receive further public input on a draft set of proposed programs (developed based on the input received at the May 28, 2014 workshop) to be funded by Chevron in connection with the proposed Modernization Project; and

WHEREAS, at the June 12 public workshop, approximately 21 members of public submitted oral comments and 6 members of the public submitted written comments; and

WHEREAS, the priorities identified as a result of the May 28 and June 12 public workshops and City review process were further evaluated, and identified as creating environment and community benefits for the communities closest to the Chevron Richmond Refinery (the City of Richmond, and North Richmond); and

WHEREAS, on June 17, 2014, the Council adopted (second reading) Ordinance No. 12-14; and

WHEREAS, on June 17, 2014, the Council adopted Resolution No. 58-14, which resolved that (i) the City Council will have original jurisdiction over the Project pursuant to Ordinance No. 12-14 as of July 17, 2014; (ii) that the Council will open a public hearing to hear public comment on the Project on July 22, 2014 and intends to take action on the Project on July 29, 2014 and not later than July 31, 2014; (iii) that, if the Commission issues a decision on the Project before July 17, 2014 and an appeal thereof is timely filed, the Council will decide any such appeal on or about July 29, concurrently with its own review of the Project under RMC section 3.20.080; and (iv) that, if the Commission does not issue a decision on the Project prior to July 17, 2014, the Council shall review the Project under RMC section 3.20.080 without any advisory recommendation from the Commission; and

WHEREAS, on June 20, 2014, following publication of the Final EIR, the Attorney General's office submitted to the City a follow up letter recognizing with appreciation the many revisions included in the Final EIR to respond to the Attorney General, and concluding that adoption of the Preferred Alternative, along with other improvements made in the Final EIR, "would resolve the AGO's [Attorney General's Office] concerns with the City's review and approval of this project[;]" and

WHEREAS, on July 9 and 10, 2014, the Commission conducted a duly noticed public hearings to consider certification of the EIR and Chevron's applications for a CUP and Design Review Permit for the Project; and

WHEREAS, on July 10, 2014, by way of Resolution 14-11, the Commission (i) certified that the 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 reflects the independent judgment of the City, (ii) adopted Findings Pursuant to Public Resources Code section 21081 that determined that the Preferred Alternative should be approved, rather than the Modernization Project, subject to those EIR mitigation measures required to reduce the Preferred Alternative's environmental effects to a less than significant level, (iii) adopted a mitigation monitoring and reporting program for the Preferred Alternative and made the mitigation measures identified therein conditions of approval of the Preferred Alternative; and

WHEREAS, on July 10, 2014, by way of Resolution 14-12, the Commission (i) made findings pursuant to RMC sections 15.04.910.050.A, 15.04.820.025.B, and 15.04.930.110.A (ii) conditionally approved Conditional Use Permit and Design Review Permit Number PLN11-089

for the Preferred Alternative; (iii) recommending to the Council that the City enter into a fully-enforceable Environmental and Community Investment Agreement ("Community Agreement") for the benefit of residents of Richmond and North Richmond and that obligates Chevron to provide funding to the City in an amount to be determined by the Council as sufficient to fund the programs identified in Exhibit B of Resolution 14-12; and

WHEREAS, Planning Commission Resolution 14-12 provides that the approved Conditional Use Permit and Design Review Permit Number PLN11-089 shall not become effective unless and until the Council first approves and executes, or affirmatively and explicitly does not require, a Community Agreement between City and Chevron; and

WHEREAS, Planning Commission Resolution 14-12 approves Conditional Use Permit and Design Review Permit Number PLN11-089 subject to several conditions of approval, most of which were recommended by City staff, in addition to others added by the Commission as modified from recommended conditions by community organizations concerned about the proposed Modernization Project or aspects thereof; and

WHEREAS, pursuant to RMC section 15.04.980, a decision of the Commission on the Project made prior to the effective date of Ordinance No. 12-14 would be subject to a 10-day period for appeal to the Council, and

WHEREAS, on July 15, 2014, pursuant to RMC section 15.04.980, Chevron filed a timely appeal of the Commission's adoption of Resolution No. 14-11 on the basis that the EIR was limited to the Preferred Alternative and requesting the Council to certify the EIR, make Findings of Fact, and adopt a Mitigation Monitoring and Reporting Program for the Project as proposed rather than the Preferred Alternative; and

WHEREAS, on July 15, 2014, pursuant to RMC section 15.04.980, Chevron filed a timely appeal of the Commission's adoption of Resolution No. 14-12 on the basis that (i) the Commission approved a conditional use permit for the Preferred Alternative, rather than for the proposed Project; (ii) conditions of approval A7, B2, B3, B4, B5, B6, B9, B10, G3, H5, H7, H8, and H9 would create an unnecessary administrative burden for Chevron and the City, among other faults as described in a letter submitted by Chevron to the Commission on July 8, 2015 and incorporated into Chevron's appeal; and (iii) conditions of approval A11, B1, B7, B8, B10, B11, D3, D4, D5, G4, H10, H11, H12, and H13 lack a legal nexus or reasonable relationship to impacts of the Project, or would result in an unconstitutional taking, and therefore exceed the City's legal authority; and

WHEREAS, on July 29, by way of **Resolution 66-14**, the Council certified that the EIR was completed in compliance with the California Environmental Quality Act, Public Resources Code section 2100 et seq., and the City of Richmond's Guidelines and Procedures for Implementation of CEQA, Resolution No. 125-03 (adopted September 23, 2003), and reflected the independent judgment of the City; and

WHEREAS, on July 29, by way of **Resolution 66-14**, the Council adopted Findings Pursuant to Public Resources Code section 21081 for the Chevron Refinery Modernization Project ("CEQA Findings"); and

WHEREAS, on July 29, by way of **Resolution 66-14**, the Council adopted a Mitigation Monitoring and Reporting Program for the Chevron Refinery Modernization Project ("MMRP"); and

WHEREAS, pursuant to RMC sections 3.20.80 and 15.04.980.030, the Council held a duly noticed public hearing on July 22, 2014, continued to July 29, 2014, to consider Chevron's appeal of Resolution 14-11 and Resolution 14-12, and to consider Chevron's application for a Conditional Use Permit and Design Review Permit; and

WHEREAS, the Council, has reviewed the application, plans, and materials submitted for the Modernization Project and Preferred Alternative, the recommendations of the Design Review Board, all information received orally and in writing at or before the Commission's public hearings on the Project and all information related to the Commission's approval of Resolutions

14-11 and 14-12 and appeals thereof, and all information received orally and in writing at or before the public hearings.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RICHMOND:

1. The Council hereby denies in part, and grants in part, the appeal of Chevron and reverses and supersedes the Commission decision to approve Conditional Use Permit and Design Review Permit Number PLN11-089 as set forth in Resolution 14-12.
2. The Council hereby finds that the EIR has been completed in compliance with CEQA and the City's procedures, and that the Council has reviewed and considered the information contained in the EIR, and that approval of the project in accordance with Conditional Use Permit and Design Review Permit Number PLN11-089 will not have a significant effect on the environment, as described in the EIR and the CEQA Findings.
3. The Council does hereby find and affirm that Conditional Use Permit and Design Review Permit Number PLN11-089, attached hereto as "Exhibit A," includes conditions of approval that would restrict operation of the Facility in a manner consistent with the Preferred Alternative (i.e., consistent with the Reduced Sulfur Processing/No Increase in Refinery Greenhouse Gas Emissions Alternative described in the EIR).
4. The Council does hereby find 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 4.1: 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).

Supporting Statement of Fact: Criteria satisfied with implementation of mitigation measures and conditions of approval. Like the proposed Modernization Project, the Preferred Alternative's components would be located in areas designated by the General Plan 2030 as Industrial, a designation that expressly permits the industrial uses proposed by the Project. As demonstrated by EIR, *Volume 1, Appendix 4.10, Consistency Evaluation of Relevant General Plan Goals, Policies, and Actions*, incorporated herein by reference, the City finds that, with implementation of the mitigation measures described in the EIR and required by conditions of approval, the location of the Preferred Alternative is consistent with the general plan of the City of Richmond.

Finding 4.2: 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).

Supporting Statement of Fact: Criteria satisfied with implementation of mitigation measures and conditions of approval. The characteristics of the proposed Modernization Project and its significant environmental impacts on the public health, safety and welfare of persons residing and working at the Facility 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, agricultural resources, air quality, biology, cultural resources, energy, geology, seismicity, greenhouse gases, hydrology, land use, noise, population, public safety, public services, parks and recreation, transportation, and utilities (See, e.g., EIR, *Volume 1, Chapter 4*.) For those Modernization Project impacts that the EIR found to be significant under the California Environmental Quality Act, the EIR determined that mitigation measures would reduce these impacts to a less-than-significant level. The EIR also determined that the Preferred Alternative's significant environmental impacts could be mitigated to less than significant levels in the same manner as the proposed Modernization Project and, in some cases (e.g., air quality and greenhouse gas impacts) such mitigation would reduce impacts even further than the proposed Modernization Project. (See, e.g., EIR, *Volume 1, Chapter 6*.) The mitigation measures identified in the EIR have been adopted and made conditions of approval. The adopted mitigation

measures are set forth in their final form in the Preferred Alternative's Mitigation Monitoring and Reporting Program (MMRP).

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, as set forth in Exhibit A hereto, further ensure that the Preferred Alternative would not be detrimental to the public health, safety or welfare. For example, Condition B1 restricts the Facility's importation of crude oil and gas oil by rail; Conditions B2 through B10 impose restrictions on Facility operations to address potential changes in the crude and gas oil slate processed at the Facility; Condition C1 addresses measures to reduce emissions of Volatile Organic Compounds; Conditions D1 and D2 address the Preferred Alternative's compliance with applicable Bay Area Air Quality Management District permits and approvals; Condition E1 addresses flaring; Conditions F1 and F2 address water quality concerns; Conditions G1 through G3 address public safety; Conditions I1 through I5 address aesthetics; and Condition J1 address site conditions and maintenance.

The City finds that, with implementation of the mitigation measures identified in the EIR and included in the MMRP, and with implementation of the conditions of approval, the location, size, design, and operating characteristics of the Preferred Alternative would be compatible with and would not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the Facility and the surrounding neighborhood.

Finding 4.3: 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).

Supporting Statement of Fact: Criteria satisfied with implementation of mitigation measures and conditions of approval. The majority of the project site is zoned M-3 (Heavy Industrial) as shown in EIR, *Volume 1, Figure 4.10-4*. The Zoning Ordinance 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 which are potentially incompatible with most other establishments, and is generally found in areas which are distant from residential areas and which provide a wide variety of sites with good rail and highway access" (Section 15.04.330.010). Other zoning designations within the project site include M-2 (Light Industrial) and M-4 (Marine Industrial), and CRR (Community and Regional Recreation District), although the primary Project Components are located on M-3 zoned lands. The existing Tank T-3189, which is proposed to be domed, is located on CRR zoned land. The CRR zoning designation allows storage tank farms adjacent to industrial uses as a conditional use (Section 15.04.420.030). The City finds proposed uses of the Preferred Alternative are consistent with the types of uses that these zoning districts permit. No project components would be constructed in the M-4 and M-2 districts.

With respect to the applicable Zoning Ordinance performance standards described in RMC § 15.04.840, the City makes the following findings:

The EIR analyzes compliance with the City's noise standards. Mitigation Measures 4.11-1a and 4.11-1b 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 construction of the Preferred Alternative's project components. The City finds that the Preferred Alternative is in compliance with the applicable noise standards set forth in RMC § 15.04.840.020.

The EIR analyzes the Modernization Project's odor impacts in EIR, *Volume 1, Section 4.3* and concludes that, with implementation of Mitigation Measure 4.3-8, the proposed Modernization Project would not be expected to cause an increase in the Facility's potential to frequently expose substantial numbers of people to objectionable odors. EIR, *Volume 1, Chapter 6* also determined that the Preferred Alternative's odor impacts would be mitigated to less than significant levels in the same manner as the proposed Modernization Project. The conditions of approval also include the mitigation measures described in the EIR to address dust and other particulate matter that might be detectable

by a reasonable person outside of the Facility boundary (see, e.g., MMRP, Mitigation Measures 4.3-1 and 4.3-5). Thus, the City finds that the Preferred Alternative is consistent with 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 proposed Modernization Project in EIR, *Volume 1, Section 4.1* and determined that such impact would be less than significant. EIR, Volume 1, Chapter 6 also determined that the Preferred Alternative's light and glare impacts would be less than significant. Like the Modernization Project, the Preferred Alternative proposes to replace approximately 6,000 existing lights with new LED lighting that is dark-skies compliant. In addition, Condition I5, recommended by the Design Review Board and adopted hereby, requires the Applicant to submit a photometric plan or equivalent method prior to installation of the proposed LED lighting that confirms that the new lighting would not have a greater illumination output than the existing lighting being replaced. Accordingly, the City finds that the Preferred Alternative, as conditioned, complies with the lighting and glare standards set forth in RMC section 15.04.840.040.

RMC section 15.04.840.050 (Tree Preservation) does not apply because the Preferred Alternative 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 Preferred Alternative, which takes place entirely on Chevron property.

The Modernization Project's potential impacts on riparian habitat and wetlands were analyzed in EIR, *Volume 1, Sections 4.4, Biological Resources, and 4.9, Hydrology and Water Quality*. With respect to the Preferred Alternative, these impacts are assessed in EIR, *Volume 1, Chapter 6*. The EIR determined that the proposed Modernization Project would not cause a significant adverse impact to any creek, stream or riparian corridors because there are none on or adjacent to the sites of the Modernization Project components; therefore, no building setbacks are required. Modernization Project impacts on special status fisheries were determined to be less-than-significant in the EIR because all wastewater discharge by the Project would be required to comply with the Facility's National Pollutant Discharge Elimination Systems permit issued by the Regional Water Quality Control Board. Furthermore, the EIR determined that the Modernization Project would not substantially alter the existing drainage pattern of the site, including through alteration of the course of a stream or river, or substantially increase the rate or amount of surface run in a manner that would result in substantial erosion, siltation, or flooding on- or off-site. With respect to Preferred Alternative, EIR, Volume 1, Chapter 6 determined that these impacts would also be less than significant or mitigated to less than significant levels in the same manner as the proposed Modernization Project. Therefore, the City finds that the Preferred Alternative, as conditioned, complies with the City's zoning standards regarding creeks, streams and riparian corridors described in RMC section 15.04.840.060.

As explained in Findings 4.9 through 4.12, below, the Preferred Alternative's components have been subject to the site and development review requirements of RMC § 15.04.930. The Design Review Board evaluated the Preferred Alternative's components at public hearings conducted on April 23 and 30, 2014 and made findings pursuant to RMC § 15.04.930.110 recommending conditional approval of the requested Design Review Permit (see Findings 4.9 through 4.12, below). Therefore, the City finds that the Preferred Alternative conforms to design standards set forth in RMC § 15.04.840.070.

The City finds that the Fire Department has approved the storage, use, transportation and production of flammable or explosive materials as part of the Preferred Alternative. Therefore, the Preferred Alternative is in compliance with RMC section 15.04.840.080.

As explained in the EIR, *Volume 1, Sections 4.9 (Hydrology and Water Quality), 4.13 (Public Safety), and 4.17 (Utilities and Service Systems)*, with mitigation identified in the EIR and required by the MMRP, the proposed Modernization Project would comply with all regulations, licenses and approvals of the local and state agencies with jurisdiction over the use, handling, storage and transportation of waste materials, including hazardous

wastes, and the discharge of liquid and solid waste. EIR, Volume 1, Chapter 6 determined that the Preferred Alternative's impacts related to liquid and solid waste would be mitigated to a less than significant level in the same manner as the Modernization Project. Thus, the City finds that the Preferred Alternative, as conditioned, meets the liquid and solid waste standards set forth in RMC section 15.04.840.090.

With implementation of Mitigation Measures 4.3-1, 4.3-2a, 4.8-1, 4.8-2, 4.9-1a, 4.9-2, 4.11-1a, 4.11-1b, 4.13-2a, 4.13-2b, 4.13-3a, 4.13-3b, 4.13-3c and Conditions A2, A3, A4, A5, A9, C1, C2, D1, D2 F1, H1, H2, H3, H4, H5, H7, I1, I2, I4 and J1 the City finds that the Preferred Alternative would meet the construction operation standards set forth in RMC section 15.04.840.110.

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 Preferred Alternative components due to the size of most of the outdoor equipment (e.g., the Hydrogen Plant Replacement flare stack would be approximately 195 feet tall). Preferred Alternative construction activities are proposed to occur within the existing boundaries of the Facility, which boundaries are already fenced in a manner compliant with City zoning requirements. Moreover, with concurrence from the Richmond Fire Marshal, the Design Review Board recommended, and the City finds, that screening proposed tank domes by planting landscaping or constructing higher tank shells is not appropriate due to the increased fire hazard such options present. However, Conditions I1, I2 and I3, recommended by the Design Review Board and adopted hereby, provide for an alternate method of screening and additional landscaping around the Facility site. Moreover, the EIR determined through visual simulations that the Preferred Alternative components would not have a negative aesthetic impact on views toward the Facility. (See EIR, *Volume 1, Section 4.1*) Thus, the City finds that the Preferred Alternative would comply with applicable landscaping standards and screening standards set forth in RMC § 15.04.840.120.

Condition J1 requires Chevron to maintain the project site and surrounding areas in an orderly fashion during both construction and operation. Thus, the City finds that the Preferred Alternative would comply with the property maintenance standards set forth in RMC section 15.04.840.130.

With regard to parking, the Facility 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. All of the parking spaces are not typically filled, since the Facility's 1,600 +/- employees work staggered shifts. Moreover, employees generally are not allowed to drive within the Facility but are bused from the parking lot to the control rooms or process blocks where they work. The Preferred Alternative would add up to 29 new employees to the Facility, and there would be adequate on-site parking for these new personnel. Because there is sufficient existing parking, the Preferred Alternative would meet the parking standards set forth in RMC § 15.04.850.060.

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 such as the Preferred Alternative components in the M-3 or CRR zoning districts. Construction of the Preferred Alternative components would occur well inside the existing Facility boundary. The Preferred Alternative components are materially similar to other existing facilities within the Facility, and would not expand or move equipment any closer to any fence line than existing facilities. Therefore, the City finds that the Preferred Alternative complies with applicable height and setback zoning standards.

***Finding 4.4:** The site of the proposed use is adequately served by highways, streets and other public service facilities (RMC § 15.04.910.050.A.4).*

***Supporting Statement of Fact:** Criteria satisfied with implementation of mitigation measures and conditions of approval. EIR, Volume 1, Sections 4.14 and 4.17 analyzed the proposed Modernization 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 EIR, *Volume 1, Section 4.16*. The EIR determined that, with mitigation, these impacts would be less than significant. With respect to the Preferred Alternative, EIR, *Volume 1, Chapter 6* determined that these impacts would be mitigated to less than significant levels in the same manner as the Modernization Project. The Preferred Alternative component sites are located entirely within the Facility, with internal circulation leading to public access on Castro Street and regional access via Interstate Highway 580. The Facility site has adequate first and second response public emergency services available.

The Preferred Alternative would result in an approximate average of 500 workers per day over the 2-year construction period, with a peak of 1,002 workers per day during the peak 6-month construction period. (EIR, *Volume 1, Section 4.12*) Recognizing that this temporary increase in the amount of traffic to the Facility could burden the Richmond Police and Fire Departments during the Preferred Alternative's construction phase 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 construction. (See Mitigation Measures 4.14-1a, 4.14-1b, 4.14-2, and 4.16-1 through 4.16-11.) In order to ensure that these measures can be effectively carried out and that the City remains apprised of issues concerning the Preferred Alternative's effect on public services, Condition H2 requires Chevron to notify the Police, Public Works, and Engineering Departments and meet with designated representatives of these departments in advance of construction and periodically thereafter during construction to coordinate issues related to construction traffic and the implementation of traffic control mitigation measures.

EIR, *Volume 1, Section 4.17* also analyzes the Modernization 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. EIR, *Volume 1, Chapter 6* determined that the Preferred Alternative would also have a less than significant impact on these resources. In addition, Mitigation Measures 4.13-3b and 4.13-3c require Chevron to timely transport hazardous and non-hazardous demolition and construction debris off-site to authorized disposal, treatment or recycling facility by an appropriately licensed transportation company. As discussed in the EIR, the Preferred Alternative would result in an increase of up to 29 permanent workers at the Facility, and would not directly or indirectly induce substantial population growth in the area. (See EIR, *Volume 1, Sections 4.12 and 5.2.*) Thus, with implementation of mitigation measures identified in the EIR and required by the MMRP, there would be no additional burden on public services such as schools, libraries, hospitals, or recreational facilities. Therefore, the City finds that the site of the Preferred Alternative is adequately served by highways, streets and other public service facilities.

Finding 4.5: 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).

Supporting Statement of Fact: Criteria satisfied with implementation mitigation measures and conditions of approval. See Finding 4.2, above. EIR, *Volume 1, Section 4.13* analyzes whether the proposed Modernization Project would create a significant hazard to the public, including the surrounding properties and activities, through the routine transport, use, or disposal of hazardous materials during Modernization Project construction and operation. This EIR section also analyzes the potential risk to the Modernization Project, surrounding properties and activities related to accidental releases of hazardous materials at the Facility and how those risks would change as a result of the Modernization Project. The EIR determined that, with mitigation, the Modernization Project's potentially significant public safety impacts would be less than significant. With respect to Preferred Alternative, EIR, *Volume 1, Chapter 6* determined that its public safety impacts would be mitigated to a less than significant level in the same manner as the Modernization Project. Moreover, to further promote public safety, the conditions

approval approved hereby require Chevron to implement the Reliability Program as part of the Preferred Alternative.

EIR, *Volume 1, Section 4.3* analyzes whether the Modernization Project would create a significant health risk related to the Project's emission of toxic air contaminants and determined that, with mitigation, this impact would be less than significant. With respect to the Preferred Alternative, EIR, *Volume 1, Chapter 6* determined that its impacts related to toxic air contaminants could be mitigated to less than significant levels in the same manner as the Project.

EIR, *Volume 1, Section 4.14* determined that Project would not result in the need for new or physically altered fire or police facilities in order to maintain acceptable service ratios, emergency response times, or police protection services within the City, including surrounding properties and activities. EIR *Volume 1, Chapter 6* determined that the Preferred Alternative would mitigate these impacts to a less than significant level in the same manner as the Modernization Project.

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 Facility, the EIR concludes, and the City finds, that the Preferred Alternative'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 with implementation of the MMRP and conditions of approval.

Finding 4.6: The activity is consistent with the character and economic function of the surrounding area (RMC § 15.04.820.025.B.2).

Supporting Statement of Fact: Criteria satisfied with implementation of mitigation measures and conditions of approval. See Findings 4.1 and 4.3, above. The components, structures and equipment that make up the Preferred Alternative would be located entirely within the existing Facility site. The Facility currently uses hazardous materials that fall into the categories identified in the table in RMC § 15.04.820.023 as "moderately hazardous materials, including ...flammable gases, flammable liquids..." and would continue to do so after implementation of the Preferred Alternative. The Preferred Alternative components would replace older, existing facilities and equipment located entirely within the boundaries of the existing Facility, which components would be located in the M-3 and CRR zoning districts. The EIR concludes that the impact from the Preferred Alternative on all land uses would either be less than significant with mitigation or would result in no impact. The EIR also concludes that the Preferred Alternative would not conflict with established plans, policies and ordinances. Therefore, the City finds that the Preferred Alternative, as conditioned, is consistent with the character and economic function of the surrounding area.

Finding 4.7: The proposed activity with any conditions will not result in significant impact on environmentally sensitive areas (RMC § 15.04.820.025.B.3).

*Supporting Statement of Fact: Criteria satisfied with implementation of mitigation measures and conditions of approval. EIR, *Volume 1, Sections 4.4, 4.5, 4.8 and 4.9* analyzed the impacts of the Modernization Project on environmentally sensitive areas, including wetlands and habitat for special status species, cultural resource areas, geologically sensitive areas and hydrologically sensitive areas, and concluded that, with mitigation identified in the EIR and required by the MMRP, the Project would not have a significant environmental impact. With respect to the Preferred Alternative, EIR, *Volume 1, Chapter 6* determined that its impact on these resources would be mitigated to less than significant levels in the same manner as the Modernization Project. Therefore, the City finds that the Preferred Alternative, as conditioned, would not result in a significant impact on environmentally sensitive areas.*

Finding 4.8: The request has been approved by the Fire Department (RMC § 15.04.820.025.B.4).

Supporting Statement of Fact: 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 4.9: *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).*

Supporting Statement of Fact: Criterion Satisfied with implementation of mitigation measures and conditions of approval. See Findings 4.1 and 4.3, above. The design of the Preferred Alternative is suitable for its intended purpose and for addition to the Facility. The Preferred Alternative would replace and upgrade existing facilities and equipment located in the M-3 Heavy Industrial Zoning District. All new and modified equipment have been designed for the specific purpose and use intended. The proposed facilities and equipment have been designed in accordance with good engineering practices and industry standards.

The Preferred Alternative would replace older equipment and upgrade existing equipment within the boundaries of the existing Facility. The equipment is materially similar to other facilities within the Facility, and does not expand or move equipment any closer to any fence line than existing Facility units. Construction of Preferred Alternative components would occur well inside the existing Facility, away from nearby existing neighborhoods. The proposed site improvements would relate appropriately to the surrounding office buildings and Facility operations areas. Most of the proposed equipment and facilities would not have a visual impact from outside the Facility. The EIR indicates that, with adoption of the mitigation measures required by the MMRP, there would be no significant environmental effects from the Preferred Alternative, including those topics relevant to the design review permit, such as noise and visibility. Therefore, the City finds that the Preferred Alternative design is suitable for its purpose and is harmonious with and relates properly to the surrounding neighborhood, contiguous parcels and the site itself.

Finding 4.10: *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).*

Supporting Statement of Fact: Criterion satisfied with implementation of mitigation measures and conditions of approval. See Finding 4.2. The location, size, design, and characteristics of the Preferred Alternative are compatible with public health, safety, and welfare. The Preferred Alternative would replace existing facilities and equipment within the Facility, and would not change the basic size, design or characteristics of the Facility or the surrounding area. As indicated in the EIR, with implementation of the mitigation measures required by the MMRP, persons residing in or working in or adjacent to the proposed Preferred Alternative would not experience any detrimental health, safety, or welfare effects such as adverse vibrations, odors, or air quality effects associated with the Preferred Alternative. The MMRP would add additional layer of protection by imposing a wide array of mitigation measures designed to further address safety risks associated with the Preferred Alternative. The MMRP's mitigation requirements are designed to prevent accidental releases and emergency circumstances, and also to improve preparedness and responsiveness in the event an incident occurs.

The overall design of the Preferred Alternative would enhance the Facility's safety and reliability through installation of newer, inherently safer equipment and technologies; increase the Facility's flexibility to process crude oil blends and gas oil feedstocks with higher sulfur contents while continuing to manufacture the full range of Facility products (i.e., gasoline, jet fuel, diesel fuel, and lubricant base oils). Moreover, even without mitigation, the Preferred Alternative would reduce emissions of nitrous oxides, particulate matter, sulfur oxides, volatile organic compounds, and greenhouse gasses below Baseline levels. Accordingly, the City finds that the location, size, design and characteristics of the Preferred Alternative would be compatible with and would not be

detrimental to the public health, safety, or welfare of persons residing in or working adjacent to the project site.

Finding 4.11: 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).

Supporting Statement of Fact: Criterion satisfied with implementation of mitigation measures and conditions of approval. As described in the EIR, the Preferred Alternative would be consistent with the City's General Plan and M-3 Heavy Industrial Zoning District. The proposed improvements would be constructed in an existing industrial area. The proposed improvements would modernize, enhance equipment reliability and enhance the integrity of the Facility by replacing older equipment with newer, cleaner, and inherently safer systems and equipment thereby preserving the integrity of and upgrading the design of the existing Facility and its surrounding areas. The Preferred Alternative would not divide any established community or conflict with any other adopted plans. On this basis, the City finds that the overall design will be of a quality that will preserve the integrity of and upgrade the existing neighborhood.

Finding 4.12: 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).

Supporting Statement of Fact: Criterion satisfied with implementation of mitigation measures and conditions of approval. See Findings 4.1 and 4.3. As demonstrated by EIR, Volume 1, Appendix 4.10, Consistency Evaluation of Relevant General Plan Goals, Policies, and Actions, incorporated herein by reference, with implementation of the mitigation measures described in the EIR and required by conditions of approval, the design of the Preferred Alternative is in accordance with the general plan of the City of Richmond. The Zoning Ordinance and General Plan designations are specifically intended to enable development and enhancement of both private and public service and support facilities within the Heavy Industrial (M-3) zoning district. The primary use of this property is heavy industrial in nature and the project is consistent with this use. The project meets or exceeds the requirements of the Zoning Ordinance.

5. Having made the foregoing findings, the Council does hereby approve Conditional Use Permit and Design Review Permit Number PLN11-089, attached hereto as "Exhibit A." subject to the Conditions of Approval contained therein.
6. The Council hereby approves, and directs the City Manager to execute, the Community Agreement between City and Chevron in substantially the same form attached hereto as "Exhibit B."

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond, California at a special meeting thereof held July 29, 2014, by the following vote:

AYES: Councilmembers Bates, Boozé, Butt, Myrick, and Rogers.

NOES: None.

ABSENT: None.

ABSTENTION: Vice Mayor Beckles and Mayor McLaughlin.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

Certified as a True Copy

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND, CALIF

BY *Tam Chuska*
DEPUTY

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

I certify that the foregoing is a true copy of **Resolution No. 67-14**, finally passed and adopted by the City Council of the City of Richmond at a special meeting held on July 29, 2014.

Attachment 2
Exhibit A

CONDITIONAL USE PERMIT & DESIGN REVIEW PERMIT NUMBER PLN11-089
Chevron Refinery Modernization Project

On July 29, 2014, the City of Richmond ("City") City Council approved this Conditional Use Permit Number and Design Review Permit PLN11-089 (together, "Conditional Use Permit") for the Chevron Refinery Modernization Project ("Modernization Project"), subject to the following conditions:

A. GENERAL PROVISIONS

A1. The Modernization Project at the Chevron Richmond Refinery ("Facility") shall adhere to the City Charter, the Richmond Municipal Code ("RMC"), all applicable ordinances, all permits and approvals, all plans and specifications, and all Conditions of Approval.

A2. All of the mitigation measures and improvement measures set forth in the certified Chevron Refinery Modernization Project Environmental Impact Report (State Clearinghouse No. 2011062042)("Modernization Project EIR") and Mitigation Monitoring and Reporting Program are hereby incorporated by reference and implementation of them is included as a condition of approval of this Conditional Use Permit.

A3. Any deviation or alteration of the approved plans shall be requested in writing and approved by the Planning and Building Services Department prior to implementation. Certain deviations or modifications to the approved plans may be subject to further discretionary review and approval by the City.

A4. The permittee, Chevron Products Company ("Chevron") shall apply for building, grading, and fire construction permits pursuant to RMC Sections 6.02.150, 12.44.030, 8.16.010 and 8.16.040. The permittee shall be responsible for paying all City costs related to plan review of the Project and paying the difference in impact fees between the 2008 Project and this Project, notwithstanding any terms of the current Building Permit Services Agreement.

A5. Prior to the issuance of a building, fire construction, or grading permit for any portion of the Modernization Project, Chevron shall demonstrate to the Planning and Building Services Department that it has obtained necessary permits and approvals from reviewing agencies for such portions of the Modernization Project, including but not limited to Authority to Construct permits (ATCs) from the Bay Area Air Quality Management District ("BAAQMD"), as amended, if needed, based on Modernization Project changes since issuance of the ATCs for the 2008 Project.

A6. Chevron shall record the conditions of approval of this Conditional Use Permit with the Contra Costa County Recorder in a form that is satisfactory to the City. An endorsed copy of the recorded Conditional Use Permit shall be filed with the Planning and Building Services Department within ten (10) days of recordation. This Conditional Use Permit shall not take effect until it has been recorded and an endorsed copy filed with the Planning and Building Services Department. (RMC § 15.04.910.070(A).)

A7. Upon a duly noticed and conducted public hearing, the approval of this Conditional Use Permit (CUP) shall be revocable ten (10) years from the date of approval for any Project component as listed in Table 3-1 of Volume 1 of the Modernization Project EIR, except as modified by the Project Plans dated April 2014 (reviewed and recommended for approval by the DRB on April 30, 2014) for which Chevron has not obtained building permits by that time. The use permit shall be vested with respect to each component when a building permit has been issued and construction of that component has been diligently pursued. The CUP shall expire upon the expiration of the building permit with respect to any of the components of the Modernization Project for which construction has not commenced. (RMC § 15.04.910.070(C).) For any component of the Modernization Project that has not commenced construction within the initial ten (10) year period provided herein, Chevron shall have the right to one (1) automatic extension of time not to exceed two (2) years, provided that Chevron informs the City in writing of its intent to exercise such extension no less than thirty (30) days prior to the termination of the initial ten (10) year period. Revocation of this CUP shall not relieve Chevron of the obligation to comply with the Conditions of Approval as they apply to any portion of the Modernization Project for which a building permit has been granted.

A8. To the fullest extent permitted by law, Chevron 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 claims, demands, obligations, proceedings, actions, causes of action, suits, losses, judgments, fines, penalties, damages, liabilities, costs and expenses (including without limitations attorney's fees, disbursements, and all other professional or expert fees and costs) to attack, set aside, void or annul any approval of the Planning Commission, City Council, Planning Director, or any other employee, department, committee, or agency of the City concerning the environmental review, use permit approval, other actions, permits or approval for the Modernization Project, including any Project condition imposed by the City or any of its agencies, departments, commissions, boards, agents, officers, employees, or council. This duty to indemnify includes any damages awarded against the City, if any, the cost of suit, attorney's fees, and other costs and expenses incurred in connection with such claim, action or proceeding and whether incurred by Chevron, the City and/or the parties initiating or bringing such claim, action or proceeding.

In the event Chevron is required to defend the City, the City shall retain the right to (a) approve the counsel to defend the City, (b) approve all significant decisions concerning the manner in which the defense is conducted, and (c) approve all settlements, which approval shall not be unreasonably withheld. The City shall have the right not to participate in said defense, except the City shall cooperate with Chevron in the defense of said claim, action or proceeding.

A9. Within six (6) months after approval of this Conditional Use Permit or prior to issuance of the first grading, fire construction, or building permit for the Modernization Project, whichever is earlier, Chevron shall submit a written plan describing how it will meet the requirements of each Condition of Approval. An independent auditor or other third party expert selected by the City shall review the plan and shall advise the Planning and Building Services Department on whether or not Chevron's plan is reasonably likely to achieve compliance with each Condition of Approval. If the City is not satisfied with the compliance plan submitted by

Chevron, Chevron shall cooperate in good faith with the City and its experts to modify the plan to satisfy the City. Chevron shall reimburse the City for any and all costs and expenses associated with the review of the plan and the auditor or third party's review and advice to the City regarding Chevron's written plan.

A10. All reporting obligations established by these conditions of approval for the CUP, including any documents or reports Chevron must submit pursuant to mitigation measures incorporated herein by reference, shall be subject to the protection for trade secrets provided in Richmond Municipal Code § 6.43.110 and California Health and Safety Code section 25538 incorporated therein.

B. OPERATIONS

B1. Chevron shall not import crude oil or gas oil to the Facility by rail, including from the proposed WesPac oil storage terminal in Pittsburgh, CA and the Kinder-Morgan facilities at the BNSF Richmond railyard, unless it first obtains all necessary permits from the appropriate agencies, including the City of Richmond.

B2. Within sixty (60) days after issuance of the first building permit for the Hydrogen Plant Replacement following approval of this Conditional Use Permit, Chevron shall file a complete application with the BAAQMD to cause the Facility's Title V permit to be amended to reduce the maximum permitted throughput limits for the SDA to 50,000 barrels per day on an annual average, and shall report to the Planning and Building Services Department when the amendment application has been submitted and when the amendment has been approved. Until such time as the permit amendment is approved by BAAQMD, Chevron shall not operate the SDA above a maximum throughput rate of 50,000 barrels per day as a condition of approval of this Conditional Use Permit. Upon issuance of the permit amendment reducing the SDA throughput limit to 50,000 barrels per day, this Conditional Use Permit condition limiting SDA throughput shall expire and be superseded by the amended permit limit and corresponding BAAQMD enforcement authority.

B3. The Facility shall not operate in a manner that would allow it to process in excess of 50,000 barrels per day of Crude Unit vacuum tower bottoms (residuum) on an annual average basis consistent with Chevron's February 18, 2014 attestation to the City.

B4. The Facility shall not operate in a manner that would allow it to process in excess of 57,600 barrels per day of unhydrofined naphtha on an annual average basis consistent with Chevron's February 18, 2014 attestation to the City.

B5. Chevron shall comply with its Title V permit throughput and emissions limits for all Refinery units affected by the Modernization Project as identified in the Final Environmental Impact Report, subject to the modifications required by Conditions B2, B7, and B8, and failure to comply with these permit limits, as determined by the Bay Area Air Quality Management District, may be grounds to modify or revoke this Conditional Use Permit.

B6. Chevron shall operate the FCC FHT primarily as a hydrotreating unit, and shall obtain any necessary permits from the appropriate agencies prior to undertaking any significant

physical modifications, such as those to the separation section and distillation unit, that would be necessary to enable the FCC FHT to operate primarily as a hydrocracking unit.

B7. Within sixty (60) days after the issuance of the first building permit for the Hydrogen Plant, Chevron shall file a complete application with the BAAQMD to cause the Facility's Title V permit to be amended to reduce the maximum permitted production limit for the Hydrogen Plant Trains to 244 million scfd on an annual average basis, and shall report to the Planning and Building Services Department when the amendment application has been submitted and when the amendment has been approved. Until such time as the permit amendment is approved by BAAQMD, Chevron shall not produce more than 244 million scfd on an annual average basis as a condition of approval of this Conditional Use Permit. Upon issuance of the permit amendment reducing the limit to 244 million scfd on an annual average basis, this Conditional Use Permit condition limiting hydrogen production to 244 million scfd shall expire and be superseded by the amended permit limit and corresponding BAAQMD enforcement authority.

B8. Within sixty (60) days after the issuance of the first building permit for the Hydrogen Plant Replacement, Chevron shall file a complete application with the BAAQMD to cause the Facility's Title V permit to be amended to reduce the maximum permitted sulfur removal capacity from the Sulfur Recovery Units to 750 long tons per day on an annual average basis and shall report to the Planning and Building Services Department when the amendment application has been submitted and when the amendment has been approved. Until such time as the permit amendment is approved by BAAQMD, Chevron shall not remove more than 750 long tons per day of sulfur on an annual average basis as a condition of approval of this Conditional Use Permit. Upon issuance of the permit amendment reducing the sulfur recovery limit to 750 long tons per day on an annual average basis, this Conditional Use Permit condition limiting sulfur removal to 750 long tons per day shall expire and be superseded by the amended permit limit and corresponding BAAQMD enforcement authority.

B9. Within sixty (60) days after the issuance of the first building permit for the Hydrogen Plant Replacement, Chevron shall file a complete application with the BAAQMD to cause the Facility's Title V permit to be amended to increase the maximum throughput of the FCC FHT to 80,000 barrels per day of gas oil on an average annual basis, and shall report to the Planning and Building Services Department when the amendment application has been submitted and when the amendment has been approved. Until such time as the permit amendment is approved by BAAQMD, Chevron's current FCC FHT permitted throughput limits shall apply.

B10. Operation of the new hydrogen plant is subject to all mitigation measures, including those specified in the Reliability Program, set forth in the EIR and final Mitigation Monitoring and Reporting Program. For any future hydrogen export project supplied by hydrogen from the Hydrogen Plant Replacement, associated greenhouse gas emissions must be mitigated to a "No Net Increase" level relative to Baseline using the mitigation measures specified in Mitigation Measures 4.8-2 and 4.8-2B.

B11. This Conditional Use Permit does not authorize construction or operation of a pipeline for off-site export or delivery of any hydrogen produced by the Hydrogen Plant

Replacement, and any pipeline for off-site export or delivery of any hydrogen produced by the Hydrogen Plant Replacement shall be subject to additional City permitting requirements and environmental review as required by the California Environmental Quality Act, Public Resources Code § 21000 et seq..

B12. Chevron shall not emit greenhouse gases from the Facility in excess of 4,602,947 metric tons (MT) per year, and shall ensure it achieves "no physical increase" in greenhouse gas emissions from the Facility resulting from the Project. The 4,602,947 MT per year limit may take into account any reductions in greenhouse gas emissions achieved through on-site mitigation measures specified in the Mitigation Monitoring and Reporting Program, including but not limited to the water conservation measures, FCC cooling water tower motor upgrade, the installation of LED lighting, and participation in the Marin Clean Energy program.

C. EQUIPMENT AND FACILITIES; VEHICLE AND CONSTRUCTION EMISSIONS

C1. Chevron and its contractors and subcontractors shall use low- Volatile Organic Compound paints and coatings, as required by BAAQMD Regulation 8, Rules 3 and 49.

C2. Chevron shall incorporate Condition C1 and all adopted mitigation measures pertaining to construction equipment and materials handling into all construction bid documents and contracts, as well as grading and building permit plans, as applicable.

C3. Chevron shall submit documentation of compliance with Condition C2 to the Planning and Building Services Department prior to issuance of grading permits and building permits.

D. EQUIPMENT AND FACILITIES; OPERATIONAL EMISSIONS

D1. Chevron shall construct and operate the Modernization Project equipment and facilities to comply with all applicable BAAQMD Authority to Construct/Permit To Operate permit conditions (issued in connection with the 2008 Renewal Project, as may be amended for the Project) and all applicable BAAQMD Rules and Regulations.

D2. Nothing in this Conditional Use Permit shall be interpreted to allow air emissions or other emissions that are not in compliance with the conditions of any permit or Authority to Construct ("permit") issued by the BAAQMD. If the BAAQMD adopts a condition or issues an approval that would reduce emissions which otherwise would be allowed under this Conditional Use Permit, the BAAQMD's lower emissions limit shall apply. If any of the conditions of this Conditional Use Permit result in lower emission limits than the BAAQMD's permit conditions, then the lower emission limits shall apply.

D3. On or before December 31, 2015, Chevron shall install a test platform and sampling port, consistent with BAAQMD's "Guidance for Construction of Particulate Sampling and Test Facilities," on the FCC to allow for supplemental testing of PM10 and PM 2.5 pursuant to USEPA Test Method 201a/202. Chevron shall thereafter use this new test platform and sampling port to conduct further sampling of PM following installation, and shall report

sampling results as part of the Mitigation Monitoring and Reporting Program (MMRP). Chevron shall continue to comply with BAAQMD permit requirements for the FCC unit, including without limitation any new particulate matter monitoring requirements using this new test platform and sampling port, and any future emission limits that may be established for condensable PM.

E. FLARING AND REFINERY GASES

E1. Chevron shall notify the Planning and Building Services Department when flaring notifications are made to the BAAQMD pursuant to BAAQMD Regulation 12 Rule 12-405.

F. WATER QUALITY

F1. Chevron shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board or any of its Regional Water Quality Control Boards (San Francisco Bay - Region II, or Central Valley - Region IV) that are applicable to the Facility and to construction on Facility property. Compliance shall include developing best management practices (BMPs) for the reduction or elimination of storm water pollutants. The BMP plan shall be acceptable to the RWQCB.

F2. Chevron shall provide the Planning and Building Services Department with copies of any required Anti-Degradation Report and, when requested, monthly self-monitoring reports when those reports are submitted to the RWQCB. The documents shall be provided to the City at no cost.

G. PUBLIC SAFETY

G1. Chevron shall implement the Modernization Project Reliability Program (set forth as Appendix 4.13-PROG of the EIR) in its entirety as a condition of this Conditional Use Permit.

G2. Chevron shall include in its annual compliance reports (required by Condition H5) to the City information regarding the status of any ongoing agency investigations resulting from the August 2012 fire, including US EPA, CSB, Cal/OSHA, BAAQMD, and the County, including County safety audit(s) and safety culture audit(s). These reports shall include a comprehensive list of all findings, and corrective actions identified or requested by the agencies, as well as the status of Chevron's implementation of all such corrective actions. If Chevron determines not to implement any requested corrective action or otherwise not to address an agency finding, it shall explain in detail its rationale and the factual basis for its determination to do so.

G3. Chevron shall remain in compliance with the terms of its probation agreement entered into on August 5, 2013 with the State of California for the duration of the term of the probation agreement. If, at any time, Chevron receives notice (oral or written) from the State or Cal/OSHA alleging that Chevron is in violation of any term of its probation agreement, Chevron shall provide notice to the City Planning and Building Services Department within 24 hours of

receipt of the notification from the State or Cal/OSHA. Violation of any term of the probation agreement, as determined by a final decision of Cal/OSHA or other applicable agency party to the probation agreement after Chevron has exhausted its due process right to appeal or otherwise challenge alleged violations, may serve as grounds for the revocation of the subject Conditional Use Permit issued for the Modernization Project.

G4. During the next turnaround for the crude unit, and no later than the end of 2017, Chevron shall upgrade with inherently safer technology any carbon steel piping circuits in the crude unit identified by the Reliability Analysis as potentially having increased sulfidation corrosion rates under Project conditions.

G5. Within six months prior to commencing Project operations, Chevron shall review the corrosion data and flag dates of fixed equipment and piping in process units susceptible to high-temperature sulfidation identified in the Reliability Analysis (taking into account the most current actual conditions combined with post-Project projected corrosion rates predicted based on McConomy curves) and ensure that enhanced monitoring and inspection measures, including those identified in the Reliability Analysis and Reliability Program, are implemented after commencement of Project operations to periodically verify actual post-Project corrosion rates and adjust any flag dates or replacement plans as warranted. Pursuant to the Richmond Industrial Safety Ordinance, Chevron shall make all information relating to its verification, monitoring, and inspection activities available to the City and County and their respective third-party experts upon request, with review by a committee constituted of the dedicated full-time process safety inspector required by the Richmond Industrial Safety Ordinance and Mitigation Measure 4.13-7d, the Contra Costa County Health Services Chief Environmental Health and Hazardous Materials Officer, and a qualified third-party expert selected by the City.

H. MONITORING, RECORD KEEPING, REPORTING AND PUBLIC NOTIFICATION

H1. The Modernization Project consists of a number of individual components; construction of the components is expected to occur at various times following approval of this Conditional Use Permit. To ensure that the City is able to properly evaluate the plans for each phase of construction, Chevron shall notify the Planning and Building Services Department prior to the commencement of planned construction of any major component, and shall work with the Planning and Building Services Department to develop a mutually acceptable schedule for submission and review of plans and required documentation in advance of construction. Submittals shall contain sufficient information to verify that they are within the scope of approval of this Conditional Use Permit.

H2. Chevron shall notify the Police, Public Works, and Engineering Departments and shall meet with designated representatives of these departments in advance of construction and Quarterly or as otherwise agreed, during construction, to coordinate issues related to construction traffic and the implementation of traffic control mitigation measures.

H3. Chevron shall submit semi-annual construction progress reports to the Planning

and Building Services Department on March 31 and October 31 during all phases of project construction.

H4. Chevron shall comply with the Mitigation Monitoring and Reporting Program (MMRP) adopted as part of the approval of this Conditional Use Permit.

H5. On or before March 31 of each year beginning after the first full year of Project construction, Chevron shall submit to the City both an annual compliance report, and payment of an amount sufficient to cover staff costs (including time) associated with the compliance review, documenting compliance with the conditions of approval of this Conditional Use Permit and the mitigation measures and improvement measures as shown in the Mitigation Monitoring and Reporting Program, and to cover costs and fees (including time) of third party experts retained by the City pursuant to any mitigation measure of the Project or condition of approval. Chevron shall submit payments to the County and BAAQMD for their respective costs (including County and BAAQMD staff time, and time, costs, and fees of third party experts retained by the County pursuant to any mitigation measure of the Project), in accordance with a payment schedule determined by the County and BAAQMD. Following the first compliance report and payment from Chevron, and prior to March 31 of the next year, the City shall provide Chevron on an annual basis an accounting of the City's expenditure of the compliance review payment, which at a minimum shall include the City staff who worked on the compliance review, the time spent, and a general description of the work performed. The annual compliance reports shall contain supporting information from other regulatory agencies, as applicable. For each condition and mitigation measure, the report shall identify the status of compliance, times and dates of the monitoring and whether further action is required. The Planning Commission will hold hearings at a frequency of once each year to review Chevron's compliance with the conditions of approval of this Conditional Use Permit, including compliance with the mitigation measures and improvement measures. If, in the opinion of the Planning Commission, Chevron has completed all mitigation measures and improvement measures, and has complied with all conditions of approval, no further reports shall be necessary. The Planning and Building Services Department shall notify Chevron in writing when the Planning Commission has determined that annual reports will no longer be necessary pursuant to this Condition.

H6. The Planning and Building Services Department may retain third party experts to assist the City in monitoring Chevron's compliance with the conditions of this Conditional Use Permit, including compliance with mitigation measures and improvement measures specified in the Mitigation Monitoring and Reporting Program required as part of the approval of this Conditional Use Permit, and including review of any reports submitted to the City by Chevron in accordance with any mitigation measure or condition of approval. All costs of compliance monitoring, including the costs incurred by the City for the third party experts assisting the City with the compliance monitoring, shall be paid by Chevron. To the extent that the City is required to reimburse BAAQMD for any costs and staff fees associated with BAAQMD's assistance in monitoring compliance with these conditions of approval or compliance with mitigation measures specified in the Mitigation Monitoring and Reporting Program included as part of the approval of this Conditional Use Permit, Chevron shall reimburse the City for all such costs and fees.

H7. Chevron shall provide the Planning and Building Services Department with

copies of any application to the BAAQMD for a new Authority to Construct or any amendment to an existing Authority to Construct for any part of the Modernization Project so that the City may evaluate the proposal for consistency with the scope of this Conditional Use Permit approval and the Modernization Project EIR analysis. The documents shall be provided at no cost to the City. The City may retain a third party expert to assist the City in evaluating the compliance with this CUP, and Chevron shall reimburse the City for all such third-party related costs, including costs for City staff time in selecting and working with such experts, costs and expenses of any third party experts retained by the City to support the City's compliance verification role pursuant to the mitigation measures specified for the Project. The City shall provide Chevron on an annual basis an accounting of the City's expenditure of the costs paid by Chevron which, at a minimum, shall include the City staff who performed work, the time spent, and a general description of the work performed.

H8. Chevron shall provide the Planning and Building Services Department with copies of its emissions reports to the BAAQMD whenever such reports are requested by the City to evaluate whether the Modernization Project is being constructed or operated consistent with this Conditional Use Permit. The documents shall be provided at no cost to the City.

H9. If Chevron applies to the BAAQMD to increase the permitted throughput of any Modernization Project equipment or component, Chevron shall notify the Planning and Building Services Department of such application, which notice may trigger discretionary City review and possible amendment of the conditions of this Conditional Use Permit or requirement of a new Conditional Use Permit.

I. DESIGN REVIEW

I1. All conditions of approval shall be printed on the final construction plan set submitted for building permits. Except as modified by the conditions of approval below (I2 through I5), final construction plans shall be in substantial compliance with the plan set (sheets 1.0-8.0 and visualizations 10-1 to 10-9 and 11-1 to 11-8) dated April 2014. Any deviations from the approved plan shall be subject to review and approval by the Director of Planning and Building Services per A3 above.

I2. Landscape plans for proposed site and Richmond Parkway/Castro Street landscaping shall be submitted for review and approval by the Design Review Board prior to issuance of building permits. A minimum of 1.25 acres of landscaping shall be provided. If the minimum required new landscaping cannot be provided in the identified locations, a revised landscape plan identifying the new proposed planting areas shall be submitted for review and approval by the DRB.

I3. When selecting tanks on which to install domes necessary to mitigate Project emissions in accordance with the EIR, Chevron and the City shall prioritize potential tanks that (1) have the highest emission-reduction potential to help achieve the Project's commitment to no net increase in emissions; and (2) minimize the visual impact of the individual tank domes by, among other things, first considering installing domes on tanks at lower elevations or in locations that are less visible from public roadways.

I4. Non-potable or treated process water shall be used in the watering of exposed surfaces to reduce dust.

I5. The new replacement LED lighting shall not have a greater illumination output than the existing lighting being replaced and a photometric plan or equivalent method for existing light and proposed lighting shall be submitted for verification prior to installation of the replacement lights.

J. SITE CONDITIONS

J1. Chevron shall maintain site and surrounding areas in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be removed as necessary. Following cessation of construction activity, all construction materials and debris shall be removed. To the maximum extent feasible, and in compliance with AB 939, demolition debris and construction waste shall be diverted from the waste stream. Prior to commencement of demolition or construction, Chevron shall meet with the Planning and Building Services Department to present its plan for the diversion of waste.

K. VIOLATIONS; REMEDIES

K1. This Conditional Use Permit may be revoked or modified, including the imposition of new conditions, upon a finding of any of the grounds set forth in Richmond Municipal Code Section 15.04.990.010.A.1-4, including violation of the conditions of approval. (RMC §§ 15.04.910.070.F, 15.04.990.) This remedy is cumulative to any other remedy allowed by the Municipal Code or any other applicable law. (RMC § 15.04.990.)

Attachment 2

Exhibit B

**CHEVRON REFINERY MODERNIZATION PROJECT ENVIRONMENTAL
AND COMMUNITY INVESTMENT AGREEMENT**

Between

CITY OF RICHMOND, CALIFORNIA

And

**CHEVRON PRODUCTS COMPANY,
A DIVISION OF CHEVRON U.S.A. INC.**

CHEVRON MODERNIZATION PROJECT ENVIRONMENTAL AND COMMUNITY INVESTMENT AGREEMENT

This Chevron Modernization Project Environmental and Community Investment Agreement (the "Community Agreement" or "Agreement") dated _____, 2014 (the "Execution Date") is entered into by and between Chevron Products Company, a division of Chevron U.S.A. Inc., a Pennsylvania Corporation ("Chevron"), and the City of Richmond ("City"), a municipal corporation and charter city, as follows. The foregoing parties are sometimes referred to herein each individually as a "Party" and collectively as the "Parties."

A. On May 23, 2011, Chevron submitted an application to the City for a Conditional Use Permit ("CUP") for the Chevron Refinery Modernization Project ("Project" or "Modernization Project"). In February 2014, Chevron submitted an application to the City for a Design Review Permit for the Modernization Project. The terms "Project" and "Modernization Project" shall include either the Project, as proposed by Chevron, or an alternative described in the Final EIR that may be approved by the City Council.

B. The Modernization Project, as proposed by Chevron, consists of the modification, replacement, and installation of various equipment and structures at the Chevron Richmond Refinery ("Refinery"), including the Hydrogen Plant Replacement, Sulfur Removal Improvements, and emission-reducing Project Design Features ("PDFs"), all as described in Volume 1, Chapter 3 of the March 2014 Draft Environmental Impact Report for the Chevron Refinery Modernization Project ("Draft EIR") as amended by the June 2014 Final Environmental Impact Report (State Clearinghouse No. 2011062042) (together, the "Final EIR"), which is a project EIR pursuant to the California Environmental Quality Act ("CEQA"), specifically Public Resources Code section 21165-21177 and CEQA Guidelines sections 15161.

C. The Modernization Project Final EIR finds that all potential environmental impacts from the Modernization Project are not significant or will be mitigated to a less-than-significant level through the adoption of the mitigation measures identified in the Final EIR.

D. The emission-reducing PDFs included in the Final EIR for greenhouse gas (GHG) and Toxic Air Contaminant (TAC) emissions are necessary to achieve the Modernization Project objective of no net increase. With approval of the Reduced Sulfur Processing/No Physical Increase in Refinery GHG Emissions Alternative ("Alternative 11"), implementation of these emission-reducing PDFs and others would go beyond what CEQA requires. The PDFs, which will be in place prior to the operations of the Modernization Project, include:

- Replacement of three Suezmax vessels from West Coast service with two new Suezmax ships outfitted with low-emission engine technologies to reduce nitrogen oxide and diesel particulate matter emissions;
- Installation of new, cleaner Tier 4 main engines and Tier 3 auxiliary engines on one (1) tugboat that services the Chevron Long Wharf to reduce nitrogen oxide and diesel particulate emissions;

- Installation of three (3) domes on Refinery storage tanks to decrease emissions of volatile organic compounds;
- A commitment to acquire power from Marin Clean Energy for the Refinery's commercial accounts to reduce GHG emissions;
- Installation of new energy-saving LED lights to reduce GHG emissions; and
- An upgrade of the motor in the Fluid Catalytic Cracker ("FCC") cooling water tower to reduce GHG emissions.

E. The Final EIR requires Chevron to implement certain measures designed to protect and enhance public health and safety, and Chevron has committed to the implementation of these measures, including:

- Funding a five (5) year air deposition background study at up to 20 locations throughout Richmond, which may be done in conjunction with local high school science departments;
- Providing further training for the Richmond Fire Department for new equipment and operational practices;
- Working with the City, Contra Costa Sheriff's Department and other agencies to identify any beneficial improvements to the existing Community Warning System (for example, translation services, cell phone integration, notifying public congregation areas), including, as needed, contributing to and helping to identify funding for any such improvements;
- Working with local stakeholders to ensure all local area schools have emergency response procedures and plans that are adequate to minimize the risk to students in the event of a refinery incident, and ensuring that all schools have operational NOAA weather radios, and provide training on how to use them;
- Planning and conducting with appropriate regional agencies emergency response drills, and establish communication networks/protocols extending to neighboring communities and agencies.

F. Chevron anticipates that the cost of the environmental and community investments described in Recitals D and E will be up to \$40 million to directly improve air quality and enhance the public health, safety, and welfare of the residents of Richmond and incorporated and unincorporated areas of North Richmond (collectively, "Richmond").

G. In addition to implementing the mitigation measures required for the Modernization Project in the Final EIR and such additional conditions of approval as may be required, the City desires that Chevron make significant, additional investments in the Richmond community and Chevron desires to make such investments. Chevron desires to work cooperatively with the City to fund additional programs and projects that serve Richmond,

including programs, plans and policies that serve children and youth, help to reduce violence and crime in Richmond, create educational, employment, and training opportunities for Richmond and North Richmond residents, support wellbeing of residents, encourage new and innovative projects or programs that will address climate change and otherwise improve the quality of the environment and assist Richmond residents in having a safe and healthy place to live and raise families.

H. On May 28, 2014, the City convened a public community workshop to receive recommendations from the public for programs serving Richmond to be funded by Chevron in connection with the proposed Modernization Project.

I. On June 12, 2014, the City convened a second public community workshop to review and receive further public input on a draft set of proposed programs (developed based on the input received at the May 28, 2014 workshop) to be funded by Chevron in connection with the proposed Modernization Project.

J. The priorities identified as a result of the two public workshops and City review process were further evaluated, and identified as creating benefits for the Richmond communities closest to the Chevron Richmond Refinery.

K. On July 9 and 10, 2014, the Planning Commission held a duly noticed public hearing to consider the requested Conditional Use Permit and Design Review Permit for the Project, to consider whether the EIR for the Project was completed in compliance with CEQA, 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 to consider whether to recommend that the City enter into an agreement between the City and Chevron providing for Chevron funding to the City to support a variety of programs, including those identified during the May 28 and June 12 public workshops.

L. On July 10, 2014, by way of Resolution 14-11, the Commission certified that the EIR was completed in compliance with CEQA, adopted findings pursuant to Public Resources Code section 21081 for the Chevron Refinery Modernization Project ("CEQA Findings"), and adopted the Mitigation Monitoring and Reporting Program for the Chevron Refinery Modernization Project ("MMRP") and the mitigation measures identified therein, and made such mitigation measures conditions of approval. The CEQA Findings selected the Reduced Sulfur Processing/No Increase in Refinery Greenhouse Gas Emissions Alternative ("Alternative 11") as the "environmentally superior" alternative. The certification of the EIR was subsequently appealed to the City Council by Chevron.

M. On July 10, 2014, by way of Resolution 14-12, the Planning Commission approved Conditional Use Permit and Design Review Permit Number PLN11-089 for Alternative 11, subject to the condition that Permit Number PLN11-089 shall not become effective unless and until the City Council first approves and executes, or affirmatively and explicitly does not require, a Chevron Modernization Project Community Health and Wellness Agreement. By way of the same Resolution 14-12, the Planning Commission recommended to the City Council that the City enter into a fully-enforceable Chevron Modernization Project Community Health and Wellness Agreement with Chevron (renamed the Environmental and

Community Investment Agreement), which includes programs to receive direct funding as well as programs to be eligible for grant funding from the City, as further described in Exhibit B to Resolution 14-12. The approval of the Conditional Use Permit was subsequently appealed to the City Council by Chevron.

N. On July 29, by way of Resolution ____, the City Council has or will have taken action on Conditional Use Permit and Design Review Permit Number PLN11-089, subject to the condition that the City enter into this Agreement prior to commencing construction of the Project.

O. In negotiating and entering into this Agreement, the City Council has taken into consideration the priorities identified in the two public workshops as well as the recommendations of the Planning Commission, and has identified programs consistent with the categories of programs and initiatives identified in Exhibit B to Resolution 14-12. This Agreement is a voluntary investment by Chevron to assist the Richmond community, and is not a mitigation measure which is required to reduce any environmental impact nor is it a condition of approval for the conditional use permit or Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and the terms and conditions set forth in this Agreement, the Parties agree as follows:

1. EFFECTIVE DATE

This Agreement shall become effective upon City Council approval of Conditional Use Permit and Design Review Permit Number PLN11-089] (the "Effective Date"). This Agreement shall remain in effect until the later of (i) ten years after commencement of operations of the Replacement Hydrogen Plant, or (ii) transfer of ten annual payments of \$3 million to the City as described in Paragraph 2(A) below and transfer of ten annual payments of \$3 million to the City as described in Paragraph 2(B).

2. CHEVRON FUNDING AMOUNTS AND TIMING

In accordance with the terms of this Agreement, City shall use funding from Chevron totaling \$80,000,000 and support provided by Chevron to provide benefits, including associated City administrative costs, in the categories set forth in Section 3. The amount and timing of Chevron's funding obligation shall be divided into two payment types.

A. Guaranteed Payments

Following approval of the Project and execution of this Agreement, Chevron shall pay to the City \$5,000,000 over five years as follows:

Year	Amount
2014	\$1,000,000

Year	Amount
2015	\$1,000,000
2016	\$1,000,000
2017	\$1,000,000
2018	\$1,000,000

The first Guaranteed Payment shall be made no later than ninety (90) days following approval of the Project and execution of this Agreement, and annually thereafter on the anniversary of the first payment, or another mutually agreed upon date. The Guaranteed Payments shall be used to help fund to the Electric City and Easy Go program described in Section 3.B.1, and shall be credited to the funding obligation for Community-Based Greenhouse Gas Reduction Programs, as described in Section 2.B.

B. Contingent Payments

Chevron shall pay to the City the remaining \$75,000,000 over ten years commencing on the "Obligation Date," which shall be the earlier of: (i) sixty (60) days after issuance of the first building permit for the Replacement Hydrogen Plant in the event there is no litigation pending against the Project EIR or against City or Bay Area Air Quality Management District Project permits or approvals ("Litigation Challenge"); (ii) prior to commencement of operation of the Replacement Hydrogen Plant even if Litigation Challenges remain pending; or (iii) sixty (60) days following final judicial resolution of all Litigation Challenge(s). Annual payments thereafter shall be due on or before the anniversary of the first payment, or another mutually agreed upon date.

Chevron's annual payment to the City for the term of the agreement ("Annual Funding Amount") shall be:

Year	Amount
Year 1	\$11,000,000 (\$8,000,000 of this Annual Funding Amount shall be used to fund the scholarship program described in Section 3.A.1)
Year 2	\$8,000,000
Year 3	\$8,000,000
Year 4	\$8,000,000
Year 5	\$8,000,000
Year 6	\$8,000,000
Year 7	\$7,000,000
Year 8	\$7,000,000
Year 9	\$6,000,000
Year 10	\$4,000,000

As provided in Section 2.B, no less than \$3,000,000 per year for ten (10) years shall be allocated from the Annual Funding Amount to the Community-Based Greenhouse Gas Reduction Programs, except that the Guaranteed Payments shall amortize over the ten year period and \$500,000 per year shall be applied to the funding commitment for the Community-Based Greenhouse Gas Reduction Programs.

3. CHEVRON FUNDING CATEGORIES

The City shall use the Annual Funding Amount to fund projects and programs in the following general categories.

A. Community Programs

The Annual Funding Amount not designated for the Community-Based Greenhouse Gas Reduction Programs shall be used to fund the following Community Programs. The total expenditures identified below represent the projected total expenditure available under this Agreement for those individual Community Programs. The disbursement of the Annual Funding Amount to the individual Community Programs shall be allocated as set forth below over the ten (10) year funding period by the City in the City's sole discretion with advice from Richmond residents and stakeholders, including Chevron; provided the allocation of funds among funding Community Program categories over the ten (10) year funding period may be modified upon a two-thirds (2/3) majority vote of the City Council, which vote may be held not more than once within each calendar year during which the funding obligations of the Agreement remains in effect.

The City on an annual basis shall track the progress of and issue a report describing the Community Programs funded under this paragraph, their outcomes and contributions to the City for each year in which funds under this Agreement are expended. This tracking and reporting obligation of the City shall be for the benefit of Chevron, as well as the City, both of which are desirous of transparency and reporting on the progress of the goals identified in Recital D.

The Community Programs and the allocation of funding for those Community Programs identified in this Agreement shall be subject to annual review by the City Council, and may be adjusted and modified depending upon impact, community need, and the development of new technology.

B. Scholarship Program

Total Expenditure: \$35,000,000.

This program will provide scholarship money for any Richmond resident when they graduate high school to continue their education. This program will be modeled on the Kalamazoo or the El Dorado Promise which provide a similar service to young people in those communities. The Richmond Promise will guarantee the ability of Richmond residents to pursue higher education and secure meaningful employment, including pursuing careers in research and development, engineering, and renewable energy fields. This program will be limited to students who live in Richmond and graduate from a public high school in the West Contra Costa Unified School District. The program will be administered through a private 501(c)(3) non-profit or

foundation formed or selected by the City and Chevron. Chevron shall work with the City and use its best efforts to raise additional funds to benefit this program.

C. Programs relating to Skills, Job Training and Readiness, and Job Transition Training

Total expenditure: \$6,000,000.

City to fund programs relating to skills, job training and readiness, and job transition training, so that Richmond residents, including youth, will be better able to secure employment and make meaningful professional contributions in the trades related to Project construction or operations, in technical and service fields that support the Refinery, and in the emerging field of renewable energy, as well as to promote local hiring. These funds shall be allocated, in amounts to be determined by the City, to:

- (a) Fund pre-apprenticeship construction skills training with direct entry agreements with the Carpenters Union, Joint Apprenticeship & Training Committee (JATC), and Laborers Training & Retraining Trust Fund for Northern California, and for any expansion of the program to include skills training in the plumbing, piping, and electrical trades. Training includes, but is not limited to, Carpentry, Forms & Concrete, Hazardous Materials, Lead, Asbestos, Energy Efficiency, & Solar Installation.
- (b) Establish and fund a Business Assistance and Capacity Building Program, or to support existing business assistance and capacity building programs administered by other organizations.
- (c) Augment funding of On The Job Training (OTJT) program(s), which provides wage subsidies for businesses that hire Richmond residents and to improve the skills and job-readiness of Richmond residents.
- (d) Fund Adult Education and Skill Building Program(s) including RichmondWORKS and Literacy for Every Adult Program (LEAP), to prepare Richmond residents to be part of the local labor force with the goal of achieving full and meaningful employment. The program(s) would focus on skills that will enhance local workers competitiveness in local job markets. The program(s) may include education and skills such as administrative support services, General Educational Diploma (GED) preparation, English as a second language (ESL), vocational classes, mathematics skills, financial coaching, and mental health and wellbeing.
- (e) Fund expansion of Youth Employment and Skill Building programs designed to enhance the readiness of Richmond youth for employment, including in petro-chemical or renewable energy related sectors, including emergency preparedness and response.

The programs may include YouthWORKS, internships, work experience and service learning, career services (e.g., connecting students with jobs, grants, and scholarships), high school shadow program for internships, college internships, and summer programs.

- (f) Fund job transition training, targeting the re-entry population for employment. The job transition training may include, but not be limited to, teaching technical and soft skills such as safety training, mentoring, life skills, business and project management skills, and educational assessment.
- (g) To fund programs that support entrepreneurship, particularly for youth, women, and disadvantaged groups, to increase the pool of Richmond businesses using programs that provide entrepreneurship skills and opportunities and potentially providing services to local industries, including refinery and related industries, and the renewable energy industry.

D. Public Safety Programs

Total expenditure: \$2,000,000.

Sustain critical programs in the City of Richmond's public safety departments, including but not limited to the Youth Academy, Explorers, and the Richmond Police Department CCTV Program cameras (including equipment acquisition and maintenance, and officer review of camera footage), during construction of the Project in order to prepare for and assist in responding to incidents that may be associated with the number of Project construction workers and subcontractors, and high volumes of truck and equipment traffic on local roadways due to Project construction; provide capital funding for the Family Justice Center. No component requiring additional review and discretionary approval under CEQA may proceed until such time as such subsequent required CEQA process has been completed.

E. Free Internet Access

Total Expenditure: \$1,000,000.

Free internet access, including the provision of internet and fiber optic infrastructure, in Facility fenceline communities to ensure that fenceline community residents have access to online Community Warning System (CWS) resources and information, and enhance CWS operation in fenceline communities in the event of Facility incidents and emergencies.

F. Competitive Grant Program

Total expenditure: \$6,000,000.

Chevron shall provide to the City \$6,000,000 over the first seven years of annual payments to fund community programs and non-profits focused on communities, youth and youth sports programs, which may include but are not limited to:

- (a) Summer camp programs, including programs developed collaboratively with the West Contra Costa Unified School District and the Education Fund, to make structured, academically-focused, out-of-school-time programs available so that Richmond youth might be better prepared to eventually secure meaningful employment.
- (b) Implementation of the City of Richmond's Health in All Policies Strategy and Ordinance, which aims to eliminate health disparities and work towards health equity through a collaborative approach by addressing the social determinants of health and integrating health into the decision making process across all departments of the City.
- (c) Implementation of Full Service Community Schools in the Richmond and Kennedy High School family of schools, particularly those elementary schools nearest to the Facility, to support:
 - (i) Coordination and delivery of support services for school sites;
 - (ii) Career academies;
 - (iii) Implementation of Restorative Justice practices and programs;
 - (iv) Health and wellness education;
 - (v) Science, technology, arts, engineering and mathematics and applied learning partnerships;
 - (vi) Student and parent engagement and education in academic and career pathways (culturally relevant and linguistically appropriate);
 - (vii) Environmental and health applied learning partnerships; and
 - (viii) Coordination of the above listed services with local businesses and organizations, universities, service providers, public agencies, and other organizations with expertise in the topical service subjects.

The supporting programs and activities will complement the implementation of the Cities Education and Human Services Element, West Contra Costa County Unified School District (WCCUSD) Local Control Accountability Plan, and WCCUSD Strategic Plan.

- (d) The expansion of existing, and/or the implementation of new service learning programs and activities designed to build a range of skills for infants, children, and youth, including:
 - (i) Personal (e.g., physical, social/emotional, life/career-planning, literacy and readiness)
 - (ii) Academic (e.g., literacy, mathematics, environmental science, public health, performing arts)
 - (iii) Technical: (e.g., engineering, technology)

The objective shall be to contribute to the education, skills, and training of future generations of Richmond residents to better enable them to secure meaningful employment, including in Project construction or operations, with Facility-related supply and service vendors, or in renewable energy jobs.

- (e) Design and construction of new segment(s) of the Bay Trail to close gaps along the trail to improve the feasibility of travel by other modes other than automobiles for local residents and thereby improve the wellness of local residents and reduce greenhouse gas emissions; provided, however, that no component requiring additional review and discretionary approval under the CEQA may proceed until such time as such subsequent required CEQA process has been completed.
- (f) Establishment (including planning and building) of and ongoing delivery of health care services by Community Health Centers, that focus on providing direct primary health care services to the residually uninsured populations in Richmond, and to support the wellness of Richmond residents whose health may be affected by local environmental conditions, including air quality from local industrial emissions; provided, however, that no component requiring additional review and discretionary approval under CEQA may proceed until such time as such subsequent required CEQA process has been completed.
- (g) In-home, community-based asthma prevention program(s), in light of local air quality and to improve public health and safety, which may include partnerships with UC San Francisco and other medical providers.

G. Community-Based Greenhouse Gas Reduction Programs

Consistent with the commitment and mandated mitigation measure in the environmental impact report (EIR) prepared for the Richmond Refinery Modernization Project, funding for the Community-Based Greenhouse Gas Reduction Programs (GHG Program) shall be \$3,000,000 per year for ten (10) years, with total funding not to exceed \$30,000,000, to support the types of GHG Programs identified in Chapter 4.8 – Greenhouse Gases of the EIR, and to be selected and implemented in the manner provided in that chapter, including but not limited to the following:

(1) Electric City and Easy Go

Total expenditure: \$18,000,000.

This transportation program may include a City bike-share program, charging stations, vehicle purchase for the City, electricity costs for the City's vehicle fleet for ten years, to offset City costs of conversion to zero emission vehicles; to improve mobility for Richmond residents, including but not limited to, improvements in walkability, BART alternatives, public transit connections, reduced price transit passes, bike paths, bike share and shuttle services; and financial incentives to encourage acquisition, lease, rental, sharing and use of electric vehicles; incentives to promote electric vehicle programs in future projects; and educational outreach to promote these transportation measures, promote trip-sharing, promote shared use of specialty vacation vehicles such as Sports Utility Vehicles (SUVs); and continue to subsidize the existing Easy Go programs provided, however, that no more than 20% of available funding can be spent to support the existing Easy Go fleet and program, and future Easy Go fleet acquisitions are limited to electric vehicles where feasible (e.g., electric vans are not yet feasible), all for the purpose of reducing greenhouse gas emissions; provided, however, that no component requiring additional review and discretionary approval under CEQA may proceed until such time as such subsequent required CEQA process has been completed.

a) Electric City

For information purposes, Electri-City is a cutting edge comprehensive plan to increase Electric Vehicle usage, to reduce transportation caused GHG emissions, which are the Bay Area's main contributor to Global Warming. The Electri-City 8 Step Pilot Project will show policy makers (nationally and internationally) how to increase usage of Electric Vehicle. Examples of such measures could include the following: (1) more charging stations; (2) make EVs more affordable by providing rental income for unused EVs; (3) bring EV car rental to Richmond; (4) reduce range anxiety by providing a convenient and economical longer range vehicle when occasionally needed; (5) share the City's unused EVs with residents on weekends; (6) provide subsidies to encourage residential developers to provide onsite EV carshare; (7) subsidies for EV sales/leases; and (8) robust educational campaign.

Appropriate programs under Electri-City that satisfy the criteria set forth the Final EIR for selection of Community-Based Greenhouse Gas Reduction Programs shall be funded from the Guaranteed Payments as follows:

2014 - \$500,000
2015 - \$500,000
2016 - \$500,000
2017 - \$500,000
2018 - \$500,000

TOTAL: \$2,500,000

b) Easy Go

For information purposes, Phase 1 of Richmond's award-winning Easy Go Green Transportation is an award-winning program that created a localized green carsharing service, provided local green jobs, and increased mobility for Richmond residents while decreasing transportation caused carbon emissions, which are the Bay Area's leading contributor to Global Warming.

Phase 2 would take Easy Go to the next level by implementing cutting edge Green Transportation programs throughout Richmond, with outreach to increase usage, including: (1) outreach by transportation coordinators to plan specific trips; (2) private car-sharing using greener vehicles; (3) provide low-cost, convenient occasional SUV rentals to encourage SUV owners to switch to greener vehicles; (4) provide subsidies to encourage developers to build Easy Go into new residential developments; (5) continue to subsidize existing economically marginal Easy Go programs (neighborhood electric vehicles, vans) to provide time for self-sufficiency and to switch to electric vehicles whenever feasible);

Appropriate programs under Easy Go that satisfy the criteria set forth the Final EIR for selection of Community-Based Greenhouse Gas Reduction Programs would be funded as follows:

2014 - \$500,000
2015 - \$500,000
2016 - \$500,000
2017 - \$500,000
2018 - \$500,000

TOTAL: \$2,500,000.

(2) Climate Action Plan

Total expenditure: \$1,000,000.

City to further develop its Climate Action Plan integrating co-health benefits and greenhouse gas reduction targets for the City. Funds may also be used for implementation and monitoring; provided, however, that no component requiring additional review and discretionary approval under CEQA may proceed until such time as such subsequent required CEQA process has been completed. The Climate Action Plan is the policy vehicle through which the City addresses reduction of greenhouse gases, improvement of air quality, and protection of health, all of which are in furtherance of the mitigation measures adopted for the Project.

(3) Urban Forestry

Total expenditure: \$2,000,000.

Urban greening, regional trail, and park improvement program(s) (e.g., tree planting, urban agriculture, park access) designed to reduce greenhouse gas emissions and achieve co-benefits, including, improved air quality, stormwater quality and noise levels, reduced crime, improved health, and/or to restoration of biological resources. These programs may include, but are not limited to, outdoor education, job training, youth involvement, and resource maintenance, including funding for City staff (e.g., gardener, arborist) to coordinate, implement and/or oversee these programs, and other activities related to resource management at Point Molate; provided, however, that no component requiring additional review and discretionary approval under CEQA may proceed until such time as such subsequent required CEQA process has been completed.

(4) Transportation and Transit Programs.

Total Expenditure: \$2,750,000.

Funding for programs that directly or indirectly encourage alternative transportation and access to public transportation, including but not limited to alternative fuel sources, and which contribute to community fiscal health by reducing spending on vehicle fuel.

(5) Roof-top Solar, Energy Retrofit, City of Richmond Zoning Ordinance Update and Additional Programs

Total Expenditure: \$6,250,000.

Funding for roof-top solar systems, energy efficiency, City of Richmond Zoning Ordinance Update to align the City's development regulations with General Plan 2030 for the purposes of reducing greenhouse gas emission, and other programs identified in Chapter 4.8 of the EIR; provided, however, that no component requiring additional review and discretionary approval under CEQA may proceed until such time as such subsequent required CEQA process has been completed.

For funding allocations for roof-top solar systems, there shall be two (2) priority groups:

1. Households which meet the City of Richmond income eligibility standards previously used for its free Solar Rooftop program.
2. Residents who provide proof of a purchase or of a 3 year or more lease of a product which costs at least \$1000 and which only uses electricity for its power and which will be charged by the electricity from the Solar Rooftop, and provide proof that the resident currently owns or leases the same or similar product which uses fossil fuels like gas or oil for its power. For example, a resident who buys and installs a electric space heating system for Room A and has , and will continue to use a gas powered similar space heating system for Room B is eligible. (no requirement that you get rid of the old fossil fuel powered product.) But if a resident is replacing an electric space heater with a new electric heater, he/she is not eligible.

Priority for approving applications shall be as follows: residents who qualify for 1 and 2; residents who qualify for 1; residents who qualify for 2; and residents who qualify for neither. The City Manager shall issue regulations to implement this preference system. The regulations shall become effective unless the Council amends or vetoes them at the next regular Council meeting occurring 10 or more days after the regulations are issued.

4. OTHER COMMITMENTS

The following commitments shall become binding on the parties on the Obligation Date:

A. Modernization Project Local Content Agreement

For construction employment related to the Modernization Project, on a quarterly basis, Chevron shall ensure that all construction contractors have demonstrated good faith efforts by following the hiring processes specified below in an attempt to employ Richmond residents. For non-construction employment related to the Modernization Project, on a quarterly basis Chevron shall ensure that it has demonstrated good faith efforts by following the hiring processes specified below in an attempt to employ an individual having his or her permanent residence in one of the seven (7) zip code areas covering Richmond, unincorporated North Richmond, or environs (Richmond Domiciled Residents).

- (1) Construction Employment. Chevron shall ensure compliance with provisions of this subsection (a) by all construction contractors of any tier, performing work on the Modernization Project.
 - (a) Long-Range Planning. Prior to hiring for construction employment the Modernization Project, each contractor shall provide to the designated City staff the approximate number and type of hires that it will make for employment, and the basic qualifications necessary for each projected hire.
 - (b) Hiring Process. Contractors shall take the following steps to employ Richmond Domiciled Residents:
 - (i) Step One - Assignment of Current Workers: Contractors shall assign to perform project work any current employees who are Richmond Domiciled Residents.
 - (ii) Step Two – Dual Notification: Contractors signatory to a collective bargaining agreement shall both (A) request that the hiring hall refer Richmond Domiciled Residents, and utilize name call, apprenticeship sponsor, rehire, or similar procedures in the collective bargaining agreement to request particular individuals who have been identified as Richmond Domiciled Residents; and (B) notify the City’s Employment and Training Department (ETD) of workers needed and relevant qualifications. Contractors that are not

signatory to a collective bargaining agreements shall notify the City's Employment and Training Department (ETD) of workers needed and relevant qualifications.

(iii) **Step Three – Consideration of Richmond Domiciled Residents:** If the contractor is not signatory to a collective bargaining agreement, or if the hiring hall has not promptly referred Richmond Domiciled Residents, the contractor shall fairly consider Richmond Domiciled Residents that have been referred by the ETD within 2 business days of request therefor.

(c) **Compliance.** Chevron is in compliance with this section (a) for a quarter if all contractors performing work in that quarter have demonstrated good faith efforts by complying with the hiring process requirements set forth above.

(d) **Apprentice Utilization.** Each project contractor shall employ in its regular workforce Richmond Domiciled Residents who are enrolled and participating in an apprenticeship program. Such an apprenticeship program must have been approved by the State Department of Industrial Standards. The expected number of apprentices will vary based upon the availability of Richmond Domiciled Residents indentured in the various apprenticeship programs, and shall be specified by the City for each trade, prior to commencement of project construction.

(2) **Non-Construction Employment.**

(a) **Hiring Process.** For non-construction jobs related to the Modernization Project, prior to hiring a non-Richmond Domiciled Resident or recruiting from the general public, Chevron will notify the ETD with regard to available positions, with a description of qualifications, and fairly consider (including by interview) qualified workers referred by the ETD within five days of request. Job qualifications shall be only those directly related to performance of job duties. Chevron is in compliance with this section (b) for a quarter if it has complied with the hiring process described in this section for all Modernization Project hires made during that quarter.

(b) **Award of Service Contracts and Supply Contracts.** When Chevron awards a contract for non-construction services to be performed related to the Modernization Project, or for purchase of supplies related to the Modernization Project, Chevron shall make good faith efforts to award the contract to a "Richmond business," as

defined in the Richmond Business Opportunity Ordinance. For purposes of this section (c), good faith efforts include:

- (i) at least four weeks before award of the contract in question, providing notification of the contracting opportunity, and the procedure for bidding on the contract, to City's designated business liaison, or other outreach resource as directed by the City;
- (ii) at least four weeks before award of the contract in question, advertising the opportunity to bid in a local publication designated by the City; and
- (iii) promptly providing Richmond businesses with complete information about the prospective contract and bidding procedures.

Within five days after the award of any contract covered by this section, Chevron shall provide to the City the following information: the name, address, and telephone number of the business to whom the contract was awarded, whether that business is a certified local business, and the projected dollar amount of the contract.

(3) Miscellaneous.

- (a) Local Hire Coordinator. Chevron shall provide a local-hire coordinator to help implement this Paragraph 3.A.
- (b) Reporting. For both construction and non-construction jobs, Chevron shall prepare monthly reports detailing: the number of hires for employment relating to the Modernization Project during the month (Modernization Hires); what percentage of Modernization Hires were Richmond Domiciled Residents; a description of Modernization Project jobs filled by Richmond Domiciled Residents and others; the amount of total monthly wages (Wage Bill) for both Modernization Hires and Richmond Domiciled Resident Modernization Hires; and compliance with the provisions in this Paragraph 3.A. Reports shall be filed with the ETD within thirty days after completion of each month. Chevron shall also describe the measures taken to implement this Paragraph 3.A at such level of detail such that compliance can be ascertained and assured. Reports shall commence once construction begins. City staff will assist Chevron by preparing forms to be completed for this purpose.
- (c) Out-of-State Workers. The requirements of sections (a) and (b) shall not apply to hours of work performed by residents of states other than the State of California, and such hours shall not be

considered determining satisfaction of percentage requirements described herein.

B. Utility-Scale Photovoltaic Solar Farm

Following approval of the Project, Chevron shall enter into a lease with Marin Clean Energy (“MCE”) that is substantially similar to the near-execution form lease agreement that has been negotiated by Chevron and MCE and which has been reviewed by the MCE Board of Directors (“the MCE Lease”). Pursuant to the MCE Lease:

- (a) Chevron shall provide MCE sixty (60) acres of Chevron-owned land adjacent to the Richmond Parkway for the development of a utility-scale photovoltaic solar farm (the “MCE PV Project”);
- (b) The initial term shall be twenty-five (25) years, with one (1) five (5) year extension;
- (c) Chevron shall provide the land, which Chevron values at approximately \$10,000,000 for the life of the lease, at a nominal rate of \$1.00 per year;
- (d) MCE shall use its best efforts to use a minimum of 50% Richmond-resident labor force;
- (e) A viewing platform and kiosk is planned at the MCE PV Project site, promoting public education about the role of solar energy in their community.

Pursuant to the MCE Lease, the initial phase of the MCE PV Project would be for development of a two (2) megawatt (MW) facility, with later phases potentially resulting in up to a twelve (12) MW facility providing a source of local renewable energy. For informational purposes only, and not as a term of this Agreement or the MCE Lease, Chevron and the City understand that the initial 2 MW facility MCE PV Project would be the largest facility of its kind in Richmond and Contra Costa County, and any later-development to increase the MCE PV Project up to 12 MW facility would be the largest of its kind in the greater San Francisco Bay Area.

The terms of the MCE Lease may be amended upon mutual agreement of Chevron and MCE, and any such amendment of the MCE Lease, including an amendment that effects any of the above-specified terms, shall not be considered a breach of this Agreement. Chevron shall work with MCE and the City as necessary to coordinate and maximize the community benefits of the MCE PV Project. In the event of any amendment to the MCE Lease, Chevron shall use its best efforts to ensure that the local labor requirement and public education provisions remain a substantive commitment of the MCE Lease.

5. GOVERNANCE

Funds made available pursuant to Section 2 of this Agreement shall be administered solely by the City of Richmond in its sole discretion. The City will solicit input from community stakeholders, including Chevron, and Richmond residents.

6. MISCELLANEOUS

A. No Third Party Beneficiaries.

There are no intended third party beneficiaries to this Agreement. This Agreement is intended to benefit only the Parties and no other person or entity has or shall acquire any rights hereunder.

B. Public Benefit Only.

Nothing in this Agreement is intended to personally benefit, or improperly influence, any government official.

C. Grants Benefitting Specific Persons.

There is no intention by either party to earmark any payment or grant to, or for the benefit of, any specific individual or entity, unless specifically provided for in this Agreement.

D. Grants to Public Agencies.

Any grants or payments made pursuant to this Agreement to public agencies shall be conditioned on that agency's agreement to disclose its receipt as required by the California Political Reform Act, as interpreted by the California Fair Political Practices Commission.

E. Police Power.

Nothing herein shall constitute a surrender or abnegation of the City's control over its planning and zoning processes. Nothing in this Agreement shall be construed to abrogate the police powers conferred on the City pursuant to Article XI, Sections 5 and 7 of the California Constitution.

F. Entire Agreement.

This Agreement, inclusive of Exhibit A, constitutes the entire agreement between the parties and it is expressly understood that the Agreement has been freely and voluntarily entered into by the parties with the advice of counsel, who have explained the legal effect of this Agreement. The terms of this Agreement are contractual and not mere recitals. This Agreement may not be altered, modified or otherwise changed in any respect except in writing, duly executed by the Parties or their authorized representatives. This Agreement is fully integrated.

G. Successors in Interest.

The rights and obligations of the Agreement shall be binding on all successive owners, heirs, and assigns of the parties hereto.

H. Amendments.

This Agreement may be modified, supplemented, or amended in writing by the Parties. Any modification, supplementation, amendment, or waiver that would materially affect the rights of both Parties must be signed by both Parties.

I. Warranty of Authority.

By executing this Agreement, each of the undersigned Parties to this Agreement covenants, warrants, and represents that he, she or it is fully authorized to enter into this Agreement and carry out the obligations on behalf of the person or entity for whom he or she is signing.

J. Understanding of Terms.

This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part of, or on behalf of, any of them. Each of the Parties to this Agreement has read and fully understands the meaning of each provision of this Agreement and has relied on independent advice and representation of legal counsel in entering into this Agreement.

K. Severability.

In the event any of the terms, conditions, or covenants contained in this Agreement is held to be invalid, any such invalidity shall not affect any other terms, conditions or covenants contained herein which shall remain in full force and effect.

L. Construction.

This Agreement and each of the provisions hereof, is the product of negotiations between the Parties and their respective attorneys. Each of the Parties hereto expressly acknowledges and agrees that this Agreement shall not be deemed to have been prepared by or drafted by any particular party hereto. The rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

M. Governing Law.

This Agreement shall be governed, construed, interpreted, enforced and the relations between the parties determined in accordance with the laws of the state of California, without regard to its choice of law rules.

N. Venue.

The Parties irrevocably agree to the jurisdiction of, and any action to enforce or interpret this Agreement shall be filed in, the Superior Court of the County of Contra Costa.

O. Headings and Captions.

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or any provision thereof.

P. Notices.

Except as otherwise specifically set forth herein, all notices or other communications specifically required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by certified mail, return receipt requested and postage prepaid, or sent by reputable overnight courier (such as Federal Express), or by tele-facsimile with confirmation by overnight courier or U.S. Postal Service the following day, to the following:

For CITY OF RICHMOND:

Attention: City Manager P.O. Box 4046
Richmond, CA 94804
FAX: (510) 620-6542

Copy to:

Attention: City Attorney City of Richmond
P.O. Box 4046
Richmond, CA 94804
FAX: (510) 620-6716

For CHEVRON PRODUCTS COMPANY

Attention: Refinery Manager Richmond Refinery
Chevron Products Company 841 Chevron Way
Richmond, CA 94801

A notice shall be effective on the date of personal delivery or tele-facsimile transmission, if personally delivered or transmitted before 5:00 p.m., otherwise on the day following personal delivery or telecopy transmission, or two (2) business days following the date the notice is postmarked, if mailed, or on the day following delivery to the overnight courier, if sent by overnight courier. Any Party to the Agreement may change the person, address, or tele-facsimile number to which notices are to be given to it by giving notice of such change in the manner set forth above for giving notice.

Q. Agreement Lawful and Enforceable.

All Parties agree that this Agreement is lawful, enforceable, and binding on all Parties; agree to waive any challenges to the enforceability of this Agreement; and agree not to either affirmatively or by way of defense seek to invalidate or otherwise avoid application of the terms of this Agreement in any judicial action or proceeding.

R. Events of Default.

A Party will be deemed to be in default under this Agreement ("Defaulting Party") upon the occurrence and continuance beyond all applicable cure period of any of the following (each shall be an "Event of Default"): (a) the Defaulting Party fails to pay an amount due under this Agreement to the other Party (the "Non-Defaulting Party") and such failure continues for more than thirty (30) days after the date of written notice from the Non-Defaulting Party specifying the amount that is owing and past due in reasonable detail; (b) the Defaulting Party fails to perform any other material obligation under this Agreement and such failure continues for more than thirty (30) days after the date of written notice from the Non-Defaulting Party specifying such failure to perform in reasonable detail; or (c) failure of a representation or warranty set forth in this Agreement to be true in any material respect as of the date when made or required to be made under this Agreement.

S. Dispute Resolution.

If a legal dispute arises related to the interpretation or enforcement of or the status of compliance with the terms and conditions of this Agreement, including the rights and obligations of the Parties hereunder (the "Dispute"), City and Chevron shall first attempt to resolve it through informal discussions. In the event a Dispute cannot be resolved in this manner within twenty-one (21) days, City and Chevron shall endeavor to settle the Dispute by mediation which, except as otherwise mutually agreed upon by the Parties, shall be conducted under the then current JAMS rules and procedures for mediating business disputes by a neutral third party selected from the JAMS panel of neutrals. This dispute resolution process shall be undertaken in good faith and exhausted prior to the institution of legal proceedings by either Party.

T. Remedies.

If an Event of Default occurs and continues under this Agreement, the remedies of the Non-Defaulting Party will be to terminate this Agreement or to seek specific performance of this Agreement. Neither City nor Chevron shall have any liability or obligation to pay damages to one another or to any other person or entity as a result of or attributable to any Event of Default or other breach or violation of this Agreement.

U. Costs of Enforcement.

If any action at law or equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, each party to the litigation shall bear its own attorney's fees and costs.

V. Waiver.

The waiver of any provision or term of this Agreement shall not be deemed a waiver of any other provision or term of this Agreement. The mere passage of time, or failure to act upon a default, shall not be deemed a waiver of any provision or term of this Agreement. The waiver by City of any breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach. Inspections or approvals, or statements by any officer, agent or employee of the City relating to Chevron's performance, or payments therefore, or any combination of these acts, shall not relieve Chevron's obligation to fulfill this Agreement as prescribed; nor shall the City be thereby stopped from bringing any action for enforcement arising from any failure to comply with any of the terms and conditions of this Agreement.

W. Incorporation of Recitals and Introductory Paragraph.

The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

X. Further Acts.

Each Party hereby agrees that it shall, upon request of any other Party, execute and deliver such further documents and do such other acts and things that are reasonably necessary and appropriate to effectuate the terms and conditions of this Agreement.

Y. Indemnification.

- (1) Chevron shall indemnify, defend and hold harmless the City, its officers, agents, employees and volunteers from and against any and all claims, suits, or actions of every kind and description, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of Chevron, its officers, agents, and employees, or brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by Chevron in the performance of this Agreement, including the concurrent or successive passive negligence of the City, its officers, agents, employees or volunteers.
- (2) It is understood that the duty of Chevron to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Chevron shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by City, the City and its officers, agents, employees or volunteers, immediately upon tender to Chevron of the claim in any form or at any state of an action or proceedings, whether or not liability is established. An allegation or determination that persons other than Chevron are responsible for the claim does not relieve Chevron from its separate and distinct obligation to defend under this Section 5(v). The obligation to defend extends through

final judgment, including exhaustion of any appeals. The defense obligation includes and obligation to provide independent counsel if Chevron asserts that liability is caused in whole, or in part, by the negligence or will misconduct of an indemnified Party. This Section 5(v) survives performance of Chevron's duties set forth herein and termination of this Agreement.

Z. Force Majeure.

Neither Party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions, wars, insurrections, terrorism and/or any other cause beyond the reasonable control of the Party whose performance is affected. Notwithstanding the preceding sentence, it shall be the duty of any Party invoking *force majeure* to give prompt written notice of the *force majeure* event to the other Party and to promptly take reasonable steps in good faith to minimize the delay or damages resulting from a default in performance and to perform all non-excused obligations of such Party under this Agreement.

AA. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall be constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the Execution Date.

Agreed and Accepted

Chevron Products Company,
a division of Chevron U.S.A. Inc.

_____, Refinery General Manager

Date

City of Richmond, a municipal corporation and charter city

Bill Lindsay, City Manager

Date

Approved as to Form

Bruce Reed Goodmiller, City Attorney

Date