

SECTION 4.0

RESPONSE TO INDIVIDUAL COMMENTS

This section provides direct responses to the 400+ comments collected from private citizens, businesses, organizations, unions, as well as public agencies and governmental bodies during the 105-day comment period. All of the comments, which have been bracketed and numbered for ease of reference, are provided in **Section 2.0** of this document. Written comments received from public agencies and other governmental entities are given the prefix “A” followed by a sequential number, distinguishing each comment. Written comments received by citizens, private organizations, businesses, unions, etc., are given the prefix “I.” Finally, comments provided during the two public hearings are given the prefix “PH.” Refer to **Table 2-1** which provides an index of all of the comments received on the Draft EIS/EIR.

Once an issue is addressed, either in the General Responses (**Section 3.0**) or in an individual response to a comment, subsequent responses to similar comments reference the initial response. This format eliminates redundancy where multiple comments have been submitted on the same issue.

4.1 RESPONSES TO WRITTEN AGENCY COMMENTS

COMMENT A1

RESPONSE AI-1

Comment noted.

RESPONSE AI-2

Due to the scale of the Proposed Project, specifically the potential for the project to generate substantial economic activity, a large area was studied. While economic activity from the Proposed Project would affect a large area, the geographic location of the City of Richmond and Contra Costa County results in the potential for these areas to be affected to the greatest extent; and therefore, the socioeconomic impact analysis provided in **Sections 3.7** and **4.7** of the Draft EIS/EIR focuses on these locations. Economic affects would also be spread across a variety of areas outside of Contra Costa County, but an attempt to identify any specific areas where economic activity would be concentrated would be speculative. For these reasons, potential impacts to Marin County specifically were not quantified. Please refer to **General Responses 3.11.1** through **3.11.6** for a discussion of potential social impacts within the immediate and surrounding communities.

The Draft EIS/EIR provides an analysis of all reasonably foreseeable social impacts from gambling. A more in-depth analysis is provided for problem/pathological gambling and crime as these issues were highlighted during the scoping process for the Proposed Project.

The commenter is incorrect in stating that the Draft EIS/EIR assumes that social impacts would affect only an area 10 miles or less from the site; the Draft EIS/EIR states that, based on a review of research, *increases* in the number of pathological and problem gamblers from the Proposed Project would be limited to within 10 miles of the project site. As discussed in **Section 4.7**, based on a review of existing literature, no specific data regarding the increase in problem and pathological gamblers for those residents living between 11 and 50 miles of a casino is available.

Census tracts are used to identify minority and low-income communities for the environmental justice analysis. The majority of potential impacts associated with the Proposed Project, such as those to land, water resources, air quality, and traffic, among others, can be characterized as local in nature; and therefore, it was determined that potential environmental justice communities are those located within the immediate vicinity of the project site, as identified in **Section 3.7** and shown in **Figure 3.7-1** of the Draft EIS/EIR. Additionally, **Section 4.7** determined that no identified low-income or minority communities would be disproportionately adversely impacted by the Proposed Project. Expanding the environmental justice analysis to include communities within Marin County would not change the conclusions of the environmental justice analysis.

As discussed in Draft EIS/EIR **Section 4.7**, as a result of Alternatives A - D, criminal incidents would be expected to increase at the project site relative to the existing conditions as a result of an increased volume of people on-site. The project site and immediate project area fall within the jurisdiction of the City of Richmond Police Department; and therefore, this agency has been contracted through the Municipal Services Agreement (MSA) to be compensated for providing law enforcement services to the project site and project area. The Richmond Police would be assisted by Tribal security under Alternatives A – C and B1.

The Economic Impact Study (**Appendix T**) quantifies, and the Draft EIS/EIR **Section 4.7** summarizes, the new economic activity from the Proposed Project which would result in substantial new economic activity, employment, and wages in the County, including spending at existing businesses. The Economic Impact Study also identifies that revenue for the Proposed Project from outside the County is expected to originate from a variety of markets within the greater San Francisco area, the largest being the San Jose market (see Draft EIS/EIR **Figure 3.7-2**). While Marin County could experience some spending diverted to the Proposed Project, a large amount of new economic activity would result both in Contra Costa County and surrounding counties (including Marin County), which would yield an overall neutral or beneficial impact to Marin County. Draft EIS/EIR **Section 4.14** discusses potential growth-inducing impacts associated with the Proposed Project, and identifies that commercial growth would likely result from economic activity generated by the Proposed Project. Based on the inherent tourism value of the

Proposed Project and new household spending that would result in the County, it is estimated that the Proposed Project would result in approximately nine new commercial developments, including three new gas stations, three new restaurants, and three new fast food (or similar) establishments.

Based on the magnitude of new economic activity that would result in Contra Costa County and surrounding counties, combined with the characterization of the Proposed Project as a destination resort, the Proposed Project would not diminish the viability of existing business in Marin County and result in urban decay. Please refer to **General Response 3.11.5** for further discussion of urban decay and other economic impacts to regional businesses.

RESPONSE AI-3

Mitigation Measure 1-2 in **Section 5.2.1** of the Final EIR has been augmented to clarify the required contents of the design-level geotechnical investigation and to note that the investigation shall be incorporated into the Mitigation Monitoring and Reporting Plan and subject to implementation verification.

A Historic Building Condition Assessment of the Winehaven District was conducted and is included as **Appendix E** of the Draft EIS/EIR. The Historic Building Condition Assessment concludes that the historic buildings are salvageable and capable of supporting seismic retrofitting. Recommendations for seismic retrofitting and probable associated costs are also provided in **Appendix E**. Please refer to **Appendix DD** for more in-depth analysis of historic Building No. 6.

RESPONSE AI-4

Refer to **General Response to Comment 3.7** regarding toxic air contaminants.

RESPONSE AI-5

Please refer to **Tables 4.5-1, 4.5-2, 4.5-3 and 4.5-4** in Draft EIS/EIR **Section 4.5**. These tables detail project related impacts to habitats and indicate that no impacts to beach strand habitats would occur under Alternatives A - D. Therefore, avoiding impacts to beach strand habitat “to the maximum extent feasible” is achieved in the project design.

As stated in **Mitigation Measure 4-9** of Draft EIS/EIR **Section 5.2.4** “the VMP [Vegetation Management Plan] shall outline the specific goals of mitigation, describe detailed logistics and instructions for implementation of the specified goals, determine appropriate monitoring regimes and reporting requirements, establish success criteria, and devise an adaptive management strategy to ensure the goals of mitigation are achieved in perpetuity.” Thus, habitat specific, detailed and comprehensive mitigation implementation standards and monitoring criteria will be built into the VMP. In addition, language has been added to Final EIR **Section 5.2.4** to describe the required contents of the VMP in more detail.

As required under CEQA and NEPA all potential impacts to avian species (including migratory birds) are sufficiently addressed in Draft EIS/EIR **Sections 3.5** and **4.5** using the significance criteria detailed in **Section 3.5.7. Mitigation Measures 4-15** through **4-19** reduce potential impacts to potentially occurring avian species to less than significant. In addition, the USFWS Section 7 concurrence letter (**Appendix J**) offers a “not likely to adversely affect” determination for all federally listed avian species with the potential to occur within the project site while specifically noting that the “project area contains a very small amount of low quality habitat that is isolated from other habitat areas known or likely to support these species.” This designation also includes a “not likely to adversely affect” determination to federally listed birds that “may forage in offshore waters and eelgrass beds within the project area.” Additionally, all buffers and setbacks from sensitive resources will be approved through consultation with the Bay Conservation and Development Commission (BCDC), as applicable.

Regarding the commenter’s opinion that the proposed connection between the Winehaven Building (No. 1) and the proposed new construction would not be permissible, please refer to **Mitigation Measure 5-1** of the Draft EIS/EIR for a description of procedural approach for resolving adverse affects on the Winehaven Historic District. The Proposed Project would be required to conform to the Secretary of the Interior’s (SOI) Standards and Guidelines for Rehabilitation (**Mitigation Measure 5-1**). For additional discussion of potential impacts associated with redevelopment within the historic district, please refer to **General Response 3.12**, as well as individual responses **A17-1** and **A24-12**.

RESPONSE AI-6

Impacts to US 101 and the scope of traffic analysis in Marin County are discussed in the Supplemental Traffic Impact Analysis (STIA; **Appendix S**). The STIA identifies and analyzes a critical portion of US 101 that has the potential to be impacted by the Proposed Project. This analysis is summarized in **Sections 4.8** and **4.15** of the Draft EIS/EIR.

RESPONSE AI-7

Please see **General Response 3.11.5** and **Response A1-2** for further discussion of urban decay and other economic impacts to regional businesses, including those in Marin County. As depicted in **Figures 1-1** through **1-3** of the Draft EIS/EIR, the project site is located a significant distance from existing residential communities. Contrary to the commenter’s statements, the Proposed Project would *create* connections with existing communities, and would not result in “residential land use economic deterioration” or “the potential physical division” of the existing minority community in Richmond.

RESPONSE AI-8

As described in **Section 4.10.1** of the Draft EIS/EIR, East Bay Municipal Utility District (EBMUD) prepared a Water Supply Assessment (WSA; **Appendix Z**) to compare the water demand of the Proposed Project with the 2005 Urban Water Management Plan, in accordance with Urban Water Management Planning Act (SB 610). Despite the commenter’s characterization of the analysis by EBMUD as a

“purported water supply assessment in a brief letter”, the WSA was prepared in accordance with all applicable standards and guidelines. According to the WSA, “The water demands for the Point Molate Mixed-Use Tribal Destination Resort and Casino Project area are accounted for in EBMUD’s water demand projections as published in EBMUD’s 2005 Urban Water Management Plan.” The WSA further states that, “Water consumption within the EBMUD service area has remained relatively level in recent years in spite of population and account growth. Since the 1970s, water demand has ranged from 200 to 220 million gallons per day (mgd) in non-drought years. The 2030 water demand forecast of 281 mgd for the EBMUD service area can be reduced to 232 mgd with the successful implementation of water recycling and conservation programs, as outlined in the UWMP. *The Point Molate Mixed-Use Tribal Destination Resort and Casino Project will not change the EBMUD 2030 demand projection* (emphasis added).” With the inclusion of the water conservation measures outlined in the WSA, which are included as **Mitigation Measure 9-1**, the Proposed Project would have a *less-than-significant* impact on the EBMUD water supply source, and would not result in an exceedance of EBMUD water supply capacity. EBMUD further confirms its available capacity to serve the Proposed Project in its comment letter on the Draft EIS/EIR, attached to the Final EIR as Letter A-12.

RESPONSE AI-9

There is no basis to conclude that implementation of the Proposed Project would require the Federal Aviation Administration (FAA) to alter existing flight patterns. Noise contour maps presented in the City of South San Francisco and City of Oakland General Plans show that the Community Noise Equivalency Level (CNEL) at the project site would be less than 65 dBA, which is within acceptable noise levels (refer to **Section 4.11** of the Draft EIS/EIR). The Tiburon General Plan notes that aircraft noise from San Francisco and Oakland airports create noises levels of 19 to 44 dB CNEL, well below acceptable noise level provided in the Tiburon General Plan. Due to the nature of the proposed land uses no adjustment of flight movement would occur.

RESPONSE AI-10

Please refer to **General Response 3.17** concerning analysis of potential aesthetic impacts. Also, please refer to Draft EIS/EIR **Section 4.13**, which contains specific impact analysis related to light and glare, including a reference to required mitigation measures in **Section 5.2.12** in order to ensure light and glare impacts are less than significant.

RESPONSE AI-11

Please refer to **General Response 3.3**, which addresses the formulation and analysis of alternatives in the Draft EIS/EIR. Note also that non-gaming alternatives are included in the **Draft EIS/EIR**.

RESPONSE AI-12

All of the agreements referenced are contingent upon completion of environmental review and approval of the development of the Proposed Project. None of the agreements require that the project site be

developed absent the necessary environmental review. Neither does the presence of the various agreements indicate that development must take place even in the absence of environmental review. Note that the Draft EIS/EIR contains a no action alternative which assumes that no on-site development would take place under that alternative.

Each referenced agreement is fully considered in the Draft EIS/EIR. The Land Disposition Agreement (LDA), the Early Transfer Cooperative Agreement (ETCA), and the MSA are all discussed in detail in **Section 2** of the Draft EIS/EIR. The Intergovernmental Agreement (IGA) between the Tribe and Contra Costa County, which was reached in November 2009, is considered in the Final EIR and provided in **Appendix BB**. These agreements are relevant to some of the development alternatives and are therefore considered in the analysis of environmental impacts contained in Final EIR **Section 4**. Preliminary service agreements are considered primarily in the analysis of utilities and public services impacts (Draft EIS/EIR **Section 4.10**). Agreements with service providers allow for the provision of public services or utilities in the event that development occurs. The mere presence of these agreements does not mean that development will occur. Although the Base Reuse Plan is not predicated on tribal use of the site, the stated “purpose and need” (Draft EIS/EIR **Section 1.4**) includes a tribal component. It is fully consistent with NEPA and CEQA to consider the purpose and need in selecting alternatives for analysis. Nonetheless, some alternatives analyzed in the Draft EIS/EIR include tribal development and some do not include such development. Please also refer to **General Response 3.3**, which addresses the formulation and analysis of alternatives in the Draft EIS/EIR.

RESPONSE A1-13

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

COMMENT A2

RESPONSE A2-1

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

Refer to **General Response 3.12.5** regarding the geographic scope of the traffic analysis in general, and in regards to the segment I-80 south of the I-580 split, specifically.

The Draft EIS/EIR notes that “San Pablo Avenue provides an alternative access point to the project site via Richmond Parkway (**Section 3.8: 3.8-4**).” The description has been amended in the Final EIR to clarify that the indirect access provided by San Pablo Avenue applies to the northern extension of it which serves the communities of Rodeo, Hercules, and Pinole. A portion of vehicular traffic originating in these communities is expected to use the northern segment of San Pablo Avenue, thence the Richmond Parkway south of the intersection of the two arteries in the Hilltop area of Richmond. The portion of San Pablo Avenue north of the Richmond Parkway is a major thoroughway in a suburban setting with relatively few stop lights and acceptable operations. In contrast, San Pablo Avenue in the City of Albany

is set in a highly developed urban environment with a far greater number of signalized intersections and traffic that generally flows at a much slower rate than that of its northern extension in Rodeo, Hercules, Pinole, and the Hilltop area of Richmond. While a very small number of vehicular trips may use this facility to access the project site, far fewer than 50 trips in the peak hour are expected to utilize it; thus San Pablo Avenue in the City of Albany was excluded from further analysis.

Please refer to **General Response 3.12.2** regarding additional discussion of the scope of analysis for the transportation studies, discussion of the proposed conference facility, as well as trip generation rates and trip reductions.

COMMENT A3

RESPONSE A3-1

Comment noted.

RESPONSE A3-2

Please refer to **General Response 3.12.2** for a discussion of trip generation rates and trip reductions. Refer to the TIA, STIA (**Appendix S**), and supplemental transportation memorandum (**Appendix HH**), which provide a discussion of the methods and assumptions used in the transportation analysis.

Please refer to **General Response 3.10** regarding enforcement of all mitigation measures specified in the Final EIR.

The May 1992 Institute of Traffic Engineers (ITE) article (Ackeret and Hosea, 1992) cited by the commenter provides casino trip generation rate for “Las Vegas Area Casino-Hotels.” However, the conclusions reached in the nearly 18 year old article are not applicable for several important reasons. First of all, the Proposed Project cannot be accurately characterized as a “Las Vegas Area” casino. The study cited considered three types of facilities that are categorized based on their location in the Las Vegas market: Strip Hotels and Casinos, Outlying Areas, and Local Casinos. As discussed in the ITE article, these are very specific types of land uses that cannot be applied uniformly throughout the country. The article acknowledges that “this sort of development represents a unique land use for which trip generation rates have not been established (Ackeret and Hosea, 1992:1).” Secondly, the data presented in the article is dated, reflecting traffic patterns in Las Vegas which were observed between 1985 and 1990. The trip generation rates presented in the article assume 100 percent occupancy of hotel rooms, which is an unreasonable assumption, especially in light of the fact that the authors note that occupancy at the facilities studied never averaged greater than 81.6 percent of capacity. Finally, the article states that “...it is important to realize that the following evaluations *do not necessarily reflect the peak-hour rates of the hotel-casino traffic generator* (emphasis added; Ackeret and Hosea, 1992:1),” which further highlights that the application of the article’s findings is inappropriate and would lead to erroneous conclusions.

As described in **Section 4.8** of the Draft EIS/EIR, as well as within the TIA (**Appendix S**), the ITE method was used to estimate the traffic volumes generated by the various components of each alternative. However, the ITE method does not have a standard trip generation rate that applies to the unique land uses that characterize tribal gaming resorts with a broad range of amenities. Therefore, data was collected from several existing and proposed tribal gaming facilities, which are listed in the TIA. Application of the relevant ITE rates and empirical data from other comparable facilities results in a much higher level of confidence for the estimation of appropriate trip generation considering the land uses proposed under the various alternatives.

The transportation infrastructure improvements referenced in **Mitigation Measure 7-5** are planned improvements identified in the Marin County Regional Transportation Plan (RTP). The RTP identifies funding sources for these improvements. Furthermore, without the Proposed Project, the intersection located at Sir Francis Drake and Andersen Drive would operate at a less than acceptable level of service; thus, project-related traffic does not cause an unacceptable level of service, rather it would contribute to a pre-existing problem. Therefore, it is not the responsibility of the Tribe to pay 100 percent of the costs to resolve the less than acceptable level of service at the intersection. In compliance with established formulas for calculating fair share contributions, **Mitigation Measure 7-5** correctly requires a contribution ranging from zero (Alternative F – No Action) to 17 percent of the cost of the improvement, depending on the alternative selected. The Tribe would defer to responsible agencies with jurisdiction over the intersection regarding the final design of the required improvements.

The STIA (**Appendix S**) includes a full analysis of the I-580 / US 101 interchange as does **Section 4.8** and **4.15** of the Draft EIS/EIR. It was determined through this analysis that the I-580 / US 101 interchange would have a less than significant impact due to project-related traffic. Refer to **Sections 4.8** and **4.15** of the Final EIR as well as **Appendix HH** for a summary of the analysis performed along Sir Francis Drake Boulevard in the City of Larkspur for the Proposed Project.

Please refer to **Section 3.8** of the Draft EIS/EIR for a discussion of the relevant regulatory framework applicable to the Proposed Project in the context of the transportation analysis.

Sections 4.8 and **4.15** of the Draft EIS/EIR and the STIA analyze potential impacts to the Richmond-San Rafael Bridge. It was determined that in the build-out year project-related traffic would have a less than significant impact on the level of service on the bridge. However, in the cumulative year there would be a significant impact and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. However, the required mitigation is infeasible at this time since the facilities requiring improvements are outside the jurisdiction of the City of Richmond and there are currently no plans to fund or implement the improvements on the part of Caltrans. Refer to **General Response 3.12.6** regarding bicycles on the Richmond-San Rafael Bridge.

COMMENT A4

RESPONSE A4-1

Comment noted.

COMMENT A5

RESPONSE A5-1

Please refer to **General Response 3.1.1** regarding extension of the comment period.

COMMENT A6

RESPONSE A6-1

The scope of analysis used in the transportation studies is discussed in **General Responses 3.12.2** and **3.12.5**. The scope of the analysis has been expanded to include the intersections along Sir Francis Drake Boulevard cited by the commenter within the City of Larkspur. The analysis is provided in a technical memorandum provided in Final EIR **Appendix HH** and has been incorporated into **Sections 3.8, 4.8,** and **4.15** of the Final EIR. Potentially significant impacts were identified at two of the intersections in the City of Larkspur. With the implementation of mitigation measures provided in **Section 5.0** of the Final EIR, impacts would be reduced to a less than significant level.

A total of 39.3 percent of trips would originate from points west of the project site. Refer to trip generation rate, **General Response 3.12** and Section 5 of the TIA for an accurate percent of traffic using the Richmond-San Rafael Bridge; also refer to the technical memorandum provided in **Appendix HH** of the Final EIR for an accurate percentage of project-related vehicles which would use Sir Francis Drake Boulevard. Refer to **Section 5.2.7** of the Draft EIS/EIR for mitigation measures on Sir Francis Drake Boulevard. With the implementation of mitigation measures there would be a less than significant impact to roadways and intersections in Marin County.

The TIA and STIA provided with the Draft EIS/EIR make different assumptions with respect to the number of trips that would be reduced by implementation of the proposed ferry service, diverted link trips (incorrectly dubbed “pass by” trips in the TIA), and TDM measures. Ultimately, the analysis presented in the Draft EIS/EIR employs the more conservative assumptions articulated in the STIA with respect to ferry patronage and diverted link reductions. Based on the incorporation of more aggressive TDM measures developed after the TIA was completed, the STIA and Draft EIS/EIR calculate a higher percentage of trips diverted through TDM than estimated in the TIA. However, the *total number* of vehicle trips reduced through TDM, diverted link, and ferry trips is the same in the TIA, STIA, and Draft EIS/EIR.

The description of the Richmond – San Rafael Bridge on page 3.8-4 of the Draft EIS/EIR has been corrected in the Final EIR to address the mistake identified by the commenter.

COMMENT A7

RESPONSE A7-1

Comments noted regarding the focus of the review.

The Tribe does not intend to charge for parking at the facility and no mitigation measure has been added requiring that a fee be charged for parking. While parking charges would likely encourage the use of alternate transportation it would also likely reduce overall patronage, reducing revenues and therefore reducing the ability of the project to fund other substantial mitigation measures, including aggressive measures to encourage the use of transit to reduce emissions and improve traffic operations, as detailed in Draft EIS/EIR **Sections 5.2.3** and **5.7.2**.

The Tribe proposes to build two parking structures (one semi-subterranean and one completely subterranean) to provide ample parking, which would have the effect of reducing the total footprint needed for parking facilities and eliminating potential impacts related to the aesthetic character of the site. As described in **Section 2.0** of the Draft EIS/EIR, the Proposed Project would prohibit the use of personal vehicles for circulation within and between the major components of the project site. The large amount of parkland and open space proposed under Alternatives A – E, as well as construction of the Bay Trail through the project site, would encourage walking and use of bicycles. “Cruising” within the project site in search of available parking would not occur since patrons may only park in the two garages provided on site and given the ample number of parking spaces that would be made available.

The far-reaching mitigation measures and progressive design components focused on alternative modes of transportation and ridesharing would reduce the number of vehicle trips by a significant margin. Such measures include providing on-site ferry service, providing funding for AC Transit to extend bus service to the site, improvements to local bus stops, economic incentives for employees carpooling, free shuttles to the Richmond BART station, etc. The approach articulated in the project proposal envisions enhancing the existing local public transit network in tandem with development of the on-site ferry service.

Section 5.0 provides details regarding fair share funding that the Tribe would pay for each of the required mitigation measures. **Mitigation Measures 3-17, 3-18, 3-20, and 7-7** provided in **Section 5.0** of the Draft EIS/EIR require funding to enhance existing transit and transit facilities. The Draft EIS/EIR considers the availability of funding in considering the feasibility of mitigation measures. In no instance does the Draft EIS/EIR assume, recommend, or encourage the use of existing public funding sources to fund mitigation measures to the detriment of other transportation projects.

Mitigation Measure 3-17(d) has been supplemented to require continued consultation and coordination with the regional public transit providers in the final planning and implementation phases of project development, as suggested by the commenter.

Mitigation Measure 7-6 has been supplemented as suggested by the commenter to clarify that the goal is to reduce vehicle trips to the project site by increasing the use of transit.

COMMENT A8

RESPONSE A8-1

The Final EIR at **Section 3.8** has been corrected to more accurately characterize the Golden Gate Bridge, Highway and Transportation District's service area. Additionally, the commenter's supplemental information concerning ferry routes operated by Golden Gate Ferry has been incorporated into the Final EIR **Section 3.8**. **Figure 3.8-3** has been updated to reflect the fact that Golden Gate Transit Routes 40 and 42 operate on the Richmond San Rafael Bridge.

Regarding the commenter's inquiry concerning Castro Street and Richmond Parkway; these streets do not intersect. In fact, Castro Street and the Richmond Parkway are the same facility in the vicinity of their intersection with I-580. The Richmond Parkway arterial, as well as all of its intersections with the potential to be impacted, were analyzed in the Draft EIS/EIR. Please refer to **Sections 4.8** and **4.15** of the Draft EIS/EIR for a discussion of potential operational impacts along the Richmond Parkway in the near-term and cumulative years. Mitigation for potential impacts to these facilities is provided in **Section 5.2.7**. The signalized intersection just north of Tewksbury Avenue and Castro Street is Castro Street and Redwood Way/WB I-580 On/Off Ramps, which is analyzed as intersection number one in the Draft EIS/EIR and TIA.

In the absence of significant impacts, the Tribe has committed to fund 100 percent of three improvements to the area of Point Richmond the commenter refers to. **Improvement Measures 7-21, 7-22, and 7-23** would improve traffic operations at the intersection of Standard Avenue at Castro Street, Tewksbury Avenue and Castro Street, as well as provide improvements to the "Tewksbury Turnaround" located at the intersection of Tewksbury Avenue and Castro Street.

Implementation of the Proposed Project would somewhat exacerbate the Anderson Drive and Sir Francis Drake Boulevard intersection; however, **Mitigation Measure 7-5**, which is provided in **Section 5.2.7** of the Draft EIS/EIR, would reduce impacts to this intersection to less than significant. As such, Golden Gate Transit would not be subject to bus route interruptions at this location as a result of the Proposed Project.

The Draft EIS/EIR at **Sections 4.8** and **4.15** discloses all significant impacts associated with the facilities cited by the commenter. As discussed in the context of each relevant impact statement, some impacts are considered significant because the full suite of required improvements may not be implemented since the subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan to help fund or implement the improvements.

Ferry service would be on a regularly scheduled basis. Please refer to **Section 2.2.2** and **Appendix S** of the Draft EIS/EIR, as well as **General Response 3.12.1** for ferry service information.

Mitigation Measure 3-17 has been supplemented to specifically reference service to the “Tewksbury Turnaround” transit stop. **Improvement Measure 7-23** has been added to the Final EIR, which states that “the Tribe shall fully fund improvements to the Tewksbury Avenue bus turnaround, these improvements would include, but not be limited to: constructing bus shelters, improve bus benches, landscaping, and lighting (applicable to Alternatives A, B, C, and D).”

Mitigation Measure 3-17(d) requires on-going consultation with regional transit providers, as suggested in the comment addressing **Mitigation Measure 3-19** on page 2 of comment letter A8.

Mitigation Measure 7-7 has been amended to require coordination with other regional transit providers as necessary, which would include Golden Gate Transit.

COMMENT A9

RESPONSE A9-1

Please refer to **General Response 3.1.1** regarding extension of the comment period.

RESPONSE A9-2

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

RESPONSE A9-3

The commenter’s claim that impacts on the City of San Pablo are not clearly identified because census tracts are used as opposed to municipal boundaries is not supported. Census tracts are used to identify minority and low-income communities for the environmental justice analysis, and potential economic activity associated with the Proposed Project is quantified for Contra Costa County, including the City of San Pablo. Low-income and minority communities are identified in the environmental justice discussion in **Section 3.7** of the Draft EIS/EIR. These communities are identified based on the potential for the Proposed Project to disproportionately and adversely affect these communities. The majority of potential impacts associated with the Proposed Project, such as those to land, water resources, air quality, problem gambling, and traffic, among others, can be characterized as local in nature; and therefore, it was determined that potential environmental justice communities are those located within the immediate vicinity of the project site, as identified in **Section 3.7** and shown in **Figure 3.7-1**. Additionally, **Section 4.7** determined that no identified low-income or minority communities would be disproportionately adversely impacted by the Proposed Project. Expanding the environmental justice analysis to include communities within the City of San Pablo would not change the conclusions of the environmental justice analysis.

The Economic Impact Study is included as **Appendix T** and discussed in **Section 3.7** and **4.7** of the Draft EIS/EIR. The grouping of the five casinos in the greater San Francisco market does not obscure the impact to Casino San Pablo (CSP). The project will impact casinos throughout Northern California as guests who live between Sacramento and San Francisco will frequent casinos in both regions. The casinos were grouped within a general region (i.e. greater San Francisco, greater Sacramento, and other) for comparison purposes only. As discussed in **Appendix T** and **Section 4.7**, due to the substantial amount of gaming wins at facilities within the competitive gaming market, declines in revenue at gaming facilities would be minimal. However, the casino located closest to the project site is expected to experience the greatest loss of revenue. The intent of the Economic Impact Study for the Draft EIS/EIR is to determine potential impacts to Native American Tribes; in this case the operators of tribal gaming facilities. Gaming market competition by itself is not considered a significant issue in the context of CEQA or NEPA. Please see **General Response 3.11.5** and **Response A1-2** for further discussion of urban decay and other economic impacts to regional businesses.

The Economic Impact Study determined that the Proposed Project would draw patrons from a large geographic area (across the greater San Francisco area) and not just Contra Costa County and the City of Richmond. Due to the scope of the gaming market for the Proposed Project, the gaming facility is most accurately characterized as a single component of the larger destination resort venue.

As discussed in **Section 4.7**, Class II gaming facilities are allowed to include bingo and non-banked card games (played against only other players and not the house), and specifically excludes slot machines and banked card games. Therefore, some of the gaming opportunities specific to casinos and included under Alternative A already exist within ten miles of the project site. As discussed, the Proposed Project would be a destination resort and would appeal to Class III gamers from across northern California. In fact, the Economic Impact Study identifies that the Proposed Project is expected to attract gamers from 19 other Class III gaming facilities and no other Class II facilities. This indicates that the majority of gamers would originate from outside the County and would be seeking Class III gaming opportunities.

The commenter does not support their claim that most of the diverted gaming activity from the greater San Francisco market would come from CSP revenues. Substitution impacts would be diffused across the region because there are a large number of existing businesses that already operate in a competitive environment. While the Economic Impact Study finds that the facility most proximate to the Proposed Project is expected to experience some loss of revenue, such declines would be minimal. It is not expected that the amount of revenue diverted from CSP would be as great as outlined by the commenter. Additionally, as projected by the Economic Impact Study, the greater San Francisco gaming market would be worth approximately \$1.83 billion in 2012 without development of the Proposed Project. With development of the Proposed Project, the gaming market is projected to grow by roughly 20 percent to approximately \$2.20 billion in 2012. As the facility would draw non-residents to the area, the associated increase in new visitor demand for off-site entertainment venues, restaurants, and other attractions would

off-set some regional patrons choosing to visit the Proposed Project rather than other local establishments. Therefore, although a certain amount of cannibalization is expected, the development of the Proposed Project would result in a nearly 20 percent expansion of the San Francisco gaming market, which would significantly offset potential impacts due to cannibalization. Moreover, since the payments received by the City of San Pablo for the provision of services are intended to offset impacts proportional to the use of such services, any decline in revenue would be expected to be accompanied by a concomitant decline in the need for services.

An attempt by Casino San Pablo to change from a Class II to Class III type gaming is highly speculative, is not relevant to the analysis of environmental impacts associated with the Proposed Project, and is outside the scope of this analysis. The payments derived from the operation of CSP in exchange for the provision of services were set in a Municipal Services Agreement (MSA) entered into by the City of San Pablo and the operators of the gaming facility. Thus, even if CSP were to become a Class III facility, any decline in revenues would be the direct result of the MSA, which caps annual payments at \$3.5 million in the event that CSP becomes a Class III facility. Again, analysis of potential effects associated with speculative actions (conversion to Class III) on the part of third-party entities, the effects of which are determined by the terms of an MSA that the Proposed Project applicant is not a signatory to, are not germane to the consideration of potential impacts associated with the Proposed Project.

CSP is included as part of the Economic Impact Study provided in **Appendix T**. Providing a new study focused solely on this single facility and the issues outlined by the commenter would not change the conclusions of the Economic Impact Study completed for the Proposed Project, as discussed above.

RESPONSE A9-4

Please refer to **General Response 3.12.1** concerning the proposed ferry service.

Implementation of the full suite of mitigation measures for potential impacts to the Richmond – San Rafael Bridge in the cumulative year was determined to be infeasible due to the fact that the facility is outside of the jurisdiction of the City and Tribe, and there currently is not a plan to implement or fund the required measures by the jurisdictional agency. For this reason, the Draft EIS/EIR disclosed that such impacts are considered significant and unavoidable. The potential impacts noted to the Richmond – San Rafael Bridge would occur in the cumulative year with or without the Proposed Project. As such, the Proposed Project has the benefit of providing a significant fair share contribution to the improvements that may be required in the future.

The commenter is correct that special event trips would be intermittent, spread over a longer time period and would not occur during the peak hour. Event traffic is analyzed in Section 8.0 of the TIA and was found to constitute a less than significant impact. Please refer to **Response A16-1, Special Event Traffic**, below for additional discussion.

Refer to **General Response 3.12.2** regarding trip generation rates and **General Response 3.12.4** regarding trip reductions. Note also that NEPA and CEQA do not require that “worst case” assumptions be made when analyzing environmental impacts.

While the TIA conservatively assumed that 2.7 million cubic yards of soil would be exported from the site, completion of the conceptual grading plan (**Appendix H**) and the Remedial Plan (**Appendix II**) indicate that the actual amount of soil to be exported would be substantially lower. In fact, the grading plan estimates that only 1.58 million cubic yards of soil would be exported under Alternative B (the alternative with the greatest amount of earthwork), while the Remedial Plan estimates that less than 205,000 cubic yards of impacted soil would require export under the worst case scenario. Moreover, the excavations of impacted soil would have to be backfilled using clean fill derived from other locations on-site, which would replace the volume of impacted soils to be exported. Thus, the TIA overestimates the amount of fill to be exported by approximately 1.12 million cubic yards. As such, the analysis of potential traffic impacts associated with export of soil from the project site during construction and remediation is conservative and no additional analysis is warranted.

Refer to **General Response 3.12.6** regarding the Richmond - San Rafael Bridge lane conversion mitigation. Regarding the breakdown lane comment, it is acknowledged that traffic incidents may occur, temporarily reducing capacity in one or more lanes of traffic until such time that the accident is cleared. However, such incidents are generally short-lived. On the basis of research conducted for the Highway Capacity Manual (HCM), the mean duration of a traffic incident was 37 minutes. The HCM methodology required by Caltrans does not include a factor to account for incidents (although it does reduce the travel speeds by approximately 3 mph when a freeway segment has no shoulders). In addition, the commenter presumes that capacity is unchanged on freeways with breakdown lanes during an accident, which is not accurate.

Ultimately, the effect of an incident on the capacity depends on the proportion of the traveled roadway that is blocked as well as the number of lanes on the roadway at that point. For example, the existing Richmond - San Rafael Bridge has two lanes in each direction and, based on historic traffic volume data for the bridge and the HCM, the capacity of those lanes is approximately 2,000 vehicles per hour. On a two lane freeway with an accident on the shoulder (i.e. in the breakdown lane) the HCM indicates the overall capacity of the two lanes in each direction (4,000 vehicles per hour) would be reduced by 19 percent to about 3,240 vehicles per hour.

For comparison, with three lanes and no breakdown lane an accident could not be moved to the shoulder and would be expected to block at least one travel lane. Under this scenario the maximum capacity of the three lanes in each direction (6,000 vehicles per hour) would be reduced by 51 percent to about 2,940 vehicles per hour when one lane is blocked. Therefore, it is acknowledged that there may be reduced capacity during an incident blocking one lane; however, the benefits of using the breakdown lane for

additional capacity when there are no incidents (an increase in capacity of 2,000 vehicles per hour) would greatly offset any temporary disruptions.

The above cited factors will be considered by Caltrans when determining the appropriate improvements for the bridge. However, it is generally accepted that providing additional capacity during periods without incidents is the critical factor, which is why it is not unusual for breakdown lanes to be converted to regular travel lanes.

Annual maintenance events at the Chevron refinery occur infrequently and are not within normal peak traffic scenarios. NEPA and CEQA do not require that “worst case” assumptions be made when analyzing environmental impacts. In addition, it is likely that increased maintenance-related traffic during maintenance events would be largely offset by decreased operations-related traffic, thereby decreasing the likelihood of increased traffic trips during maintenance events.

Refer to **General Response 3.4** and **Response I4** regarding Bay Trail connections to the site. **Improvement Measure 7-20** provides for bicycle lanes to be included from the project site to I-580 along Western Drive in the event that the proposed Bay Trail segment south of the project site is not functional by the time the Proposed Project is operational. Therefore, **Mitigation Measures 3.17 (f), (g), and (i)** would be applicable.

RESPONSE A9-5

Please refer to **General Response 3.9.1** for a thorough discussion of potential impacts to the eelgrass beds located on site. In summary, the eelgrass beds would be protected and not subject to impacts from construction or operation of the Proposed Project based on the following considerations: implementation of the Proposed Project would result in enhanced stormwater conveyance, which would improve water quality through treatment of turbid and/or contaminated water; the pier used for exporting soil is located in excess of 2,000 feet from the seaward extent of the currently mapped eelgrass beds; and **Mitigation Measure 4-8** has been augmented to provide additional provisions protecting the eelgrass beds.

Project site drainage (which may indirectly affect the eelgrass beds) is addressed in **Section 2.2.2** of the Draft EIS/EIR. An NPDES general construction permit will be acquired for the Project under the requirements of the Clean Water Act (CWA) and a Stormwater Pollution Prevention Plan (SWPPP) will be prepared and implemented for construction-related storm water discharges. The SWPPP shall detail erosion and sediment control Best Management Practices (BMPs) for all phases of construction. Additionally, a conceptual drainage and grading study and storm water management plan (SWMP) is included in **Appendix H**. These documents describe how storm water flows that may contain potentially turbid and/or contaminated waters from construction activities will be stored in temporary detention facilities where the water can be treated (or trucked from the site and treated) prior to surface water discharge, thus protecting water quality that may affect the eelgrass beds.

Furthermore, aggregate materials would be transferred from crushing locations on-site to barges docked at the end of the pier using a fully enclosed conveyor belt system on the existing pier structure. Adequate dust control of crushed materials would be accomplished prior to transport along the conveyor system. To assure that all material being transported along the conveyor has a low risk of being discharged into the Bay by wind or other agents, full enclosure of the conveyor system will be provided. With these measures implemented, potential impacts to water quality and eelgrass beds will be reduced to less than significant levels. Refer to **Mitigation Measure 4-8** in the Final EIR for a description of the full suite of measures that will ensure protection of the eelgrass habitat on-site.

Regarding the recommended changes to **Mitigation Measure 4-8** provided by the commenter; removal of “some eelgrass” prior to construction would be inappropriate and unnecessary. As noted in Comment Letter I101, the Romburg Tiburon Center for Environmental Studies is presently engaged in an eelgrass survey, monitoring and restoration effort at Point Molate, which the Guidiville Tribe has actively participated in.

RESPONSE A9-6

The fully enclosed conveyor system proposed for use in exporting fill from the site via barge would have no environmental impact in and of itself to areas of soil contamination. Aggregate crushing would occur in the paved area known as Drum Lot 1, and crushed aggregate would be conveyed directly to barges at the end of the pier. However, impacted soils would be exported via truck to approved disposal locations. Please refer to **Section 2.1.5** of the Final EIR for a detailed description of the remedial activities proposed. All potential impacts associated with the excavation of impacted soil have been considered in the Final EIR (see **General Response 3.16.1**). All hazardous materials remediation would occur in highly degraded areas, which were used intensively during Naval occupation of the site. Please refer to **Mitigation Measure 11-1**, which requires the implementation of a site-specific hazardous materials inadvertent discovery plan or an equivalent soil and groundwater management plan (SMP) that addresses potential inadvertent discovery of hazardous materials in the course of conduction ground disturbing activities.

Please refer to **General Response 3.14.1** that addresses emergency preparedness and evacuation.

Please refer to **General Response 3.16.2** that addresses the Ammonia Consequence Modeling Analysis undertaken for the Proposed Project (**Appendix M**).

Please refer to **Response A9-3** regarding the potential for public services in the City of San Pablo to be impacted.

RESPONSE A9-7

Please refer to **General Response 3.3** concerning the analysis of a reasonable range of alternatives presented in the Draft EIS/EIR.

As stated in the Purpose and Need (**Section 1.4**) of the Draft EIS/EIR, approval of the Proposed Project would provide a land base for the Tribe and establish a Tribal Headquarters from which its governmental functions could operate to provide housing, health care, education, and other services, and from which it can conduct the economic development necessary to fund these Tribal Government services and provide employment opportunities for its members. The Tribe is proposing to conduct gaming on the trust property in an effort to generate the funds necessary to support the range of governmental, social, health, and educational programs discussed in **Section 1.4**. In accordance with CEQA and NEPA, a range of alternatives are described and analyzed that would meet the needs of the City and the Tribe, albeit to varying degrees.

In addition to analyzing three alternatives that include gaming components, Alternative D proposes a more conventional non-gaming mixed-use redevelopment of the site with residential, retail, professional, entertainment, and hospitality amenities similar to those suggested by the commenter. While this alternative would partially meet the Tribe's goal of economic self-sufficiency, it would not restore a Tribal land base, which is a central component of self-determination. If the project site were to be taken into federal trust and redeveloped in a manner similar to Alternative D (i.e., without a gaming component), the City's objectives of creating a sizable revenue source would be substantially impacted and it would lose its jurisdiction and tax-levying authority over the site.

RESPONSE A9-8

The commenter suggests that the project description is incomplete because it purportedly does not include discussion of a Tribal compact or the Governor's consent for an early transfer of the remaining portions of the project site held by the Navy. The Draft EIS/EIR provides an exhaustive list of approvals and permits (**Section 1.4**) required for the project alternatives to be implemented. Please refer to **Table 1-1** of the Draft EIS/EIR, titled *Potential Permits and Approvals Required*. As noted in the table, a Tribal-State Compact would be required, which would be subject to approval by the Secretary of the Interior. Moreover, the document clearly states that the proposed gaming facility would be operated "pursuant to the requirements of federal law, Tribal law, and a Tribal/State Compact that will be negotiated between the State of California and the Tribal Government (**Section 1.4**, p. 1-10). Additionally, the document notes that the document may be used as a basis for a potential future Tribal Environmental Impact Report for compact compliance (**ES.1**, p. i; **Section 2.2.1**, p. 2-15).

The Draft EIS/EIR thoroughly discusses the process which governs the final transfer of the remaining Navy-held lands to the City. This process is discussed at length in **Section 2.1.4** of the Draft EIS/EIR where the provisions and guiding documents for the proposed early transfer with privatized remediation are discussed. The above referenced portion of the Draft EIS/EIR addresses the need for the Governor's consent to the early transfer. The Governor provided final consent to early transfer on September 1, 2009. The final transfer of the land from the Navy to the City occurred on March 25, 2010.

COMMENT A10

RESPONSE A10-1

Please refer to **General Responses 3.12.1, 3.12.2 and 3.12.3** for a discussion of ferry service, trip generation rates and trip distribution, respectively. Assumptions for the transportation analyses are discussed in the TIA and STIA (**Appendix S**). The methods and assumptions are discussed further in the general responses cited above.

The commenter misinterprets the information provided in the transportation analysis, which led to the conclusion that 55 percent of vehicle trips would access the site via the Richmond – San Rafael Bridge. In fact, Table 5-4 of the TIA (**Appendix S**) states that 55 percent of vehicle trips would use I-580 west to access the project site; thus, such trips originate at points east, and use the westbound lanes to access the site. As clearly stated in Table 5-4 of the TIA, 18.3 percent of vehicle trips would access the site via eastbound I-580 and the Richmond – San Rafael Bridge. This critical misreading of the information led to a series of erroneous conclusions enumerated in comment A10-1, such as the contention that the analysis “does not account for a considerable number of trips on I-580.”

The misreading of trip distribution data presented in the TIA and Draft EIS/EIR led the commenter to suggest that potential impacts to the intersection at Sir Francis Drake and Andersen Drive were underestimated. Please refer to **Sections 4.8, 4.15 and 5.2.7** of the Final EIR for a full consideration of potential impacts to this intersection and mitigation that would address the actual impact. The fair share contribution for addressing impacts to the intersection at Sir Francis Drake and Andersen Drive were calculated using Caltrans’ fair share contribution methodology, which indicates that the Tribe’s contribution would be as high as 17 percent, depending on the alternative selected. The intersection has been identified in the City of San Rafael’s General Plan 2020 Circulation Element, *Major Planned Circulation Improvements for the intersection at Sir Francis Drake Blvd and Andersen Drive*, which calls for widening and signalization of the intersection. Considering that the primary scope of improvements required have already been established in the City of San Rafael’s General Plan (widening and signalization) and the fact that the final design will be subject to approval by the jurisdictional agency (City of San Rafael), the Draft EIS/EIR does not attempt to dictate the specifics of the improvement, such as changes in lane geometry.

With regard to the perceived “conflicting information” presented on pages 5-24 and 5-33 of the TIA, close inspection of the referenced sections failed to indicate any such conflict. Table 5-18 on page 5-33 of the TIA provides the “percent contribution” of traffic *volume* to the impacted intersection by the Proposed Project, and not the “fair share of project trips” as suggested by the commenter. When viewed in context of the discussion in the TIA, it is clear that the table is presenting the volume contribution of the Proposed Project to establish whether the significance threshold has been exceeded. It should be noted that while the TIA concluded that impact at the subject intersection was less than significant, the

Draft EIS/EIR took a more conservative approach in classifying the impact as significant and providing substantial mitigation.

Project trip generation for the Richmond - San Rafael Bridge is presented in Section 5.0 of the TIA (**Appendix S**). The fair share amount presented in **Section 5.2.7** of the Draft EIS/EIR represents the contribution of the Tribe following Caltrans' methodology for calculating fair share contributions. The "vehicles per lane" designation at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated as 4225 vehicles *per lane per hour* in the Draft EIS/EIR, has been corrected in the text of the Final EIR.

The commenter is correct; the TIA construction analysis was performed for Alternative B, which is considered the worst-case scenario of any alternative. **Section 4.8** of the Draft EIS/EIR, impact 4.8-13, page 4.8-14, shows Alternative B construction trips, which coincide with the numbers presented in the TIA. Language has been added to Final EIR **Section 4.8** for Alternatives A, C, and D clarifying why construction trips are reduced, i.e. reduced soil hauling and reduced construction components. Also, in the Final EIR construction truck trips have been converted into passenger car trips using a conversion factor provided in the 2003 Highway Capacity Manual. This conversion allows a more accurate correlation between construction traffic and operational traffic.

RESPONSE A10-2

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

COMMENT A11

RESPONSE A11-1

Under Alternatives A, B, C, and B1 most of the developed and habitable areas of the project site would be situated on land held in trust by the federal government. Land held in trust would generally not be subject to state or local jurisdiction absent some other agreement in which the Tribe or federal government agrees to some level of state or local oversight or jurisdiction. However, the MSA (**Appendix C**) and the IGA (**Appendix BB**), include several provisions that provide for limited local oversight of the development proposed under the various alternatives. Agreements for local oversight and provision of services are generally with the City of Richmond, as specified in the MSA. It is recognized that Contra Costa Health Services, Environmental Health Division (CCEHD) would maintain jurisdiction on lands held in fee title at Point Molate and would have authority to regulate matters related to: retail food facilities; public swimming pools and spas; well drilling, abandonment, and soil borings; and medical waste disposal. In recognition of this, **Sections 4.10** and **5.2.9** of the Final EIR have been supplemented to reflect the existing and continuing authority of CCEHD on lands held in fee title. Furthermore, mitigation has been added to the Final EIR at **Section 5.2.9** that requires the Tribe to develop ordinances that are the functional equivalent of those enforced by CCEHD related to retail food facilities, public swimming pools/spas, well drilling, well abandonment, soil borings, and disposal of medical waste for trust lands

(**Mitigation Measure 9-23**). A second mitigation measure has been added to the Final EIR at **Section 5.2.9** that requires the Tribe to abide by all applicable sections of the Contra Costa County Code of Ordinances related to health and safety measures of retail food facilities, public swimming pools/spas, well drilling, well abandonment, soil borings, and disposal of medical waste for facilities located on lands held in fee title (**Mitigation Measure 9-24**).

Implementation of the mitigation cited above would ensure that no significant public health or safety impacts would occur as a result of the Proposed Project.

RESPONSE A11-2

Mitigation Measures 9-24 provided in the Final EIR requires compliance with all of the relevant sections of the Contra Costa County Code of Ordinances governing the subjects cited in the comment on land held in fee title. **Mitigation Measures 9-23** in the Final EIR requires that the Tribe adopt a Tribal Ordinance related to the maintenance of health and safety measures of retail food facilities, public swimming pools/spas, well drilling, well abandonment, soil borings, and disposal of medical waste that is the functional equivalent of the applicable sections of the Contra Costa County Code of Ordinances.

RESPONSE A11-3

MEDICAL WASTE

The project site would not include a hospital, clinic, doctor's office, veterinarians, or laboratories, and would not be a medical waste generator.

SOLID WASTE

The Proposed Project does not include a "recycling center" on-site, as defined by Title 14, Section 17402.5(d) of the California Code of Regulations, nor will a transfer station be operated on-site. Rather, the Tribe proposes design and operation processes that will increase the amount of waste to be diverted from the waste stream and recycled. The recycled materials that are generated on-site will be collected by a certified waste hauler and processed off-site at an appropriate, licensed facility. The Solid Waste Management Plan proposed as part of **Mitigation Measure 9-5** in the Draft EIS/EIR includes a provision requiring diversion of 50 percent of waste produced at the project by means of an aggressive recycling program.

ON-SITE NAVY LANDFILL (IR-01)

A discussion of the existing landfill on-site (IR-01) is contained in **Section 3.12** of the Draft EIS/EIR, with specific cleanup/monitoring procedures included within **Mitigation Measure 11-3**. Under Alternatives A, B, and C, this closed facility would be located on trust lands and outside the jurisdiction of CCEHD. Nonetheless, stringent maintenance and monitoring protocols, as well as prohibitions on development, are provided in the existing land use restrictions. Post-closure maintenance and monitoring is currently being conducted annually at IR-01 in accordance with the Site 1 Post Closure Maintenance

and Monitoring Plan (PCMMP). Please refer to **Sections 3.12** and **4.12** of the Draft EIS/EIR for further discussion of the protocols in place to ensure that the integrity of this facility is maintained in perpetuity.

COMMENT A12

RESPONSE A12-1

The water demands calculated in **Appendix G** of the Draft EIS/EIR consider solely overall water demand to meet the needs of the proposed project developments. The discussion of water supply in **Section 2.2** through **2.4** in the Draft EIS/EIR details the methods of meeting the water demands from the various project components. For example, the potable water demands of Alternative A are addressed in the Draft EIS/EIR under “Water Supply” in **Section 2.2.2** of the Draft EIS/EIR. These demands are solely for potable water, as a portion of the overall water demand specified in **Appendix G** (portion of the irrigation demand) would be met by the grey water system. As discussed under water supply in **Section 2.2.2** of the Draft EIS/EIR, the water supply includes the potable water demand of 460 gallons per minute and 60 percent of the irrigation demand during the irrigation season (the other 40 percent met by the grey water system).

Section 2.2.2 of the Final EIR has been updated to clarify the letter provide by EBMUD is a “will-serve” letter and not a service agreement. The text on page 3.10-1 of the Draft EIS/EIR that incorrectly refers to East Bay Municipal Utilities District, rather than East Bay Municipal *Utility* District, has been corrected in the Final EIR.

It is acknowledged that EBMUD would not assume ownership or operation of private tanks and private pipelines. Text has been incorporated into the water supply discussion of **Section 2.0** of the Final EIR to clarify that the Tribe would ensure existing storage tanks used for emergency backup conform to all standard EBMUD requirements prior to pressurization of the lines. In response to fire demands, pressurization of EBMUD water supply lines would be required to be adequate to meet the needs of the selected alternative. The private storage tank and lines would be used to meet peak hour needs. As discussed in **Section 2.0** of the Draft EIS/EIR, the Tribe would pay all fees consistent with EBMUD’s standard water connection fee schedule.

The commenter suggests the Water Supply Assessment (WSA) prepared by EBMUD should be addressed in **Section 3.10** of the Final EIR under “Water Supply.” **Section 3.0** of the Draft EIS/EIR provides the existing setting of EBMUD’s water supply without implementation of the project alternatives. **Section 4.10** of the Draft EIS/EIR addresses impacts of the proposed alternatives to the existing setting. The WSA is an analysis document that assesses whether EBMUD’s water supply system has adequate capacity to meet the needs of the project alternatives. Therefore, it is appropriate to include the discussion of the WSA within the environmental consequences section of the Final EIR (**Section 4.10**). The WSA is included as **Appendix Z** of the Final EIR and the incorrect reference to the WSA on page 4.10-3 of the Draft EIS/EIR has been corrected.

The recommended procedures for procuring water service have been incorporated into the project description. As addressed in **Section 2.0** of the Draft EIS/EIR, the Tribe will pay all fees associated with standard commercial connection to EBMUD's municipal water system and will ensure all water supply features on the project site meet EBMUD specifications. Additionally, the Tribe has committed to paying its fair share of the costs of upgrades to the off-site water conveyance system that would be required as a result of serving the selected development project.

A reference to the Water and Wastewater Feasibility Study (**Appendix G**) has been included in the impact discussion of water supply in **Section 4.10.1** of the Final EIR to identify the analysis that was used to determine the average and peak water demands of the Proposed Alternative. The Tribe would request service to meet projected potable water demands from EBMUD as the sole water purveyor in the region.

As discussed in **Sections 2.1.4** and **2.1.5**, remediation of the project site is a required component of the early transfer process of the project site to the City and is a required component of the project description. Prior to construction on the project site, the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) would be the responsible agency for overseeing and approving the completion of the remediation activities outlined within **Section 2.1.5** of the Draft EIS/EIR. Additionally, the Tribe has committed to include mitigation for potential exposure to undiscovered hazardous materials through the development of a site-specific hazardous materials inadvertent discovery plan.

As discussed in **Section 2.1** of the Draft EIS/EIR, a Site Cleanup Order (Order) was adopted by the SFRWQCB on November 12, 2008 which outlines the specific deliverables and schedule to complete the outstanding evaluations, remediation work, monitoring, and reporting for the site (**Appendix X** of the Draft EIS/EIR). As memorialized in the SFRWQCB Order adopted for the project site on November 12, 2008, detailed remediation plans will be developed, submitted, and modified according to comments received between March 2009 and March 2010. Implementation of the remediation activities is expected to begin during the summer of 2010. A conceptual Remedial Plan (RP) was prepared in November 2008 that describes the environmental services obligations of the Tribe and Upstream under the Early Transfer Cooperative Agreement as described in **Section 2.1.4** of the Draft EIS/EIR (**Appendix II**). The RP includes an aggressive strategy to remove soils that have been affected by past Navy operations at the project site. Potential impacts related to remediation have been considered across a range of issues (water resources, air quality, traffic and disposal). Additional Best Management Practices (BMPs) will be implemented during on-going remediation to reduce any impacts to humans or the environment. The RP was developed in accordance with the requirements of the Cleanup Order adopted by the SFRWQCB (**Appendix X**), which is the lead agency for environmental remediation at the project site. The RP summarizes the planning, design, and remediation work that must be completed under the regulatory oversight of the SFRWQCB and is intended to satisfy the requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the National Contingency Plan (NCP) by implementing the requirements of the ETCA and the Site Clean-up Requirements (SCRs)

(**Appendix X**). The RP also provides for a Soils and Groundwater Management Plan that will guide all future activities at the project site. The last component of the RP is the requirement for implementation of a Sampling and Analysis Plan for Long Term Groundwater Monitoring (SAP) documenting the monitoring wells and groundwater seep locations, sampling frequency, and analyses. The Tribe and selected remediation contractor will provide all necessary remediation and monitoring documentation to EBMUD as part of the application process for water service. As mitigation in **Section 5.2.9** of the Draft EIS/EIR, the Tribe has committed to incorporating the provisions of EBMUD's application process for water service into the selected project alternative.

To minimize impacts to EBMUD's municipal water system and available water capacity, the Tribe has committed to comply with the model Water Efficient Landscape Ordinance (AB 325) and will develop a landscape documentation package that will include all the required provisions as laid out in **Mitigation Measure 9-1** of the Draft EIS/EIR. Additionally, **Mitigation Measure 9-1** requires the Tribe to incorporate native, drought tolerant plants in the landscape architecture plan and comply with Section 31, Water Efficiency Requirements, of EBMUD's Regulations Governing Water Service to Customers. The project proponents have expressed interest in working with EBMUD throughout the development and operation process of the selected development alternative to advance water conservation goals.

COMMENT A13

RESPONSE A13-1

SURFACE TRANSPORTATION

Please refer to **General Response 3.12.2**, *Intersection/Roadway Scope of Analysis*, regarding the scope of analysis presented in the Draft EIS/EIR.

Please refer to **General Response to Comment 3.12.4** regarding the trip reductions used in the transportation analysis.

Please refer to **General Response to Comment 3.14.1** regarding emergency ingress and egress at the project site.

FERRY SERVICE

Please refer to **General Response 3.12.1**, which covers a range of issues associated with the proposed ferry service.

As stated in the Draft EIS/EIR, and expanded in the general response cited above, the proposed ferry service would be funded by fares and supplemented by the Proposed Project, and would *not* be operated by the Water Emergency Transportation Authority (WETA). As discussed in detail in **General Response 3.12.1**, the proposed ferry service is not expected to draw commuters to the project site to catch the ferry since it will generally be operating in the reverse commute direction. While a negligible number of

commuters may choose to use the on-site ferry service (primarily those who routinely travel from Richmond to Vallejo or Tiburon), they would have access to plentiful on-site parking provided in two garages (7,500 total spaces). The trips generated by the rare ferry commuter would be off-set by an equal number of vehicle trips that would be eliminated from surrounding roadways. Furthermore, all potential impacts associated with modifications to the pier and operation of the ferry are addressed in the Final EIR. Please refer to **General Response 3.9.1** for a discussion of potential biological impacts associated with the reuse of the on-site pier.

COMMENT A14

RESPONSE A14-1

The Draft EIS/EIR concluded that the Proposed Project would result in potentially significant air quality impacts. **Section 4.4** of the Final EIR has been updated to list current attainment designations for all criteria pollutants and acknowledges the non-attainment status of PM_{2.5}.

Impacts from construction-related emissions, including diesel particulate matter (DPM), are analyzed in **Section 4.4** of the Draft EIS/EIR. Mitigation measures provided in **Appendix R** within the URBEMIS output files and in **Section 5.2.3** of the Draft EIS/EIR would reduce DPM emissions during the construction phase. **Mitigation Measures 3-17** and **3-18**, which were suggested in the BAAQMD comment letter, have been added to **Section 5.2.3** of the Final EIR.

The specific mix of measures specified in **Mitigation Measure 3-19** would be determined at the time of mitigation implementation. Given that the existing conditions related to many of the measures are variable and could change between now and the time of implementation, it would be premature to attempt to specifically determine the exact mix of **3-19** mitigation measures that would be implemented. However, with the approval of the Proposed Project all mitigation, including **Mitigation Measure 3-19**, would become part of the Municipal Services Agreement (MSA) and therefore, would be legally binding. Please also refer to **General Response 3.10** for a discussion of the mechanisms in place to enforce mitigations specified in the Final EIR. Language has been added to Final EIR **Mitigation Measure 3-19** stating that mitigation would occur within the San Francisco Bay Area Air Basin (SFBAAB) boundaries and that mitigation would be implemented before the operation of the Project. Funding low emissions upgrades to ferry vessels has also been added as one of the permissible mitigation measures under Final EIR **Mitigation Measure 3-22**. Finally, Final EIR **Mitigation Measure 3-19** has been revised to require the preparation of an Air Quality Mitigation Plan which would identify each project that would be utilized to reduce emissions and quantify the emissions reduction achieved by each project. The BAAQMD would be provided an opportunity to review the methodology in this plan for technical adequacy prior to implementation of the plan.

As noted in the TIA and the Supplemental TIA (**Appendix S**), similar studies have used diverted link rates (erroneously called pass-by rates in the Draft EIS/EIR) as high as 40 percent. The adjacent stream

of traffic on I-580 is very substantial (approximately 70,000 vehicles per day cross the Richmond - San Rafael Bridge). Furthermore, traffic on the Richmond - San Rafael Bridge would have an excellent view of the Proposed Project. Due to the high visibility from I-580, it is anticipated that a substantial portion (conservatively estimated at 15 percent) of casino traffic would be drawn from travelers already on the Bridge. The Final EIR **Section 4.4** has been revised to clarify that the assumed diverted link rate for the casino component of the Proposed Project is 15 percent. The 28.3 percent diverted link assumption is for the retail component only. These are relatively low diverted link rates given the proximity of a major freeway and do not conflict with the description of the Project as a destination resort as most trips are not generated by travelers passing by the site.

Draft EIS/EIR **Mitigation Measure 3-17** provides transit incentives. The project site also provides pathways which accommodate bicycles. Please refer to **Response A7-1** regarding fees for parking on-site.

Draft EIS/EIR **Table 2-8** compares the Proposed Project (Alternative A) to the other alternatives. **Table 2-8** shows that Alternative B impacts are either similar to or greater than the Proposed Project. Air quality impacts in **Table 2-8** are shown to be greater than the Proposed Project. The reasons for identifying greater air quality impacts are discussed in the text following **Table 2-8**. Specifically, the text notes that construction and operational emissions would be greater for Alternative B. Draft EIS/EIR **Section 4.4** contains a detailed comparison of each alternative's air quality impacts. No significant health risks to residential units are identified in the Draft EIS/EIR. An analysis of operational DPM emissions has been added to the Final EIR **Section 4.4** for Alternatives B, D, and B1, which include residential units.

The greenhouse gas (GHG) emissions analysis has been revised to include a comprehensive estimate of GHG emissions, an analysis of impacts, and consideration of mitigation measures consistent with recommendations in the 2009 draft BAAQMD CEQA Air Quality Guidelines. Mitigation measures have been added to Final EIR **Section 5.2.3**, as recommended, which require the Tribe to purchase locally produced building materials whenever possible, to purchase carbon credits to reduce climate change impacts to a less than significant level, and to meet LEED building design criteria where possible, except with respect to indoor smoking allowed in certain areas.

COMMENT A15

RESPONSE A15-1

A Mitigation Monitoring and Reporting Plan will specify the Project's fair share contributions, scheduling, and implementation responsibilities. A detailed discussion of financing of mitigation is beyond the scope of environmental analysis required by NEPA or CEQA except to the extent necessary to determine the likely availability of funding for a fair share funded mitigation measure, which is included in the Draft EIS/EIR **Sections 4.8, 4.15, and 5.2.7**. The lead agencies and Project Proponents will

continue to work with the California Department of Transportation (Caltrans) to ensure timely processing of all required encroachment permits and implementation of mitigation measures.

RESPONSE A15-2

Given the location of the project it would be anticipated that close to 100 percent of project traffic would use State-maintained roadway facilities (I-580). However, as noted in Draft EIS/EIR **Appendix S**, it is anticipated that only a small percentage of trips generated during construction would occur during the peak traffic hour. Construction workers generally come to work prior to the peak hour (between 5:00 am and 7:00 am) and the bulk of material delivery and soil hauling is anticipated to occur between 9:00 am and before 4:00 pm. **Mitigation Measures 3-16** and **7-1** through **7-3** address potential impacts associated with traffic generated during the construction phase of the Project.

Refer to **General Response to Comment 3.12.4** regarding trip reductions.

RESPONSE A15-3

The **Executive Summary** and **Section 5.2.7** of the Final EIR were corrected in response to the typo noted by the commenter.

MODELING SOFTWARE

The traffic analysis of the study intersections used the methodology required by the Contra Costa Transportation Authority (CCTA) based on consultation with the City of Richmond. This methodology is currently only available with Traffix and the CCTALOS analysis program and is not yet an option with the Synchro software package. The Traffix files are available upon request.

MITIGATION AT RICHMOND PARKWAY – I-80

Regarding the commenter's question about the amount of space available to add a new westbound I-80 on-ramp from the south side of the Richmond Parkway; there is approximately 115 feet between the northeast corner of the park and ride facility and the first travel lane on westbound I-80, excluding the existing on-ramp lane, which would be utilized as part of any reconfiguration of the on-ramp. A small amount of right-of-way acquisition would be required to complete the proposed improvement. The proposed addition of a parking structure at the existing park and ride lot referenced by the commenter was not considered in the Draft EIS/EIR since it had not been approved, was not entitled by the City, and thus was not considered reasonably foreseeable. Should the improvements cited by commenter come to fruition (i.e., construction of a parking structure where there is currently only a surface lot), the proposed mitigation (**Mitigation Measure 7-12**) could either be designed to accommodate the new structure or a different engineering solution to achieve the same result could be required. The mitigation in the Draft EIS/EIR simply presents one potentially feasible solution that reflects the traffic engineer's best estimate of what improvements would be appropriate to maintain the level of service standards at this interchange. Thus, the Draft EIS/EIR for the Proposed Project identifies mitigation measures for environmental

review purposes, but it is acknowledged that a proportionate contribution would be made to whatever improvements are ultimately determined to be appropriate by the jurisdictional agency.

Despite having identified a physical improvement that would alleviate the impact identified at the Richmond Parkway/Blume Drive/westbound I-80 on-ramp in the cumulative year, the impact is considered significant and unavoidable in the Draft EIS/EIR and Final EIR because the full suite of required mitigation measures are considered infeasible at this time due to lack of funding and/or because the improvements fall within the responsibility and jurisdiction of a public agency other than the City of Richmond for which there is no existing plan to implement or fund. Thus, the amount of right of way acquisition required for the proposed improvement associated with **Mitigation Measure 7-12** is academic. However, if it is determined at a later date that mitigation is feasible, the Project Proponent would be required to make a fair share contribution to the improvement.

RICHMOND – SAN RAFAEL BRIDGE

No significant impacts were identified at the toll plaza under background (near-term) conditions. The discussion regarding increased Fastrak use was included in the background plus project section because of the extensive data available on the increasing Fastrak use over the past five years. However, under cumulative conditions the toll plaza is forecast to exceed capacity with or without the Proposed Project. Therefore, the conversion of additional toll lanes to Fastrak has been specifically proposed to address regional traffic increases to which the Project would contribute. The conversion of manual lanes to Fastrak-only lanes is not required to address any operational issues associated with Project-related traffic accessing the toll plaza from Western Drive.

It is acknowledged that project traffic entering from Western Drive may not be able to access the Fastrak lanes if the far right lanes remain as manual collection lanes. However, any queues or slight delays that result would clearly be confined to Western Drive. Therefore, the lack of access from the Western Drive on-ramp to the proposed exclusive Fastrak lanes would not result in any significant impacts at the toll plaza. Because the Western Drive westbound on-ramp is controlled with a yield sign, the increased traffic using it would not have a significant effect on the mainline freeway operations.

It is recognized that the proposed mitigation to restripe the Richmond – San Rafael Bridge would require the use of the emergency lane and would require a Caltrans exception. The impact to the Richmond – San Rafael Bridge is disclosed in the Draft EIS/EIR as a significant impact in the cumulative year. Therefore, if Caltrans determines that the exception is not warranted, the impact would continue to be significant. However, if it is determined that a Caltrans exception is warranted the Tribe would contribute a fair share contribution to the mitigation measure. The proposed eastbound lane coming off the Richmond – San Rafael Bridge is assumed to end at the Marine Street/Castro Street exit. This off-ramp is proposed to be widened to two lanes as a mitigation measure for the Proposed Project.

Widening the eastern anchor of the bridge is not expected to be a part of this mitigation measure. For environmental review purposes the third eastbound lane coming off the bridge was assumed to be achieved without any major widening of the bridge structures in the area. However, it is acknowledged that implementing this improvement would require removal of the unusual shoulder bicycle lane in this area (which is currently being planned) and would also require exceptions to Caltrans' design standards. Please refer to **General Response 3.4** for a discussion of the current plans for completing the San Francisco Bay Trail.

REDWOOD WAY – WB I-580 RAMPS

This improvement is not intended to improve the operations of the westbound on-ramp. The mitigation addresses the poor operations forecast for the signalized intersection by increasing the storage and capacity for the southbound left-turn movement. This would require modifying the on-ramp to receive two lanes from the intersection. It is assumed these two lanes would then merge back to one lane before reaching the mainline freeway.

EASTBOUND I-580 OFF-RAMP TO WESTERN DRIVE

The need for a new I-580 eastbound off-ramp to Western Drive was analyzed as part of the TIA and found to be unnecessary to maintain an acceptable level of service in the near term. For the cumulative scenario, a new eastbound off-ramp was determined to be infeasible due to physical and topographical constraints. It was also found to be potentially detrimental to traffic operations on the Richmond – San Rafael Bridge and the toll plaza area. Any new off-ramp in this area would likely require major modifications to the Richmond – San-Rafael Bridge structure. Constructing an off-ramp in the toll plaza area could result in increased congestion for traffic coming off the bridge, especially if exceptions to Caltrans design standards were necessary (which was one conclusion of the analysis). In addition to the downstream Western Drive on-ramp there is also an existing on-ramp from the Toll Plaza parking lot that must be considered when reviewing traffic operations and mitigations in this area.

CALTRANS MAINTENANCE STATION

In response to the comment concerning access to the Caltrans maintenance yard located between Western Drive and bridge toll plaza, the potential for access issues caused by the Proposed Project was analyzed. Based on the review completed by the traffic engineers, the Proposed Project (specifically improving Western Drive and the addition of new trips) would not cause any significant impacts to the access or traffic operations at this facility, but one potential operational issue was identified. Vehicles that arrive via the I-580 westbound off-ramp at Western Drive may experience increased delays waiting for a gap in traffic to turn left into the Caltrans maintenance station. Since the traffic volume entering the maintenance station is quite low, the delays would not result in any significant impacts. However, since the roadway will be improved in this area as part of the Proposed Project, **Mitigation Measure 7-25** has been added to provide for a separate left-turn pocket for the maintenance station (for northbound Western Drive traffic) to be included as part of the improvements proposed for the roadway.

RESPONSE A15-4

Any inconvenience and associated costs caused by the temporary closure of the eastbound I-580 on-ramp during construction of the Proposed Project will be borne by the project proponents. Final EIR **Mitigation Measure 7-3** has been augmented to require coordination with Caltrans during construction of the Proposed Project. Coordination with local agencies would be provided through **Mitigation Measure 7-1**, which requires that the project proponent provide a comprehensive plan detailing the following:

- Soil haul truck routes
- Soil disposal sites
- Barge route
- Traffic safety mitigation
- Road and right-of-way deterioration restoration funding
- Time limits for haul trucks and barge operation
- A minimum two-week notice shall be given to Point Molate residences of any road blockage
- The Tribe shall determine alternate construction and operational access routes during times of roadway construction in the vicinity of the project site.

RESPONSE A15-5

Please refer to **General Response 3.17** concerning analysis of visual impacts.

RESPONSE A15-6

A broad range of progressive measures and design components are planned to reduce motorized trip generation. Please refer to Draft EIS/EIR **Mitigation Measure 3-17, 3-18, 3-20, 7-7, and 7-20**, which provide Transportation Demand Management (TDM) measures, bicycle and pedestrian amenities, and improvements of transit and facilities, which are provided in addition to amenities such as the proposed ferry service. All proposed amenities, improvements and facilities would meet state and federal guidelines, rules and regulations. Potential impacts to alternative transportation, including pedestrian and bicycle are analyzed in Draft EIS/EIR **Section 4.8**. Indirect impacts of the project and project mitigation is provided in **Section 4.14** of the Draft EIS/EIR. Standard BMPs would be applied to all construction work associated with the Proposed Project, which would eliminate potential safety hazards to cyclists and pedestrians.

RESPONSE A15-7

Although the comment is provided under the heading “hydraulics”, the commenter states that there is not enough detail to adequately determine the impacts on State Facilities. The general vagueness of the comment does not allow for a concise response in regards to the methodologies utilized in the Draft

EIS/EIR to assess impacts of the project alternatives. The Draft EIS/EIR addresses “State Facilities” that may be impacted as a result of the project alternatives. State highways are addressed under the impact assessments of Transportation and Traffic in **Section 4.8** of the Draft EIS/EIR. In regards to the general issue of “hydraulics” as stated in the comment letter, there are no “state” facilities on the project site that would be impacted by the project alternatives. All project site components are presently owned by either the Navy or the City of Richmond. Water resources on the project site are currently under the jurisdiction of the City, the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB), and the State Water Resources Control Board (SWRCB) as well as other governmental entities such as the BCDC. Impacts to hydrology and water quality in relation to the jurisdictional agencies (which would include Region 9 of the USEPA for the lands taken into trust) are addressed in **Section 4.3** of the Draft EIS/EIR. The indirect impacts of off-site traffic improvements, including improvements to state facilities, are analyzed in Draft EIS/EIR **Section 4.14**.

RESPONSE A15-8

Encroachment permits would be required for any work within State right-of-way. **Table 1-1** of the Draft EIS/EIR acknowledges the need for encroachment permits to construct some off-site improvements.

COMMENT A16

RESPONSE A16-1

MEASURE J GROWTH MANAGEMENT PLAN

From the Proposed Project’s inception, the lead agencies and representatives have actively engaged in cooperative, multi-jurisdictional planning efforts. Measure J requires that new projects provide a Traffic Study in consultation with affected localities. Two traffic studies have been produced in consultation with the City of Richmond, Contra Costa County, the West Contra Costa Transportation Authority (WCCTAC) and Caltrans. The traffic studies and associated Draft EIS/EIR and Final EIR comply with four key objectives of Measure J's Growth Management Plan:

1. *Assure that new commercial growth pays for the facilities required to meet the demands resulting from that growth:* this is clearly accomplished by the transportation improvements proposed as part of the Project as well as mitigation measures that require fair share contributions (in some cases paying 100 percent of costs associated with improvements).
2. *Require cooperative transportation and land use planning among local jurisdictions:* a host of agencies, service providers, and other stakeholders (including WCCTAC) have been consulted at the various stages of the Project’s design and analysis. Such entities include: City of Richmond, Point Richmond Neighborhood Council, Contra Costa County, AC Transit, BART, Blue and Gold Fleet, as well as the surrounding local jurisdictions represented by WCCTAC. In fact, the City and its representatives have met with WCCTAC Board of Directors on several occasions.
3. *Support land use patterns within Contra Costa County that make more efficient use of the transportation system, consistent with the General Plans of local jurisdictions:* the Proposed

Project includes a number of progressive design elements and mitigation measures designed to promote alternative modes of transportation such as the use of excess capacity on BART in western Contra Costa County, enhancement of the safety and usability of the Richmond BART Station, promotion of ridesharing, extension of bus routes in the vicinity of the project site, improvements to bus stops in the vicinity of the project site, provision of free shuttles, etc. Please refer to **Sections 2.2.2** of the Final EIR for an exhaustive accounting of the progressive design components and **Section 5.0** for a list of mitigation intended to reduce vehicle miles traveled and to make efficient use of the existing transportation system.

4. *Support infill and redevelopment in existing urban and Brownfield areas:* as a former Naval fuel depot serving an industrial purpose, the Project proposes to redevelop a highly degraded Brownfield situated in an urban setting.

In addition to the 2000 Update to the WCCTAC Action Plan the more recent 2008 Update (approved on June 27, 2008) was also carefully reviewed during preparation of the Draft EIS/EIR for the project. The latest review of that document and the current 2009 update referenced in the comment indicated that numerous new objectives had been added but the only substantial change to the Multi-Modal Transportation Service Objectives (MTSOs) for the facilities studied in the Draft EIR/EIS was that I-80 now has a new MTSO. The 2009 Action Plan Update specifies that I-80 must "Maintain a Delay Index of 3.0 or less on I-80 during weekday morning and evening peak hours". Based on a review of the segments of I-80 that would be impacted by the project, it was determined that the proposed project would add less than 3 percent to the background traffic volumes on any segment of I-80. This amount of traffic would not result in any major changes to (or violations of) the newly established MTSO for I-80 included in the latest 2009 update to the WCCTAC Action Plan.

ROUTES OF REGIONAL SIGNIFICANCE

All routes of regional significance outlined in the comment are included in the Draft EIS/EIR, either as study intersections and/or roadway segments, with the exception of I-80 south of the I-580/I-80 split, SR-4, Central Avenue, and El Portal Drive. Based on the trip distribution patterns developed for the Proposed Project by the traffic engineers, as well as consultation undertaken during scoping for the analysis presented in the Draft EIS/EIR, it was determined that the Proposed Project would not add 50 or more trips to Central Avenue or El Portal Drive in the peak hour; thus, these roadways were not subject to further analysis in the TIA, STIA, or Draft EIS/EIR. Refer to **General Response 3.12.5** regarding I-80 south of the I-580/I-80 split. An analysis of State Route 4 (SR-4) is provided in **Sections 4.8** and **4.15** of the Final EIR. It was determined that project-related traffic would have a less than significant impact on SR-4.

I-580 EASTBOUND MERGE FROM WESTERN DRIVE

The merge maneuver described by the commenter is both ill-advised and unlikely given the accessibility of a preferable route that does not require crossing two lanes of travel in a quarter mile. Where the

Western Drive / eastbound I-580 on-ramp enters the freeway, it is initially separated by a concrete barrier. Beyond the barrier, the on-ramp lane is separated from the other lanes of traffic by a solid white line for over a quarter of a mile, which ends after the Marine Street off-ramp. It is anticipated that patrons and employees traveling to points east would access the Richmond Parkway via the first off-ramp after Marine Street, which is Canal Boulevard. Canal Boulevard provides a direct link to the Richmond Parkway, thus eliminating the need to perform the merge maneuver described by the commenter.

RICHMOND INTERMODAL STATION

Mitigation Measure 3-17(d) provides for shuttles to operate at least twice per hour to and from the project site to the Richmond Intermodal Station (served by BART and Amtrak). The El Cerrito del Norte BART station will not be served by project shuttles. The Richmond Intermodal Station provides easy access to BART trains, Amtrak, and AC Transit. As noted by the commenter, trains serving the Richmond BART Station have “significant capacity” which would be utilized by patrons and employees of the Proposed Project. The bus/shuttle loading area of the Richmond Intermodal Station has sufficient existing capacity, provided in three parallel passenger loading zones. On-site parking will be greatly enhanced by the time the Proposed Project begins operating with the construction of a five story parking garage to serve the station. Moreover, as provided in the Intergovernmental Agreement with Contra Costa County, the “Tribe will work with the City Police Department, Contra Costa County Sheriff and BART to implement enhanced security at the Richmond BART station, which the Parties agree will be a benefit to County residents and will encourage greater usage of BART facilities in the evenings.” (**Appendix BB**).

PROPOSED FERRY SERVICE

Please refer to **General Response 3.12.1** and **Response A13** above regarding ferry service, potential impacts to other proposed ferry services, and analysis of potential environmental impacts. Providing ferry service and no cost shuttle service to and from the site, as well as providing direct access to the main public transportation node in Richmond is unique among redevelopment projects of this scale in the Bay Area and California.

VEHICLE MILES TRAVELED

It may be deduced that implementation of the Proposed Project and associated mitigation measures would considerably reduce overall vehicle miles traveled (VMT) by providing a proximate alternative to other northern California and western Nevada resorts, gaming facilities, and entertainment venues. While estimating the precise reduction in vehicle miles travelled with implementation of the Proposed Project would be speculative, such infill projects are widely recognized as conveying such benefits. In addition, project features and mitigation measures such as ferry service and the creation of a new shuttle route connection to an intermodal transit station go well beyond traditional TDM provisions.

TRIP GENERATION

Please refer to **General Response 3.12.2** for a general discussion of trip generation rates used in the analysis. The following discussion supplements the general response cited above.

The size differences between the components of Alternatives A, B, and C are due to the fundamental differences inherent in each alternative. As shown in Draft EIS/EIR **Table 2-2**, the total gaming floor is the same size for Alternatives A-C. Hotel sizing and the inclusion of residential units constitute the main differences between the alternatives. There are two project components in the TIA (**Appendix S**) and **Section 2.2** of the Draft EIS/EIR that have an aggregated size difference. First, the entertainment facility includes 500 additional seats in the TIA over and above what is proposed as part of the Project. The analysis presented in the Draft EIS/EIR uses trip generation calculations based on the higher number of seats, resulting in a conservative (overestimation) estimate of trips generated by this component. Second, the Winehaven Building is estimated at 118,220 square feet (sq. ft.) in the TIA and 120,000 sq. ft. in **Section 2.2** of the Draft EIS/EIR, a difference of 1,780 sq. ft. This is due to a slight reduction in square footage in the TIA to account for non-trip generating components.

Trip generation rates for the non-casino components of the Proposed Project (e.g., lodging, retail, office, residential, entertainment, conference, restaurant, etc.) were developed using empirical data on trip generation published by the Institute of Transportation Engineers (ITE) publication Trip Generation, 7th Edition. For the casino component, for which the ITE Trip Generation Manual has not established a standardized rate, data was collected from multiple proposed and existing gaming facilities found to be similar to the Proposed Project. Each casino study used in determining the Proposed Project's trip generation rate is described in detail in the TIA (**Appendix S**) on pages 5-3 and 5-4. Although none of the casinos studied are exactly like the Proposed Project, as a group they give a representative cross section of projects with similar gaming amenities. This methodology for determining trip generation rate is consistent with the methodology used in the ITE Trip Generation Manual. Please also refer to **General Response 3.12.2** regarding trip generation methodology.

The traffic engineers at AECOM (formerly DMJM Harris) confirmed that the trip generation rates used to determine the Proposed Project's trip generation rates *did not* include a reduction for a Transit Demand Management plan. Furthermore, the engineers confirmed that the studies used to determine the Proposed Project's trip generation rate are independent of one another. However, like the studies used in the ITE manual to determine average trip generation rates, the studies used to determine the Project's trip generation rates had similar components which used similar trip generation rates or reductions.

Gaming positions were not used in determining the project's trip generation rate. The use of square footage is an accurate and common methodology for determining trip generation for tribal casinos and other projects. The number of gaming positions is only one of several components of an overall project that serve as an attraction to visitors. Also, in this case the propriety of using square footage rather than the number of gaming positions is reinforced by the facts. It is possible to plan and therefore know the

square footage involved, but, at this stage, it is not possible to know the number of gaming positions that will be operated. That number may be the subject of negotiations between the Governor of California and the Tribe in connection with a compact to be submitted to the Legislature and the Tribal Council for approval prior to submission to the Secretary of the Interior for final approval [25 U.S.C. § 2710(d)(3)(B)]. Therefore, given the various factors governing trip generation rate and the uncertainty surrounding the number of gaming positions, it is reasonable to base the trip rate on overall square footage. The referenced 1998 ITE study, while providing a rate based on gaming positions, also provides a square footage based calculation for comparison purposes.

The Gaming Market Analysis (Innovation Group, 2007) provides an estimate of visitation and revenues, but does not provide an estimate for trip generation. Therefore, the Gaming Market Analysis was properly used to develop the trip distribution, rather than trip generation. Nonetheless, the trip generation estimate for the Proposed Project is conservative in that it would tend to overestimate trips when compared with the visitation estimate from the Gaming Market Analysis. Specifically, the Gaming Market Analysis estimates 7,025,719 visits to the project facilities over the course of a year. The corresponding visitation estimate calculated from the traffic study trip generation estimate projects 12,831,975 visitors. This includes visitors, employees, and vendors arriving via alternative transportation and automobiles. For automobiles, an average vehicle occupancy rate of 1.3 is assumed, which is a conservative assumption given the latest MTC projection for social/recreation trips (1.576) and given recent surveys at a nearby destination tribal casino resort (2.3 weekday; 2.6 weekend) (MTC, 1998).

Please refer to **General Response 3.12.2** regarding the *Phased Transportation Study for Proposed Urban Casinos in West Contra Costa County* (Dowling, 2007). A reference to the study has been added to **Section 4.8** of the Final EIR.

TRIP REDUCTIONS

Please refer to **General Response 3.12.4** for a discussion of trip reductions used in the analysis. The following discussion supplements the general response cited above.

PASS-BY / DIVERTED LINK TRIPS

It is acknowledged that the trips referred to in the Draft EIS/EIR as “pass-by” trips can more accurately be described as “diverted link” trips. Thus, Final EIR **Section 4.8** has been revised to change references to “pass-by” trips to “diverted link” trips. The visible nature of the site, high profile in the media, proposed marketing campaign, and its close proximity to I-580 indicate that a significant number of existing automobile trips would be diverted to the project site. Historically, Indian casinos rely heavily on pass-by and/or diverted link traffic. As such, the 15 percent diverted link assumption is considered conservative.

TRANSPORTATION DEMAND MANAGEMENT

Please refer to **General Response 3.12.4** for a discussion of the reductions taken as a result of the transportation demand management strategies outlined in the Final EIR.

CONFERENCE CENTER

Please refer to **General Response 3.12.2** regarding the conference center.

ENTERTAINMENT CENTER – SPECIAL EVENT TRAFFIC

Section 2.2.2 of the Draft EIS/EIR describes the proposed entertainment facility under Alternatives A and B as having 2,500 seats, whereas the TIA describes this component as having 3,000 seats. This is due to the fact that the entertainment center's intensity was reduced after the TIA was issued. However, no adjustment to the TIA was made because it provided a more conservative estimation of the entertainment center's trip generation by assuming an additional 500 seats.

For the Project Event Conditions, the proposed entertainment facility was analyzed to determine if this component would generate any new impacts above and beyond what was analyzed in the Project Conditions analysis. The analysis was completed assuming a 3,000 seat entertainment facility for an 85th percentile event, with trips arriving with 1.6 passengers per vehicle. The use of the 85th percentile and 1.6 passengers per vehicle are both industry standard numbers. Furthermore, it is asserted that the use of 1.6 passengers per vehicle is a very conservative assumption for the nature of this type of generator, where it is reasonable to assume that the majority of patrons to an event would not be coming alone (the 1.6 occupancy rate assumes 2 out of every 5 cars has one occupant and the remaining 3 vehicles have only two passengers). Additionally the 3,000 seat entertainment facility initially assumed for the entertainment facility was subsequently reduced to 2,500 seats for Alternatives A and B. This means that the 85th percentile of the 3,000 seat facility would account for slightly over 100 percent of the now smaller 2,500 seat facility.

As part of the Project Event Conditions, the TIA assumed that 20 percent of the trips generated by the entertainment venue would arrive during the PM peak hour. Due to the nature of this land use, standard practices are not available for the derivation of numbers to use for the purpose of analysis, and therefore, professional judgment on the part of the traffic engineers was an important factor in the analysis.

As part of the TIA other similar casinos were reviewed. The use of 20 percent of the event traffic occurring during the PM peak hour for the proposed facilities is a fair and conservative assumption.

Alternatives A and B have the same intensity with regards to the Entertainment Center; therefore, either alternative would result in the same impacts. As described in detail in **Section 2.0** of the Draft EIS/EIR, a proposed residential housing component in the southern portion of the project site for Alternative B is the only difference compared to Alternative A. Furthermore, as described in **Section 2.2.2** of the Draft

EIS/EIR, and supplemented by mitigation measures, residents on-site would be served by a free shuttle to take them to the Winehaven entertainment district located a short distance to the north. Alternative C is a less intense alternative than A; since Alternative A would not require additional mitigation related to special events, no such mitigation would be warranted for Alternative C either. Furthermore, since no additional event center trips were identified, no adjustment is needed in fair share contributions.

TRIP DISTRIBUTION

The trip distribution shown in Table 5-3 of the TIA was derived from a Gaming Market Assessment (Innovation Group, 2007). As **Table 4-1** illustrates, the study calculated the total “gamer” population in several regions surrounding the project site and determined the percentage of that population that would be likely to patronize the Proposed Project, which was used as a basis for establishing the trip distribution used in the TIA. A trip distribution figure is provided in **Appendix HH** of the Final EIR that provides a visual depiction of the data presented in Table 5-4 of the TIA.

Table 4-1
REGIONAL MARKET GAMER VISITS

Market Segments	Proportion of Pt. Molate Patronage
Santa Rosa	0.90%
San Rafael	11.40%
Napa	6.40%
Stockton / Modesto	2.50%
Sacramento	7.00%
Concord	10.90%
Primary	5.10%
Tertiary	0.10%
Castro Valley	9.40%
Oakland	9.20%
Fremont	3.20%
San Francisco	17.20%
San Mateo	8.30%
Santa Cruz	0.80%
San Jose	7.60%
Total	100%

Source: The Innovation Group, 2007

Note: Primary and Tertiary were combined as “Richmond” in TIA

Distribution patterns and mode splits are similar between alternatives, considering the availability of transit and ferry. After the application of trip reductions, distribution patterns are expected to be very similar. The inbound/outbound percentages are different for the land uses proposed under Alternatives D and E, however, by utilizing the same trip distribution pattern the analysis is conservative. For instance, it

is reasonable to assume that the residential trips (Alternative D) are going to be more local in nature, for commuting to jobs on-site and in surrounding areas. As residents would fill jobs on a regional basis (i.e., Richmond, Oakland, Marin, Berkeley, San Francisco, etc.), the trip lengths would likely be shorter in comparison to the gaming trips, but the overall patterns would be very similar.

CONSTRUCTION TRAFFIC

Construction traffic impacts presented in **Section 4.8** of the Draft EIS/EIR have been re-analyzed in the Final EIR using truck trips converted to passenger car trips as suggested by the commenter. Please refer to **Section 4.8** of the Final EIR, which concludes that there would be no change in significance using the revised methodology. Distribution patterns related to the delivery of building materials, limited export of soil, and construction personnel are not expected to diverge in any significant way from the operational trip distribution. Given that there is one road into and out of the project site and only a few arterial routes suitable to handle construction trucks, the construction trip distribution was determined to be similar to the operational trip distribution.

BACKGROUND SCENARIO

Since the publication of the Notice of Intent and a Notice of Preparation in 2005, and the subsequent release of the TIA in December 2008, publication of the Draft EIS/EIR was delayed by a series of administrative issues, not the least of which was the change in executive administrations at the federal level. As a result, the TIA and Draft EIS/EIR use the year 2010 in the analysis of the near-term traffic background scenario. The commenter suggests that as a result of the delay of publication of the Draft EIS/EIR that the transportation analysis is invalid and that a “growth factor should be applied to through-trips” on the regional transportation network. While such an approach could be reasonable in the context of traffic volumes that are growing and congestion worsening over the short-term, all indications suggest that traffic volumes on Bay Area roadways have been decreasing since the TIA was completed, resulting in less congestion. John Goodwin, spokesman for the Metropolitan Transportation Commission was quoted recently as stating, “One of the most dramatic changes we have seen since the end of 2008 is on 101 in Marin County. North- and southbound congestion has virtually disappeared. I wouldn't be surprised if [U.S. 101 in Marin County] falls off the Top 10 list altogether next year (Payne, 2009).” Such is the case elsewhere in the greater Bay Area as well. In fact, the significant drop in traffic has prompted, in part, the need to raise tolls on area bridges to compensate for the decrease in volume. “In the past year [2008], traffic counts have dropped 4 percent, driven by high gas prices, the weak economy and construction on bridges. Toll authority officials do not anticipate an increase in traffic (Cabanatuan, 2008).” Thus, given the fact that traffic volumes have dropped since completion of the TIA, there is no indication that the background scenario presented in the analysis underestimates the background conditions. As such, no change in the analysis is warranted.

CCTA CONSULTATION AND CUMULATIVE SCENARIO

DMJM (now AECOM) consulted with Martin Engelmann, Deputy Director of the Contra Costa Transportation Authority (CCTA), regarding the Richmond Parkway growth rate in August 2007. The consultation was used as an opportunity to communicate preliminary findings and convey the proposed approach to the traffic analysis.

There are two important factors that must be considered in the evaluation of the CCTA's projected growth rate. First, a casino land use is not included in the CCTA model. Secondly, as a matter of standard practice, "raw" model output is typically not used without interpretation. Instead, the delta between the baseline and horizon year is applied to "existing ground counts." As such, the future volumes were developed based on the growth obtained from the model. In the case of the Richmond Parkway, the growth projected for the Richmond Parkway was extremely high (3.5%), which could not be correlated to any known phenomenon. Other recently completed traffic studies were reviewed that included Richmond Parkway in their analysis. An annual growth rate of 1.7 percent is still relatively high, but is considered reasonable due to the regional importance of the Richmond Parkway.

The traffic volume forecasts are based on information from the countywide traffic model prepared for the 2004 Contra Costa Countywide Comprehensive Transportation Plan and information provided by the CCTA staff. A summary of the overall traffic model results utilized in the forecasts was also summarized in the Contra Costa Decennial Model Update - Model Documentation Addendum (officially adopted by the CCTA on July 20, 2005). This addendum summarizes the results of the 2004 model and states that traffic in western Contra Costa County is forecast to increase by about 42 percent between 2000 and 2025. It should be noted that a 1.7 percent increase in traffic compounded yearly for 20 years (2005 - 2025) equates to about a 40 percent increase in traffic, which is generally consistent with the 2004 model results.

BAY TRAIL

Please refer to **General Response 3.4** as well as the response to **Response I4** below regarding the Bay Trail.

RESTRIPING THE RICHMOND - SAN RAFAEL BRIDGE

Please refer to **General Response 3.12.6** regarding bicycles on the Richmond – San Rafael Bridge. Regarding the potential loss of the breakdown lane on the Bridge, a variance would be required from Caltrans, such as that which has been granted for the San Francisco – Oakland Bay Bridge. However, as noted in the Draft EIS/EIR, restriping of the Richmond – San Rafael Bridge is considered infeasible at this time and the associated impact in the cumulative year is considered significant and unavoidable.

REVISIONS TO THE TRAFFIC, AIR QUALITY, AND NOISE IMPACT ANALYSES

Based on the discussion provided above, no significant revisions (other than those outlined) are warranted in the traffic, air quality, or noise impact analyses.

COMMENT A17

RESPONSE A17-1

The comment letter provides a series of comments on the Draft EIS/EIR related to historic preservation, particularly as it relates to the Winehaven Historic District, the 19th century shrimp camp, and the extant portions of the Richmond Belt Line railroad located on-site. Overall, the comment expresses support for the preservation of all buildings associated with Winehaven and calls for the inclusion of another preservation alternative in the analysis. The following discussion responds to specific comments in the letter.

Please refer to **General Response 3.3.2** regarding preservation of Building No. 6, retention of Building No. 17 in its present location, and the suggestion of a development alternative that retains Building No. 6.

The commenter is correct in noting that the historic Richmond – San Rafael Ferry System made use of Castro Point, not Point Molate. The Final EIR has been corrected at **Section 3.6.2** in response to the comment.

The setting of Winehaven (inclusive of landscaping), along with six additional aspects of historical integrity contribute to the district’s significance at the local, state, and national level. All seven aspects of integrity were considered in the analysis of impacts documented in Volume I of the Cultural Resources Study (**Appendix Y**) as well as in **Section 4.6** of the Draft EIS/EIR. Landscape design, materials, articulation of new and existing structures, etc., all of which have a bearing on the integrity of setting, shall be addressed in the Programmatic Agreement required by **Mitigation Measure 5-1**. Please refer to **General Response 3.17** which details the Section 106 consultation process, application of the Secretary of the Interior’s standards and guidelines, and development of design guidelines for the rehabilitation of Winehaven.

It is recognized that, as the commenter points out, the Section 106 consultation process may result in final design guidelines that would diminish to insignificance potential impacts associated with the introduction of new construction in the Winehaven Historic District. Considering that one of the primary objectives of the Programmatic Agreement required by **Mitigation Measure 5-1** is the resolution of adverse effects to the District, every effort will be made to eliminate impacts related to the integrity of setting. Nonetheless, the analysis undertaken in the cultural resource studies (**Appendix N and Y**) and Draft EIS/EIR takes a conservative approach to the evaluation of impacts.

Mitigation Measure 5-1 of the Draft EIS/EIR requires development of a cultural interpretive center, to be housed within one of the historic buildings, which highlights the long and unique history of Point Molate and the surrounding community. The mitigation measure has been supplemented in the Final EIR and calls for recognizing and interpreting the 19th century shrimp camp throughout the project site. The former Richmond Belt Line could be memorialized as part of the interpretive center, but the physical remains have been judged by the lead agencies to not meet the criteria for consideration as a significant historical resource. As such, preservation of a portion of the line would be optional and subject to a series of physical and financial constraints.

COMMENT A18

RESPONSE A18-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE A18-2

Please refer to **General Response 3.10**, regarding the limited waiver of Tribal sovereignty provided and enforcement of mitigation measures. For additional discussion regarding the on-going environmental remediation refer to **General Response 3.16**.

RESPONSE A18-3

Please refer to **General Response 3.1.1** regarding extension of the comment period.

RESPONSE A18-4

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Approval of the Proposed Project by the lead agencies would result in lands being taken into trust and would become Indian Lands eligible for gaming consistent with both federal and state law.

RESPONSE A18-5

Please refer to **General Response 3.11.1** regarding potential impacts to crime as a result of the Proposed Project.

RESPONSE A18-6

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE A18-7

Please refer to **General Response 3.10** regarding the limited waiver of Tribal sovereignty provided and enforcement of mitigation measures. For additional discussion regarding the on-going environmental remediation refer to **General Response 3.16**.

RESPONSE A18-8

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. See above for more specific responses to the comments summarized here.

COMMENT A19

RESPONSE A19-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

The Proposed Project has been analyzed and treated in accordance with Section 15206 of the CEQA Guidelines. The Draft EIS/EIR was submitted to the State Clearinghouse on July 9, 2009 (SCH No. 2005032073) and was widely distributed to regional governmental bodies and members of the public for review and comment. The comment period, which was more than twice that which is required by law, was widely publicized in newspapers, media accounts, on the City of Richmond's webpage, as well as the webpage dedicated to hosting materials related to the environmental analysis. The analysis presented in the Draft EIS/EIR reflects the regional significance in that the geographic scope was not limited to the confines of the local jurisdiction. To the contrary, potential traffic impacts were analyzed for surrounding jurisdictions (including Marin County); the air quality analysis included the entire air basin; the hydrologic analysis considered the regional watershed; the socioeconomic analysis considered an unusually large area; biological studies considered a broad area, which extends across San Francisco and San Pablo Bays; etc. Moreover, since the release of the Draft EIS/EIR, the transportation analysis has been broadened to include additional locations in Marin County (refer to **Appendix HH** and **Sections 4.8** and **4.15** of the Final EIR). The broad geographic and temporal scope of the analysis presented in the Draft EIS/EIR is in keeping with both the spirit and letter of the law related to projects of regional or area-wide significance as defined in Section 15206 of the CEQA Guidelines. The assertion by the commenter that the Draft EIS/EIR excluded Marin County in the impact analysis is incorrect.

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

RESPONSE A19-2

CEQA requires that a range of potential alternatives to the Proposed Project be considered that "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparable merits of the alternatives (CEQA

Guidelines 15126.6[a]).” **Section 1.4** of the Draft EIS/EIR discusses at length the objectives of the City as it relates to reuse of the Point Molate project site. In summary, the City’s objectives are to implement a reuse for the project site that:

- Is consistent with the BRAC processes, as well as the applicable conveyance legislation, and Navy Record of Decision (ROD) for the transfer;
- Promotes employment and long-term economic development within the City and creates business opportunities within the City and Contra Costa County;
- Provides long-term income to the City for operation of governmental programs;
- Provides enhanced public recreational facilities and opportunities within the City and improved access to the shoreline;
- Balances economic development with preservation of open space and important historic resources;
- Facilitates the early environmental clean-up of Point Molate;
- Enhances regional public transportation facilities;
- Is consistent with the recommendations of the Blue Ribbon Advisory Board recommendations, as codified in the Point Molate Base Reuse Plan (Brady and Associates, 1997);
- Is consistent with the recommendations of the Restoration Advisory Board (RAB); and
- Protects natural resources.

The scope of the City’s basic objectives, as well as those of the Tribe, require reuse of Point Molate in a manner that would provide for the greatest number of jobs and highest community benefit payments pursuant to the requirements of the Municipal Services Agreement. Please refer to **Section 2.1.2** and **Table 2-1** of the Draft EIS/EIR for a detailed description of the formula used to calculate the amount of community benefit payments to the City, which would vary according to the alternative selected. In addition to the Proposed Project, four other alternatives were considered including a reduced intensity alternative and a non-gaming mixed use alternative, that would meet the objectives of the City, albeit to varying degrees. In each case, alternatives with the potential to generate significant revenue for the City and create a large number of jobs result in an increase in vehicular traffic on regional roadways. Nonetheless, the City has considered an adequate range of alternatives in compliance with CEQA Guidelines (15126.6[a]).

RESPONSE A19-3

Contrary to the suggestion of the commenter, **Section 2.2** of the Draft EIS/EIR provides a detailed description of the alternatives analyzed. The above referenced section clearly indicates the type of gaming proposed (Class III), the characteristics of the proposed casino, the hours of operation (24 hours), etc. The worst-case traffic scenario is analyzed for each alternative, which is the peak hour. The entertainment center trip generation rate was provided by the ITE Trip Generation Manual and is based on the capacity of the facility, not the type of entertainment provided. Please note that the analysis provided in the TIA overestimates the number of seats in the entertainment facility by 500 seats (20 percent),

resulting in a very conservative analysis of potential impacts. Section 8.0 of the TIA provides an analysis of special events at the Proposed Project, and determined that no significant impacts would occur. Please refer to **General Response A16-1**, Entertainment Center, for additional discussion of this issue.

Please refer to **General Response 3.12.2** and **Response A16-1** for a discussion of trip generation rates used in the analysis. Please refer to **General Comments 3.12.1** and **General Responses A13** and **A16** above regarding the proposed ferry service.

RESPONSE A19-4

Please refer to **General Response 3.12.5** for a discussion of the geographic scope of analysis. Contrary to the commenter's statements, the Draft EIS/EIR considered transportation facilities in Marin County and additional facilities were added to the analysis presented in the Final EIR.

RESPONSE A19-5

During the scoping period for the Proposed Project each neighboring jurisdiction, including Marin County, had an opportunity to comment on the scope of the EIS/EIR. Marin County provided two extensive comment letters, which outlined the County's environmental concerns. The County's comments were considered by the Lead Agencies when the scope of analysis was determined. Additional analysis was performed subsequent to the release of the Draft EIS/EIR which evaluated impacts to other Marin County facilities. The analysis is provided in **Sections 4.8, 4.15, and 5.0** of the Final EIR.

RESPONSE A19-6

LARKSPUR INTERSECTIONS

The analysis presented in the Draft EIS/EIR assigns a significant number of trips to the roadway network on the west side of San Francisco Bay and assumes that more than 18 percent of patrons would use the Richmond – San Rafael Bridge to reach the project site. Based on the fact that a segment of Sir Francis Drake Boulevard, connecting US 101 and I-580, was included in the Draft EIS/EIR and STIA, the commenter's statement that the analysis does not recognize "...US 101 traffic from the [San Francisco] peninsula going to EB I-580 via Larkspur" is incorrect. It was determined that the vast majority of vehicular trips between westbound I-580 and southbound US 101 would use Sir Francis Drake to make the connection. Since virtually no trips would utilize the Belle Boulevard (certainly well under 50 trips) to make the connection between the two arterials, no further analysis on this road was conducted.

Please refer to **Sections 4.8, 4.15, and 5.0** of the Final EIR, as well as **Appendix S** and **HH** for a detailed analysis of the additional facilities studied in Marin County, including within the City of Larkspur. Two of the four additional intersections studied after the release of the Draft EIS/EIR were found to have significant impacts. **Mitigation Measures 7-24** and **7-25** would reduce these impacts to a less than significant level.

It was determined that the vast majority of vehicular trips between westbound I-580 and southbound US 101 would use Sir Francis Drake to make the connection. Since virtually no trips would utilize the Bellam Boulevard (certainly well under 50 trips) to make the connection between the two arterials, no further analysis on this road was conducted. Please refer to **Sections 4.8, 4.15, and 5.0** of the Final EIR, as well as **Appendix S** and **HH** for a detailed discussion of the analysis of impacts to Marin County facilities.

MARIN CONGESTION MANAGEMENT PROGRAM

The statement by the commenter that the “Marin County Congestion Management Plan (CMP) was not considered as part of the background study for the EIR” is incorrect. The CMP was, in fact, considered in the background study for the Draft EIS/EIR. The STIA (**Appendix S**) explicitly incorporates the CMP into the analysis as indicated by the numerous references and incorporation into the discussion of the regional transportation setting. The supplemental transportation memorandum draft following release of the Draft EIS/EIR also incorporates Marin’s CMP in the analysis (**Appendix HH**). Furthermore, the above referenced studies use the CMP to characterize the traffic background conditions, as the commenter recommends. While the commenter suggests that the Proposed Project conflicts with the Marin General Plan and CMP, no specifics are provided which may be addressed further here. Furthermore, the commenter fails to establish a regulatory nexus between the Proposed Project and the planning documents cited, precluding a more exhaustive response.

TRANSPORTATION MITIGATION

Review of the City of San Rafael General Plan 2020 cited by the TIA at page 5-24 indicates that the General Plan document does in fact state that the improvement is currently planned and partially funded. The Circulation Element of the City of San Rafael General Plan 2020 (page 173, Exhibit 2, *Major Planned Circulation Improvements for the intersection at Sir Francis Drake Blvd and Andersen Drive*) specifically calls out the planned improvement at Sir Francis Drake Boulevard and Andersen Drive and identifies three funding sources and the proportions expected from each. Despite the fact that this improvement may be in place by the time the Proposed Project begins operation, the Draft EIS/EIR calls for a fair share contribution of up to 17 percent of the cost for the proposed improvement. As such, the analysis and mitigation provided in the Draft EIS/EIR is conservative and complies with the requirements of CEQA.

CUMULATIVE ANALYSIS

As stated in **Section 4.15.1** of the Draft EIS/EIR, the resource study area “for each cumulative impact evaluated varies depending on the characteristics of the resource under consideration. For example, impacts to water resources must generally be modeled on the scale of a watershed and regional socioeconomics must be viewed in terms of cultural spheres of interaction that may extend well beyond the local hydrologic unit.” This approach holds true for the cumulative analysis of transportation impacts, which considers facilities located in Marin County as well as Contra Costa County. While it is true that

the analysis is most intensely focused on the region located east of the Richmond – Rafael Bridge, this is reasonable, particularly as it relates to transportation impacts, since fewer than 19 percent of all project-generated trips would pass through Marin County. Nonetheless, the analysis presented in the STIA (**Appendix S**) and the supplemental transportation memorandum (**Appendix HH**) consider, under cumulative conditions, the projects referenced by the commenter including the SMART Train and the Larkspur Ferry Terminal, as detailed below.

The analysis of the intersection of Anderson Drive and Sir Francis Drake Boulevard located in San Rafael made use of conservative estimates of background and cumulative traffic conditions developed by AECOM (formerly DMJM Harris) based on their experience in San Rafael. The background and cumulative traffic volumes at the Anderson Drive and Sir Francis Drake Boulevard intersection in the following two recent EIRs were both found to be *lower* than the background and cumulative volumes that were used in the Point Molate analysis:

- *San Quentin State Prison Central Health Services Center Project FEIR and Addendum* (EDAW, 2009);
- *Draft Environmental Impact Report for the San Rafael Target* (AECOM, 2008).

The intersections and volumes along Sir Francis Drive Boulevard which were studied in Larkspur were based on current assumptions for near-term and cumulative assumptions contained in the following documents:

- *San Quentin State Prison Central Health Services Center Project FEIR and Addendum* (EDAW, 2009); and
- *Sonoma-Marin Area Rail Transit Final EIR* (Aspen Environmental Group, 2006).

The background and cumulative traffic volumes used in the I-580/US 101 interchange analysis were based on traffic volume forecasts obtained from Caltrans and information from the following studies:

- *Marin Countywide Plan* (Marin County Community Development Agency, 2007); and
- *Mobility for the Next Generation – A Transportation 2030 Plan for the San Francisco Bay Area* (Metropolitan Transportation Commission, 2005).

PROPOSED FERRY SERVICE

Please refer to **General Comments 3.12.1** regarding the proposed ferry service. Regular ferry service to the project site is a central component of the Proposed Project. As such, the analysis presented in the Draft EIS/EIR considers the reasonably foreseeable impacts and benefits associated with its implementation. The trip generation tables presented in the Draft EIS/EIR and the TIA are the same, despite the fact that the Draft EIS/EIR and STIA only assumed a 15 percent reduction for ferry use, while the TIA assumed 25 percent ferry use. This is due to the fact that the reduction for ferry trips was taken

after the trip generation was calculated. Thus, regardless of the reduction taken for ferry use, overall trip generation remains constant. No revisions to the transportation analyses are warranted.

TRIP GENERATION

Please refer to **General Response 3.12.2** for a general discussion of trip generation rates used in the analysis. The following discussion supplements the general response cited above. Please also refer to **Response A16, Trip Generation**, above for a discussion trip generation.

Based on comments received on the Draft EIS/EIR, an extensive review of the project trip generation from the previously referenced DMJM Harris Study (TIA; **Appendix S**) was conducted. The analysis concluded that the project trip generation estimates were accurate. However, due to the fact that the assumption of ferry service patronage was reduced from 25 to 15 percent in the STIA and Draft EIS/EIR, the distribution of gaming patrons from the San Francisco Peninsula was revisited. As a result, the percent of project traffic added to Sir Francis Drake Boulevard was increased from about 3 percent to 6.3 percent. This figure includes the assumption that 50 percent of this traffic would travel to the project site via the Golden Gate Bridge and Richmond – San Rafael Bridge and 50 percent would take the Bay Bridge. As a result of the added traffic to Sir Francis Drake Boulevard the fair share contribution that the Tribe would be responsible for to mitigate impacts on Sir Francis Drake Boulevard at Anderson Drive would be increased. **Section 5.2.7**, Table 5-5 of the Final EIR reflects this increased fair share contribution.

Please refer to **Response A3-2** above regarding the applicability of the 1992 Institute of Traffic Engineers (ITE; Ackeret and Hosea, 1992) study cited in the comment.

TRIP REDUCTIONS

Please refer to **General Response 3.12.4** and **Response A16-1, Trip Reductions**, for a discussion of trip reductions used in the analysis.

The commenter mischaracterizes the use of the 15 percent reduction taken for diverted-link trips (previously called pass-by trips in the Draft EIS/EIR). The commenter incorrectly infers from the analysis that 15 percent of all traffic passing by the project site on I-580 would be likely to patronize the development in the course of an existing vehicular trip. This misunderstanding is highlighted in the commenter's statement, "For peak traffic analysis purposes, this pass by rate implies that 15 percent of commuters would stop at the casino on their way home from work." To the contrary, the analysis assumes that an average of 15 percent *of patrons* (not commuters on the Richmond – San Rafael Bridge) at the site on a given day would arrive via a diverted link trip.

COMMENT A20

RESPONSE A20-1

The concerns summarized in this comment are responded to in more detail below.

RESPONSE A20-2

The BIA and City of Richmond have made every effort to make the Draft EIS/EIR process as clear and transparent as possible. As noted in Draft EIS/EIR **Section 1.5.2**, the initiation of development of the Draft EIS/EIR was made public in March 2005 with the issuance of notice documents in the Federal Register, at the City of Richmond offices, and in the Contra Costa Times and the West County Times. The notice documents briefly described the Proposed Action/Project and the reasons why the Draft EIS/EIR was being prepared. The notice documents also announced the date of a joint scoping hearing, during which further information was given and public comments were received. The issues that were raised during the scoping period were summarized within the *Environmental Impact Statement/Environmental Impact Report Scoping Report, Point Molate Fee-to-Trust and Gaming Resort Development Project*. This report was issued by the BIA in July 2005 and is provided as Appendix B to the Draft EIS/EIR.

The land into trust process is described in **Sections 1 and 2** of the Draft EIS/EIR. As noted in **Sections 1.1, 1.6, 2.2.1, and 2.9.1**, the approval of a management contract is a separate federal action by the National Indian Gaming Commission (NIGC), distinct from the BIA taking the land into trust. The commenter implies that the taking of land into trust is contingent upon the approval of a management contract. However, this is not stated anywhere in the Draft EIS/EIR. Instead, the approval of the management contract must take place before the proposed management contractor is able to manage the casino development pursuant to the terms of the contract. The land may be taken into trust before or after the approval of the management contract. Revisions have been made in Final EIR **Sections 1 and 2** to clarify the fee-to-trust and management contract approval processes.

RESPONSE A20-3

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (*e.g.*, blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes.

The discussion of social effects from gambling casinos is based primarily on studies by the National Gambling Impact Study Commission, National Opinion Research Center, and National Public Sector Gaming Study Commission. While each of the studies is distinct, they consider a range of sources including: academic research, testimony on a range of topics from around the United States, review of

articles and comments, and original statistical datasets of 100 different United States communities and case studies of casino openings. Together they present the most recent and comprehensive research on the social effects of problem gambling. The commenter does not cite which sources would be more appropriate, thus no further response can be given.

Section 4.7.5 of the Draft EIS/EIR acknowledges that the Proposed Project would result in a potentially significant impact to pathological and problem gamblers. Although the literature states that the prevalence of problem and pathological gambling increases for all residents within 50 miles of a casino, no study estimates the rate of increase for those residents specifically living between 11 and 50 miles of a casino. In addition, studies that estimate the increase in problem and pathological gambling rates focus on communities that do not have existing casinos. Since Casino San Pablo and casinos in Sonoma County (**Figure 3.7-2**) are located within 50 miles of the Proposed Project, the analysis assumes that some of the residents would have already started gambling at these facilities. This assumption is appropriate because pathological and problem gamblers already have opportunities to gamble at existing facilities within 50 miles. Thus, it was assumed there would not be any additional problem and pathological gambling instances for those residents living more than ten miles from the project site. The implementation of **Mitigation Measures 6-1** through **6-4** would reduce potential impacts to problem and pathological gambling to less than significant levels. As stated in **Section 5.2.6**, the Tribe will be responsible for adopting a policy statement on problem gambling, providing customers with written information including problem gambling treatment programs, and implementing procedures to allow for voluntary self-exclusion for the customers from the gaming establishment. As stated in the IGA (**Appendix BB**), the Tribe shall provide information to its guests through signage, pamphlets, and an Internet website that describe the symptoms of problem gambling. Informational brochures shall be available throughout the casino that discuss how a person knows that he or she has a gambling problem and the ramifications of such a problem in terms of family, friends and social obligations. The brochures shall provide a hotline number that is available to call 24 hours each day, including the Council on Compulsive Gambling of California's 24-hour free and confidential Helpline, which offers problem gamblers and their families' information and referral to self-help and professional services. All appropriate casino employees shall receive training in the identification of problem gambling. Employees shall offer customers information about available problem gambling resources when signs of problem gambling are evident.

The Tribe shall maintain a Self-Exclusion Policy whereby patrons may request a halt to casino promotional mailings, check cashing privileges, and player club privileges. A patron may also request to be physically excluded from the gaming establishment. Procedures shall be established that allow problem gamblers to assume the responsibility of excluding themselves from any form of gambling at the gaming establishment. These procedures shall outline the steps involved in the initiation of a Self-Exclusion Form, and provide for the processing and retention of the Self-Exclusion Form, patron's return and patron's reinstatement process. The Draft EIS/EIR determined that it would be important to maintain a voluntary self-exclusion policy in order to give potential problem gamblers, and their families, such an

option to deal with the addiction. The commenter's assertion that such a policy would not be useful to any patron is incorrect; studies have shown that self-excluders tend to experience long-term, positive outcomes (NCRG, 2010). Additionally, as stated in the IGA (**Appendix BB**) the Tribe shall maintain an Involuntary Exclusion Policy whereby a patron may be involuntarily subjected to the same provisions associated with the Self-Exclusion Policy, for purposes of preventing the patron's problem gambling. Both the Self-Exclusion Policy and the Involuntary Exclusion Policy were determined to be necessary mitigation measures for potential impacts to problem gambling as a result of the Proposed Project.

The Draft EIS/EIR discusses the potential impacts to the immediate and surrounding communities, including low-income and minority populations, in **Section 4.7**. The majority of potential impacts associated with the Proposed Project, such as those to land, water resources, air quality, problem gambling, and traffic, among others, can be characterized as local in nature; and therefore, it was determined that potential environmental justice communities are those located within the immediate vicinity of the project site, as identified in **Section 3.7** and shown in **Figure 3.7-1**. The Draft EIS/EIR acknowledges the Proposed Project would potentially result in significant impacts, including air pollution, traffic, problem gambling, and crime, which would affect the low-income and minority communities surrounding the project site. **Section 4.7** determined that, after implementation of proposed mitigation to reduce these potential impacts to less than significant levels, no identified low-income or minority communities would be disproportionately adversely impacted by the Proposed Project. As **Section 4.7** states:

Increased air pollutants resulting from construction activities and vehicle emissions would be reduced to a less than significant levels with the implementation of **Mitigation Measures 3-1** through **3-19**; and therefore, no identified low-income or minority communities would be significantly affected. Increased traffic volumes under the Proposed Project would impact the existing level of service at intersections in Census Tracts 3780, 3650.01, and 3650.02. However, with the implementation of **Mitigation Measures 7-4** through **7-8**, impacts would be mitigated to a less-than-significant level. The Proposed Project would result in new problem and pathological gamblers within ten miles of the project site, where low-income and minority communities are located. However, after the implementation of **Mitigation Measures 6-1** through **6-4**, potential impacts would be reduced to a less than significant level, and no identified low-income or minority communities would be significantly affected. The Proposed Project would result in potential increases in crime. However, after the implementation of **Mitigation Measures 9-14** through **9-18**, potential impacts would be reduced to a less than significant level. The Proposed Project would benefit all communities within proximity of the project site by creating employment opportunities that would demand a substantial portion of the local labor market. These communities would not be disproportionately adversely impacted. This would be a less-than-significant impact.

The Draft EIS/EIR acknowledges the Proposed Project would result in a potentially significant impact to crime (**Section 4.7.6**). With the implementation of the MSA and IGA as part of the Proposed Project, contributions would be made by the Tribe to the City for public services, which would, in part, fund expansion of law enforcement services to accommodate growth and the increase in criminal incidents in the project area. As discussed in the MSA (**Appendix C**), the Tribe would provide compensation to local law enforcement, fire service, and emergency medical service providers so that these agencies have the capacity (i.e. employees or equipment) necessary to address any increase in demand resulting from the Proposed Project. The Tribe will provide compensation to the City in the amount of \$8 million per year for the first eight years beginning with the commencement of gaming operations, and \$10 million per year thereafter. Additionally, as indicated through the IGA (**Appendix BB**), under the Proposed Project, the Tribe will pay the County the annual sum of \$12 million for public safety, fire fighters and first responders, health, and social services related costs, and community benefit payments, commencing with the project start date, and payable for as long as the IGA is in effect. The analysis presented in the Final EIR determined these compensation payments would adequately address the potentially significant impacts to crime, and would reduce impacts to a less than significant level.

Section 4.7.6 and **Appendix T** of the Draft EIS/EIR analyze the impacts to crime and other social ailments from having a casino located in the local area. While the Draft EIS/EIR does not directly discuss impacts relating to domestic abuse, divorce or suicide specifically, the analysis included a thorough review of literature covering crimes and social issues related to casinos. The literature review included an examination of potential ties between domestic abuse, divorce, suicide and gaming facilities. These social ailments are not discussed specifically in the Draft EIS/EIR because casino impact researchers did not find a remarkable relationship between casinos and these ailments such that they should be addressed separately from other types of crimes or social ailments. Based on the analysis in the Draft EIS/EIR, the Proposed Project is not likely to significantly impact local domestic abuse, divorce or suicide. However, because domestic abuse is illegal, any impacts to domestic abuse would be included in the overall crime rate impacts and would be addressed in crime-related mitigations. Please refer to **General Response 3.11.1** for further discussion of potential impacts to crime as a result of the Proposed Project.

The Draft EIS/EIR provides an analysis of all reasonably foreseeable social impacts from gambling. Social costs associated with gambling not discussed in detail would not result in significant impacts from the Proposed Project. It is outside of the scope of the Draft EIS/EIR to examine social costs that are not anticipated to be linked to the Proposed Project and/or gambling, including mental health impacts unrelated to problem gambling.

Section 4.7 discusses the potential impacts to regional businesses as a result of the Proposed Project. The surrounding communities would benefit from the Tribe's expenditures on the goods and services necessary to maintain and operate a large-scale destination resort and casino. As stated in the Draft EIR/EIS, purchases would be made primarily from existing vendors located in Contra Costa County, the City of Richmond, and surrounding areas. While the exact amount of spending at County businesses

cannot be quantified, spending at County businesses would generate new revenue and would be considered beneficial. As the project site is located in a highly populated urbanized area, it is expected that local and County businesses would be able to meet a large portion of demand for goods and services. Further, local business would receive new revenue from induced and indirect expenditures on goods and services. **Table 4.7-2** provides classification of direct expenditures on goods and services. The areas of classification provide a perspective on the industries that would receive business directly from the project. To attempt to further quantify expenditures on goods and services at specific local businesses would be highly speculative. Please refer to **General Response 3.11.5** for a full discussion regarding potential impacts to the immediate and surrounding communities.

RESPONSE A20-4

Refer to **General Response to Comment 3.7.2** regarding indoor air pollution. Due to mitigation measures, any burden on health services caused by the casino is expected to be minimal and, therefore, would not require new personnel. In addition, because patrons will come from a wide geographic area, it is infeasible to determine how to fairly allocate reimbursement.

RESPONSE A20-5

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (*e.g.*, blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes. Please refer to **General Response 3.11.3** regarding documentation for the projected employment numbers, and a discussion of the types of jobs expected to be generated by the Proposed Project.

RESPONSE A20-6

The commenter notes that the project is near several major thoroughways and that their comments are aligned with that of WCCTAC's comments. Please refer to **Response A16-1** for a discussion of the issues raised by WCCTAC.

Contrary to the assertion of the commenter, the WCCTAC Action Plan was considered in the transportation analysis and is referenced in **Section 3.8** of the Draft EIS/EIR.

Refer to **General Response to Comment 3.12.5** regarding the geographic scope of analysis for the transportation study.

As previously stated in **General Response 3.12.2**, all intersections with the potential to receive 50 new trips as a result of the Proposed Project were included in the transportation analysis.

Refer to **General Response to Comment 3.12.7** regarding the Richmond BART Station's ability to handle additional riders. As established by WCCTAC in the comment letter dated September 18, 2009, "there exists significant capacity on the BART trains to the Richmond station." The Proposed Project would use some of the excess capacity and consequently increase revenues to BART generated by fares.

As stated in the Draft EIS/EIR, the Proposed Project would provide the necessary funding for AC Transit to extend bus service to the site. **Mitigation Measures 3-17, 3-18, 3-20, and 7-7** provided in **Section 5.0** of the Draft EIS/EIR require funding to enhance existing transit and transit facilities. The Draft EIS/EIR considers the availability of funding in considering the feasibility of mitigation measures. In no instance does the Draft EIS/EIR assume, recommend, or encourage the use of existing public funding sources to fund mitigation measures to the detriment of other transportation projects. Please refer to **Appendix S**, which includes correspondence with AC Transit indicating their willingness and ability to service the project site.

The proposed ferry service is a central component of the Proposed Project, integrated at every applicable level of analysis. Please refer to **General Comments 3.12.1** and **Response A13** above regarding ferry service, potential impacts to other proposed ferry services, and analysis of potential environmental impacts.

Construction traffic is analyzed in **Section 4.4** of the Draft EIS/EIR. The TIA includes an estimate of truck traffic on local roadways and takes into consideration existing and projected future cumulative traffic conditions.

Diesel particulate matter (DPM) is included in the air quality analysis in **Sections 3.4** and **4.4** of the Draft EIS/EIR. Construction and operation of the project was found to have a less than significant impact due to project related DPM sources. It is recognized that DPM concentrations in the west Contra Costa County area are high. In recognition of the benefits of reducing truck trips during construction, more than 80 percent of the soil hauled from the site would be removed by barge, resulting in less potential for contributing to traffic congestion and less DPM emissions per ton of soil exported. Please refer to **General Response 3.12.4**, which details the aggressive Traffic Demand Management strategies that would be employed as part of the project that would significantly reduce personal vehicle trips to the project site.

RESPONSE A20-7

The Economic Impact Study (Draft EIS/EIR **Appendix T**), which is the basis of much of the socioeconomic impact analysis in the Draft EIS/EIR, considers existing and proposed casinos in the region. Please refer to **General Responses in 3.11** regarding potential social and economic impacts to the community.

While it is true that many segments of the leisure, tourism, and entertainment industry have seen declining revenues since the beginning of the current recession, so has nearly every other sector of the economy. According to the Economic Impact Study prepared by the Gaming Market Advisors, with development of the Proposed Project the regional gaming market is expected to grow by approximately 20 percent to \$2.20 billion by 2012 (**Appendix T**). Please refer to **General Response 3.11.4** regarding the economic viability of the Proposed Project.

RESPONSE A20-8

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT A21

RESPONSE A21-1

BAY TRAIL CONNECTION

Refer to **General Response 3.4** and **Response I4** regarding Bay Trail connections to the project site. **Improvement Measure 7-20**, incorporated into the Final EIR, provides for bicycle lanes to be included from the project site to I-580 along Western Drive in the event that the proposed Bay Trail segment south of the project site is not functional by the time the Proposed Project is operational.

SAFETY OF SHORELINE PARKS AND OPEN SPACE

Vehicular traffic would be prohibited within the core of the Proposed Project and no vehicles would be capable of accessing the shoreline parks and open space areas of the project site with the exception of maintenance and security vehicles. The widening and improvement of Western Drive would be accomplished in accordance with the City's design standards and would therefore not pose any safety hazards to people recreating at the site.

COMMENT A22

RESPONSE A22-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE A22-2

The commenter notes that there is currently no public transportation to the project site and the site's geographical location would increase the cost of providing transit service to the site. **Mitigation Measures 3-17, 3-18, 3-20, 3-22, 3-23, 7-7 and 7-23** provided in **Section 5.0** of the Final EIR require funding to enhance existing regional transit and transit facilities and extend service to the project site. AC Transit has previously signaled its interest in providing service to the project site (**Appendix S**, pages 225 - 226). The letter provided by AC Transit in June of 2008 identifies a number of possibilities related to

extending service to the project site including: extending Line 72M to provide service every 30 minutes; extending Line 800 to provide service every 30 minutes to one hour depending on the day of the week; extending Line 70 to the project site; and creating a local area circulator service to be operated by AC Transit. While transit service at the project site is a central component of the planned intermodal transportation hub, a number of mitigation measures have been identified to provide specificity regarding the proposed service.

The Draft EIS/EIR considers the availability of funding in considering the feasibility of mitigation measures. In no instance does the Draft EIS/EIR assume, recommend, or encourage the use of existing public funding sources to fund mitigation measures to the detriment of other transportation projects. Relevant portions of mitigation measures cited above are summarized below, which clearly establish the emphasis on incorporating and building upon the existing transit system that presently serves Richmond and the surrounding communities.

Mitigation Measure 3-17 requires, among other things, that:

- The Tribe shall coordinate with regional ridesharing organizations, provide employee and customer access to guaranteed ride home programs, and fully fund measures such as carpool/vanpool subsidies and preferential parking for carpools and vanpools.
- The Tribe shall provide and fully fund the following on-site transit use incentives for employees: construct transit facilities such as bus turnouts, bus bulbs, benches, bus shelters, and landscaping at transit stops.
- The Tribe shall provide and fully fund shuttle service to transit stations/multimodal centers. Project-operated shuttle buses will be required to run at least two times per hour and on-time. Because the resort is proposed to be open 24 hours per day, shuttle buses that provide service to public transit stops (e.g., the Tewksbury Turnaround) shall run at night and on weekends when those carriers provide service (e.g., shuttle buses shall serve the Richmond Intermodal Station when trains are running). Shuttle bus schedules will mesh with those of AC Transit, BART, Golden Gate Transit, and other public transit providers, who will be incentivized to provide safe, frequent, and reliable service on schedules and at locations compatible with the resort shuttle buses. The Tribe shall continue consultation and coordination with the regional public transit providers in the final planning and implementation phases of project development.

Mitigation Measure 3-18 requires:

- The Tribe shall encourage the use of public transit systems by enhancing safety and cleanliness at transit stops. In cooperation with the City of Richmond, the Tribe shall provide new transit stops along Western Drive as needed.

Mitigation Measure 3-20 requires, among other things, that:

- Designation of an on-site TDM coordinator. TDM measures shall be integrated with AC Transit, BART, and Golden Gate Transit services.

- The Tribe shall provide transit passes (free or subsidized) and transit schedule information to employees.
- The Tribe shall provide a curbside covered and lighted passenger waiting area on-site.
- Buses serving the project site shall be equipped with bicycle racks.
- The Tribe shall provide and fund a shuttle between the project site and one or more transit hubs in the local area.
- The Tribe shall encourage patrons to use public transit by providing coupons (for food, beverage, entertainment, etc.) or other incentives to patrons who arrive via public transit.

Mitigation Measure 3-22 requires:

- The Tribe shall work with AC Transit to expand its current service and contribute funds and supplement operating expenses to implement the following: Bus and/or shuttle schedules tied to the timing of employee shifts; and new routes to serve employee population centers around the project site.

Mitigation Measure 3-23 requires:

- In coordination with the regional transportation agencies, such as AC Transit, Golden Gate Transit, and Bay Area Rapid Transit (BART) rail, the Tribe shall provide funding for the following to support regularly-scheduled community transit or shuttle service to and from the nearest mutually-acceptable major transit node: transit shelter benches, street lighting, route signs and display, and bus turnouts.

Mitigation Measure 7-7 requires:

- The Tribe shall work with AC Transit and other regional transit providers to expand service, tie bus schedules to the timing of employee shifts, and provide new routes to serve employee population centers. The Tribe shall contribute the necessary funds to supplement AC Transit operating expenses to achieve the expanded services.

Mitigation Measure 7-23 requires:

- The Tribe shall fully fund improvements to the Tewksbury Avenue bus turnaround, these improvements would include but not be limited to: constructing bus shelters, improve bus benches, landscaping, and lighting.

Please refer to **Response A16-1** above for a discussion of the issues raised by WCCTAC in its comment letter.

With respect to the proposed narrowing of 23rd Street in Richmond, such reconfiguration would not affect the transportation analysis provided in the Draft EIS/EIR. 23rd Street is a corridor running north to south, located a significant distance from the project site. While it is anticipated that some vehicle trips would

access the site via Cutting Boulevard, which intersects 23rd Street in Richmond, operations on Cutting Boulevard would not be affected.

While it is anticipated that on-site parking would be provided free of charge to patrons, the aggressive TDM measures, proposed transit service and incentives, as well as regular ferry service would provide aggressive incentives for use of modes of transportation other than personal vehicles occupied by a single individual.

RESPONSE A22-3

The commenter expresses the opinion that construction of transit facilities such as bus turnouts required under **Mitigation Measure 3-17(b)** are generally not “helpful.” **Mitigation Measure 3-17** provides a host of improvements, including the provision of bus turnouts, bus bulbs, benches, bus shelters, and landscaping at transit stops, all of which make use of transit a more convenient, pleasant, and safe experience, and will tend to encourage its use.

Based on the input provided by the commenter, Mitigation Measure 3-17(d) has been supplemented in the Final EIR to provide more specificity related to scheduling and destinations. Further refining of the proposed service would be achieved through continued consultation and cooperation with AC Transit. Development of a transportation plan, as recommended by the commenter, is advisable. However, the Mitigation Monitoring and Reporting Plan, which is a required component in the CEQA process, will verify compliance with all mitigation measures specified in the Final EIR.

The assumption in the TIA that the majority of users of surface transit would be employees is based on the fact that the greatest amount of influence and incentives for transit use to the site can be brought to bear on employees, resulting in conservative estimates for the analysis. It is acknowledged that high-quality transit that is responsive to the needs of consumers has the potential to capture a substantial number of patrons as well.

COMMENT A23

RESPONSE A23-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. A detailed response to most of the concerns expressed in this comment cannot be given because the concerns do not reference specific aspects of the environmental analysis. For instance the commenter references “a troubling lack of adequate analysis of community impacts” but does not provide any specific details. Furthermore, it is not clear which “amenities and values” are referenced in the last paragraph of **Comment A23-1**. Please refer to **General Response 3.11** for responses to common socioeconomic comments. Please see **General Response 3.12** for responses to common traffic-related comments. Please see Draft EIS/EIR **Section 5.0** for a description of mitigation measures and the significance of impacts after mitigation.

RESPONSE A23-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. It should be noted, however, that all of California is traditional tribal land, the nexus to which has been severed during the modern era. Please refer to responses to **Comment A18** above for responses to comments from the Governor's Office of Legal Affairs.

COMMENT A24

RESPONSE A24-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. General concerns related to specific resources and values raised in **Comment A24-1** are addressed below as appropriate.

With respect to the commenter's concern about an alternative project that would only include residential development, no such alternative is contemplated by the lead agencies or the applicant, nor is an all residential alternative analyzed in the Draft EIS/EIR (Alternative D includes the most residential, but also some hotel and retail uses). While a near infinite number of possible reuse scenarios could be conceived, the Draft EIS/EIR properly considers a reasonable range of alternatives that would meet most of the objectives of the lead agencies. Should an all residential alternative be proposed in the future, supplemental environmental review would likely be required at that time to analyze such an alternative.

RESPONSE A24-2

CEQA Guidelines Section 15147 provides the following guidance on the presentation of technical information within an EIR:

The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR.

In accordance with the above referenced guidelines, information presented in the Draft EIS/EIR provides an adequate level of detail to characterize the potential for adverse impacts resulting from the Proposed Project. Key findings of the technical studies undertaken in the course of analysis of the alternatives are summarized within the text of the Draft EIS/EIR in a manner that is not overly technical and which can be understood by a layperson. Supporting technical information was included within the appendices of the document, and therefore was available for agencies and the public to review and reference.

RESPONSE A24-3

The Draft EIS/EIR was completed in a manner consistent with the requirements of CEQA and NEPA in that it analyzes and discloses significant environmental consequences of each of the alternatives considered and proposes mitigation. A comprehensive analysis of potential impacts, which covers nearly 500 pages, and twelve resource/issue areas, as well as indirect, induced, and cumulative impacts is presented in **Sections 4.1 through 4.15**. **Section 5.0** presents mitigation to eliminate or reduce the severity of all impacts identified in **Section 4.0**. The comment does not identify any specific deficiency in the document so no further discussion is needed.

RESPONSE A24-4

Please refer to **General Response 3.17** as well as **Response I4-8 through I4-12** regarding the analysis of impacts to the aesthetic character of the project site. Please refer to **General Response 3.3.2** regarding the Final EIR's inclusion of Alternative B1, which preserves Building No. 6 in the Winehaven Historic District.

Please refer to **Response A24-8** for a response to the commenter's statement in the introduction of the commenter letter (A24-1) that asserts that the Proposed Project would be incompatible with the East Bay Regional Park District's (EBRPD) Master Plan.

The document presents adequate illustrated site plans and renderings to allow for a full aesthetic analysis. While the comment requests "photosimulations," it does not explain why such simulations are necessary or why the illustrated site plans are inadequate. As illustrated in the site plans (**Figures 2-3, 2-8, 2-11, 2-14, and 2-17**) and architectural renderings (**Figures 2-9, 2-10, 2-12, 2-13, 2-15, and 2-16**) presented in the Draft EIS/EIR, all of the alternatives would preserve views of the Bay and regional landscape from the open spaces along the shoreline area. While each of the proposed development alternatives would alter the aesthetic character, all changes would be in accordance with strict design guidelines, as discussed in **General Response 3.17**. Moreover, implementation of the Proposed Project would remove a significant number of blighted Naval installations throughout the property which would be beneficial to the aesthetic character of the project site. No significant impacts would remain, therefore implementation of further mitigation, as suggested by the comment, is not warranted. Furthermore, each vista is unique, thus it is not possible to utilize off-site mitigation as mitigation for affects to a particular vista.

RESPONSE A24-5

Please refer to **General Response 3.9.1** for a discussion of potential impacts to eelgrass beds.

The commenter's allegation that the Draft EIS/EIR "does not consider the Project's potential impacts on eelgrass beds" is not supported by the facts. Eelgrass is considered in the Biological Assessment (**Appendix J**) as well as several sections of the Draft EIS/EIR (**Sections 3.5.2, 4.5, and 4.9**). **Mitigation**

Measure 4-8 specifically deals with avoidance of impacts to the eelgrass beds. This mitigation measure has been supplemented in the Final EIR to provide additional provisions and specificity for the protection of the eelgrass habitat. Potential impacts to eelgrass beds related to project site drainage, stormwater management and water quality are thoroughly addressed in **Sections 2.2.2, 3.3 and 4.3** and **General Response 3.6.3**. Implementation of the suite of water quality and biological mitigation measures would ensure that the eelgrass beds would not be subject to a significant impact.

RESPONSE A24-6

Please refer to **General Response 3.9.2** which details the methodology for classifying annual grassland on-site. Per CEQA Guidelines Section 15065 (a)(1), impacts to grasslands on-site do not constitute a *threat to eliminate a plant or animal community*. It should be noted that regardless of the typological classification of on-site grassland habitats, only 0.637 acres of 39.461 acres (equaling 1.61 %) of total grassland habitat is impacted under Alternative A. **Mitigation Measure 4-1** specifies a 2:1 replacement/restoration ratio for these impacts. This would include the conversion/restoration of a 1:1 ratio of non-native habitats on-site to grasslands as well as designating an additional 1:1 ratio of existing and equivalent habitat into an open space preserve with a conservation easement in perpetuity.

Furthermore, as detailed in **Tables 4.5-1 through 4.5-5**, no impacts to beach strand habitats would occur under Alternatives A - E. Therefore, potential impacts to seaside golden yarrow would not occur and do not require mitigation.

RESPONSE A24-7

Please refer to **General Response 3.9.1** regarding potential impacts to eelgrass.

All protected animal species with a potential to occur on-site were considered in the Biological Assessment and Draft EIS/EIR. Burrowing Owls have not been documented to occur within 5 miles of the project site (see **Figure 3.5-3** of the Draft EIS/EIR). There are no previously documented occurrences within the San Quentin quadrangle, and they were not observed during any of the comprehensive biological surveys conducted from August 2007 through June 2008. Therefore they are not likely to occur on-site and were not afforded specific mitigation measures. In addition, **Mitigation Measures 4-15 through 4-17** cover all listed, nesting and migratory bird species.

Since the Navy began fueling operations at the site in 1941, the Point Molate area has been highly impacted by the military/industrial uses of the site, which included significant night lighting. Since Naval operations ceased at the site the night-time lighting regime has changed, yet not to such an extent that the existing conditions reflect a pristine natural environment. In recognition of the potential impacts associated with the introduction of new light sources, **Mitigation Measure 4-18** was included in the Draft EIS/EIR, which would inherently benefit terrestrial and aquatic wildlife in the vicinity of the project site.

Implementation of the recommended mitigation measure would reduce potential impacts associated with night lighting to a less than significant level.

The commenter misrepresents the focus of **Mitigation Measures 4-15** through **4-17**, which are not intended to address night lighting impacts. In addition, the commenter fails to establish how the lighting from the Proposed Project would impact protected mammals, fish, reptiles, and amphibians, despite the assertions made in the affirmative. A Biological Opinion was issued by the U.S. Fish and Wildlife Service which concurred that the Proposed Project is “not likely to adversely affect” federally listed or proposed species or their critical habitat (**Appendix J**). Finally, with the exception of periodic security patrols and grounds maintenance vehicles, no vehicular traffic would be allowed in any of the open space areas of the project site.

RESPONSE A24-8

The commenter is correct that CEQA Guidelines Appendix G, Section IX(b) recommends that the environmental analysis ask whether a project conflicts with applicable land use plans or policies of an agency with jurisdiction over the project, when such plans or policies were adopted for the purpose of avoiding or mitigating an environmental effect. CEQA Guideline Section 15125(d) also requires a discussion of any inconsistencies between a project and applicable general plans or regional plans. While consistency with applicable plans must be discussed, CEQA is concerned with physical impacts on the environment and an inconsistency is not in itself a significant impact. Courts have noted that land use plans and policies balance many competing interests and a project need not be consistent with every one of them. *Sequoyah Hills Homeowners Assn. v. City of Oakland*, 23 Cal. App. 4th 704 (1993). Thus, contrary to what the commenter alleges, a project’s inconsistency with a single aspect of plan or policy does not constitute a significant environmental impact, although it may be a relevant factor. The commenter also does not explain whether the provisions cited were adopted to avoid or mitigate environmental impacts, as suggested by Appendix G, Section IX(b).

Contrary to the assertions of the commenter, the Draft EIS/EIR provides a robust analysis of potential conflicts with applicable land use planning documents.

City of Richmond General Plan

Please refer to **General Response 3.13.1** regarding consistency with the General Plan. Refer to **Section 4.9** of the Draft EIS/EIR for a full consideration of the Proposed Project’s consistency with the adopted General Plan. Specific points raised in comment **A24-8** related to the General Plan are addressed below.

The suggestion by the commenter that the Proposed Project does not provide for outdoor recreation uses and maritime uses is incorrect, given the large amount of open space and parkland proposed (cumulative total of 180 – 236 acres), the kayaking facility, and reuse of the former fueling pier. It is acknowledged in the Draft EIS/EIR that the Proposed Project would conflict with the Heavy Industry zoning designation.

However, **Table 1-1** (*Potential Permits and Approvals Required*) of the Draft EIS/EIR clearly states that the City of Richmond would have to approve a General Plan amendment and rezoning prior to implementation of Alternatives A - D. Such an amendment and rezoning are part of the Proposed Project. Alternatives B and D also propose approval of a subdivision map and rezoning, which is clearly stated in the Draft EIS/EIR.

The commenter fails to establish how the Proposed Project is inconsistent with General Plan Land Use Policy LU-E.1, which directs the City to “[g]ive high priority to preserving and enhancing the potential amenities of the shoreline’s variety of edges and the landmark character of the regional landscape.” Clearly, the development of a 35-acre shoreline park along the entire shoreline of Point Molate, provision of enhanced public access to this resource, and preservation of all sensitive habitats along the shoreline would be consistent with the above referenced policy. Similarly, the Proposed Project is consistent with Policy LU-E.2 in that preservation of view sheds was a central component of the Project’s design, which is reflected in the fact that the two proposed parking structures would be mostly underground (completely subterranean in the case of the parking structure serving the Point Hotel), no new obstructions would be built west of (shore-ward) the Winehaven building, and new construction that rises above the existing built environment is concentrated so as to preserve unique view opportunities. Finally, the Proposed Project is consistent with the West Shoreline Area Specific Guidelines cited in that all alternatives (except the No Action Alternative) under consideration incorporate the construction of a significant segment of the Bay Trail and publicly-accessible parkland along the shoreline.

The commenter cites the Circulation Map of the Richmond General Plan which designates portions of the project site as within a Scenic Corridor and Secondary Thoroughfare/Scenic route. The Scenic Corridor designation requires “development controls to preserve or enhance its scenic values.” The City is imposing such “development controls” by way of limiting the height, massing, and location of new construction, as well as imposing mitigation measures to protect and enhance the aesthetic character of the site (**Mitigation Measure 4-18, 5-1, 5-2, 12-1, 12-2, and 12-3**). Furthermore, Western Drive is being “enhanced and developed” in accordance with the principals of a Secondary Thoroughfare/Scenic route, which will ultimately bring far more people to Point Molate to recreate at the park and open space.

The topography of the San Pablo Peninsula would remain relatively unaltered under the Proposed Project. All of the hillside areas would remain open space (between 145 and 191 acres) and recreational opportunities at the project site would be greatly enhanced relative to the existing conditions. Finally, the commenter’s statement that the Project would “fail to provide the maximum feasible access to the shoreline” is perplexing, given that the entire shoreline would become publicly accessible under the Proposed Project. Similarly, the commenter’s statement that the Project would not develop the site for use as a beach park, would not develop the full recreation potential of Point Molate Beach, and would not provide for a recreational trail corridor on-site are incorrect. As highlighted in the Draft EIS/EIR, central components of the Project include development of a 35-acre shoreline park (including revitalization of the Point Molate Beach Park), development of a kayaking/non-motorized boat facility, between 145 and 191

acres of hill side open space with recreational trails (using already established service roads to minimize disturbance), and construction of a significant segment of the Bay Trail traversing the entire waterfront of the project site.

There are no significant impacts relating to the policies identified in the comment letter.

San Francisco Bay Plan

Please refer to **Response A30-2** for a discussion of the limits on BCDC's jurisdiction and regulatory authority over the Project.

The commenter questions the consistency of the alternatives with the Bay Plan on the grounds that the Bay Plan states that the site should be developed for park use. The Draft EIS/EIR addresses each alternative's consistency with the Bay Plan in **Section 4.9**. As summarized in **Table 4.9-2** of the Draft EIS/EIR, Alternatives A - E are consistent with the applicable policies: Bay Plan Policy No. 4-b and No. 7.

Policy No. 4-b of the Bay Plan states that "uses other than water-oriented recreation, commercial recreation, and public assembly facilities may be authorized" if they would: 1) not diminish recreational opportunities or the park-like character of the site; 2) preserve historic buildings for compatible new uses; and 3) not significantly, adversely affect the site's fish, other aquatic life, wildlife and their habitats. The Proposed Project would restore 97 percent of the historic buildings on the site for adaptive reuse. Commercial use of the historic buildings would provide the funds necessary to support redevelopment of the former military installation and ensure the long term maintenance of the historic structures, proposed park and open space. As described in the Draft EIS/EIR the Proposed Project would not significantly adversely affect the wildlife nor their habitat. The BCDC is the sole agency that can determine whether its conditions are sufficiently met. The comment letter submitted by one of BCDC's staff members does not constitute a consistency determination by the Commission. As stated in **Table 1-1** of the Draft EIS/EIR, the Proposed Project is seeking a consistency determination from the BCDC.

The commenter states that the Proposed Project is inconsistent with Bay Plan Policy No. 7, which calls for using the Point Molate Pier "for water-oriented recreation and incidental commercial recreation." Due to its former use as a fueling station, the pier is not at an appropriate height to safely accommodate many water-orientated recreational uses. In order to fulfill the water-oriented recreation use encouraged in the Bay Plan, the Proposed Project includes a kayaking center south of the pier that would provide safe launching and landing access for non-motorized recreational boats. In addition the 35-acre shoreline park would provide public access to the Bay. Once again, the BCDC is the only entity with the authority to determine a given project's consistency with the Bay Plan.

The commenter also suggests that the Project's "impacts on the area's eelgrass beds" would also make it inconsistent with Policy No. 7. Please refer to **General Response 3.9.1** and **Response A24-5** above for a discussion of potential impacts related to the eelgrass beds located on-site, which have been determined to be less than significant.

Point Molate Reuse Plan

The Point Molate Reuse Plan is a visioning study prepared in order to define a series of possible uses for the site. An environmental analysis (EIR) was never completed for the implementation of the Reuse Plan's recommendations. The Reuse Plan does not articulate or implement land use policies at the City or County level. An analysis of a project's consistency with studies is not required under NEPA or CEQA. Furthermore, the Reuse Plan is superseded by the General Plan and Bay Plan, which are analyzed in **Section 4.9** of the Draft EIS/EIR.

The commenter does not specify how the Project is incompatible with areas of the Reuse Plan. The Project is compatible with many of the items listed by the commenter, including the following:

- *Shoreline Park* – The Project would provide a 35-acre shoreline park along the entire length of the project site waterfront.
- *Minimize impacts of future development on natural environment* – The Project provides mitigation minimizing many of the impacts to less-than-significant.
- *Preserve hillsides from further development* – The Project calls for preserving 145 acres of hillside as protected open space.
- *Protect natural resources with emphasis on wetland, riparian habitat, and critical habitat areas* – **Section 3.5** of the Draft EIS/EIR analyzes potential impacts to biological resources including wetlands, riparian habitats, and critical habitat areas. **Mitigation Measures 4-10** through **4-12** are designed to protect these natural resources.
- *Preserve visual access to the Bay and other features* – The Project would provide a 35-acre shoreline park which would provide the public with visual access to the Bay; much of the hillside open space would also have visual access to the Bay.
- *Provide a variety of open space for outdoor recreation* – As described in Draft EIS/EIR **Section 2**, both hillside and shoreline open space would be provided for outdoor recreation; these areas would contain pedestrian trails, picnic areas, restroom facilities, public art and cultural exhibits, park recreation facilities, and other park amenities consistent with those found in other regional parks. In addition the project would provide a kayaking center.
- *More than two-thirds of the site will be preserved as open space and parklands in the highly visible hillsides and along the 1.4-mile shoreline* – The Project would preserve approximately 180-acres as open space and parkland, this equates to approximately two-thirds of the project site which is not submerged within the Bay. Development is focused on previously disturbed areas, mainly lower-lying relatively flat portions of the site.

- *A network of recreational trails will provide access to the undeveloped hillsides and will be linked to the Bay Trail and promenade along the shoreline – All pedestrian trails would be interconnected including the Bay Trail.*

A project's inconsistency with a single aspect of plan or policy does not constitute a significant environmental impact, although it may be a relevant factor.

San Pablo Peninsula Open Space Study

The Open Space Study is a *study* that identified *recommendations*, but consistency is not required by law and, therefore, an analysis of a project's consistency with studies is not required under NEPA or CEQA. Furthermore, the City Council resolution approving the study called it a "feasibility study", which is not a land use planning document. Nonetheless, the Project would contain many of the elements recommended in the study and by the commenter. Furthermore the commenter fails to consider that the Project is consistent with Alternative E of the Open Space Study which is titled *Park-Related Uses Compatible with Proposed Casino Development of Point Molate*.

San Francisco Bay Trail Plan

As stated in Draft EIS/EIR **Section 3.10.2** and in a letter received from the San Francisco Bay Trail Project (**Comment Letter 203**), the "Bay Trail Project is a non-profit organization administered by the Association of the Bay Area Governments". Please refer to **Responses I4-2** and **I4-3**, which discuss the alignment of the Bay Trail along the Point Molate shoreline and the additional bike access to the site along Western Drive.

East Bay Regional Parks District Master Plan

The East Bay Regional Parks District (EBRPD) 1997 Master Plan is not an adopted land use plan, but rather "defines a the vision and the mission" of the EBRPD and sets the District's priorities for a 10-year period (1997 – 2007). The Master Plan also predates Congress's decision to *not* transfer the Point Molate property to a regional governmental entity for use as a park. In the Navy's Record of Decision for the final disposal and reuse of Point Molate, the Federal Government found that uses that do not promote economic development and job creation would be inconsistent with the requirements of the Defense Base Closure and Realignment Act of 1990. The federal government's Record of Decision in transferring the site ant, and the City of Richmond's governmental decisions, supersede EBRPD's vision document in determining land use constraints for the site. Moreover, EBRPD does not, nor has it ever, had jurisdiction over the site. As such the EBRPD Master Plan is not a binding document that the City is required to adhere to, nor would inconsistency with the Master Plan constitute a significant impact.

Despite the fact that the Proposed Project does not directly correspond to the Master Plan, many core elements are shared. As detailed in **Section 2.0** of the Draft EIS/EIR, a significant amount of parkland

and open space is provided under all of the alternatives considered. Alternatives A – D contemplate between 180 and 236 acres of shoreline parks and hillside open space, which account for between 66 and 86 percent of the total upland acreage on site (approximately 273 acres). A 35-acre Shoreline Park is proposed under Alternatives A – D which would contain a variety of natural environments including tidal, near-shore wetlands, and upland areas. Upland areas would also be provided in the 145 to 190 acres of hillside open space provided by the project under Alternatives A – D. As described in **Section 2.2.2**, these areas would also provide a variety of recreational activities, including biking/hiking trails, picnic areas, a kayak center, and other park amenities consistent with those found in regional parks in Contra Costa and Alameda Counties.

RESPONSE A24-9

The analysis presented in the Draft EIS/EIR considers the effects of implementing the Proposed Project relative to the existing conditions on-site. Since the project site is currently inaccessible to the public, development of the Proposed Project would not result in the loss of an existing regional recreational shoreline. Moreover, development of the Proposed Project would provide for new recreational opportunities to meet the demand created by Project visitors and residents, as well as additional recreational opportunities for the citizens of Richmond and the greater East Bay Area, contrary to the assertions of the commenter.

Please see **Response A24-8** regarding the substantial acreage of parkland proposed for each alternative, including a regional shoreline park. The open space that currently exists on-site is highly degraded, having been used primarily for storage of bunker fuel during Navy occupation. Moreover, as described in **Section 3.5** of the Draft EIS/EIR, native hillside habitat has been severely impacted by invasive species and past management practices that emphasized fuel reduction over other associated values. **Mitigation Measure 4-9** requires a comprehensive vegetation management plan (VMP) that would provide for restoration of native vegetative communities on-site, which is expected to significantly improve wildlife habitat and public enjoyment of the open space within Point Molate. **Section 4.14.8** of the Final EIR considers all potential impacts associated with implementing the VMP. Please refer to **General Response 3.9.2** for additional discussion of the VMP.

During Naval use of the site, several hillside service roads were established to provide access to the underground storage tanks (USTs) and other facilities located in the hillside areas. Under the Proposed Project, the one lane paved roadways in the hillside area would be converted to non-motorized pedestrian and bicycle trails, open to the public. The limited Tribal facilities proposed for the hillside area would be accessed by the existing paved service road that leads to the proposed building site. Finally, the existing road leading west from Western Drive to the proposed Point Hotel would make use of the existing roadway corridor and area currently occupied by several underground storage tanks.

The commenter suggests that the open space proposed under Alternatives A – D would be subject to impacts related to vandalism, trespass, feral animals, introduction of exotic plant species, off-road vehicle

damage, dumping, etc. Vandalism, trespass, dumping, and off-road vehicle use would all be prevented through the increased security and police presence on the site over existing conditions, which will allow for an immediate response.

Finally, the costs of maintaining and properly managing the parks and open space at Point Molate would be made economically feasible by the revenue generating amenities offered on-site such as gaming, entertainment, retail, restaurants, and lodging. Please refer to **Appendix T, Section 4.7** of the Draft EIS/EIR, and **General Response 3.11.4** for a discussion of the economic viability of the Proposed Project.

RESPONSE A24-10

All intersections provided in the comment are analyzed in the TIA, Supplemental TIA and **Sections 4.8** and **4.15** of the Draft EIS/EIR. Level of service threshold are not chosen, they are enacted by the jurisdiction where the roadway or intersection is located, generally in the jurisdiction's regional transportation or general plan. Significance thresholds are discussed at length in **Sections 3.8** and **4.8** of Draft EIS/EIR. With the implementation of mitigation the intersections mentioned in the comment would operate at an acceptable level of service and the Project would not significantly adversely affect access to any existing park or trail.

RESPONSE A24-11

Ambient noise levels were measured at the project site over a fifteen day period in 2005 and 2007 at two locations. Noise levels ranged from 50.3 to 62.3 dB, while averaging 53 dB as referenced in **Table 3.11-6, Section 3.11** of the Draft EIS/EIR. **Section 5.0** of the Draft EIS/EIR provides noise **Mitigation Measures 10-3, 10-4, and 10-5** which will functionally reduce operational noise levels to comply with the standards set by the City of Richmond (refer to **Section 4.11**). The open space and preserve areas will provide the most suitable habitat for wildlife as well as providing areas for foraging and refuge. These areas are well buffered from the proposed development while the existing vegetation would further reduce noise effects. The conservation and preservation of open space areas for wildlife would provide a noise environment comparable to the baseline ambient condition. With implementation of the noise mitigation measures combined with the designated areas of open space and recreational areas, the project would not result in a significant increase in ambient noise levels when compared to the baseline condition in areas where wildlife will congregate and people will recreate; therefore would result in a less than significant impact to the noise environment for birds, wildlife, and people who are recreating. In addition, the USFWS Section 7 Endangered Species Act consultation letter (**Appendix J**) offers a not likely to adversely affect determination for all federally listed birds and wildlife with potential to occur in the project vicinity.

RESPONSE A24-12

A comprehensive identification, evaluation, and analysis of impacts to all cultural resources located within the Point Molate property was completed for the Proposed Project (**Appendix N and Y**). The findings of the cultural resources study are summarized in **Sections 3.6, 4.6, and 4.15** of the Draft EIS/EIR. The analysis considered direct, indirect, and cumulative impacts to the resources located on-site, as well as resources located off-site that may be indirectly impacted (**Section 4.14.8**).

As part of the analysis, changes to the Winehaven Historic District were carefully considered. Impacts associated with the introduction of new construction, demolition, relocation, and effects associated with the change in land use were considered. While it was determined that feasible mitigation is available to address a number of the potential impacts associated with the Proposed Project, it was concluded that some impacts to the Winehaven Historic District would be significant and unavoidable. This finding is disclosed in **Section 4.6** of the Draft EIS/EIR. Specifically, the analysis concluded that significant impacts would result from demolition of a contributing element of the historic district and the introduction of new construction within the District's boundaries. The commenter goes on to suggest that traffic, noise, and "24-hour occupancy" would "materially impair" the historic district. The commenter fails to indicate how such impacts would occur, particularly in light of the following considerations: circulation within the project site would be by foot, bicycle, and low impact electric vehicles or shuttles – personal automobiles would be restricted from operation within the project site, except for through traffic along Western Drive's existing alignment through the district going to or from the Point San Pablo area; all potential impacts related to noise are mitigated to less than significant (**Section 4.11**); and the hours or duration of occupancy would not impact the integrity of the district. Please refer to **General Response 3.3.2** regarding the Final EIR's inclusion of Alternative B1, which preserves Building No. 6 in the Winehaven Historic District.

Finally, the commenter fails to acknowledge that the Proposed Project would be required to conform to the Secretary of the Interior's (SOI) Standards and Guidelines for Rehabilitation (**Mitigation Measure 5-1**). The SOI Standards define rehabilitation as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values." As such, adaptive reuse is permissible and does not conflict with historic preservation standards provided that modifications, new construction, and other on-site alterations are undertaken in a manner consistent with the SOI Standards and Guidelines. In fact, an adaptive reuse of the historic district provides the financial means to undertake the significant structural and environmental renovations required to allow human occupancy and would bring many more people to the site to enjoy and learn about the rich history of the site. Refer to **Mitigation Measure 5-1** of the Draft EIS/EIR for a description of procedural approach for resolving adverse affects on the Winehaven Historic District associated with the Proposed Project.

RESPONSE A24-13

Because of the seismic activity of the region, provisions have been included as mitigation to reduce impacts to less than significant levels. The Winehaven buildings and any other existing on-site buildings included under each alternative shall be retrofitted to current building code standards to reduce the risk of collapse during strong seismic events. These provisions are required and will reduce potential impacts to a less than significant level. As mentioned above, the adaptive reuse of the buildings provides the funding to undertake the structural and seismic retrofit work needed, making the buildings more secure under the proposed plan than without reuse. Final EIR **Mitigation Measure 1-3** has been revised to increase the specificity of the measure. Additionally, as noted in Draft EIS/EIR, **Mitigation Measure 1-2**, during the final design stage of the selected project alternative, a registered geologist shall prepare a final geotechnical report to ensure that on-site soils are suitable for the selected alternative. Given the geotechnical information developed during prior studies, there is no reason to believe that the site soils are unsuitable for constructing the Proposed project. Nonetheless, the geotechnical report shall include identification of expansive and unstable soils (including unstable slope and soil conditions that may result in landslides) that would impact the development of the selected alternative and shall identify engineering considerations and site specific design criteria to mitigate potential risks. Recommendations made as a result of these investigations to protect new structures and reduce impacts from geological hazards shall be incorporated into project design. These measures are anticipated to include requirements to construct foundations designed to resist movements of expansive soils and removal of unstable soils and replacement with suitable fill or engineered materials.

The San Pablo Fault is not considered an active fault by the United States Geological Survey (USGS) and the California Geological Survey (CGS). The most probable source of seismic impacts based on the occurrence of fault movement over the last 1.6 million years (quaternary fault movement, identified as active faults by the USGS and CGS) would occur as a result of movement along the Hayward Fault located approximately 4.4 miles east of the project site.

As discussed in **Section 2.0** of the Draft EIS/EIR, a Historical Building Structural Conditions Assessment was performed on the project site and was incorporated into the project as **Appendix E**. An additional assessment was performed specifically for Building No. 6 and is provided as **Appendix DD** of the Final EIR. As stated in **Appendix E**, the assessment was performed in accordance with the American Society of Civil Engineers/Structural Engineering Institute (ASCE/SEI) 31-03 Seismic Evaluations of Existing Buildings. Based on the findings of the reports, the buildings can be adequately reinforced and reused without adverse impacts to the historical integrity of the buildings. Retrofitting the existing buildings to meet existing building standards is a proven method of minimizing seismic relating impacts.

The commenter cites text from page 3 of the geotechnical report prepared by ENGEO (2006; **Appendix I**), which provides a general discussion regarding the geology of the region. As noted in **Appendix I**, the regionally ubiquitous Franciscan formation does include areas with high landslide potentials. However,

the referenced passage of **Appendix I** was not documenting the site as having high landslide potential. The geotechnical report goes on to state that two shallow landslides were documented at the site in 1975, yet would be removed during the proposed grading associated with Project development (ENGE0, 2006:3). Furthermore, as discussed in **Section 3.2** of the Draft EIS/EIR, the Navy's 2002 EIS/EIR identified three relatively small landslides at elevations greater than 300 feet above mean sea level (msl) in areas that are not planned for development. The affected landslide area is shown on the Soils Map (**Figure 3.2-1** of the Draft EIS/EIR). According to the Navy, these landslides were local in extent and were likely to have shallow slip surfaces. Potential impacts associated with unstable soils and associated expansive and landslide potential was assessed in **Section 4.2** of the Draft EIS/EIR, and mitigation is incorporated into **Section 5.0** to reduce identified impacts.

Quarrying of on-site materials is a component of the project description in **Section 2.0** and therefore is not mitigation. **Mitigation Measure 9-4** has been supplemented to require that existing asphalt and concrete be processed and reused on-site to the extent feasible.

RESPONSE A24-14

Refer to **General Response 3.6.3** regarding stormwater quality, including the proper operation of stormwater management systems. Regarding a residential-only alternative, please refer to **Response A24-1**. In any case, the Tribe would be required to provide funding for all committed mitigation measures for the selected development alternative.

A reference to the Bay Conservation and Development Commission's San Francisco Bay Scenarios for Sea Level Rise Index Maps has been included in **Section 3.8** of the Final EIR, which shows that the project site is not included within an area of inundation from sea rise. Please refer to **General Response 3.8.2** for further discussion of potential impacts related to sea level rise.

The commenter references *Gray v. County of Madera*, 167 Cal. App. 4th 10991115-18 (2008), which holds that the efficacy of mitigation of an identified impact must be validated by substantial evidence. Mitigation incorporated into the project has been proven effective to reduce potential impacts on other development projects. Bioretention swales are proven best management practices to slow the discharge of stormwater generated on a project site to pre-existing discharge rates, while improving the quality of discharged stormwater. The stormwater analysis (**Appendix H** of the Draft EIS/EIR) was performed in accordance with Contra Costa County guidelines and accurately portrays the potential impacts of the Project alternatives, thereby allowing an accurate assessment of potential impacts as well as the development of accurate and proven mitigation measures to reduce identified impacts.

RESPONSE A24-15

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social

or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (e.g., blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes. As thoroughly analyzed in **Section 4.7.7** of the Draft EIS/EIR, the Proposed Project would not result in disproportionately adverse impacts to minority or low-income communities. Minority or low-income communities near the project site were identified in **Section 3.7.3**. It was determined that all census tracts identified in proximity to the project site contained minority communities, except Census Tract 3780, which includes the project site. A few of the census tracts that contained minority communities were also identified to contain potentially low-income communities.

Localized impacts to the project site, such as various impacts to land and water resources which are sufficiently mitigated for, would not affect the above referenced census tracts. Most air quality effects are regional in nature. Increased local air pollutants resulting from construction activities and vehicle emissions would be reduced to a less than significant levels with the implementation of **Mitigation Measures 3-1** through **3-19**; and therefore, no identified low-income or minority communities would be significantly affected. Increased traffic volumes under the Proposed Project would impact the existing level of service at intersections in Census Tracts 3780, 3650.01, and 3650.02. However, with the implementation of **Mitigation Measures 7-4** through **7-8**, impacts would be mitigated to a less-than-significant level. Significant and unavoidable traffic impacts disclosed in the Draft EIS/EIR would not disproportionately affect any community. Despite the abundance of existing gambling options, the Draft EIS/EIR conservatively concluded that the Proposed Project may result in new problem and pathological gamblers within ten miles of the project site, where low-income and minority communities are located. However, after the implementation of **Mitigation Measures 6-1** through **6-4**, potential impacts would be reduced to a less than significant level. The Proposed Project may result in increases in crime, particularly additional responses to on-site calls resulting from a much higher visitation to the site than currently exists. However, after the implementation of **Mitigation Measures 9-14** through **9-18**, potential impacts would be reduced to a less than significant level. Any increase in crime would be minimal; this conclusion is supported by statements made by the Contra Costa County Sheriff in a letter dated November 2, 2009, which is provided in **Appendix JJ**. The Proposed Project would benefit all communities within proximity of the project site by creating employment opportunities that would demand a meaningful portion of the local labor market.

RESPONSE A24-16

The commenter raises concern that contaminants could be released into the San Francisco Bay and other hazards could be created due to sea level rise and boat wakes. Regarding sea level rise, please refer to **General Response 3.8.2**. Boat wakes would not be a significant source of erosion given the historic use of the pier without deleterious effects to the shoreline, given the distance of the pier access to the shore, and given the necessity that vessels operate at a slow speed near the pier (please refer to **General Response 3.9.1**). Moreover, motorized recreational boats would be prohibited from launching or

mooring from the project site or pier. As noted in Draft EIS/EIR **Section 5.2.4**, all activities associated with the pier reuse are subject to approval by BCDC. Additional language has been added to Final EIR **Section 5.2.4** that would serve to further reduce any potential for impacts related to boat wakes.

Regarding evacuation routes and the potential for a chemical release from the Chevron facility, please refer to **General Responses 3.14.1** and **3.16.2**. Regarding environmental remediation, please refer to **General Response 3.16.1**. Please refer to **General Response 3.10** for a discussion of the mechanisms in place to enforce mitigation measures specified in the Final EIR.

A limited waiver of Tribal sovereign immunity for the purpose of enforcing the mitigation measures as described in the Final EIR (**Section 1.5**) has been provided by the Tribe. Please refer to **General Response 3.10** for additional discussion of the waiver of sovereign immunity.

RESPONSE A24-17

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

COMMENT A25

RESPONSE A25-1

Specific responses to comments summarized here are provided below.

RESPONSE A25-2

The reference to the removal of land use restrictions pertains to the specific remediation areas discussion within the text and not entire parcels. For example, **Mitigation Measure 11-8** of the Draft EIS/EIR for hazardous materials addresses IR-04. The reference to unrestricted use when the San Francisco Regional Water Quality Control Board (SFRWQCB) issues a No Further Action Statement pertains to the areas adjacent to the former valve boxes and not the entire parcel. Remaining land use restrictions are addressed throughout the document. **Mitigation Measure 11-8** also states that the land use restrictions for the northern shoreline would remain to ensure no use occurs that would create a potential human health risk. The discussion of the removal of land use restrictions have been revised within the Final EIR to clarify the exact areas addressed. The cultural roundhouse and tribal offices are proposed for the upland areas in the location of several underground storage tanks (USTs). Draft EIS/EIR **Mitigation Measure 11-11** includes requirements that include the installation of a soil vapor extraction system, as necessary to ensure no human health impacts remain.

As stated by the commenter, the SFRWQCB is currently the jurisdictional agency responsible for clean-up of the contaminated areas on the project site. The preliminary clean-up order (Order) from the SFRWQCB approved the Fuel Action Product Levels (FPALs) as remediation thresholds. Please refer to

General Response 3.16.1 for a discussion of the vacated Order and the anticipated future steps. As noted in Draft EIS/EIR **Mitigation Measure 11-3**, the clean-up levels for the site will be such that potential significant risks to human health are not present based on clean-up orders issued by the SFRWQCB. The SFRWQCB will receive a copy of the Final EIR, including all comments received on the Draft EIS/EIR. It is expected that the comments of the United States Environmental Protection Agency (USEPA) will be considered by the SFRWQCB in determining final clean-up levels on the project site.

Monitoring provisions for ongoing remediation of the project site are addressed in **Appendix II** of the Final EIR. As noted above, a final Order has not been approved by the SFRWQCB and the extent of required monitoring is unknown at this time.

Enforcement of mitigation measures is addressed in **General Response 3.10**. All mitigation identified in the Final EIR would be enforceable pursuant to the requirements of the Municipal Services Agreement (MSA).

RESPONSE A25-3

Additional analysis has been added in **Section 4.4** of the Final EIR, which clarifies that emissions from the removal of remediated soil are included in the air quality modeling. Emissions generated by excavation and export of impacted soils are included in the URBEMIS air quality model under construction, mass grading, and soil hauling. Exportation of 2.7 million cubic yards of soils was assumed in the soil hauling analysis. The overestimation, almost double the 1.38 million cubic yards that is now predicted to be required, takes into account barge emissions and remediated soil hauling. As noted in the Final EIR, remediation would occur during the construction phase of development. Please refer to **General Response 3.16.1** regarding remediation of contaminated soils and the evaluation of environmental impacts from this remediation.

RESPONSE A25-4

The referenced statement has been removed from the Final EIR as recommended. The California waiver reference has been updated in **Section 3.4** of the Final EIR.

RESPONSE A25-5

Mitigation Measure 3-28 in the Final EIR has been supplemented to require that “Buildings shall be designed to meet Leadership in Energy and Environmental Design (LEED) or equivalent certification standards, except with respect to indoor smoking allowed in certain restricted areas.”

RESPONSE A25-6

All impacts to Waters of the U.S. and wetlands are detailed in **Section 4.5** of the Draft EIS/EIR, within **Tables 4.5-1** through **4.5-5**. **Mitigation Measures 4-10**, **4-11** and **4-12** outline the measures that would be implemented to reduce potential impacts to Waters of the U.S. to a less than significant level. While

the above referenced mitigation measures would ensure that the Proposed Project would result in the least amount of impacts to protected resources that is feasible, compliance with applicable Federal regulations under Section 404 and 404(b)(1) of the CWA will supplement the protection of on-site streams and wetlands.

RESPONSE A25-7

As noted in **Section 3.3** of the Draft EIS/EIR, the area identified for residential development under Alternatives B and D is not located within the same watershed as the proposed development under the other alternatives. Thus, restoration of this area would not necessarily reduce water quality impacts from development. Impacts to water quality from stormwater runoff are addressed in Draft EIS/EIR **Section 4.3**. As noted in **Section 4.3**, water quality impacts would be reduced to a less than significant level after the implementation of mitigation measures contained in **Section 5.2.2**. The Draft EIS/EIR requires the restoration of portions of the site to mitigate for the loss of habitat elsewhere on the site. The referenced Alternative B/D residential area is likely to be included in the area slated for restoration pursuant to a comprehensive VMP (see Final EIR **Section 5.2.4** and **Response A24-9**).

RESPONSE A25-8

The Tribe intends to make every effort to coordinate the privately-operated ferry service with San Francisco Bay Area Water Emergency Transportation Authority (WETA). In addition, a requirement to coordinate with WETA has been added to Final EIR **Section 5.2.11**. Refer to **General Response to Comment 3.12** regarding the proposed ferry service.

RESPONSE A25-9

Impact discussion **4.2.3** of the Final EIR has been corrected to clarify that there is no residential development proposed under Alternative A.

RESPONSE A25-10

Comment noted regarding EPA's role in issuing Water Quality Certification. **Table 1-1** of the Final EIR has been revised as recommended. Comment noted regarding the typo on page 3.3-13; the recommended edit has been made to the Final EIR. It was determined that the typo that the commenter refers to on page 3.4-13 was actually on page 3.5-13 and has been corrected in the Final EIR.

COMMENT A26

RESPONSE A26-1

Specific responses are provided below to the comments summarized here.

RESPONSE A26-2

The mitigating project design provisions and mitigation measures proposed in the Draft EIS/EIR to reduce impacts to water quality are proven mitigation measures that are acknowledged by the applicable

jurisdictional agencies (such as the USEPA for federal lands and the City of Richmond for fee lands) as adequately mitigating impacts from commercial development to water quality. The commenter states that the mitigation measures are conceptual in nature, referencing mitigation of wetland impacts as an example. As discussed throughout **Section 4.5** of the Draft EIS/EIR, development of the Project alternatives would require various permits and agency decisions that would guide development and associated mitigation. Exact requirements of these permits and results of agency consultations cannot be determined at this stage of the planning process. The mitigation for wetlands was developed from anticipated provisions of associated permits. As required by the Clean Water Act (CWA) Section 404 (b)(1) alternatives analysis, the Project was designed to avoid all wetlands to the maximum extent feasible. Only after the minimization and avoidance of impacts to all wetlands is demonstrated, to the maximum extent feasible through project design, does compensatory mitigation for direct impacts become a relevant regulatory step under the CWA Section 404(b)(1) guidelines. As required by the USACE and USEPA joint guidance on compensatory mitigation, a mitigation monitoring and reporting plan would be developed to determine wetland and stream functions of impacted wetlands so suitable compensatory mitigation can be created to fully offset project impacts. The Draft EIS/EIR clearly lays out these regulatory requirements and the approaches that would be used to fulfill these federal statutes in **Sections 3.5, 4.5** and **5.0**. Refer to **General Response 3.6.3** regarding stormwater drainage and mitigation.

RESPONSE A26-3

The terms “construction” and “operation” refer to all activities associated with the Proposed Project. The text within Final EIR **Table 1-1** has been updated to clarify that waters of the U.S., as well as waters of the State, include those presently underground and that all waters of the State are regulated by the RWQCB under the Porter Cologne Act.

RESPONSE A26-4

The text does not state that the underground vaults would be upgraded, but that the overall existing system would be upgraded as described in Draft EIS/EIR **Appendix H**. For example, existing lines would be removed and re-routed to accommodate the proposed development and various vegetated swales and bio-retention basins would be developed. The Stormwater Management Plan includes the use of vegetated swales to reduce flows and improve quality thereby not relying solely on the stormwater vaults to improve water quality. Draft EIS/EIR **Table 4.3-1** provides a quantitative analysis of the expected stormwater quality improvements that would occur as a result of the installation of bioretention basins on the project site. The vaults would be used solely to increase retention time but would not be relied upon to improve water quality. Additionally, there are only two vaults on the project site that would be incorporated into the stormwater system for the development alternatives. The plan also incorporates in-line stormwater treatment units as outlined in the California Stormwater BMP Handbook between the vaults and the outfall to the Bay.

RESPONSE A26-5

Stream channels are identified and mapped in **Section 3.5** of the Draft EIS/EIR.

RESPONSE A26-6

Please refer to **Response A26-2**.

RESPONSE A26-7

The reference to BMP TC-52 is inaccurate in the Stormwater Management Plan contained in **Appendix H** of the Draft EIS/EIR. The reference should be to TC-50 for the installation of in-line water quality inlet (trapping catch basin with an oil/water separator), which is consistent with the assumptions and analysis in the Draft EIS/EIR and would comply with the County's C.3 stormwater guidelines. Use of the vaults would require special consideration, which is anticipated for the extent of the Project and for a re-use project such as the Proposed Project and project development alternatives. Taking into consideration that use of the vaults requires special consideration, the other provisions of the drainage plan were included to provide redundancy in water quality improvements and stormwater flow rate retention. The overall design scheme emphasizes the use of landscape-based treatment techniques, with the use of the existing vault systems to provide redundancy.

Refer to **General Response 3.6.3** regarding development of the Stormwater Control Plan.

RESPONSE A26-8

Please refer to **General Response 3.9.1**.

RESPONSE A26-9

Please refer to **Response A26-2**. As required by the Clean Water Act (CWA) Section 404 (b)(1) alternatives analysis, the project was designed to avoid all wetlands to the maximum extent feasible.

RESPONSE A26-10

Please refer to **General Response 3.10** regarding the enforceability of mitigation.

Mitigation Measures 2-1 through **2-4** in the Final EIR will ensure that development of the Proposed Project and associated stormwater discharges result in a less than significant impact. **Mitigation Measure 2-2** binds the Tribe to develop an Erosion and Sediment Control Plan through the development of a Tribal Ordinance. Once taken into trust, the site would be under the jurisdiction of the Tribe as well as the BIA and USEPA. The provisions of tribal ordinances will require identical erosion and sedimentation control as would be required by the City's permitting process. **Mitigation Measure 2-2** has been supplemented in the Final EIR with the following statement: "Permanent erosion control and

stormwater management features shall be consistent with relevant Bay Plan policies including, but not limited to, Policies 1 through 4 detailing design, construction, and long-term maintenance guidance.”

Mitigation Measure 2-3 has been clarified in the Final EIR so that it applies to both fee and trust property. The Tribe would be responsible for implementation of the erosion control features. The Tribe will ensure through contractual agreements that the construction contractor is responsible for maintaining erosion control on the entire project site.

While the above referenced mitigation measures would ensure that the Proposed Project would not result in significant impacts associated with stormwater discharges, pollution prevention would be enhanced through compliance with NPDES permit requirements (which would apply to both trust and fee land).

RESPONSE A26-11

Sections 4.5.1 and **4.5.2** quantify impacts to habitats, drainages, and wetlands (among others) for Alternative A. **Table 4.5-1** provides the exact acreage of habitats and jurisdictional waters that would be impacted as a result of the Proposed Project, which assumes a worst case scenario. As previously noted, significant changes were made to the Project footprint to avoid sensitive habitats and jurisdictional waters to the maximum extent feasible. Nonetheless, **Mitigation Measure 4-10** requires additional reconfiguration where feasible to lessen the area of impact to protected resources. Please refer to **Response A25-6** and **Mitigation Measures 4-10** through **4-12** for additional discussion of impacts and mitigation for wetland fill.

Project site drainage is addressed in **Section 2.2.2** whereas an NPDES general construction permit will be acquired for the project under regulation of Clean Water Act (CWA) and a Storm Water Pollution Prevention Plan (SWPPP) will be prepared and implemented for construction-related stormwater discharges. The plan will specify erosion and sediment control BMPs for all construction. While **Mitigation Measures 4-10** through **4-12** would ensure that the Proposed Project would result in the least amount of impacts to protected resources to the extent feasible, compliance with SWPPP requirements will supplement the protection of on-site streams and wetlands.

Mitigation Measure 4-11 states that “Typical 404-permit mitigation occurs at a ratio of 1:1 acres created versus impacted and 2:1 acres restored versus impacted, *though individual permit conditions may vary.*” This does not prematurely set mitigation ratios but simply implies that site specific circumstances will ultimately determine permit conditions for mitigation ratios.

Draft EIS/EIR **Section 3.3.1** states that the SFRWQCB is delegated 401 Water Quality Certification authority on fee lands.

Comment noted regarding underground stream channel restoration.

RESPONSE A26-12

The Final EIR has been updated to include a discussion of dewatering, including impacts associated with the known and potentially undiscovered contamination on the project site. **Section 3.3** has been updated to include a regulatory discussion regarding dewatering and the provisions of the State's NPDES general construction permit. The section has also been updated to address the existing NPDES permit for the project site pertaining to the discharge of treated groundwater associated with remediation activities. **Section 4.3** has been updated to address the potential impacts associated with dewatering and **Section 5.0** has been updated to include appropriate mitigation including additional SWPPP provisions.

RESPONSE A26-13

Mitigation Measure 9-3 requires the Tribe to pay its fair share to fund upgrades to the Richmond Municipal Sewer District's wastewater conveyance system to reduce existing rates of infiltration and inflow to such an extent as to provide adequate conveyance and treatment capacity for the selected alternative's peak day wastewater generation rate. Such improvements to the collection system (analyzed in **Section 4.14.8** of the Final EIR) would be complete prior to operation of the Proposed Project.

RESPONSE A26-14

Section 4.3 of the Final EIR has been updated to assess the potential impacts associated with the removal of the petroleum conveyance pipelines from the pier to water quality. As suggested, mitigation has been incorporated into **Section 5.2.2** of the Final EIR to mitigate potential impacts. Prior to implementation of the pipeline demolition, the Tribe shall consult with the RWQCB regarding the need for permitting.

RESPONSE A26-15

The soils and erosion control provisions of **Section 5.2.2** of the Final EIR (NPDES general construction permit SWPPP provisions) have been updated to include containment of quarried materials transported by barge across the Bay.

RESPONSE A26-16

The commenter suggests that an Integrated Pest Management Plan be developed and implemented to prevent the use of pesticides and herbicides at the site. As discussed in **Section 4.12**, pesticide related activities are primarily regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which requires that pesticide application occur in a manner consistent with product label instruction. Pesticide application would be performed in a manner consistent with product label and manufacturer's recommendations in order to reduce the risk of unintended environmental injury. Nonetheless, **Mitigation Measure 11-1(d)** has been updated to require that application of such products shall be completed in a manner that prevents contact with groundwater, streams, domestic water supply, or wetlands and that planting of native vegetation shall be emphasized that requires less, or no, pesticides or herbicides.

RESPONSE A26-17

Please refer to **General Response 3.10** regarding enforcement of mitigation. Impacts and regulatory requirements are outlined throughout the Draft EIS/EIR according to the appropriate regulatory agency. Please refer to **Response A26-2** regarding impacts to wetlands.

COMMENT A27

RESPONSE A27-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE A27-2

Ferry service to the project site would be provided by existing ferry routes that travel between Vallejo, Tiburon and San Francisco. Ferry service to the project site would be most effectively provided through “back-loading” of these existing ferry routes. This would be accomplished by stopping at the Point Molate pier in the reverse commute direction on “dead-head” runs that are virtually empty. As such, the number and frequency of ferry vessels passing the Point Molate pier is not expected to increase over existing conditions. Please refer to **General Response 3.12.1** regarding the proposed ferry service.

RESPONSE A27-3

Please refer to **Section 5.2.3** of the Final EIR for an expanded suite of mitigation measures targeted to reduce emissions associated with operation of the Proposed Project, including ferry service.

COMMENT A28

RESPONSE A28-1

It is acknowledged that the Tribe has submitted more than 5,000 pages of archival and ethnographic documentation that asserts a historical connection to the land (refer to comment letter **A-28**). The cultural setting information provided in the Draft EIS/EIR is intended only to establish a context for interpreting extant historical/prehistoric resources that could be subject to impacts from the development of the Proposed Project, and therefore used readily available, standard reference materials, and did not include research into primary source materials. The cultural setting presented in **Section 3.6** of the Draft EIS/EIR is in no way intended to serve as a definitive treatise on Native American occupation of the project site or vicinity. Moreover, the issue of ancestral ties to the project site is beyond the scope of the Draft EIS/EIR, which is intended to analyze environmental impacts resulting from implementation of one of the proposed alternatives. The lengthy “Indian Lands Determination” process, which is addressed as part of the realty component of the fee-to-trust application, is separated from the environmental compliance requirements. With these considerations in mind, the following response is offered.

Native American occupation of the greater Bay Area extends back to the terminal Pleistocene (ca. 10,000 years before present). In the millennia between initial occupation and the modern era, the cultural and ethnic make-up of the region shifted numerous times, as indicated by the archaeological record and glottochronological analysis (Breschini and Haversat, 1997; Dixon and Kroeber, 1919; Fredrickson, 1973, 1974; Krantz, 1977; Levy, 1978; Moratto, 1984; etc.). Spanish occupation of northern California had a devastating effect on the native population, which reduced their numbers by 80 percent or more as a result of disease, hardship, and forced labor (Pritzker, 2000). Widespread disruption of native lifeways during the contact period, which reached a crescendo in the mid 19th century, resulted in a period of punctuated redistribution of native territories as aboriginal occupants fled from areas under Euro-American domination. Given this historic reality, the Draft EIS/EIR does not attempt to provide the last word on prehistoric tribal distributions. Moreover, when such attempts have been made in the past, the findings are qualified by acknowledging that the notion of a “tribe” in the traditional sense does not always apply to California and that intermarriage, seasonal transhumance, and modern notions of ethnicity preclude the ability to definitively delineate “tribal” territories.

As described in the Draft EIS/EIR in **Section 3.6.2**, the open water adjacent to the project site was likely used by native peoples from all around the northern Bay Area. Remarking on the lack of defined territory within the waters near the project site, Barrett (1908:307) states that, “There is no definite knowledge obtainable concerning fishing and other rights on the waters of San Francisco and San Pablo Bays, but from all that can be gathered it seems probable that these were neutral grounds and that the Indians of the region all had equal rights in these waters off shore.”

Regarding the issue of consultation pursuant to the requirements of Section 106 of the National Historic Preservation Act, this process is on-going, with the BIA taking the lead. The implementing regulations, found at 36 CFR 800, mandate that such consultations be undertaken on a government-to-government basis.

COMMENT A29

RESPONSE A29-1

Summary comments noted. Comments are addressed in Responses A29-2 through A29-9 below.

RESPONSE A29-2

The discussion of social effects from gambling casinos is based on several sources including studies by the National Gambling Impact Study Commission (NGISC; 1999), National Opinion Research Center (NORC; 1999), and National Public Sector Gaming Study Commission (NPSGSC; 2000). While each of the studies is distinct, they consider a range of sources including: academic research, testimony on a range of topics from around the United States, review of articles and comments, and original datasets from statistics of 100 different United States communities and case studies of casino openings. Together they present a recent and comprehensive evaluation of on the social effects of problem gambling. As stated in

the Draft EIS/EIR, “several studies suggest that [problem and pathological gambling] differentials take effect for residents within a 50 mile radius of a casino, and increase... as the casino moves closer to the population,” (**Section 4.7.5**). According to Welte et al. (2004), the probability of being a problem or pathological gambler roughly doubles within ten miles of a casino site.

The Draft EIS/EIR does not discredit the idea that as the gaming market grows, society may be better able to prevent problem gambling addictions. This may be true as a result of an increase in society’s knowledge regarding the risks associated with gambling. However, the commenter relies on the idea of the Proposed Project’s entrance into a “mature” market to prove that such social adaptation has already been met, and therefore less treatment is needed for potential impacts to problem gambling. For the purposes of this analysis, a market is considered mature when demand has been satisfied and there is no longer significant growth or innovation potential in the market. As discussed in the Draft EIS/EIR (**Appendix T**), the current market is not yet saturated; that is, there is still unmet demand in the region, as well as opportunity for growth. Therefore, the California gaming market is considered to be in a stage of growth rather than a stage of maturity. As such, the Proposed Project stands to generate new gambling behavior in addition to capturing existing gamblers. The commenter is correct in stating that the Draft EIS/EIR mentions that gamblers are likely to already exist in the community due to the existence of other gaming facilities within 50 miles of the project site. However, this does not mean that all gamblers necessarily already exist in the community. Even if all gamblers attracted to the Proposed Project already exist in the community, the convenience of the Proposed Project’s location, in relation to other gaming facilities, may spur the generation of new gambling addictions for certain customers. For these reasons, the Draft EIS/EIR determined it is necessary to propose mitigation for both the prevention and treatment of problem gambling as a result of the Proposed Project.

The Final EIR acknowledges that only 3 percent of problem gamblers seek treatment. It is for this reason that proposed mitigation suggests compensation to provide for two new licensed counselors. Please see **Response A29-3** below.

RESPONSE A29-3

The commenter incorrectly references the Draft EIS/EIR when stating that mitigation proposes the Tribe compensate for the treatment costs of four percent of the population within 10 miles of the project site. The Draft EIS/EIR estimates the total number of potential problem gamblers generated would be four percent of the population within 10 miles of the project site, or 6,433 potential problem gamblers. Based on the proximity of the proposed Scotts Valley gaming facility to the Proposed Project, the increase in problem gamblers may be split between the two facilities. Therefore, approximately 3,217 problem gamblers could be directly attributed to the Proposed Project. As stated in **Section 3.7.5**, the Draft EIS/EIR recognizes that “approximately three percent of those with severe gambling problems are referred to specialized treatment in a given year.” Therefore, the Draft EIS/EIR proposes **Mitigation Measure 6-1** to compensate for the three percent of problem gamblers out of the estimated 3,217 total number of potential problem gamblers that may seek treatment. This equates to roughly 97 people that

may seek professional treatment to cope with a developed gambling problem as a result of the Proposed Project. The Draft EIS/EIR proposes that the Tribe compensate for two new licensed counselors for the treatment of problem gamblers. As discussed in **Section 4.7.5**, the estimation for two counselors is appropriate; based on information available from the Association of Problem Gambling Service Administrators, it can be assumed that approximately one counselor would be needed for every 52 persons in need of treatment. Furthermore, the IGA (**Appendix BB**) requires that the Tribe and the County engage in consultation every two years and assess the needs for counselors.

The commenter suggests the proposed mechanism for the correlation between problem gambling and casino location is either that gaming facilities are purposefully built in areas with already high proportions of pathological gamblers, or that problem gamblers typically relocate to areas near casinos. There has been no identified study to substantiate these claims.

RESPONSE A29-4

Please refer to **General Response 3.11.1** regarding potential impacts to crime as a result of the Proposed Project.

The commenter references several studies that suggest a link between problem gambling and other disorders, and notes that it is difficult, if not impossible, to separate cause from effect in this relationship (National Research Council for the National Gambling Impact Study Commission, 1999; Shaffer et. al, 1997; and Volberg et al., 2006). This valid point is not at odds with the analysis presented in the Draft EIS/EIR. Despite the fact that the cause of pathological behavioral problems cited by the commenter cannot be singularly attributed to the availability of gambling, the Draft EIS/EIR takes a conservative view of potential social impacts. Such a conservative view towards potential impacts associated with problem gambling is reflected in the Tribe's agreement in the IGA (**Appendix BB**) to sponsor a host of programs aimed at treating the disorder.

The Draft EIS/EIR acknowledges that many people with gambling addictions may overcome their addictions on their own, without counseling. For this reason, the Draft EIS/EIR proposes **Mitigation Measures 6-2** through **6-4** so that customers may be provided with information regarding the risks associated with gambling, as well as the availability of support groups and both the Tribe's voluntary and involuntary self-exclusion programs if the need arises. To avoid estimating the potential impacts and associated costs related to problem gambling at this time would not appropriately address the issue.

RESPONSE A29-5

Although the State of California is currently pursuing problem gambling prevention efforts through AB 637, **Mitigation Measures 6-1** through **6-4** are necessary. As the commenter summarizes, AB 637 was passed in 2003 with instruction for the Office of Problem Gambling to establish a problem gambling prevention program. **Mitigation Measures 6-1** through **6-4**, as well as additional provisions provided in Section 11 of the IGA, advance the goals of AB 637.

The Draft EIS/EIR does not contradict the claim that problem gambling prevention efforts are more effective at reducing problem gambling than investing solely in treatment after problem gambling habits have been developed. As detailed in **Section 5.2.6**, proposed mitigation measures include prevention efforts including a Responsible Gambling Program to support the development of awareness and prevention programs for problem and underage gambling at the gaming establishment. However, there has been no identified method of preventing all cases of problem or pathological gambling through prevention programs alone. As such, it is necessary to evaluate the potential impacts to problem and pathological gambling treatment facilities as a result of the Proposed Project. The Draft EIS/EIR proposes both preventative mitigation as well as treatment mitigation (**Section 5.2.6**).

RESPONSE A29-6

Comments are not in conflict with the analysis presented in the Draft EIS/EIR.

RESPONSE A29-7

Please refer to **Response A29-2** regarding the maturity of the California gaming market.

The Draft EIS/EIR acknowledges that raising public awareness can counteract some adverse effects from the increased availability of casino gambling. The Draft EIS/EIR proposes **Mitigation Measures 6-2** through **6-4** so that customers may be provided with information regarding the risks associated with gambling, as well as learn of the availability of support groups and the Tribe's self-exclusion program if the need arises.

However, it is conservative to assume that not all cases of problem gambling addiction can be prevented through the distribution of information. Therefore, **Mitigation Measure 6-1** provides compensation for problem and pathological gambling counseling services.

RESPONSE A29-8

Please refer to **Responses A29-3** and **A29-5**.

RESPONSE A29-9

As discussed in **Section 4.7** of the Draft EIS/EIR, the Proposed Project is expected to generate substantial social benefits for the City of Richmond and surrounding communities, including employment opportunities, wages, and overall economic output. Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities.

COMMENT A30

RESPONSE A30-1

Specific responses to this summary comment are provided below. The San Francisco Bay Plan (Bay Plan) dated January 2007 in **Appendix F** of the Draft EIS/EIR has been replaced with the amended version dated February 2008. The latest Bay Plan is also available online at <http://www.pointmolateeis-eir.com/>.

RESPONSE A30-2

The commenter inaccurately represents the scope of BCDC's permit jurisdiction under the McAteer-Petris Act (the "MPA") and the Coastal Zone Management Act (CZMA). The commenter asserts that, in addition to the Bay, certain areas formerly subject to tidal action, and the 100 foot "shoreline band," BCDC has jurisdiction over priority use areas designated in the Bay Plan and that a permit is required under the MPA for construction, dredging, fill placement, land subdivision, and substantial changes in use within such priority use areas. To the contrary, in areas landward of the high tide line, the authority BCDC has under the MPA to issue a development permit is limited to the 100 foot "shoreline band." Contrary to the commenter's assertion, activities within priority use areas but beyond the 100 foot "shoreline band" do not require a permit from BCDC. *See* Gov. Code §§ 66610 (definition of jurisdiction does not extend to priority use areas); 66653 ("If a function or activity is outside the area of the commission's jurisdiction or does not require the issuance of a permit, any provisions of the plan pertaining thereto are advisory only."). All commercial development, except the Kayaking Center, would be set back a minimum of 100-feet from the shore allowing for a 35-acre shoreline park.

The legislature directed BCDC to identify areas for water-oriented land uses, also known as priority use areas, under the rationale that preserving areas for water-oriented uses will minimize the need to fill the Bay to create new sites for such uses. Gov. Code § 66602. By identifying such areas in the Bay Plan, however, that does not give BCDC permitting authority over activities in priority use areas beyond the 100 foot shoreline band. Further, keeping in mind that the legislature's intent of designating priority use areas was to prevent unnecessary Bay fill, under CEQA, the question is whether allowing a land use that is inconsistent with the use identified for the priority use area will create pressure to fill the Bay elsewhere. *See Response A24-8* regarding the purpose and scope of conducting a plan consistency review under CEQA. The Project provides a number of water-oriented recreational opportunities, which are dependent on access to the bay, and would tend to reduce pressure to fill the bay.

RESPONSE A30-3

Please see Response A30-2 regarding BCDC's jurisdiction under the MPA. The commenter is correct that BCDC also has federal consistency review and authority under the federal Coastal Zone Management Act. Specifically, under the CZMA, BCDC "concur[s] with or object[s] to" consistency certifications filed

by a project applicant. Consistency reviews are required for activities that are reasonably foreseeable to affect the “coastal zone,” which is concurrent with BCDC’s jurisdiction. Thus, activities outside the 100-foot band that impact the shoreline band may be subject to the CZMA, even if not permit is required from BCDC under state law. **Section 3.5** of the Final EIR has been revised as suggested by the commenter.

RESPONSE A30-4

As described in **Section 1.1** of the Draft EIS/EIR, 266 upland acres of the roughly 413-acre project site would be taken into federal trust under Alternatives A, B, C, and B1. As “trust land”, the subject 266 acres would become sovereign Tribal land. The remaining portions of the upland areas, which the City would retain title to, would be leased to the Tribe. No change in ownership is proposed for the submerged lands within the Bay.

RESPONSE A30-5

As the commenter notes, the entirety of the project site is designated as a priority use area within the Bay Plan. Please see **Responses A30-2 and A30-3** regarding BCDC’s jurisdiction authority under the MPA and CZMA.

The commenter is correct that in addition to its authority under the MPA, BCDC administers the Coastal Zone Management Program under the CZMA within the Bay Area. Under the CZMA, activities requiring a federal permit or funding that may effect the coastal zone (i.e., the 100 foot shoreline band) must, “to the maximum extent practicable,” be consistent with the state’s management program. Within the Bay Area, the coastal management program consists of the Bay Plan. Under the CZMA, any applicant for a federal license or permit to conduct an activity, inside or outside the coastal zone, having an effect on any land or water use or natural resource of the coastal zone, must provide “a certification that the proposed activity complies with the enforceable policies of the state’s approved program and that such activity will be conducted in a manner consistent with the program.” 16 U.S.C. § 1456(c)(3)(A). BCDC, as the administrator of the coastal program, may either concur or object to a consistency certification submitted by the applicant. If BCDC objects to the consistency certification, the project cannot proceed unless the project is modified to become consistent, or the Secretary of Commerce overrides BCDC’s objection and finds that the activity is consistent with the objectives of the CZMA.

As stated within the Draft EIS/EIR, **Response A24-8**, and **Response A30-7** (below), the Proposed Project is consistent with Bay Plan Recreation Policy 4-b.

RESPONSE A30-6

A Commission Permit and Consistency Determination are included in **Table 1-1** of the Draft EIS/EIR. The Final EIR has been updated to remove the text that no permit is required. See **Responses A30-2, A30-3, and A30-5** regarding the scope of BCDC’s jurisdiction and authority under the MPA and CZMA.

Once the land is taken into trust under Alternatives A, B, C, and B1, the BCDC would retain jurisdiction over the 50-foot wide strip of shoreline owned by the City (16 CFR 1453 (1)).

RESPONSE A30-7

Please refer to **Response A24-8** regarding the relevance of Bay Plan Map No. 4 Policy 7 and Recreation Policy No. 4-b to the Proposed Project.

The commenter states that the Proposed Project would be “located at the flattest section of the project site, an area best-situated for open and large-scale public park use.” As described in **Section 2.2**, the Proposed Project restricts the majority of redevelopment to the previously developed portions of the project site. A 35-acre shoreline park would be developed within the BCDC jurisdiction, while new construction would largely be located outside of the shoreline band, except to provide permissible park amenities.

It is unclear how the commenter determined that the commercial development component would dominate the site. As described in **Section 2.2**, Alternative A would preserve and maintain approximately 180-acres as open space and parkland, which equates to approximately two-thirds of the project site which is not submerged within the Bay. The Proposed Project would provide amenities that would include pedestrian trails, picnic areas, restroom facilities, park recreation facilities, and cultural exhibits. All commercial development, except the Kayaking Center, would be set back a minimum of 100-feet from the shore allowing for a 35-acre shoreline park. Both the hillside open space and shoreline park would be open to the public during regular hours of operation. Considering the substantial amount of the project site that would be maintained as public open space and parkland, the Proposed Project would not diminish the designated use of the site as a park and thus does not appear to be inconsistent with the Bay Plan policies regarding the priority use area.

The commenter suggests that the Proposed Project is inconsistent with the Bay Plan Recreation Policy No. 4-a and 4-b. Policy No. 4-a lists a number facilities which should be encouraged in waterfront parks. It is unclear how the Proposed Project is inconsistent with this policy as its components include many of the facilities encouraged by the policy. The only facility mentioned by the commenter that the Proposed Project does not include is the boat docking and launching facilities, which were found to be inappropriate due to the sensitive eelgrass habitat located within the Bay. Instead, the Proposed Project includes a Kayaking Center which provides launching and landing access for sail boards, kayaks, and car-top inflatables. The commenter cites a portion of Policy No. 4-a, which provides guidelines for permitting commercial recreation; however, the citation provided was incomplete. Below is the complete statement with the missing portion italicized:

“Except as may be approved pursuant to recreation policy 4-b (Emphasis added), limited commercial recreation facilities, such as small restaurants, should be permitted within waterfront parks provided they are clearly incidental to the park use, are in keeping with the basic character of the park, and do not obstruct public access to and enjoyment of the Bay. Limited commercial

development may be appropriate (at the option of the park agency responsible) in all parks shown on the Plan maps except where there is a specific note to the contrary.”

As Bay Map No. 4 Policy 7 explicitly notes that the project site should be developed consistent with Recreation Policy 4-b, it would not be necessary to find that the proposed uses are “incidental” to park use nor “limited”. As the commenter stated, the “Commission itself has not yet reviewed the DEIS/EIR” and so they have not made a formal consistency determination. Please refer to Draft EIS/EIR **Impact 4.9.2** and **Response A24-8**, regarding the Proposed Project’s consistency with Policy 4-b.

The commenter suggests that the Proposed Project is inconsistent with the Bay Plan based on “past Commission action on other projects for non-park commercial development on former military bases designated for Waterfront Park, Beach priority use areas.” The commenter then goes on to detail the Commission’s findings for the Fort Baker and Presidio projects. In regards to the Presidio, the commenter states that “the Commission determined that because the project would result in an increased area dedicated to recreation – approximately 100 acres...the proposal would be consistent with its laws and policies.” Considering that the Proposed Project would create approximately 180 acres of land dedicated to recreation where no land is currently dedicated to recreational uses, it would appear that the Proposed Project meets the criteria outlined by the commenter. The commenter also highlights the fact that the bulk of the developed areas of the Presidio, as with the Proposed Project, would not occur adjacent to the shoreline thus reducing related impacts directly at the shoreline area. Finally, as demonstrated by the analysis in Draft EIS/EIR in **Section 4.0**, similar to the Presidio redevelopment, commercial use of the project site is necessary to fund the long-term rehabilitation and maintenance of the site, including both the open space/park uses and the Winehaven Historic District.

RESPONSE A30-8

Please refer to **General Response 3.3.2** for a discussion of the project objectives vis-à-vis redevelopment within the Historic District. In short, adaptive reuse of 97 percent of the buildings in the Historic District would provide for the significant funds required to rehabilitate the retained historic buildings.

As discussed in **Section 4.6** of the Draft EIS/EIR, the significant historic resource impacts related to demolition of Building No. 6 under Alternatives A – D are disclosed and mitigation measures are presented in **Section 5.2.5** that would lessen the severity of, but not eliminate, the impact. Mitigation presented in **Section 5.2.5** requires the development of a Programmatic Agreement (PA), in consultation with the State Historic Preservation Officer. Design Guidelines, which shall comply with the *Secretary of the Interior’s Standards and Guidelines for the Treatment of Historic Properties*, would govern the rehabilitation of all retained buildings within the Historic District as well as new construction near or within the historic core of the District. The Design Guidelines would incorporate the Preservation regulations of the City of Richmond. The host of requirements listed in **Mitigation Measures 5-1, 12-1, 12-2, and 12-3** will ensure that the modification of buildings and introduction of new elements would be

done in a manner that preserves the aesthetic quality and historic character of the site to the greatest extent feasible, while still meeting most of the objectives of the Project.

Between the six alternatives considered, the Draft EIS/EIR considers a “reasonable range” of alternatives under both CEQA and NEPA, including a new variant of Alternative B (Alternative B1) that preserves Building No. 6. Please refer to **General Response 3.3.2**.

RESPONSE A30-9

As described in **Section 2.2.2** of the Draft EIS/EIR, Alternatives A, B, C, and D would provide a 35-acre shoreline park with public access to the Bay along the entire shoreline of the project site. The shoreline park would include large vegetated areas for walking and enjoying the shoreline, public art and cultural exhibits, picnic areas (both open and reserved), park recreation facilities (play areas, equipment rental, etc.) and restrooms facilities. Hours of operation at the shoreline park would meet or exceed those of surrounding regional parks in Contra Costa and Alameda Counties. Alternative E contemplates a Total Parkland Alternative, with only limited development required to facilitate recreational use of the property. As such, the five alternatives described above provide for maximum feasible access to and along the waterfront at Point Molate.

It should be noted that the Draft EIS/EIR represents a planning document that outlines the primary components of the Proposed Project in order to analyze potential environmental impacts. As such, design-grade illustrations are not provided. Nonetheless, the document presents adequate illustrated site plans and renderings to allow for an understanding of how each of the proposed amenities articulates with one another, including trail connections to the parkland and open space. Please refer to the site plans illustrated in **Figures 2-3, 2-8, 2-11, 2-14, and 2-17** and architectural renderings presented in **Figures 2-9, 2-10, 2-12, 2-13, 2-15, and 2-16** of the Draft EIS/EIR for a depiction of the conceptual layout. Moreover, all of the alternatives would preserve views of the Bay and regional landscape from the open spaces along the shoreline area.

Moreover, implementation of the Proposed Project would remove the existing barriers to public use and ensure free access for the physically handicapped. It is anticipated that more detailed site plans, depicting all access points, water-oriented recreational facilities, and other features shall be resolved with further consultation with BCDC should one of the alternatives be adopted by the lead agencies. All such amenities would be required to conform to Bay Plan Recreation Policy No. 3 to assure accessible, safe, diverse, and compatible recreational facilities, which would be a condition of approval by BCDC.

RESPONSE A30-10

Please refer to **General Response 3.17** for a discussion of aesthetics and preservation of natural vistas within the project site. New development would be constructed in “clusters,” as recommended by the commenter, in that the resort facilities would generally be located in the northern third of the site on both

sites of Western Drive, in the same general area as the existing Naval fuel depot and Winehaven buildings. This clustering would generally retain existing views from Western Drive to the Bay. As stated in the Draft EIS/EIR, the parking garage located west of Western Drive would be subterranean, so as to not obscure views of the Bay or hillside areas. The parking garage located east of Western Drive would be semi-subterranean in order to minimize potential aesthetic impacts. Please refer to **Section 3.9.1** of the Draft EIS/EIR for a discussion of the Bay Plan Policy No. 4. Finally, it is recognized that close consultation with BCDC and the Commission's Design Review Board will be an essential component of the consistency determination process.

RESPONSE A30-11

The Draft EIS/EIR, in **Section 2.2.2**, describes the proposed Bay Trail segment to be constructed on-site, as well as the interconnected hillside trails, which, as the commenter notes, would be consistent with the Bay Plan policies regarding transportation. Reconfiguration of Western Drive would primarily emphasize widening to increase capacity and limited straightening and vertical adjustment to provide for greater safety. Such modifications would not alter the ability of users of this roadway to view the Bay or otherwise impact its designation as a Scenic Drive. The location of project buildings would generally retain existing views from Western Drive to the bay. The proposed pedestrian bridge across Western Drive would be placed in the developed core of the Historic District (where existing buildings already obscure the view from Western Drive to the bay) to provide a safe and convenient link for pedestrians between the various amenities of the project site.

RESPONSE A30-12

The proposed ferry mooring locations, which are described in **Section 2.2.2** of the Draft EIS/EIR and depicted in **Figure 2-7**, are located at the deepwater channel end of the pier, where the depth of the Bay is approximately 30 feet. Such a depth would easily accommodate the draft of passenger ferry vessels, and no dredging would be required. Please refer to **General Response 3.9.1** for a discussion of potential impacts to sensitive habitats associated with the proposed ferry service.

As stated in **Section 2.6.2** of the Draft EIS/EIR, mooring of private boats would not be allowed at the pier, partly because the height of the pier deck is too high for private recreational boats to feasibly use. Rather, a kayaking center would be provided in the southern portion of the project site to allow for launching and landing of non-motorized boats at the project site. Mooring facilities for private boats are provided at the Point San Pablo Yacht Harbor, located a short distance north of the project site.

Transit links and parking provisions are discussed at length throughout **Section 2.0** of the Draft EIS/EIR. In summary, the Project proposes an intermodal transit hub at the site, served by ferry and public transit, which would provide an indirect link to Amtrak and BART. Additional transit measures are provided as mitigation throughout **Section 5.0** of the Final EIR.

RESPONSE A30-13

Using the best available information, it has been established that the existing pier was constructed shortly after the Navy took possession of the property in 1941, prior to enactment of the McAteer-Petris Act. Therefore, as stated by the commenter, the minor improvements as proposed in **Section 2.2.2** and **Figure 2-7** of the Draft EIS/EIR would not be considered new Bay fill. In addition, the current structural integrity of the pier, which was significantly upgraded by the Navy in 1992, will support the proposed modifications and would not warrant modification of the pier pilings or piling caps.

RESPONSE A30-14

Comment noted.

RESPONSE A30-15

Text has been added to Final EIR **Mitigation Measure 4-8** to ensure safe navigation and avoidance of sensitive eelgrass habitats, consistent with the Bay Plan Recreation Policy No. 8.

RESPONSE A30-16

Tables 4.5-1 through **4.5-4** show that no direct impacts would occur from project construction for Alternatives A-D. **Mitigation Measures 4-6** and **4-7** commit setbacks, biological monitoring and consultation to ensure that indirect impacts do not occur to beach strand and tidal marsh habitats during construction.

RESPONSE A30-17

Table 1-1 of the Final EIR has been updated to address the need for Water Quality Certification for federal approvals including approvals from BCDC. **Mitigation Measure 2-2** in **Section 5.2.2** of the Final EIR has been updated to clarify that permanent erosion control and stormwater management features located on fee lands shall be consistent with relevant Bay Plan policies including, but not limited to, Water Quality Policies 1 through 4 detailing design, construction, and long-term maintenance guidance.

RESPONSE A30-18

Section 3.3.2 of the Final EIR has been updated to clarify that the project site is not located within an area prone to flooding from a potential rise in sea level of 15 inches or 55 inches as mapped by BCDC. Please refer to **General Response 3.8.2** regarding potential impacts related to projected sea level rise.

RESPONSE A30-19

Comment noted.

4.2 RESPONSES TO WRITTEN INDIVIDUAL COMMENTS

COMMENT I1

RESPONSE I1-1

Please refer to **General Responses 3.11** regarding the analysis of socioeconomic impacts.

RESPONSE I1-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I2

RESPONSE I2-1

Please refer to **General Response 3.11.1** regarding potential impacts to crime.

The commenter is correct that the Proposed Project would increase traffic; however, as described in **Sections 4.8, 4.15, and 5.2.7** of the Draft EIS/EIR, mitigation has been proposed to reduce impacts due to increased project-related traffic. As discussed in the context of each relevant impact statement, some transportation impacts are considered significant and unavoidable because the full suite of required improvements may not be implemented since the subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan by the jurisdictional agency to help fund or implement the improvements.

RESPONSE I2-2

Please refer to **General Response 3.11.4** regarding the economic viability of the Proposed Project. The other project referred to by the commenter is the proposed Scotts Valley Casino project, which is addressed in the cumulative analysis of the Draft EIS/EIR (**Section 4.15**).

COMMENT I3

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. Refer to **General Response 3.16.3** regarding security at the neighboring Chevron Refinery.

COMMENT I4

RESPONSE I4-1

Comment noted.

RESPONSE I4-2

As described under the *Parkland and Recreation* discussion in **Section 2.2.2** of the Draft EIS/EIR, the Proposed Project would include construction of a segment of the San Francisco Bay Trail through the Point Molate property. The proposed trail would be located along the shoreline of the Point Molate property and would be maintained by the Tribe. Bicycle lanes would be provided on Western Drive in conjunction with the widening and other improvements proposed as part of the project if the portion of the Bay Trail immediately south of the project site is not complete by the time the Project becomes operational. The bike lanes would then connect to the existing bicycle path that crosses under I-580. Please refer to revised **Improvement Measure 7-20** in the Final EIR.

In the absence of significant impacts associated with the project, the Lead Agencies cannot arbitrarily impose off-site mitigation, such as construction of additional segments of the Bay Trail. Moreover, such mitigation would be infeasible since it would require construction through private property (Chevron) south of Point Molate. However, mitigation in **Section 5.2.3** of the Final EIR does require the Tribe to help fund improvements for the trail segment between I-580 and the project site to provide a catalyst for completion and encourage bicycle and pedestrian connectivity.

Please refer to **General Response 3.17** for a discussion of issues related to potential aesthetic impacts.

RESPONSE I4-3

Bicycle connectivity to the site is currently provided by a path that runs from Tewksbury Avenue in Point Richmond, which uses a quarter-mile segment of I-580. While the current configuration is not ideal, the City, Chevron, and other stakeholders are working towards providing a safer connection that avoids using I-580. The City has awarded a contract to design, conduct necessary studies, and acquire permits to build a new segment of the Bay Trail. The Bay Trail project would “construct a Class I, two-way, multi-use trail from the intersection of Castro Street and Tewksbury Avenue to the south side of the existing trail passing under the Richmond/San Rafael Bridge and will include a bridge component to the Chevron facilities. The design of the trail will parallel the south side of Interstate 580 (City of Richmond, 2009).” The starting point for design will be trail alignment Option 2 and 5 from the July 31, 2001 *Feasibility Study of Bay Trail Routes to Point San Pablo Peninsula*, which includes an easement over Chevron Property. “The [final] trail alignment and design shall be determined in consultation and with agreement from the Trail Working Committee that includes the City, Chevron, Caltrans, and ABAG’s Bay Trail project and coordinated with other Bay Trail related projects in the area (City of Richmond, 2009).” Upon completion, this new segment will provide improved bicycle connectivity and allow for pedestrians to access the northern San Pablo Peninsula from Point Richmond. Refer to **Response I4-2** above regarding bike lanes on Western Drive.

RESPONSE I4-4

Please refer to **Response I4-2**.

RESPONSE I4-5

The Trails for Richmond Action Committee (TRAC) cites General Plan Goal OSC-S item 1, which states “City will require all new commercial, industrial, and residential developments to provide public access where a local or regional trail (e.g., Bay Trail and Bay Area Ridge Trail) is planned or located.” The Proposed Project is consistent with this goal as the entire shoreline area at Point Molate would be open to the public and the Bay Trail segment through the project site would be completed. The commenter misinterprets the General Plan Goal to mean that new developments are required to acquire land and construct improvements on adjacent properties, which is incorrect. The commenter goes on to bullet-point several goals and policies from the General Plan related to bicycle and pedestrian access and notes that an EIR must discuss inconsistencies with such plans. In each case, the Proposed Project would not conflict with the stated goals and policies, as detailed below:

- Policy CIR-A.5: *Promote access to the City's recreational areas, shoreline area and community facilities.* The Proposed Project emphasizes recreational use of the property and provides for free and open public access to shoreline and upland areas within the property.
- Policy CIR-B.3: *Maintain a safe, effective and attractive bicycle and pedestrian circulation system, with particular emphasis on the San Francisco Bay and the Bay Area Ridge Trails and ensuring that new or existing developments are interconnected.* The Proposed Project would integrate safe, effective and attractive bicycle and pedestrian circulation facilities throughout the development. The City is pursuing the implementation of its stated policy by working cooperatively with all stakeholders to complete the above referenced trail between Point Richmond and the northern portion of the San Pablo Peninsula. Refer to **Response I4-2** above regarding bike lanes on Western Drive.
- Policy CIR-C.3: *Provide a network of bicycle routes offering safe and easy access to all portions of the City.* Implementation of the Proposed Project is consistent with this policy in that it proposes to construct a significant segment of the Bay Trail through the project site and would provide bike lanes along Western Drive to I-580 in the absence of a completed link by the time the Project becomes operational (**Improvement Measure 7-20**). Additionally, mitigation in **Section 5.2.3** of the Final EIR requires the Tribe to help fund improvements for the Bay Trail segment between I-580 and the project site to provide a catalyst for completion and encourage bicycle and pedestrian connectivity.
- Shoreline Guideline 1: *Promote more effective movement of people to and within the shoreline areas by: (1) increased public transit service linked to BART; and (2) development of convenient bicycle and foot trails.* The Proposed Project would provide increased public transit service linked to BART (see **Mitigation Measure 3-23** and **Improvement Measure 7-18**) and provide bicycle and foot trails throughout the project site. Moreover, the Project would provide for more effective movement of people within the shoreline by completing a significant segment of the Bay Trail along the entire length of the project site.

- Shoreline Guideline 2: *Promote circulation facilities in the shoreline areas that will assist inland residents in taking advantage of the shoreline. Stress that the design of these facilities should not block access to the waterfront.* As described in **Section 2.0**, the Proposed Project would provide unfettered access to the shoreline at Point Molate and provide access via public transit, ferry, automobile (with on-site parking), and bicycle.
- Shoreline Guideline 5: *Encourage development of a system of hike/bike trails throughout the shoreline area as shown on Circulation Plan Map, 2.* As previously discussed, the Proposed Project would be consistent with this guideline by providing pedestrian and cycling trails along the proposed shoreline park.
- West Shoreline Guideline 6: *Encourage the creation of a recreational corridor along the western shore of Point San Pablo through trail connections between parks and commercial recreation sites.* Again, the Proposed Project advances the City's guidelines by providing a recreational corridor through the shoreline park proposed along the entire length of Point Molate.

RESPONSE I4-6

Please refer to **Response I4-2** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail.

The commenter suggests that the Draft EIS/EIR errs in stating that the segment of the Bay Trail between the Point Molate property and I-580 “would likely be via a spur along Western/Winehaven Drive (Draft EIS/EIR page 2-24).” In fact, the General Plan states, under West Shoreline Guidelines (6), that a bicycling trail should be established “from I-580 along Western Drive to the tip of Point San Pablo (as shown on Circulation Plan Map 2 of 2).” While it is the ultimate planning goal to locate the segment north of I-580 along the shoreline, interim provisions are being made to provide bicycle access to the site while the process of acquiring off-site easements, funding design, environmental review, and construction proceeds. A significant step forward was achieved in November 2009, when Chevron agreed to donate 1.5 miles of its property to the East Bay Regional Park District (EBRPD) for Bay Trail easements on the west side of the San Pablo Peninsula. The two easements are located between the Richmond San Rafael Bridge to the Point Molate property on the south, and between the Point Molate property and the City's Terminal 4 property on the north. The EBRPD Board of Directors voted to accept Chevron's donation and appropriated \$100,000 for trail alignment engineering, surveying and title costs.

Improvement Measure **7-20** has been added to the Final EIR that requires inclusion of bicycle lanes on Western Drive as part of the improvements associated with the Proposed Project *if* the Bay Trail segment between the Point Molate and I-580 is not functional by the time the Proposed Project becomes operational. In addition, sidewalks will be provided along the same segment of Western Drive in the absence of the aforementioned Bay Trail segment.

RESPONSE I4-7

Please refer to **Response I4-2** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail.

RESPONSE I4-8

The commenter suggests that the Draft EIS/EIR fails to “recognize and evaluate aesthetic impacts of development alternatives on users of the Bay Trail and shoreline parks.” Aesthetic changes and potential impacts on views from all sides are analyzed and discussed in several portions of the document, including **Sections 4.13.1 through 4.13.24**. The referenced sections consider changes to the aesthetic character of the site from a range of vantage points, which include the trail and shoreline areas.

As illustrated in the site plans (**Figures 2-3, 2-8, 2-11, 2-14, and 2-17**) and architectural renderings (**Figures 2-9, 2-10, 2-12, 2-13, 2-15, and 2-16**) presented in the Draft EIS/EIR, all of the Alternatives would preserve views of the Bay and regional landscape from the open spaces along the shoreline area. While each of the proposed development alternatives would alter the aesthetic character, all changes would be in accordance with strict design guidelines, as discussed below. Moreover, implementation of the Proposed Project would remove a significant number of blighted Naval installations throughout the property, thereby improving the aesthetic character of the project site.

RESPONSE I4-9

In addition to the analysis in the above referenced sections, aesthetic impacts are also considered in the context of the historic character of the project site, as discussed in **Sections 4.6.1 through 4.6.35**. Mitigation measures recommended to address potential impacts associated with the loss of a historic building, relocation of another, and introduction of new elements of the built environment are now cross referenced in **Section 4.13** of the Draft EIS/EIR. Potential aesthetic impacts discussed in **Sections 4.13.1, 4.13.5, 4.13.9, and 4.13.13** now reference **Mitigation Measure 5-1**, which requires the development of a Programmatic Agreement (PA), in consultation with the State Historic Preservation Officer, which addresses a host of potential impacts related to the aesthetic and historic character of the project site. Design Guidelines, which shall comply with the *Secretary of the Interior’s Standards and Guidelines for the Treatment of Historic Properties*, will govern the rehabilitation of all retained buildings within the Historic District as well as new construction near or within the historic core of the District. The Design Guidelines will incorporate the Preservation regulations of the City of Richmond. The host of requirements listed in **Mitigation Measures 5-1, 12-1, 12-2, and 12-3** will ensure that the modification of buildings and introduction of new elements would be done in a manner that preserves the aesthetic quality of the site and reduces all related aesthetic impacts to a less than significant level.

RESPONSE I4-10

Please refer to **Figures 2-9, 2-10, 2-12, 2-13, 2-15, and 2-16** for architectural renderings of the various alternatives.

RESPONSE I4-11

Mitigation Measure 5-1 includes a suite of guidelines for development within the Winehaven Historic District, which include appropriate set-backs, retention of vistas, and recognition of appropriate massing and height.

RESPONSE I4-12

The commenter's opinion that Alternatives A and B would have the "most severe" aesthetic impact is noted. However, with mitigation, all aesthetic impacts are reduced to a less than significant level. Nonetheless, **Table 2-8** in **Section 2.9.2** has been updated to indicate that Alternative E would have a qualitatively lessened impact compared to Alternatives A – D.

RESPONSE I4-13

The Draft EIS/EIR plainly states the acreages proposed for each parkland and recreational use. Please refer to **Tables 2-2** and **2-6**, which state that the combined shoreline park / hillside open space would be 180 acres for Alternatives A, B, and D, and a total of 236 acres under Alternative C.

RESPONSE I4-14

Comment noted.

COMMENT I5

RESPONSE I5-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I5-2

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

RESPONSE I5-3

The City has engaged in a multi-year effort to define a range of reasonable alternatives for the productive reuse of Point Molate, as required in the Dellums legislation that provided for the sale of the property to the City. This process included forming a Blue Ribbon Advisory Board, Restoration Advisory Committee, as well as holding a public scoping hearing and collecting a large number of comments on the range of alternatives to be considered (**Appendix B**).

CEQA requires the lead agency to consider “a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives (14 C.C.R. § 15126.6(a)).” Similarly, NEPA Section 1502.14(a) requires federal agencies to explore a reasonable range of alternatives. An agency’s range of alternatives is evaluated under a “rule of reason” standard, which requires an agency to set forth only those alternatives necessary to permit a reasoned choice. An agency’s consideration of alternatives is sufficient if it considers an appropriate range of alternatives, even if it does not consider every available alternative.

COMMENT I6

RESPONSE I6-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I6-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

RESPONSE I6-3

Comment noted.

COMMENT I7

RESPONSE I7-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I7-2

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I7-3

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I8

RESPONSE I8-1

Comment noted.

RESPONSE I8-2

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

Refer to **General Response 3.13.1** regarding the Proposed Project's consistency with the General Plan.

COMMENT I9

RESPONSE I9-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I9-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I10

RESPONSE I10-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I10-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I11

RESPONSE I11-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I11-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I12

RESPONSE I12-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I12-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I13

RESPONSE I13-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I13-2

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I13-3

Air quality mitigation, which would reduce project-related impacts to a less than significant level, is provided in **Section 5.2.3** of the Draft EIS/EIR.

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

RESPONSE I13-4

Comment noted.

COMMENT I14

RESPONSE I14-1

Generally casino traffic does not coincide with commuter traffic. Western Drive would be expanded and ferry service would be provided. As described in **Sections 4.8, 4.15, and 5.2.7** of the Final EIR, mitigation has been proposed to reduce impacts due to increased project-related traffic, including keeping Western Drive open 24 hours a day, seven days a week during construction and operation of the Proposed Project. As discussed in the context of each relevant impact statement, some transportation impacts are considered significant because the full suite of required improvements may not be implemented since the

subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan to help fund or implement the improvements.

RESPONSE I14-2

Please refer to **General Response 3.13.2** regarding open space at the project site.

COMMENT I15

RESPONSE I15-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I16

RESPONSE I16-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I17

RESPONSE I17-1

Mitigation Measure 3-18, presented in the Draft EIS/EIR requires that the Tribe encourage the use of public transit systems by enhancing safety and cleanliness at transit stops.

COMMENT I18

RESPONSE I18-1

Construction traffic impacts are analyzed in **Section 4.8** in the Draft EIS/EIR. Impacts to the roadway network and intersections were determined to be less than significant; however, **Mitigation Measures 7-1** and **7-2** would be implemented to reduce traffic flow issues. **Mitigation Measure 7-2** in the Final EIR has been augmented to require that Western Drive remain passable to through traffic 24 hours a day, seven days a week, to provide access to and from other land uses located on the San Pablo Peninsula. In the event that portions of Western Drive must be closed temporarily, reasonable detours shall be provided such that access to the San Pablo Yacht Harbor and other adjacent land uses is not restricted.

Operation traffic impacts are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR and in the TIA and supplemental TIA. Mitigation is recommended for all intersections and roadways that were found to have a significant impact due to project-related traffic. It should be noted that the Tribe does not have jurisdiction over off-reservation roadway or intersection facilities and therefore, some impacts are shown in **Section 4.15** as significant in the cumulative year.

RESPONSE I18-2

As stated in **Section 2.2.2** of the Draft EIS/EIR, the Proposed Project shall include the construction and operation of an on-site fire station fully staffed by City of Richmond Fire Department personnel. Provisions within the MSA between the Tribe and the City require Tribal funding for these expanded City services. The MSA additionally states that the Tribe must provide a contractual agreement with a local Emergency Medical Service (EMS) provider to further assist in transportation of patients from the project site. However, based on Article 10A of the IGA, the Tribe agrees to contract with the County to provide emergency ambulance service to the project site. **Section 2.0** of the Draft EIS/EIR provides a description of the on-site Fire Department facilities which shall be constructed under the Proposed Project. Furthermore, the IGA (**Appendix BB**) between Contra Costa County and the Tribe provides for reimbursement to the County for actual costs of uncompensated ambulance service provided to patrons or employees who are transported by the County's designated ambulance provider from the project site to a County hospital.

COMMENT I19

RESPONSE I19-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I20

RESPONSE I20-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I20-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I21

RESPONSE I21-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I21-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

RESPONSE I21-3

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I22

RESPONSE I22-1

Comment noted.

RESPONSE I22-2

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I22-3

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I23

RESPONSE I23-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I23-2

Sections 4.8 and **4.15** of the Draft EIS/EIR and the Supplemental TIA analyze potential impacts to the Richmond-San Rafael Bridge. It was determined that in the build-out year project-related traffic would have a less than significant impact on the level of service on the bridge. However, in the cumulative year there would be a significant impact and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. However, it was concluded that the required mitigation is infeasible at this time since the facilities requiring improvements are outside the jurisdiction of the City of Richmond and there is currently no plan to fund or implement the improvements on the part of Caltrans.

Potential impacts to air quality are discussed in **Section 4.4** and **4.15** of the Draft EIS/EIR. With implementation of mitigation provided in **Section 5.2.3** of the Final EIR all air quality impacts were found to be less than significant.

RESPONSE I23-3

Please refer to **General Responses 3.11.1** and **3.11.3** for more information on potential impacts to crime and employment opportunities, respectively.

RESPONSE I23-4

Refer to **Response I23-2** regarding traffic and air quality impacts associated with the Proposed Project. As described in **Section 2.2.2** of the Draft EIS/EIR, the Tribe would fund the construction and maintenance of a segment of the San Francisco Bay Trail along the entire length of the project site. Please refer to **General Response 3.4** for additional information regarding the proposed Bay Trail at the project site.

COMMENT I24

RESPONSE I24-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding construction of the Bay Trail within and adjacent to the project site.

COMMENT I25

RESPONSE I25-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I25-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I26

RESPONSE I26-1

As described in **Section 2.2.2** of the Draft EIS/EIR, pedestrian and bicycle trails are components of the Proposed Project. **Improvement Measure 7-20** provided in **Section 5.2.7** of the Final EIR states that bicycle lanes along Western Drive shall be provided from the project site to the existing trail under I-580 *if* the Bay Trail segment between the Point Molate site and I-580 is not functional by the time the Proposed Project becomes operational. In addition, sidewalks will be provided along the same segment of Western Drive in the absence of the aforementioned Bay Trail segment (applicable to Alternatives A, B, C, and D).

COMMENT I27

RESPONSE I27-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I27-2

Please refer to **General Response 3.11.1** for a discussion of crime. The commenter does not cite which research she is referring to. Based on studies by the NGISC (1999), NORC (1999), and NPSGSC (2000), there has been no causal link between casino-style gambling and crime.

Please refer to **General Response 3.11.4** for a discussion of the economic viability of the Proposed Project. The commenter does not list which casinos have failed. According to the Economic Impact Study prepared by the Gaming Market Advisors, with development of the Proposed Project, the Richmond area gaming market is expected to grow by approximately 20 percent to \$2.20 billion in 2012 (**Appendix T**).

Please refer to **General Response 3.11.6** for a discussion of potential impacts to social services. The Draft EIS/EIR acknowledges that the Proposed Project may have a potentially significant impact to social services. Mitigation measures are outlined in **Section 5.2.9** that would reduce such impacts to a less than significant level, as discussed in **Section 4.7.5** of the Draft EIS/EIR. Please refer to **General Response 3.11.5** for a discussion on the economic impact to immediate and surrounding communities. The Draft EIS/EIR assesses the potential impact on minority and low-income communities at-risk from the Proposed Project. **Section 4.7** of the Draft EIS/EIR determined that no identified low-income or minority communities would be disproportionately adversely impacted by the Proposed Project.

RESPONSE I27-3

Comment noted.

COMMENT I28

RESPONSE I28-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I28-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I29

RESPONSE I29-1

As described in **Section 2.2.2** of the project description, the on-site ferry service, expanded transit service, and recreational trails are elements of the Proposed Project. Service letters from the proposed ferry and transits providers are included at the end of **Appendix S** of the Draft EIS/EIR. As elements of the Proposed Project, such amenities and services were factored into the analyses presented in the document. If the project proponents decided to remove the ferry service, expanded transit service, or recreational trails, the Draft EIS/EIR would no longer be adequate and, at a minimum, a supplemental analysis would be required. However, these project components are fundamental to the overall viability of the project and are not expected to be excluded.

RESPONSE I29-2

AC Transit was consulted in the course of completing the transportation studies for the Proposed Project. In June 2008, AC Transit provided a letter outlining several ways in which its routes could be expanded to provide regular service to and from the project site (**Appendix S**). The service would be funded through collection of fares, as well as supplemental funds contributed by the project proponent. To ensure viability of the expanded service, **Mitigation Measure 3-22** requires that the project proponent “work with AC Transit to expand its current service and contribute funds and supplement operating expenses to implement the following: Bus and/or shuttle schedules tied to the timing of employee shifts; and new routes to serve employee population centers around the project site.” In addition, **Mitigation Measure 3-18** has been supplemented to provide for shuttle service, funded by the project proponents, to run at least two times per hour to regional public transit stops that will mesh with the scheduling of AC Transit, BART, Golden Gate Transit, and other public transit providers.

RESPONSE I29-3

Please refer to **Response I4-3**.

RESPONSE I29-4

Please refer to **General Response 3.8** and **Response A14-1** regarding the analysis of greenhouse gas emissions in the Draft EIS/EIR and Final EIR.

With respect to application of a metric of sustainable design, **Mitigation Measure 3-28** of the Final EIR (designated **Mitigation Measure 3-30** in the Draft EIS/EIR) has been updated as follows: “The Tribe shall meet or exceed Green Building Council Standards for new and retrofit construction. Buildings shall be constructed and designed to meet Leadership in Energy and Environmental Design (LEED) or equivalent certification standard, except with respect to indoor smoking allowed in certain restricted areas.

RESPONSE I29-5

Please refer to **Response I29-4** which details how the analysis is consistent with the adopted regulatory guidance provided to date.

RESPONSE I29-6

Please refer to **General Response 3.8.2**.

RESPONSE I29-7

The impacts to Point Richmond have been described in the Draft EIS/EIR. Please refer to **General Response 3.11.5** for a discussion of impacts to the immediate and surrounding communities. In particular, Point Richmond has been included in the examination of potential impacts to land, water resources, air quality, problem gambling, and traffic, among others. Since it is in close proximity to the Proposed Project, several of the mitigation measures proposed would directly affect Point Richmond. As discussed in **Section 4.7**, the impacts of problem gambling take effect for residents within a 50 mile radius of a casino, and increase as the casino moves closer to the population. **General Response 3.11.6** summarizes the potential impacts to social services on the surrounding communities, as well as proposed mitigation measures associated with the potential impacts.

RESPONSE I29-8

As stated in **Section 1.1** of the Draft EIS/EIR, in the event that the City decides to approve one of the alternatives that include federal trust acquisition, the mitigation measures prescribed in the Draft EIS/EIR would become an attachment to the MSA prior to execution.

RESPONSE I29-9A

Because the legal and contractual questions posed by the commenter do not identify environmental impacts, they are beyond the scope of analysis required by CEQA.

RESPONSE I29-9B

The commenter is correct that under the terms of the settlement agreement in *Citizens for East Shore Parks v. City of Richmond*, the City's discretion to approve or disapprove or pursue any alternative use is not limited by the LDA. While the LDA sets forth certain contractual obligations of the parties that are beyond the scope of this CEQA document, it does not limit the City's discretion with respect to consideration of the Project or any alternative use or non-use.

The Draft EIS/EIR makes clear that the City retains the discretion to select any alternative use or non-use of the Point Molate site. As stated in Section 1.1 of the Draft EIS/EIR:

As the local Lead Agency for purposes of CEQA, the City has the responsibility for approving certain discretionary actions it may take including sale of the property, issuing a shoreline lease, and approval of design concept documents, which are further detailed in the ... LDA... The City has drafted a Municipal Services Agreement (MSA), but has not yet executed the agreement. If the City decides to adopt one of the alternatives that includes federal trust acquisition (Alternatives A, B, or C), the mitigation measures prescribed in this Draft EIS/EIR would become an attachment to the MSA, which would then be executed (Draft EIS/EIR p. 1-6).

Please also refer to **Section 2.2.1** which describes foreseeable consequences of “discretionary local and federal actions” under the LDA and MSA for Alternative A. The foreseeable consequences of the discretionary local and federal actions for Alternatives B through E and B1 are also described in Section 2.0 of Volume II of this Final EIR.

Thus, consistent with the settlement agreement in *Citizens for East Shore Parks v. City of Richmond*, the Draft EIS/EIR makes clear that the City retains discretion to approve any alternative evaluated in the Draft EIS/EIR, including the No Project Alternative. Further, if the City elects not to pursue or approve the Project or Alternative Proposal, as those terms are defined in the LDA, it may decide to either retain ownership of Point Molate or to transfer Point Molate to a third party. Final EIR **Section 2.1.2** has been revised to clarify this issue.

RESPONSE I29-9C

The legal and contractual questions posed by the commenter are beyond the scope of analysis required by CEQA or NEPA.

RESPONSE I29-9D

There are provisions in the LDA compelling Upstream to develop the property in accordance with the Design Concept Documents. Under Section 2.1(b) of the LDA, Upstream “agrees to use commercially reasonable efforts to obtain all permits, approvals, consents and financing necessary to develop the Property with the improvements described in the Design Concept Documents.” Section 2.9 of the LDA requires, as a condition of closing, that the Developer submit a Financing Plan, reasonably acceptable to the City, “reflecting the availability of the necessary funds to complete the entitlement, acquisition, remediation, and construction of Phase I of the Project.”

These provisions clearly require Upstream to take the steps necessary to develop the property. However, the LDA does not specify any schedule or deadlines for development. Pursuant to direction provided by the City Council, City staff have asked Upstream to include development milestones and reporting requirements in the proposed final Design Concept Documents.

Payments to the City would commence following the start of operations at the facility. Section 4.1 of the MSA requires the Tribe to pay the City service fees of \$8 million per year for the first eight years beginning on the commencement of gaming operations and \$10 million per year thereafter. Section 4.2 of the MSA requires the Tribe to make Community Benefit Payments of \$10 per constructed hotel room per day, \$5.25 per square foot of retail sales area per year, and 0.285 percent of the construction costs of the facilities per year.

RESPONSE I29-9E

The site plan and scope of development in Exhibits G and H are characterized as the preliminary Design Concept Documents in Section 2.1 (a) of the LDA. There is no prohibition in the LDA against Upstream proposing, or the City approving modifications, even if such modifications are not directly related to the environmental review process. The City Council retains discretion to approve or disapprove the final Design Concept Documents, so if there was a change proposed “at the whim of Upstream” that the Council did not believe appropriate, the Council could disapprove the final documents.

The graphics presented in the Draft EIS/EIR are not intended to be Design Concept Documents. The final Design Concept Documents will be submitted as separate documents, independent of the EIR. Certification of the Final EIR would not constitute approval of the Proposed Project; separate approval by the Council will be required.

Regarding the detail of proposed components depicted in the Draft EIS/EIR; the Point Richmond Shores was a Planned Area development proposal seeking entitlements to build the project. The Point Molate project applicant is seeking certification of an EIR and approval of the Design Concept Documents. The Point Molate project is not subject to Design Review Board approval so detailed design plans are not required. However, depending on the alternative (e.g. Alternatives D and E) selected by the City Council, additional plans may be necessary to obtain City approval. The plans provided are sufficient to assess any potential impacts to the environment for the purpose of the EIR. If the final design plans include modifications to the project that would result in significant environmental impacts not analyzed and disclosed in the EIR, further CEQA review would be required.

RESPONSE I29-10

Refer to **General Response 3.6.2** regarding impacts to off-site municipal wastewater conveyance and treatment systems.

RESPONSE I29-11

CEQA requires the lead agency to consider

“a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen

any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” 14 C.C.R. § 15126.6(a).

Similarly, NEPA Section 1502.14(a) requires federal agencies to explore a reasonable range of alternatives, “and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” An agency’s range of alternatives is evaluated under a “rule of reason” standard, which requires an agency to set forth only those alternatives necessary to permit a reasoned choice. An agency’s consideration of alternatives is sufficient if it considers an appropriate range of alternatives, even if it does not consider every available alternative.

It is correct that Alternatives A, B, C and D contemplate the demolition of Building 6 as a necessary component of the actions they propose. With regard to each alternative, the Draft EIS/EIR discusses Building 6 (including the fact that Building 6 is significantly deteriorated with a partially collapsed roof and major water damage to the concrete walls), the potentially significant impact caused by its demolition, and potential mitigation measures (**Section 3.6** page 3.6-12 through 3.6-16 and **Section 4.6** page 4.6-1 through 4.6-24). However, neither Alternative E (Total Parkland) nor Alternative F (No Project) would require or result in the demolition of Building 6. Alternative E would allow for the stabilization of all cultural resources in the Winehaven Historic District, including Building 6. Alternative F would result in no action affecting Building 6.

In short, some of the alternatives in the Draft EIS/EIR would result in the demolition of Building 6; one would result in its stabilization; and one would leave it untouched. Between these six alternatives, the Draft EIS/EIR considers a “reasonable range” of alternatives under both CEQA and NEPA. The City’s discretionary approval of the Final EIR would consider the demolition of Building 6 and would therefore satisfy the requirements of the Richmond Municipal Code, Chapter 6.06, related to the approval of the demolition of a City-designated historic structure. Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

Regarding the comment that “no independent evaluation has been made of Building 6”, please refer to **Appendix E** to the Draft EIR, Historic Building Structural Condition Assessment. Based on the level of interest expressed during the public comment period concerning Building 6, more in depth structural analyses were performed and are described in detail under **General Response 3.3.2**. The technical assessment is provided as **Appendix DD**. Please also refer to **General Response 3.3.2** for a discussion of the economic feasibility of reuse of Building 6, as well as the applicability of historic preservation tax credits.

Consideration of the reported “movement to apply for historic designation” for the Point San Pablo Yacht Harbor is beyond the scope of the Draft EIS/EIR. Moreover, the East Brother Light Station, which is more than one mile distant from the project site would not be impacted by the Proposed Project.

RESPONSE I29-12

Mitigation Measure 4-9 provides for a comprehensive Vegetation Management Plan (VMP) to be prepared for the project site. The VMP would be divided into five components: Open Space Habitat Preserves, Open Space Restoration Preserves, Invasive Plant Species Management, Parkland Management, and Wildfire Prevention. The Invasive Plant Species Management component would seek to eradicate noxious weeds and exotic species and replace them with native species. The adaptive management strategy would ensure the goals of mitigation are achieved in perpetuity.

Despite the commenter's statement to the contrary, the fire hazard posed by the on-site eucalyptus woodland is discussed in **Section 3.10.2** at page 3.10-13 and **Section 3.12.2** at page 3.12-30 of the Draft EIS/EIR. Potential impacts associated with fuel loading related to the eucalyptus woodland is considered in **Section 4.12.7**.

RESPONSE I29-13A

The merge maneuver described by the commenter is both ill-advised and unlikely given the accessibility of a preferable route that does not require crossing two lanes of travel in a quarter mile. Where the Western Drive / eastbound I-580 on-ramp enters the freeway, it is initially separated by a concrete barrier. Beyond the barrier, the on-ramp lane is separated from the other lanes of traffic by a solid white line for over a quarter of a mile, which ends after the Marine Street off-ramp. It is anticipated that patrons and employees traveling to points east would access the Richmond Parkway via the first off-ramp after Marine Street, which is Canal Boulevard. Canal Boulevard provides a direct link to the Richmond Parkway, thus eliminating the need to perform the merge maneuver described by the commenter.

RESPONSE I29-13B

Please refer to **General Response 3.4** as well as **Individual Responses I4-2** and **I4-3** regarding the San Francisco Bay Trail.

RESPONSE I29-14

Please refer to **General Response 3.7.2** regarding indoor smoking.

RESPONSE I29-15

Please refer to **General Response 3.7.2** regarding indoor smoking.

RESPONSE I29-16

The consideration of two alternatives in the Draft EIS/EIR which would not involve the demolition of Building 6 satisfies the requirements of CEQA and NEPA to consider a "reasonable range" of alternatives. With respect to the deterioration of Building 6, its current state is documented in detail at a number of places including: **Table 3.6-1** and **Section 4.2.1** (page 4.2-5) of the Draft EIS/EIR, in the Historic Building Structural Condition Assessment provided as **Appendix E** to the Draft EIS/EIR, and

within Volume I (Historic Built Environment) of the Cultural Resources Study provided as **Appendix Y** to the Draft EIS/EIR. Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

The commenter erroneously states that the Historic Building Structural Condition Assessment provided as **Appendix E** estimates a “*rehabilitation cost* of \$84.50 per square foot, which is significantly below the cost of a new structure, and with Historic Preservation tax Credits, could be 20 percent less (Comment Letter 29-17; emphasis added).” What the above referenced report actually estimates is not the cost of “rehabilitation”, but rather the cost of repairing the damaged roof section in Building 6 and providing minimal upgrades and retrofitting to allow for *reuse according to its original purpose as a warehouse*. Thus, the reconnaissance-level structural assessment found that repairs required to return the building to its previous use, totaling \$9.64 million, would not include the vast array of modifications and structural upgrades required to provide for a use consistent with the Proposed Project. Moreover, the tax credits cited by the commenter would not apply to Alternatives A, B, and C since the project site would be held in trust by the United States Government.

RESPONSE I29-17

Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

RESPONSE I29-18

Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

RESPONSE I29-19

Comment noted.

RESPONSE I29-20

Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

RESPONSE I29-21

Comment noted.

RESPONSE I29-22

The referenced portion of the LDA quoted in Comment I29-22 states that “All historic preservation activities shall follow the United States Secretary of the Interior’s Standards and Guidelines.” What the LDA does not say, but the commenter suggests, is that all historic buildings shall be preserved. Building

6 is one of 35 contributing structures within the Winehaven Historic District, the balance of which would be rehabilitated under the four redevelopment alternatives (A – D).

The fact that the Proposed Project calls for demolition of Building 6 was disclosed and discussed with members of the City’s Historic Preservation Advisory Committee (HPAC) as early as February 2008. During the February 12, 2008 HPAC meeting referenced in Comment I29-22, the Historic Building Structural Condition Assessment was presented, the deteriorated condition of Building 6 was discussed, and the approach to the analysis of related impacts in the Draft EIS/EIR, as well as in the context of Section 106 of the National Historic Preservation Act, was discussed. Specifically, the presentation noted that Building 6 would be demolished, constituting a significant impact, and that the proposed mitigation would lessen, yet not eliminate, this impact. Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

The commenter’s statement that the alternatives analyzed in the Draft EIS/EIR all include the “introduction of incompatible new construction” within the Winehaven Historic District is a statement of opinion and is unsupported by the facts. The SOI Standards and Guidelines provide guidelines for new construction within historic districts, which is relatively common (e.g., San Francisco Presidio, Mare Island, etc.). Please refer to **General Response 3.17** and **Mitigation Measure 5-2** for a discussion of the process by which the key design elements will be finalized to ensure the unique historic character of the Winehaven Historic District is preserved.

RESPONSE I29-23

Please refer to **Response I29-11** and **General Response 3.3.2** for an explanation of how the Draft EIS/EIR is consistent with the requirements of CEQA and NEPA.

RESPONSE I29-24

The Draft EIS/EIR states that Alternatives A – D would result in the demolition of Building 6 and that Alternatives E and F would not. Please refer to Draft EIS/EIR **Sections 4.6.1, 4.6.2, 4.6.3, 4.6.4, 4.6.5,** and **4.6.6** for further discussion. Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

RESPONSE I29-25

Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

RESPONSE I29-26

Please refer to **General Response 3.3.2** for a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6. Virtually any building, regardless of its state of disrepair and damage, can be salvaged. The cost per square foot cited by the commenter has been misconstrued as the

full cost of rehabilitation. The cost cited in the comment reflects the bare minimum required to restore Building No. 6 for use as a *warehouse*. In fact, adaptive reuse of the structure is likely to cost well in excess of \$30 million dollars as detailed in **General Response 3.3.2** and **Appendix DD**. Moreover, for Alternatives A – C, the building would be located on tribal trust land and therefore, not eligible for federal tax credits contrary to the commenter’s assertion.

RESPONSE I29-27

Under Alternative E, the Total Parkland Alternative, the City would retain title to the property and would be responsible for funding the stabilization and maintenance of the buildings within the Winehaven Historic District. An estimate of probable cost for stabilizing the six largest structures within the District is provided within **Appendix E** of the Draft EIS/EIR.

RESPONSE I29-28

The Draft EIS/EIR states that the Winehaven buildings that would be *kept* under Alternatives A – D would be rehabilitated in accordance with the SOI Standards and Guidelines. Contrary to the comment, the Draft EIS/EIR and associated cultural resources study clearly state that demolition of Building No. 6 would be a significant impact in the context of NEPA and CEQA, and constitutes an adverse effect in the context of Section 106 of the National Historic Preservation Act.

The conjecture provided in the comment regarding the rationale for the demolition for Building No. 6 under the Proposed Project is misleading. Refer to **General Response 3.3.2** for an in-depth discussion of the City’s objectives for reuse of Point Molate as it relates to the preservation of Building No. 6 and a discussion of the inclusion of development Alternative B1 in the Final EIR that preserves Building 6.

Refer to **Response I29-27** above regarding funding of stabilization of the Winehaven buildings under Alternative E.

RESPONSE I29-29

Under Alternative F, the No Action Alternative, the Point Molate property would be maintained in the present manner, with no changes in land use. As the title of the alternative suggests, no renovation, restoration, or other activities would be undertaken under the No Action Alternative. Based on the rate of deterioration that the Winehaven Historic District has been subject to since being transferred out of Navy ownership, it is reasonable to expect such deterioration would continue at a similar or accelerated pace resulting in demolition by neglect.

RESPONSE I29-30

Comment noted.

RESPONSE I29-31

Comment noted.

COMMENT I30

RESPONSE I30-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I30-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I31

RESPONSE I31-1

Comment noted.

COMMENT I32

RESPONSE I32-1

Comment noted.

RESPONSE I32-2

Comment noted.

RESPONSE I32-3

Please refer to **Table 2-2** of the Draft EIS/EIR for a description of the square footage (and acreage for parkland and open space) of each major component of Alternatives A through C. Please refer to **Table 2-6** of the Draft EIS/EIR for a description of each major component proposed for Alternative D. On-site impacts to physical resources were analyzed by overlaying the footprints of the various project components atop resources mapped on site. For example, refer to **Figure 4.6-1** in the Draft EIS/EIR, which depicts the existing historic district in relation to the components proposed under Alternative A.

Alternative B proposes up to 340 housing units in the southern residential area, not 430 as stated by the commenter.

RESPONSE I32-4

Please refer to **General Response 3.3.2** for a discussion related to the demolition of Building No. 6 and relocation of Building No. 17.

Contrary to the commenter's statement, the City of Richmond is a Certified Local Government (CLG) recognized by the California State Historic Preservation Office (SHPO). Refer to SHPO's CLG roster provided at: <http://ohp.parks.ca.gov/pages/1072/files/clg%20contact%20list.pdf>.

The introduction of new construction within the Winehaven Historic District is addressed in **Section 4.6** of the Draft EIS/EIR. Refer to **Section 5.2.5** of the Draft EIS/EIR and **General Response 3.17** for a discussion of the process for developing the final design guidelines for new development within the Historic District.

As described in **Section 2.0** of the Draft EIS/EIR, historic preservation is a central component of the Proposed Project, resulting in the retention of 97 percent of the historic buildings within the District. As the site plans and renderings presented in **Section 2.0** of the Draft EIS/EIR indicate, all of the historic buildings would be maintained with the exception of Building No. 6. **Section 4.6** of the Draft EIS/EIR acknowledges that the Proposed Project would introduce visual elements in the form of new construction that would diminish the integrity of the District's character defining features. Mitigation is provided in **Section 5.2.5** of the Draft EIS/EIR that would lessen the severity of the impact.

The commenter is mistaken in the assertion that the Point Hotel is "deceptively illustrated as being much shorter than the casino hotel..." The Point Hotel would be constructed in a manner that would integrate it into the existing topography of the bluff above the point, with the effect of minimizing the extent to which it extends above the existing topography of the ridge leading to the point. As stated in **Section 2.2.2** of the Draft EIS/EIR, the "total height of this hotel would be 105 feet above existing grade (120 feet above mean sea level). The hotel would be built into the hill so the structure's total height is similar to the existing point bluff."

Please refer to **General Response 3.17** for a discussion of off-site aesthetic impacts.

RESPONSE I32-5

The Programmatic Agreement proposed as mitigation in **Section 5.2.5** provides for a procedural mitigation that would lessen the impact to the retained buildings in the context of NEPA and CEQA, and would likely resolve the adverse effect in the context of Section 106 of the National Historic Preservation Act. Mitigation is provided in **Section 5.2.5** of the Draft EIS/EIR that would lessen the severity of the impact, but not to a level of insignificance.

RESPONSE I32-6

Please see **General Response 3.4** regarding the Bay Trail. Development of the parkland, hillside open space, and segment of the Bay Trail are not mitigation measures, but rather components of the Proposed Project.

RESPONSE I32-7

Section 2.0, Table 2-2, page 2-19 provides an exact count of project parking spaces. As stated in the comment there would be 7,500 parking spaces in two parking garages. **Table 2-2** of the Draft EIS/EIR shows that there would be an additional 30 bus parking spaces at the northern end of the Winehaven building and 30 parking spaces at the Tribal offices.

The number of people that would travel to and from the site each day varies with each alternative. The estimated number of people expected to visit the Proposed Project is provided in the Economic Impact & Growth Inducing Impact Study (**Appendix T**) as well as within the Traffic Impact Assessment (**Appendix S**).

Traffic analysis is provided in **Sections 4.8** and **4.15** of the Draft EIS/EIR. Refer to **General Response 3.12** regarding transportation and circulation issues addressed in the Draft EIS/EIR.

RESPONSE I32-8

The commenter fails to describe how the Proposed Project violates the Community Facility Area Specific Guidelines referenced in the comment. The Proposed Project would create 35-acres of Shoreline Parkland and maintain 145-acres of Hillside Open Space. As stated in **Section 4.10.1**, the Tribe would be responsible for the maintenance of the trail system throughout the Hillside Open Space area as well as the on-site Bay Trail. The Proposed Project would also expand public transit to accommodate the site and would have bicycle and pedestrian access from the transit stops to the Hillside Open Space trails and Shoreline Park. The Winehaven buildings will be restored and reused as the economic stimulus for maintaining the aforementioned parkland. Additionally, as described in **Section 2.6** of the Draft EIS/EIR, a total parkland alternative was fully analyzed in the environmental document.

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I33**RESPONSE I33-1**

The Draft EIS/EIR considers the impact of the Proposed Project with regard to both existing and proposed casinos in the vicinity. Please refer to **Section 4.15** of the Draft EIS/EIR for a discussion of cumulative impacts of the Proposed Project. In addition, **Section 4.7.7** provides a discussion of the potential impacts to minority and/or low-income communities within the vicinity of the Proposed Project. Minority or low-income communities were identified in **Section 3.7.3**. All census tracts identified surrounding the Proposed Project contain minority communities, except Census Tract 3780, which contains the project site. Impacts such as increased traffic and problem/pathological gambling would be considered less than significant with the implementation of **Mitigation Measures 6-1** through **6-4**, and **7-4** through **7-8**. All communities would benefit from the Proposed Project's generation of employment

opportunities, which would demand a substantial portion of the local labor market. Minority and low-income communities would not be disproportionately adversely impacted.

RESPONSE I33-2

Please refer to **General Response 3.3.2** and **3.17** concerning the Winehaven Historic District.

Please refer to **General Response 3.13.2** regarding open space on the project site.

Please see **General Response 3.4** regarding construction of the Bay Trail and the configuration of pedestrian and bicycle access on site.

RESPONSE I33-3

Please refer to **General Response 3.11.5** regarding the impact to surrounding communities. Based on the information provided by Dr. Thompson, it is not possible to substantiate the findings of his report. While the Draft EIS/EIR is open to considering all information, the necessary documentation, support and explanations for Dr. Thompson's assumptions and methodologies were not provided. There is no evidentiary support for the claim that the Proposed Project would result in net monetary loss for the Bay Area.

As discussed in **Section 4.7.2**, the Proposed Project would generate an estimated \$903 million in wages during construction, and an estimated \$481 million annually during operation. As the commenter points out, the Tribe is committed to hiring locally, and expects to hire roughly 40 percent of employees from Richmond. Additionally, as indicated through the Intergovernmental Agreement (IGA), the Tribe will collaborate with the County to develop a project-specific first-source hiring plan, with a goal to source a total of 70 percent, inclusive of the 40 percent from the City under the MSA, of non-management operational employees from within the County at opening of the gaming establishment (**Appendix BB**). The County agrees that the sourcing of jobs from within the County would have significant economic benefits for the County from the direct, indirect, and induced jobs created by the Project. The employees hired from outside of Richmond will be from the County and surrounding communities within the Bay Area. While an increase in employment wages will be one reason that Richmond and the Bay Area will observe a boost in the economy, it is not the only reason. The anticipated output generated by Proposed Project, including construction, furnishing, and operation, is expected to total approximately \$767 million (in 2009 dollars) within the County (**Table 4.7-2**). Furthermore, the surrounding communities will continuously benefit from the Tribe's expenditures on the goods and services necessary to maintain and operate a large-scale destination resort and casino. As stated in the Draft EIS/EIR, purchases would be made primarily from existing vendors located in Contra Costa County, the City of Richmond, and surrounding areas.

The Tribe will also compensate for the social services which may be impacted by the Proposed Project, including problem gambling counselors, emergency medical services, and law enforcement. As stated in

Section 2.1.2, as well as **Appendix C**, of the Draft EIS/EIR, the Tribe agrees to pay the City service fees of \$8 million per year for the first eight years beginning with the commencement of gaming operations. The Tribe agrees to pay the City services fees of \$10 million per year thereafter. The Tribe will pay the County the annual sum of \$12 million for public safety, fire fighters and responders, health, and social services related costs, and community benefit payments, commencing with the project start date, and payable for as long as the IGA is in effect. These amounts have been determined to be sufficient to compensate for potential community impacts as a result of the Proposed Project. Fees shall be adjusted each year by changes in the Consumer Price Index, beginning after year one of the agreement. The fee shall be paid regardless of the amount of service provided.

COMMENT I34

RESPONSE I34-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I34-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

COMMENT I35

RESPONSE I35-1

The commenter is correct in noting that the historic Richmond – San Rafael Ferry System made use of Castro Point, not Point Molate. The Final EIR has been corrected at **Section 3.6.2** in response to the comment.

COMMENT I36

RESPONSE I36-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I36-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

RESPONSE I36-3

Comment noted.

COMMENT I37

RESPONSE I37-1

Please see **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project. It is important to note that the projected ~17,000 employment opportunities is the estimated number of jobs generated under the operational phase of the Proposed Project and includes not only direct, but indirect and induced employment as well (**Table 4.5-5** of **Section 4.7.2**). All employees of the Proposed Project would be paid living wage, and will be subject to the City of Richmond's Living Wage Ordinance. As stated in **Section 2.1.2**, as well as **Appendix C** of the Draft EIS/EIR, "wages shall be equivalent to the wage portions of the federal Davis-Bacon Act, the California Labor Code, the City's Living Wage Ordinance, the City's Business Opportunity Ordinance, and the City's Local Employment Program Ordinance." Under the Living Wage Ordinance, wages are paid at a rate higher than minimum wage, and shall be adjusted annually, effective January 1, by the City of Richmond to reflect the average percent of wage increases embodied within the City of Richmond's employee labor agreements for the immediately preceding calendar year. Furthermore, the Employer must offer a medical benefit plan or compensate the employee with a higher wage if such a benefit plan is not offered.

RESPONSE I37-2

Please refer to **General Response 3.13.2** regarding open space on the project site.

RESPONSE I37-3

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I38

RESPONSE I38-1

Please refer to **General Responses 3.11.3** and **3.11.5** as well as **Response I37-1** regarding employment opportunities generated by the Proposed Project, as well as potential impacts to the immediate and surrounding communities.

COMMENT I39

RESPONSE I39-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I39-2

Please see **General Response 3.17** and **Response I4-9** regarding analysis of aesthetic impacts.

RESPONSE I39-3

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I40

RESPONSE I40-1

Comment noted.

RESPONSE I40-2

While the Proposed Project would increase local traffic over existing conditions (described in **Sections 4.8** and **4.15** of the Draft EIS/EIR), mitigation is provided in **5.2.7** of the Draft EIS/EIR to reduce impacts due to increased project-related traffic. As discussed in the context of each relevant impact statement, some transportation impacts in the cumulative year (2025) are considered significant because the full suite of required improvements may not be implemented since the subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan to help fund or implement the improvements.

Please refer to **General Response 3.7** regarding analysis of potential air quality impacts. The air quality analysis is presented in **Sections 4.4** and **4.15** of the Draft EIS/EIR and all impacts were found to be less than significant with the implementation of mitigation measures provided in **Section 5.2.3**.

See **General Response 3.14.5** regarding local utility providers.

Please see **General Response 3.11.1** and **3.11.6** regarding potential impacts to crime and social services, and refer to **Section 4.10.9** for a discussion of law enforcement services. Please see **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities, including low-income communities, surrounding the project site.

RESPONSE I40-3

Please see **General Response 3.11.4** regarding the economic viability of the Proposed Project. The Draft EIS/EIR evaluates all potential impacts, including short-term and long-term impacts. Based upon the Economic Impact Study and the IMPLAN model, the Proposed Project is determined not only to be economically viable, but beneficial to the economy of Richmond.

RESPONSE I40-4

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

COMMENT I41

RESPONSE I41-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I42

RESPONSE I42-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I43

RESPONSE I43-1

Please refer to **General Response 3.9.2** regarding the biological habitat assessment completed for the Draft EIS/EIR.

COMMENT I44

RESPONSE I44-1

Archaeological resources located on the project site are addressed in **Section 3.6, 4.6, and 4.15** of the Draft EIS/EIR. Contrary to the commenter's assertions, the project site has been subject to a comprehensive survey and focused archaeological excavations. The publicly-distributed environmental document summarizes the extensive archaeological investigations undertaken to define the spatial distribution of the sites, evaluate significance, and complete impact assessments. **Mitigation Measures 5-1 and 5-2** in the Draft EIS/EIR provide for the protection of significant archaeological resources. The full archaeological analysis is provided in the confidential cultural resources report (**Appendix Y**).

RESPONSE I44-2

The source cited by the commenter was consulted. It was found that on the same page quoted by the commenter, the author notes that, while crime is known to rise in the vicinity of a casino, "this phenomenon may also occur in other attractions with cash-bearing participants." The Draft EIS/EIR acknowledges that the Proposed Project may have a potentially significant impact on crime. However, there has been no causal link between casino-style gambling and crime – it is when the volume of people

introduced to an area increases that the volume of crime is also expected to increase. As supported by the article the commenter brings to our attention, this holds true for the introduction of any large-scale development with cash-bearing participants. The Tribe will compensate local law enforcement service providers for the potential impacts to crime so that these agencies have the capacity (i.e. employees or equipment) necessary to address any increase in demand for law enforcement services resulting from the Proposed Project. Please refer to **General Response 3.11.1** for a full discussion of issues related to crime.

RESPONSE I44-3

The commenter does not provide rationale for the potential for the Chevron refinery to explode during an earthquake. Based on the nature of the industry, Chevron has various safety programs in place to reduce the impacts from catastrophic events such as a major earthquake along the Hayward fault, which is located a few miles east of the Chevron facility. Please refer to **Sections 3.2** and **4.2** of the Draft EIS/EIR for a description of existing conditions and the analysis of geologic hazards at the project site.

COMMENT I45

RESPONSE I45-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I45-2

Please refer to **General Response 3.11.3** regarding documentation for employment opportunities.

RESPONSE I45-3

Please refer to **General Response 3.16.1** regarding clean up of hazardous materials conditions on site.

Please refer to **General Response 3.17** regarding the aesthetic character of the project site.

“Green” and sustainable components of the Proposed Project are described in **Section 2.1.1** of the Draft EIS/EIR. A wide variety of mitigation measures, designed to make the Project more ecologically sound, are provided in **Section 5.0** of the Final EIR. Please refer to **Section 2.2.2** of the Draft EIS/EIR for a description of the shoreline park, open space, and numerous recreational opportunities that would be created as part of the Proposed Project.

COMMENT I46

RESPONSE I46-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I47

RESPONSE I47

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I48

RESPONSE I48-1

As discussed in **Section 4.7.2**, the Proposed Project would generate substantial employment opportunities, including an estimated 17,000 jobs during the Project's operational phase from direct, indirect, and induced sources. Please refer to **General Response 3.11.1** regarding potential impacts to crime.

COMMENT I49

RESPONSE I49-1

Contrary to the statement of the commenter, the Proposed Project would not result in 22,000 cars at the project site on a daily basis. The Proposed Project would increase traffic; however, as described in **Sections 4.8, 4.15, and 5.2.7** of the Draft EIS/EIR, mitigation has been proposed to reduce impacts due to increased project-related traffic.

COMMENT I50

RESPONSE I50-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I51

RESPONSE I51-1

Refer to **General Response 3.12** for a discussion of issues related to traffic and circulation, including trip generation. Refer to **Sections 4.8 and 4.15** of the Final EIR and the Supplemental TIA (**Appendix S**) regarding the Richmond – San Rafael Bridge toll plaza analysis. A less than significant impact would occur in the near-term at the toll plaza. In the cumulative year a significant impact would occur with the inclusion of project traffic. Mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR which would reduce this impact to less than significant upon implementation of the full suite of recommended measures. As discussed in the context of each relevant impact statement, some transportation impacts are considered significant and unavoidable because the full suite of required improvements may not be

implemented since the subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan to help fund or implement the improvements.

The number of vehicles per lane per hour at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated in the Draft EIS/EIR, has been corrected in the text of the Final EIR.

Please refer to **Response A15-3** regarding the use of Fastrak at the Richmond – San Rafael Bridge toll plaza. The commenter's statement that Fastrak is ineffectual is not supported by documentation. Please refer to the STIA in **Appendix S** for a full discussion of the benefits of expanded Fastrak use.

Refer to **General Response 3.12** for a discussion of trip reductions and ferry service. Special event traffic is analyzed in the TIA (**Appendix S**) and was found to be a less than significant impact (refer to **Section 4.8** of the Draft EIS/EIR for a summary).

COMMENT I52

RESPONSE I52-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I53

RESPONSE I53-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I54

RESPONSE I54-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I55

RESPONSE I55-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I56

RESPONSE I56-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I57

RESPONSE I57-1

The issue of whether or not the project site is within the Tribe’s “aboriginal territory” is beyond the scope of the Draft EIS/EIR, which is intended to analyze environmental impacts resulting from implementation of one of the proposed alternatives. The lengthy “Indian Lands Determination” process, which is addressed as part of the realty component of the fee-to-trust application, is separate from the environmental compliance requirements.

RESPONSE I57-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I58

RESPONSE I58-1

The traffic studies (**Appendix S**) prepared in the course of completing the environmental analysis for the Proposed Project address all of the issues required to accurately characterize potential traffic impacts associated with the alternatives, including a description of existing conditions, background conditions, background plus project conditions, and cumulative conditions. The commenter does not provide support for the assertion that the traffic impact analyses are “somewhat insufficient.”

Refer to **General Response 3.12.2** and **3.12.4** regarding generation rates and trip reductions (including TDM measures), respectively. These issues are also addressed in **Response A16-1**. Considering that the ITE Manual does not provide a standard trip generation rate for Indian casinos, the commenter’s claim that the proposed TDM measures amount to “double counting” is without merit.

Diverted link trips (erroneously called pass-by trips in the Draft EIS/EIR) are addressed in **Response A16-1**. In summary, the highly visible nature of the project site, high profile in the media, proposed marketing campaign, and its close proximity to I-580 indicate that a significant number of existing automobile trips would be diverted to the project site. Historically, Indian casinos rely heavily on pass-by and/or diverted link traffic; for instance some northern California Indian casino traffic studies provide a 20 percent or greater pass-by/diverted link assumption. As such the 15 percent diverted link assumption used in the Draft EIS/EIR is conservative.

Refer to the discussion of *Trip Generation* within **Response A16-1** regarding the use of square footage for determining the appropriate trip generation rate. The square footage of the casino component is segregated into gaming floor, public spaces, and back of house uses in the analysis.

The commenter's assertion that "more gaming devices could be added at a later date that could substantially increase trips..." is highly speculative and not responsive to the analysis presented in the Draft EIS/EIR.

The number of vehicles per lane per hour at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated in the Draft EIS/EIR, has been corrected in **Sections 4.8** and **4.15** of the Final EIR.

For each impact identified in the analysis, a corresponding mitigation measure is recommended that would address the impact. **Section 5.2.7** of the Draft EIS/EIR uses Caltrans' methodology for determining the portion of the improvement that the Project is responsible for contributing to, which is standard practice in traffic engineering and environmental analysis. As disclosed in the Draft EIS/EIR, some transportation impacts are considered significant and unavoidable because the full suite of required improvements may not be implemented since the subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan to help fund or implement the improvements. For example, if an improvement is specifically referenced in an applicable Regional Transportation Plan, General Plan, or similar adopted document, and has designated funding, it is appropriate to consider that improvement in the development of mitigation.

COMMENT I59

RESPONSE I59-1

In compliance with the requirements of CEQA and NEPA, the public hearings held to collect comments on the Draft EIS/EIR were widely publicized including in local newspapers (West County Times - July 10 and 11, August 1, 2, 12, 16, and September 6, 7, and 17 2009), on the Planning Department's website, on a website dedicated to the project (www.pointmolateeis-eir.com), and via mailings to all individuals on the EIS/EIR distribution list.

COMMENT I60

RESPONSE I60-1

Comment noted.

RESPONSE I60-2

The commenter incorrectly states that mitigation presented in the Draft EIS/EIR is "based on future activities such as creating a Design Review Committee that does not currently exist..." In fact, the City's

Design Review Board presided over the public hearing held for receiving comments on the Draft EIS/EIR. Please refer to **General Response 3.17** for an accurate description of the manner in which mitigation for impacts to the Winehaven Historic District would be implemented.

RESPONSE I60-3

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I61

RESPONSE I61-1

Comment noted.

RESPONSE I61-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I62

RESPONSE I62-1

Comment noted.

RESPONSE I62-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I63

RESPONSE I63-1

Comment noted.

RESPONSE I63-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I64

RESPONSE I64-1

Comment noted.

RESPONSE I64-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I65

RESPONSE I65-1

Comment noted.

RESPONSE I65-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I66

RESPONSE I66-1

Comment noted.

RESPONSE I66-2

Comment noted.

RESPONSE I66-3

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I67

RESPONSE I67-1

Comment noted.

RESPONSE I67-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I68

RESPONSE I68-1

Comment noted.

RESPONSE I68-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I69

RESPONSE I69-1

Please refer to **General Response 3.3.2** regarding preservation of Building No. 6.

RESPONSE I69-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I70

RESPONSE I70-1

Comment noted.

RESPONSE I70-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I71

RESPONSE I71-1

Comment noted.

RESPONSE I71-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I72

RESPONSE I72-1

Comment noted.

RESPONSE I72-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I73

RESPONSE I73-1

Comment noted.

COMMENT I74

RESPONSE I74-1

The number of annual visitors to the Proposed Project referenced by the commenter is inflated by 30 percent or more. The TIA included as **Appendix S** to the Draft EIS/EIR estimates approximately 6.7 million visitors per year for Alternative A (refer to Table 5-5 of TIA), which includes employees.

Simply increasing the volume of vehicles on regional roadways does not constitute a significant impact in the context of CEQA or NEPA. Please refer to **Section 4.8** of the Draft EIS/EIR for a discussion of the significance criteria used in evaluating impacts.

It should also be noted that bicycle and pedestrian facilities through the project site are an integral part of the Proposed Project. Please refer to **Section 2.2.2** of the Draft EIS/EIR for a description of the proposed San Francisco Bay Trail and hillside open space trails through the project site. Refer to **General Response 3.4** for additional information concerning the Bay Trail connections to the site from adjacent land uses.

RESPONSE I74-2

Sections 4.4 and **4.15** of the Draft EIS/EIR discuss air quality impacts, including greenhouse gas emissions. Mitigation measures have been proposed for all significant air quality impacts in **Section 5.0** of the Final EIR, which would reduce impacts to a less than significant level. **Mitigation Measures 3-17, 3-18, 3-20, and 7-20** provide mitigation that would encourage non-motorized modes of transportation and encourages use of public transportation.

RESPONSE I74-3

Please refer to **General Response 3.12.6** regarding bicycles on the Richmond-San Rafael Bridge. Refer to **General Response 3.12.1** regarding ferry service to the project site.

Transit service to the project site is a central component of the planned intermodal transportation hub and a number of mitigation measures have been identified to provide specificity regarding the proposed service. Relevant portions of the mitigation measures are summarized below.

Mitigation Measure 3-17 requires, among other things, that the Tribe provide and fully fund the following on-site transit use incentives for employees: construct transit facilities such as bus turnouts, bus bulbs, benches, bus shelters, and landscaping at transit stops. This measure also requires that the Tribe

provide and fully fund shuttle service to transit stations/multimodal centers. Project-operated shuttle buses will be required to run at least two times per hour and on-time. Because the resort is proposed to be open 24 hours per day, shuttle buses that provide service to public transit stops shall run at night and on weekends when those carriers provide service (e.g., shuttle buses shall serve the Richmond Intermodal Station when trains are running). Shuttle bus schedules will mesh with those of AC Transit, BART, Golden Gate Transit, and other public transit providers, who will be incentivized to provide safe, frequent, and reliable service on schedules and at locations compatible with the resort shuttle buses. The Tribe shall continue consultation and coordination with the regional public transit providers in the final planning and implementation phases of project development.

Mitigation Measure 3-18 requires the Tribe to encourage the use of public transit systems by enhancing safety and cleanliness at transit stops.

Mitigation Measure 3-20 requires: designation of an on-site TDM coordinator and that all TDM measures be integrated with AC Transit, BART, and Golden Gate Transit services; the Tribe must provide transit passes and transit schedule information to employees; buses serving the project site must be equipped with bicycle racks; the Tribe must provide and fund a shuttle between the project site and one or more transit hubs in the local area; and the Tribe will encourage patrons to use public transit by providing coupons (for food, beverage, entertainment, etc.) or other incentives to patrons who arrive via public transit.

Mitigation Measure 3-22 requires that the Tribe work with AC Transit to expand its current service and contribute funds and supplement operating expenses to implement the following: Bus and/or shuttle schedules tied to the timing of employee shifts; and new routes to serve employee population centers around the project site.

Mitigation Measure 3-23 requires that the Tribe provide funding for transit shelter benches, street lighting, route signs and display, and bus turnouts to support regularly-scheduled community transit or shuttle service to and from the nearest mutually-acceptable major transit node in coordination with the regional transportation agencies, such as AC Transit, Golden Gate Transit, and BART.

Mitigation Measure 7-7 requires that the Tribe work with AC Transit and other regional transit providers to expand service, tie bus schedules to the timing of employee shifts, and provide new routes to serve employee population centers. The Tribe will contribute the necessary funds to supplement AC Transit operating expenses to achieve the expanded services.

Contrary to the assertion of the commenter, BART currently has a significant amount of excess capacity on the line serving the Richmond Intermodal Station. As established by WCCTAC in the comment letter (A16) dated September 18, 2009, “there exists significant capacity on the BART trains to the Richmond

station.” The Proposed Project would use some of the excess capacity and consequently increase revenues to BART generated by fares.

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

COMMENT I75

RESPONSE I75-1

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt’s comment dated September 20, 2009.

COMMENT I76

RESPONSE I76-1

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt’s comment dated September 20, 2009.

COMMENT I77

RESPONSE I77-1

Please refer to **General Response 3.3.2** regarding alternatives to demolition or relocation of historic buildings within the project site.

RESPONSE I77-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt’s comment dated September 20, 2009.

RESPONSE I77-3

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt’s comment dated September 20, 2009.

COMMENT I78

RESPONSE I78-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I79

RESPONSE I79-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I79-2

Please refer to **General Response 3.12** for a discussion of transportation and circulation issues. **Sections 3.8, 4.8, and 4.15** of the Draft EIS/EIR provide a detailed analysis of existing, background, background plus-project, and cumulative traffic conditions. Mitigation for transportation-related impacts is provided in **Section 5.2.7** of the Final EIR.

Please refer to **General Response 3.7** for a discussion of the air quality analysis. Potential air quality impacts are analyzed in **Sections 4.4 and 4.15** of the Draft EIS/EIR and mitigation is provided in **Section 5.2.3**.

Please refer to **General Response 3.15** for a discussion of the noise analysis. Potential noise impacts are analyzed in **Section 4.11** of the Draft EIS/EIR. All noise impacts are mitigated to less than significant levels (refer to **Section 5.2.10** of the Draft EIS/EIR for specific mitigation measures).

RESPONSE I79-3

Please refer to **General Response 3.11.6** regarding the potential impacts to social services and the Tribe's associated compensation measures.

RESPONSE I79-4

Please refer to habitat impacts detailed in the Draft EIS/EIR within **Tables 4.5-1, 4.5-2, 4.5-3, 4.5-4** of **Section 4.5** and **Table 5-3** and **Mitigation Measures 4-1 to 4-14** of **Section 5.2.4** which detail mitigation requirements for all documented habitat losses. These habitat mitigation ratios will actually *increase* the overall acreages of sensitive habitats on the project site and decrease the amount of overall non-native and invasive habitats on-site which threaten native species diversity and composition.

RESPONSE I79-5

Please refer to **General Response 3.16.3** regarding security at the neighboring Chevron Refinery.

RESPONSE I79-6

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I80

RESPONSE I80-1

Comment noted.

RESPONSE I80-2

Please refer to **Responses I29-18 through I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I81

RESPONSE I81-1

Comment noted.

RESPONSE I81-2

Please refer to **Responses I29-18 through I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I82

RESPONSE I82-1

Comment noted.

COMMENT I83

RESPONSE I83-1

Comment noted.

RESPONSE I83-2

Please refer to **Responses I29-18 through I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I84

RESPONSE I84-1

Please refer to **General Response 3.12.1** regarding ferry service to the existing pier on-site. The current structural integrity of the pier, which was significantly upgraded by the Navy in 1992, will support the proposed modifications and would not warrant modification of the pier pilings or piling caps. All work to reconfigure the pier would be completed above the high water line.

COMMENT I85

RESPONSE I85-1

Comment noted.

RESPONSE I85-2

Please refer to **Responses I29-18** through **I29-29** regarding Councilmember Butt's comment dated September 20, 2009.

COMMENT I86

RESPONSE I86-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. Please see **Section 2.6** of the Draft EIS/EIR for a description of the Total Parkland Alternative (E) analyzed in the document.

COMMENT I87

RESPONSE I87-1

Please refer to **General Response 3.3.2**.

COMMENT I88

RESPONSE I88-1

Please refer to **General Response 3.3.2**.

COMMENT I89

RESPONSE I89-1

The Proposed Project's consistency with applicable planning documents is addressed in **Section 4.9** of the Draft EIS/EIR.

As discussed in **Response I4-5** above, the commenter misinterprets the General Plan Goal OSC-S to mean that new developments are required to acquire land and construct improvements on adjacent properties, which is incorrect.

RESPONSE I89-2

Improvement Measure 7-20 has been added to the Final EIR. It requires inclusion of bicycle lanes on Western Drive as part of the improvements associated with the Proposed Project *if* the Bay Trail segment between Point Molate and I-580 is not functional by the time the Proposed Project becomes operational.

In addition, sidewalks will be provided along the same segment of Western Drive in the absence of the aforementioned Bay Trail segment.

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I89-3

The commenter's mathematical exercise in proposing a "fair share" contribution of 98 percent of the costs to build off-site segments of the Bay Trail is purely academic, considering the absence of a significant impact that must be mitigated by the project proponent. Moreover, the commenter makes a number of factual errors in attempting to characterize the existing and projected operational traffic conditions at Point Molate that are addressed below.

First, the commenter interprets the number of individuals expected to be on site on a daily basis as representing an individual automobile trip. This misunderstanding significantly inflates the number of cars that are estimated to use Western Drive on a daily basis. In addition, the commenter fails to take into consideration the fact that the Entertainment Center would not host events daily, that the Entertainment Center only has 2,500 seats (commenter cites 3,188 daily trips to this component), and that at 85 percent capacity and 1.6 persons per vehicle, the resulting trip generation is far less than half of that presented by the commenter. The scenario presented above further assumes that no patrons would use transit, free shuttles, or ferry service to reach the site, which is not a reasonable assumption.

RESPONSE I89-4

Comment noted.

COMMENT I90

RESPONSE I90-1

Construction and operational impacts on the local transportation network in the near-term are analyzed in **Section 4.8** of the Draft EIS/EIR, with supplemental information provided in the TIA and Supplemental TIA (**Appendix S**). All significant traffic impacts in the near-term are mitigated to less than significant levels (refer to mitigation provided in **Section 5.2.7**). In the cumulative year there would be a significant impact to traffic operations and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. However, it was concluded that the required mitigation is infeasible at this time since the facilities requiring improvements are outside the jurisdiction of the City of Richmond and there is currently no plan to fund or implement the improvements on the part of the jurisdictional agencies.

RESPONSE I90-2

Please refer to **General Response 3.11.1** regarding the potential impacts to crime. The commenter provides no substantiated evidence of a causal link between casino-style gambling and crime when the number of people introduced to an area increases, the volume of crime is also expected to increase regardless of the reason for the increased population. Additionally, Contra Costa County Sheriff Warren E. Rupf has concluded in a letter to the County Administrator dated November 2, 2009 that he anticipates the Proposed Project to have a negligible impact on criminal activity (**Appendix JJ**). Sheriff Rupf noted that there has not been “any significant increase in criminal activity” as a result of the neighboring Casino San Pablo and he expects the same to remain true with the Proposed Project. Sheriff Rupf agrees that the provisions of the LDA and the MSA will adequately address any potential concerns and that they will provide the necessary funding to place more deputies in unincorporated west County so that a safer environment may be provided in that area.

RESPONSE I90-3

Point Molate has been the site of industrial uses for more than one hundred years and cannot be accurately characterized as “nearly undisturbed land.” In addition to the extensive grading and construction undertaken during the early 20th century during the construction and operation of Winehaven, the project site was radically altered during Naval occupation of the site which began in 1941. Please refer to **Section 3.12** of the Draft EIS/EIR for a description of the existing conditions as it relates to the installation and remediation of Naval fueling infrastructure at the site, which includes more than nine miles of buried fueling pipelines, twenty underground storage tanks, and a host of associated features. The current degraded state of on-site biological habitats is described in **Section 3.5** of the Draft EIS/EIR. Information provided in the above referenced sections of the Draft EIS/EIR makes it clear that the project site is more accurately characterized as a brownfield that has been subject to a high degree of disturbance.

Please refer to **General Response 3.12.1** regarding the proposed ferry service at the site. A total parkland alternative is analyzed as Alternative E in the Draft EIS/EIR.

RESPONSE I90-4

Please refer to **Response I90-2** above regarding potential crime impacts. With respect to alcohol availability and consumption, it is important to note that it will not be a policy of the Tribe to offer complimentary alcoholic beverages to customers. As stated under **Mitigation Measure 6-2**, “The Tribe shall provide training to all appropriate employees regarding the identification of intoxicated patrons gambling; shall adopt procedures to prohibit intoxicated persons from gambling at the gaming establishment; and shall provide information to intoxicated gambling patrons regarding the dangers of intoxicated gambling, and available counseling and treatment resources.” Furthermore, as outlined in **Mitigation Measures 9-1** and **9-2**, areas surrounding the gaming facilities will be well lit and patrolled regularly to aid in the prevention of illegal loitering that could potentially lead to other criminal acts. All security guards will carry two-way radios to respond to emergency related calls and to provide backup.

COMMENT I91

RESPONSE I91-1

Please refer to **Response I90-1** regarding potential traffic impacts.

RESPONSE I91-2

Please refer to **Response I90-2** regarding potential impacts to crime.

RESPONSE I91-3

Please refer to **Response I90-3** regarding the highly degraded state of the project site in its current condition.

RESPONSE I91-4

Please refer to **Response I90-4** regarding potential impacts to crime, the availability of alcohol, and security at the site.

COMMENT I92

RESPONSE I92-1

Please refer to **General Response 3.7.2** regarding indoor air quality.

RESPONSE I92-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I93

RESPONSE I93-1

Please refer to **General Response 3.11.1** and **Response 90-2** above regarding potential impacts to crime. Also, refer to **General Response 3.11.5** regarding the impact to immediate and surrounding communities, including the potential impact to the poor and minority communities surrounding the project site.

Please refer to **Response 90-1** regarding potential traffic impacts associated with the Proposed Project.

RESPONSE I93-2

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project. The casino facility will be operated pursuant to the requirements of federal law, Tribal law, and a Tribal/State Compact that will be negotiated between the State of California and the Tribal Government.

It is the responsibility of the State of California and the Tribal Government to establish fair terms for the Tribal/State Compact.

Tribes do not pay corporate income taxes on revenue or property taxes on tribal land, since trust land is not subject to local jurisdiction. However, as stated in **Section 2.1.2** and **Appendix C** of the Draft EIS/EIR, the Tribe agrees to pay the City service fees of \$8 million per year for the first eight years beginning with the commencement of gaming operations. The Tribe agrees to pay the City service fees of \$10 million per year thereafter. City service fees include fees for police and fire protection services. Fees shall be adjusted each year by changes in the Consumer Price Index, beginning after year one of the agreement. The fee shall be paid regardless of the amount of service provided. Additionally, as provided by the IGA entered into with Contra Costa County (**Appendix BB**), the Tribe will pay the County the annual sum of \$12 million for public safety, fire fighters and responders, health, and social services related costs, and community benefit payments, commencing with the project start date, and payable for as long as the IGA is in effect. Provisions of the MSA and the IGA would result in positive fiscal benefits for the City and the County.

The Tribe would be subject to all federal laws, including those related to employment and service in the National Guard and Reserve Service.

RESPONSE I93-3

Please refer to **General Response 3.11.1** regarding the potential impacts to crime from the Proposed Project.

The issue as to whether or not ancestral ties exist and whether or not the Tribe is entitled to use this land is beyond the scope of the Draft EIS/EIR process. This issue is addressed as part of the realty component of the fee-to-trust process. It is during the realty process that the federal government will make an “Indian Lands Determination.” If made in the affirmative, the Tribe will be entitled to game on project site property subject to the rest of the application process, including NEPA compliance. If ruled negatively, the Tribe will be denied gaming development and operation privileges. This lengthy process is separate from the environmental compliance requirements.

COMMENT I94

RESPONSE I94-1

Please refer to **General Response 3.12.9** regarding traffic on Western Drive. Refer to **General Response 3.12.1** regarding ferry service to the project site. Greenhouse gases emissions, including those from the proposed ferry service, are analyzed in **Section 4.15** of the Final EIR.

Mitigation Measure 7-2 in the Final EIR has been augmented to require that Western Drive remain passable to through traffic 24 hours a day, seven days a week, to provide access to and from other land

uses located on the San Pablo Peninsula. In the event that portions of Western Drive must be closed temporarily, reasonable detours shall be provided such that access to the San Pablo Yacht Harbor and other adjacent land uses is not restricted. It should also be noted that Western Drive would be significantly upgraded during construction of the Proposed Project to provide improved access to and from I-580, which includes widening to five lanes.

RESPONSE I94-2

Please refer to **Response I90-2** regarding potential impacts to crime and **General Response 3.11** regarding potential impacts to socioeconomic conditions generally.

COMMENT I95

RESPONSE I95-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I95-2

Traffic impacts are discussed in **Sections 4.8** and **4.15** of the Draft EIS/EIR and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR. Socioeconomic impacts are discussed in **Section 4.7** and mitigation is provided in **Section 5.2.6** of the Draft EIS/EIR. Air Quality impacts are discussed in **Section 4.4** and **4.15** and mitigation is provided in **Section 5.2.3** of the Draft EIS/EIR.

COMMENT I96

RESPONSE I96-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I96-2

Please see **General Response 3.11.4** regarding the economic viability of the Proposed Project. The Draft EIS/EIR evaluates all potential impacts, including short-term and long-term impacts. Based upon the Economic Impact Study and the IMPLAN model, the Proposed Project is determined not only to be economically viable, but beneficial to the economy of Richmond.

Estimations of customer visits are based on local market gaming statistics as well as relative drive-time, and were adjusted to consider the quality and size of the proposed facility relative to the competition. After compiling these factors, it was estimated that the Proposed Project would capture 21 percent of the market, or about 6.7 million visitors per year and 18,400 visits per day on average. There will be an estimated 32 million gamer visits to casinos in the Bay Area in 2011, which equates to roughly 87,400

total visits per day on average. This estimate does not include the attraction of gamblers from outside of the Bay Area, as the comment implies.

COMMENT I97

RESPONSE I97-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I98

RESPONSE I98-1

Please refer to **General Responses 3.11.1, 3.11.2, and 3.11.3** regarding crime, gambling addiction, and employment. Please refer to **Response I93-3** regarding the Tribe's right to use the projected project site. Refer to **General Response 3.12** regarding transportation issues.

The existing conditions related to traffic and regional transportation infrastructure are discussed in **Section 3.8** of the Draft EIS/EIR. **Sections 4.8 and 4.15** of the Draft EIS/EIR analyze potential transportation impacts associated with implementation of the Proposed Project in the near-term and under cumulative conditions (year 2025). Mitigation for impacts identified in the analysis is presented in **Section 5.2.7** of the Draft EIS/EIR.

The documentation for the projected economic output of the Proposed Project is provided in the Economic Impact Study as **Appendix T** of the Draft EIS/EIR. This study quantifies potential economic impacts of the Proposed Project in terms of employment, wages, and tax revenues. Economic effects in this analysis are quantified for Contra Costa County using the IMPLAN model. The IMPLAN model is commonly used to estimate economic impacts to communities and regions. Results of this study are analyzed and discussed in **Sections 4.7, 4.14 and 4.15** of the Draft EIS/EIR.

RESPONSE I98-2

Comment noted.

COMMENT I99

RESPONSE I99-1

Each of the issues raised by the commenter, including potential impacts to traffic, crime, wildlife and public health are addressed in the Draft EIS/EIR. Please refer to **Sections 4.5, 4.8, and 4.15** of the Draft EIS/EIR for analysis of impacts to biological resources and traffic. Potential impacts to public health are analyzed throughout the Draft EIS/EIR, including **Sections 4.3, 4.7, 4.10, 4.12, 4.14, and 4.15**.

The impacts to regional businesses have been assessed in the Draft EIS/EIR. Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities. Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

COMMENT I100

RESPONSE I100-1

Please refer to **General Responses 3.11.1, 3.11.2, 3.11.5, and 3.11.6** regarding crime, gambling addiction, potential impacts to social services, and potential impacts to the immediate and surrounding communities, including poor and minority communities. These topics are also discussed throughout **Sections 3.7 and 4.7** of the Draft EIS/EIR. The commenter does not support the claim that casinos can no longer generate revenue. According to the Economic Impact Study, with development of the Proposed Project, the Richmond area gaming market is expected to grow by approximately 20 percent to \$2.20 billion in 2012 (**Appendix T**).

RESPONSE I100-2

Comment noted.

COMMENT I-101

RESPONSE 101-1

Comment noted.

RESPONSE 101-2

Please refer to **General Response 3.9.1** concerning potential impacts to the eelgrass beds located on-site.

COMMENT I102

RESPONSE I102-1

The Tribe has submitted more than 5,000 pages of archival and ethnographic documentation that asserts a historical connection to the land (refer to comment letter **A-28**). **Section 3.6** of the Draft EIS/EIR provides an abbreviated cultural setting which is intended only to establish a context for interpreting extant historical/prehistoric resources that could be subject to impacts from the development of the Proposed Project, and therefore used readily available, standard reference materials. The cultural setting presented in the Draft EIS/EIR is in no way intended to serve as a definitive treatise on Native American occupation of the project site or vicinity. Moreover, the issue of ancestral ties to the project site is beyond

the scope of the Draft EIS/EIR, which is intended to analyze environmental impacts resulting from implementation of one of the proposed alternatives. Please note that Dr. Milliken is cited repeatedly in **Section 3.6** of the Draft EIS/EIR. Refer to **Section 8.0** of the Draft EIS/EIR for the bibliographic references used in the document.

Following standard professional practice in California, the California Native American Heritage Commission (NAHC) was contacted by letter on June 30, 2008, to request a list of Native American individuals and organizations for consultation on the Proposed Project. The NAHC responded by letter on July 10, 2008 and provided a list of six Native American individuals and organizations who have previously expressed an interest in participating in consultation pursuant to the requirements of Section 106 of the National Historic Preservation Act, NEPA, CEQA, and Senate Bill 18. Each of the individuals listed by the NAHC was contacted by letter as well as follow-up telephone calls. The commenter's organization was not listed by the NAHC and thus was not contacted during the initial consultation phase. Nonetheless, the City of Richmond and Bureau of Indian Affairs (BIA) are in receipt of the comment letter and will take the comments into consideration for future consultation activities. Please refer to **Appendix N** of the Draft EIS/EIR, which provides documentation of the Native American consultation efforts.

The text provided in **Section 3.6** of the Draft EIS/EIR mistakenly states that the list provided by the NAHC contained a list of seven individuals/organizations, when in fact the list contained only six individuals/organizations. This mistake has been corrected in the Final EIR in **Section 3.6**. **Appendix N** of the Draft EIS/EIR provides a copy of the response letter drafted by the NAHC. Additional consultation documentation may be found in the confidential cultural resources inventory and evaluation report within **Appendix Y**, which may be requested from the BIA. The commenter may contact the NAHC to request inclusion on the consultation list provided for Contra Costa County.

COMMENT I103

RESPONSE I103-1

Please refer to **General Response 3.2.1** regarding expressions of opinion and other non-substantive comments.

RESPONSE I103-2

Section 1.4 of the Draft EIS/EIR discusses the approvals and permits required for operation of the Proposed Project, which includes approval of a State-Tribal Compact for Class III gaming.

RESPONSE I103-3

Please refer to **General Response 3.11.3** regarding employment opportunities that would be generated by the Proposed Project.

RESPONSE II03-4

Cumulative effects are discussed in **Section 4.15** of the Draft EIS/EIR. Contrary to the assertions of the commenter, foreseeable development projects, including existing and proposed tribal casinos in the greater East Bay Area, have been considered in combination with the Proposed Project to analyze cumulatively considerable environmental impacts. Mitigation for cumulative impacts is provided throughout **Section 5.0** of the Draft EIS/EIR.

RESPONSE II03-5

The existing conditions related to traffic and regional transportation infrastructure are discussed in **Section 3.8** of the Draft EIS/EIR. **Sections 4.8** and **4.15** of the Draft EIS/EIR analyze potential transportation impacts associated with implementation of the Proposed Project in the near-term and under cumulative conditions (year 2025). Mitigation for impacts identified in the analysis is presented in **Section 5.2.7** of the Draft EIS/EIR.

Refer to **General Response 3.12.1** and **3.12.1** regarding the proposed ferry service and trip reductions, respectively. The analysis presented in the Draft EIS/EIR assumes that vehicle trips would be reduced by 15 percent with implementation of the ferry service.

Please refer to **General Response 3.10** regarding enforcement of all mitigation measures specified in the Final EIR.

The “vehicles per lane” designation at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated as 4225 vehicles *per lane per hour* in the Draft EIS/EIR, has been corrected in the text of the Final EIR.

RESPONSE II03-6

Please refer to **General Responses 3.16.2** and **3.16.3** for a discussion of potential impacts associated with the project site’s proximity to the Chevron facility.

RESPONSE II03-7

The geographic scope of analysis within the Draft EIS/EIR was determined based on issues raised by the public during the scoping process and through consultation with Contra Costa County and the City of Richmond. The area considered extends beyond the immediate project site to analyze impacts on specific resources, ecosystems, and human communities that would result from implementation of the Proposed Project alternatives. Refer to **Section 4.15** of the Draft EIS/EIR for a discussion of cumulative impacts to surrounding communities.

COMMENT I104

RESPONSE I104-1

Comment noted.

RESPONSE I104-2

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

RESPONSE I104-3

Please refer to **General Response 3.16.1** regarding the analysis of potential impacts associated with the proposed environmental remediation at the project site.

RESPONSE I104-4

Interim Land Use Controls (LUCs), which will be codified in a Covenant and Agreement, are being prepared that restrict access to the affected portions of the property until the San Francisco Regional Water Quality Control Board (SFRWQCB) has approved the completion of cleanup activities on those areas. As stated in the 2008 Order, “Interim LUCs will be developed for areas of the [project site] undergoing remediation. The Interim LUCs will protect the public during the completion of site remediation activities and provide for the necessary access to complete those activities. In addition, the Interim LUCs will include provisions for their removal after completion of remediation measures for each affected area of the site. In some cases, the Interim LUCs may need to be replaced by Final LUCs as appropriate, depending on the scope of each proposed cleanup action for areas of the site that do not meet unrestricted use standards. The Discharger will propose such Final LUCs for Board review and approval after an acceptable remedy has been successfully completed pursuant to this Order (SFRWQCB, 2008; **Appendix X**).” Please refer to **Section 2.1.3** of the Final EIR for additional discussion of LUCs on the project site. As noted in **Section 2.1.3**, in order for development to occur under Alternatives A, B, C,D, and B1, some of the LUCs would have to be removed. Specifically, restrictions concerning development in proximity to the existing USTs would need to be amended upon completion of environmental remediation and regulatory closure of the tanks. It is anticipated that some land use restrictions will remain in place in perpetuity, such as in open space areas where residential development is precluded as a term of the LDA. Alternatively, some areas of the project site will meet unrestricted residential use standards after cleanup, and the SFRWQCB would issue, upon completion of remediation and associated documentation, NFA letters with no land use restrictions for those areas.

RESPONSE I104-5

A \$28.5 million grant from the U.S. Navy, along with an additional financial contribution from Upstream and the Tribe (for Alternatives A – D), will fund rigorous cleanup program on-site and will be used to purchase environmental insurance to protect against cost overruns, new discoveries, regulatory changes, and third-party liabilities.

As summarized in **Section 2.1.4** of the Draft EIS/EIR, the dischargers cited in the recently vacated SFRWQCB Order are the City and the Navy. The City has a remediation agreement with Upstream (**Appendix C**), which is assumable by the Tribe, to implement the cleanup obligations of the Order and the Early Transfer Cooperative Agreement (ETCA) on behalf of the City. Additionally, compliance with the cleanup obligations stipulated in SFRWQCB Orders are mitigation measures in the Final EIR, and, as an attachment to the MSA, would be legally enforceable. Furthermore, the Tribe has provided a limited waiver of sovereign immunity for enforcement of the MSA; the waiver is provided in Section 11.3 of the MSA (**Appendix C**).

RESPONSE II04-6

The commenter does not provide specific examples in regards to their claim of missing information, contradictory information, and inaccurate conclusions within the Draft EIS/EIR. Therefore, no specific response can be given.

RESPONSE II04-7

The Draft EIS/EIR initially used a cumulative temporal horizon that corresponded to the timeframe considered in the City's General Plan for several of the resource/issue areas. The transportation and air quality analyses used a more distant future date to correspond with the temporal extent of the Contra Costa County Travel Demand Model in effect at the time of preparation of the Draft EIS/EIR. The cumulative analysis in the Final EIR has been revised to project further into the future for all resource areas. However, the exact year used in the analysis is not a significant factor given the approach used in the cumulative analysis, as discussed below.

As stated in **Section 4.15.1** of the Draft EIS/EIR, growth and development trends drive the cumulative analysis and define the geographic borders and time frame of the analysis. Although the CEQA Guidelines require the use of only one method of cumulative analysis (i.e., the "list" or the "plan" approaches), the approach used in the Draft EIS/EIR uses both methodologies. A list of foreseeable projects (**Section 4.15.2**) was generated by consulting with staff of relevant agencies. In addition, planned development, infill, and other actions identified in regional governmental plans have been incorporated. As such, all reasonably foreseeable developments and trends were considered in the analysis. The Final EIR has been clarified in **Section 4.15.1** to reflect this fact.

RESPONSE II04-8

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

RESPONSE II04-9

Comment noted.

RESPONSE I104-10

Environmental remediation is discussed in **Section 2.1.5** of the Draft EIS/EIR. Soil and groundwater previously impacted by hazardous materials releases are described in **Section 3.12** of the Draft EIS/EIR and **Appendix P**. Refer to **Section 5.2.11** for mitigation measures related to remediation and monitoring activities.

RESPONSE I104-11

Refer to **Section 2.1.3** of the Final EIR and **Response 104-4** regarding LUCs on the project site. The commenter's statement that the LUCs' effects on the land use alternatives under consideration are "unknown" is misleading. The analysis provided in the Draft EIS/EIR considers environmental impacts in light of the current deed restrictions but identifies a mechanism for removing certain restrictions in the future. The SFRWQCB map impose a Final LUC, post-remediation, which would limit the uses available for Installation Restoration (IR) Site 3 (former Treatment Ponds). However, it is expected that the environmental remediation work would be thorough and complete at IR-3 such that potential future Final LUCs would not conflict with the final development plans for that location. LUCs do not typically contain cleanup goals or objectives, as the LUC is typically part of the final remedy.

RESPONSE I104-12

As summarized in Draft EIS/EIR **Section 2.1.4**, the early transfer of the property to the City took place on March 25, 2010 pursuant to the ETCA, which is included in **Appendix X** of the Draft EIS/EIR. The transfer of the property to Upstream would be in accordance with the provisions of the Land Disposition Agreement (LDA), provided as **Appendix C** of the Draft EIS/EIR. The timing of the remediation will be outlined in a Site Cleanup and Abatement Order issued by the SFRWQCB and would be completed prior to operation of the Proposed Project. The relationship of the remediation process to the NEPA/CEQA process and the Tribe's request to take land into trust is summarized in Draft EIS/EIR **Section 2.1.4**.

RESPONSE I104-13

Please see **Response I104-5** regarding the responsible parties for the site clean-up.

RESPONSE I104-14

As noted by the commenter under **Comment 104-15**, the Department of Interior's Departmental Manual (Land Acquisition, Exchange, and Disposal) allows for the acquisition of real property that has been impacted by hazardous materials, provided that "the acquisition will result in insignificant or no increased cost to the United States." As summarized in **Section 2.1.4** of the Draft EIS/EIR, remediation at the project site and purchase of environmental insurance (in an amount that would cover a cleanup of twice the estimated cost) will be funded with a \$28.5 million grant from the U.S. Navy along with an additional financial contribution from Upstream and the Tribe (for Alternatives A – D). As such, no increased cost would be borne by the United States, thus meeting the relevant title standard for acquisition of the project site as described in the Draft EIS/EIR.

RESPONSE I104-15

Comment noted.

RESPONSE I104-16

Comment noted.

RESPONSE I104-17

Comment noted.

RESPONSE I104-18

Comment noted.

RESPONSE I104-19

Comment noted. As summarized in Draft EIS/EIR **Section 2.1.4**, the early transfer of the property to the City and subsequent remediation took place on March 25, 2010 pursuant to the ETCA, which is included in **Appendix X** of the Draft EIS/EIR.

RESPONSE I104-20

Comment noted.

RESPONSE I104-21

Comment noted.

RESPONSE I104-22

Please refer to **General Response 3.16.1** regarding the vacated SFRWQCB Order.

RESPONSE I104-23

Please refer to **Response 104-11** regarding the LUCs at the project site.

RESPONSE I104-24

The Draft EIS/EIR correctly states in several locations, including **Section 2.1.4**, that the federal actions (including taking land into trust) cannot occur prior to the completion of the NEPA process. A requirement of the LDA is that Upstream “prepare and submit to the City such plans, specifications, drawings, and other information, as specified by the City, which are reasonably necessary for the City to perform any City, building, planning, zoning or environmental review process related to the development of the Property which the City determines are required or as provided in the Design Concept Documents.” Ultimately, the determination as to whether environmental remediation must be completed prior to

transferring the land into federal trust will be made by the Department of Interior (DOI) and will likely be clarified in the Record of Decision, concluding the NEPA process. However, a definitive answer on this point is not necessary to evaluate environmental impacts pursuant to the requirements of CEQA and NEPA.

RESPONSE I104-25

The viability of the proposed fee to trust transfer by the DOI is beyond the scope of the Draft EIS/EIR and Final EIR. The purpose of the environmental review process is to assess the environmental impacts of the Proposed Project and not to analyze the DOI realty process. Ultimately, DOI will make a determination, considering a host of factors, with respect to the eligibility of the site for transfer into Federal trust for the benefit of the Tribe. In regards to environmental cleanup responsibilities at the project site (as discussed in **Section 2.1.4** of the Draft EIS/EIR), the City has a remediation agreement with Upstream (**Appendix C** of the Draft EIS/EIR), which is assumable by the Tribe, to implement the cleanup obligations of the SFRWQCB's Site Cleanup Order and the Early Transfer Cooperative Agreement on behalf of the City. Additionally, compliance with the cleanup obligations stipulated in all future SFRWQCB Orders are mitigation measures in the Final EIR. Furthermore, the Tribe has provided a limited waiver of sovereign immunity for enforcement of the MSA; the waiver is provided in Section 11.3 of the MSA (**Appendix C** of the Draft EIS/EIR). As noted in **Response I104-5**, the project proponents are required to purchase environmental insurance to protect against cost overruns, new discoveries, regulatory changes, and third-party liabilities related to the environmental remediation of the project site.

RESPONSE I104-26

As addressed in **Section 1.2** of this document, since the Draft EIS/EIR was completed and circulated for public review and comment, the City and BIA determined that due to their differing internal procedures and timelines, the environmental review process should be completed separately. As such, the Final EIR has been prepared and distributed, which will be followed by a Final EIS issued by the BIA. Interim LUCs will be in place prior to any development on the project site. Please refer to **Response I104-4** for additional information concerning Interim and Final LUCs.

RESPONSE I104-27

The project proponent is in the process of securing cost-cap environmental insurance related to past hazardous materials releases at the site. Provision of such insurance is a requirement of the ETCA and has been obtained by the City.

RESPONSE I104-28

Please refer to **General Response 4.16.1** regarding the vacated SFRWQCB Order.

RESPONSE II04-29

Please refer to **Response I-104-14** regarding the proposed fee to trust transfer in light of the ongoing and future hazardous materials remediation at the project site.

RESPONSE II04-30

Contrary to the assertions of the commenter, the Draft EIS/EIR addresses the potential for impacts to human health and the environment related to volatile organic compounds (VOCs) in the soil and groundwater at the project site. Existing conditions related to the presence of VOCs and concomitant hazards associated with vapor intrusion are discussed in **Sections 2.1.4, 2.1.5, 3.4.1, 3.12.2, 4.12, and 5.2.11** of the Draft EIS/EIR. A groundwater extraction and treatment system is currently in place and operating, as described in **Section 3.12.2** of the Draft EIS/EIR. As stated in **Sections 2.1.4 and 2.1.5** of the Draft EIS/EIR, the Project proposes to remove the source VOCs that has previously impacted soil and groundwater at the project site. With the removal of impacted soils, and implementation of mitigation measures provided in **Section 5.2.11**, potential VOC and vapor intrusion impacts would be mitigated to a less than significant level.

As discussed in **Section 3.12** of the Draft EIS/EIR, risk assessments at IR-04 have indicated no human health risks at the public beach area relative to recreational visitors and park maintenance employees and no risk to ecological resources from offshore sediments (Tetra Tech EMI, 2000). Based on a finding of no significant potential human health risk relative to future recreational user, future park maintenance worker, and hypothetical future residential scenarios, as well as no ecological risk, the Navy has recommended no further action (NFA) at the public beach area, north shoreline area, and Drum Lot 1. (Tetra Tech EMI, 2003a). A portion of the south shoreline area was recommended by the Navy to be included in future removal actions based on potential ecological risk from exposure to polycyclic aromatic hydrocarbons (PAHs) and total petroleum hydrocarbons (TPH) in soil. Although the Navy determined no potential unacceptable risk to human health or to the environment from trichloroethylene (TCE) and its breakdown products in groundwater near building 87 exists, the Navy and SFRWQCB determined that additional data was necessary to further characterize the TCE plume. The Navy recommended additional groundwater investigation in the northwestern portion of Drum Lot 2 (**Figure 3.12-3** of the Draft EIS/EIR). The SFRWQCB concurred with these findings in letters dated December 3, 2002 and March 25, 2003. Based on the Navy's recommendations, groundwater at Drum Lot 2 was included in the base-wide groundwater monitoring program and is currently being sampled during all semiannual groundwater monitoring events (**Appendix X**).

The SFRWQCB requires a Remedial Action Plan (provided as **Appendix II**) upon the early transfer of the Point Molate NFD that proposes final cleanup criteria for IR-04. The Proposed Project includes excavation to remove the source of the TCE plume. The conceptual plan was summarized in **Section 2.1.5** of the Draft EIS/EIR and is attached as **Appendix II**. Additionally, **Section 2.1.5** of the Final EIR has been updated to clarify that excavation quantities were calculated for best, most likely, and worst case

scenarios for remediation. The analysis uses the worst case scenario in considering the volume of impacted soil to be excavated and disposed of from IR Site 4. The best case scenario states that 7,000 tons of impacted soil will be excavated and disposed of. The most likely scenario states that 13,000 tons of impacted soil will be excavated and disposed of. The worst case scenario states that 21,000 tons of impacted soil will be excavated and disposed of. As previously stated, removal of impacted soils would mitigate hazards related to VOC vapor intrusion.

RESPONSE I104-31

As stated in **Mitigation Measure 11-3** of the Final EIR, clean up levels for the site will be such that potential significant risks to human health and the environment are not present. The clean up levels would be determined in coordination with the SFRWQCB. Site remediation would take into account the area-specific conditions, including areas of deep groundwater and areas planned for residential development.

RESPONSE I104-32

Please refer to **Response I104-5** regarding the parties responsible for implementing the environmental remediation at the project site.

RESPONSE I104-33

Please refer to **Response I104-5** regarding the parties responsible for implementing the environmental remediation at the project site. Furthermore, the Mitigation Monitoring and Reporting Plan will identify the parties responsible for implementing each measure included in the Final EIR.

RESPONSE I104-34

Comment noted.

RESPONSE I104-35

Comment noted.

RESPONSE I104-36

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

RESPONSE I104-37

Please refer to **General Response 3.16.1** regarding the analysis of impacts associated with the proposed environmental site remediation.

Quarrying operations are a component of the construction activities analyzed in **Sections 4.3, 4.4, 4.5** and **4.11** of the Draft EIS/EIR. The inclusion of the quarrying activities as a component of construction of the Project is stated in **Section 2.2.2** of the Draft EIS/EIR. Relevant portions of **Section 4** of the Final EIR

has been supplemented to reiterate that quarrying activities are included as part of the construction phase of project development. Refer to **Responses A26-15, I140-50, and I104-58**, which address potential impacts from quarrying on specific resources.

RESPONSE I104-38

The commenter does not provide specific examples in regards to their claim of missing information, contradictory information, and inaccurate conclusions within the Draft EIS/EIR.

RESPONSE I104-39

Please refer to **Response I104-7** regarding the timeframe used in the cumulative analysis.

RESPONSE I104-40

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

RESPONSE I104-41

Comment noted.

RESPONSE I104-42

Please refer to **General Response 3.16.1** regarding the analysis of impacts associated with the proposed environmental site remediation.

RESPONSE I104-43

The demographics of the Guidiville Band of Pomo Indians, including labor statistics, are described in **Section 3.7.2** of the Draft EIS/EIR. The descriptive information presented is adequate for the purpose of evaluating environmental impacts associated with the Proposed Project. An expanded description of Tribal demographics would not change the analysis presented in the Draft EIS/EIR. **Section 4.7.9** of the Draft EIS/EIR concludes that the Proposed Project would meet the socioeconomic needs of the Tribe through revenue generated at the gaming facility, new employment opportunities, increased wages, and a host of other benefits. The location of the project site would not hinder the ability of Tribal members to gain access to the employment opportunities generated by the Project. To help ensure the employment of Tribal members, and other Native Americans, the Tribe has committed, through the terms of the MSA, that it will employ qualified Tribal members and offer training programs to assist Tribal members and other Native Americans (**Appendix C**). Based on current labor statistics for the Tribe (**Section 3.7.2**), the Proposed Project is expected to employ previously unemployed Tribal members and significantly increase wages earned by Tribal members currently employed at other locations. The development of the Proposed Project would result in beneficial economic impacts to the Tribe and its members.

RESPONSE I104-44

As noted by the commenter, the USEPA is the jurisdictional agency with authority over the filling of wetlands and Clean Water Act Section 401 certifications on trust property. **Table 1-1** in **Section 1.6** of the Final EIR has been updated accordingly.

A Biological Opinion was issued by the U.S. Fish and Wildlife Service which concurred with the BIA's finding that the Proposed Project is "not likely to adversely affect" federally listed or proposed species or their critical habitat (**Appendix J**). Since the release of the Draft EIS/EIR, the National Marine Fisheries Service (NMFS) have issued a letter concurring with the BIA's finding that listed anadromous salmonids, green sturgeon, and critical habitat are not likely to be adversely affected by the project (**Appendix FF**).

All modifications to the pier for adaptive reuse as a passenger ferry terminal would be restricted to the existing structure and would not affect navigable waters of the Bay.

The Draft EIS/EIR acknowledges that the SFRWQCB has final approval authority for the remediation plans at the project site.

RESPONSE I104-45

Please refer to **Response I104-46** below.

RESPONSE I104-46

Please refer to **General Response 3.16.1** for a discussion of environmental remediation at the project site and the analysis of environmental impacts associated with these activities. The Remedial Plan developed for the site is presented in **Appendix II** of the Final EIR.

RESPONSE I104-47

Please refer to **Response 104-4** regarding LUCs at the project site.

RESPONSE I104-48

Please refer to **Section 2.1.4** of the Draft EIS/EIR, which describes the early transfer process applicable to all the alternatives, including release of LUCs.

RESPONSE I104-49

Section 2.2.2 of the Final EIR has been amended to clarify that the height of new construction on the pier would be limited to heights less than or equal to the existing buildings on the pier to ensure the new construction does not affect visibility on the Bay. Navigability in the Bay would be unaffected by the superficial modifications proposed for the pier.

RESPONSE II04-50

The URBEMIS air quality model used to determine construction air quality impacts considers quarrying activities in the construction module of the program under soil hauling and fugitive dust tabs. In response to the comment received, **Section 4.4** of the Final EIR has been updated to clarify that quarrying activities are included in the air quality analysis. Quarrying activities are included in the general noise analysis and in response to the comment received, **Section 4.11** of the Final EIR has been updated to clarify that quarrying activities are included in the noise analysis. Quarrying activities are included in the general water quality analysis and in response to the comment received, **Section 4.3** of the Final EIR has been updated to clarify that quarrying activities are included in the water quality analysis.

RESPONSE II04-51

As described in **Section 2.1.5** and subsequent sections of the Final EIR, the worst-case scenario for environmental remediation was used to analyze impacts for each alternative. As such, the analysis is quite conservative and errs on the side of assuming a greater amount of impacted soil removal than may actually be required. As such, no further revisions to the text of the Final EIR are warranted.

RESPONSE II04-52

Contrary to the contention of the commenter, the Draft EIS/EIR includes an analysis of the ability of mitigation measures to reduce significant impacts to a less than significant level. For instance, according to **Impact 4.2.1**, development of Alternative A has the potential to result in potentially significant soil erosion on the project site. As explained in **Sections 4.2.1** and **5.2.1** of the Draft EIS/EIR, mitigation measures would reduce the potential for erosion, resulting in a less than significant impact after mitigation. Specific concerns with the adequacy of the impact analysis and/or mitigation measures are addressed below.

RESPONSE II04-53

Please refer to **General Response 3.13.1** regarding the General Plan Update.

RESPONSE II04-54

Please refer to **General Response 3.5.1** regarding the analysis of unstable soils at the project site.

RESPONSE II04-55

Contrary to the assertion of the commenter, potential impacts to air quality, noise, water quality, traffic, biological resources, cultural resources, etc., that could be associated with remediation were considered in the Draft EIS/EIR. For example, all truck trips required to export impacted soils have been analyzed in both the traffic impact analysis as well as air quality modeling. All remedial activities involving major ground disturbance, such as removal of impacted soils, were analyzed as part of the construction phase of the Proposed Project. Text has been added to the Final EIR to highlight the ways in which remediation is

analyzed for in the impact analysis and mitigation measures. Please refer to **General Response 3.16.1** for additional information concerning analysis of environmental impacts related to site remediation.

RESPONSE I104-56

Please refer to **General Response 3.5.1** regarding the analysis of unstable soils at the project site. **Section 4.2** of the Final EIR has been updated to clarify that the landslide potential at the project site will be reduced through the incorporation of **Mitigation Measure 1-2**.

RESPONSES I104-57

Section 3.2.1 of the Final EIR has been expanded to include a discussion of the dewatering provisions of the National Pollutant Discharge Elimination System (NPDES) Permit associated with construction activities.

Mitigation has been included that requires the Tribe to develop a design-grade Stormwater Control Plan that includes the provisions outlined within the most current version of Contra Costa County's (CCC) Stormwater C.3 provisions. As discussed in **Mitigation Measure 2-3** of the Draft EIS/EIR, the Stormwater Control Plan will include final design provisions as required that cannot be determined during the initial environmental review process and therefore will be developed prior to construction. The Stormwater Control Plan will include all the provisions of the most current C.3 Guidelines, which have been incorporated into the Preliminary Drainage and Grading Study included in **Appendix H** of the Draft EIS/EIR.

The detail within **Section 3.3** and **Appendix H** of the Draft EIS/EIR are adequate to determine the potential impacts associated with development of the project alternatives. Based on the impact analysis, **Mitigation Measures 1-1, 2-1, 2-2, and 2-3** were developed to reduce impacts to less than significant levels.

Refer to **General Response 3.6.3** regarding stormwater.

As discussed in **Section 3.3.2** of the Draft EIS/EIR, the eight distinct watersheds are defined by the topography of the project site. The watersheds were delineated during completion of the preliminary drainage plan. Refer to **Appendix H** for additional details regarding the eight on-site watersheds. The drainages are shown in **Figure 3.5-2** and are addressed under the discussion of Waters of the U.S. in the biological resources sections of the Draft EIS/EIR (**Sections 3.5 and 4.5**).

The project site is located in the north-central portion of the Bay. As shown in **Figure 3.2-2**, the Hayward Fault is located to the east of the project site, entering the Bay to the northeast. An earthquake along the Hayward Fault of strong magnitude along the northern portion of the fault line extending into the Bay would result in wave motion that would impact the northeastern portion of the Bay near the delta,

resulting in seiche-like impacts. However, as shown in **Figure 3.2-2**, the wave energy would travel past the project site (projected by direct wave inundation from its location along the southeastern portion of the point) and would dissipate moving south towards Oakland and out of the Bay towards the Pacific Ocean. The San Andreas Fault is located west of the project site, outside of the Bay in the Pacific Ocean. Intense wave action would dissipate in a similar manner as described above.

Refer to **General Response 3.8.2** regarding sea level rise at the project site.

The existing contamination of the project site and potential impacts associated with development of the project alternatives is addressed in **Section 2.1.5, 3.12 and 4.12** of the Final EIR. **Sections 3.3 and 4.3** of the Final EIR have been updated to reference **Sections 3.12 and 4.12** regarding the pre-existing releases of hazardous materials on the project site and potential impacts associated with project development. References have been included in **Section 4.3** for the mitigation of impacts identified in **Section 4.12** that would also reduce impacts to water resources.

Groundwater aquifers and groundwater resources are described and addressed as necessary to assess potential impacts of the project alternatives in **Section 4.3** of the Draft EIS/EIR. Due to the design of the Project (including connection to the municipal system to meet water demands) and inclusion of detention basins reducing stormwater flows to preexisting conditions, impacts to groundwater beneath the project site were determined to be negligible. Therefore, the level of detail in the existing setting description provided in **Section 3.3** of the Draft EIS/EIR is adequate to analyze impacts in **Section 4.3** of the Draft EIS/EIR. Soil conditions at the project site and associated impacts are addressed in **Sections 3.2 and 4.3** of the Draft EIS/EIR, respectively. Existing groundwater contamination is addressed in **Section 3.12** of the Draft EIS/EIR. As previously noted, remediation of hazardous materials conditions at the project site is an integral part of the Proposed Project. **Sections 3.3 and 4.3** of the Final EIR have been expanded to reference the existing contamination as well as the design and mitigation provisions that would reduce impacts associated with the existing contamination on the project site.

RESPONSE I104-58

The Preliminary Drainage and Grading Study, as well as the Stormwater Control Plan, are incorporated into the Draft EIS/EIR (**Sections 3.3 and 4.3**) as well as **Appendix H**. The drainage improvements, including locations of the bioswales, are shown in **Appendix H**. The drainage plan was developed for the planning stages of the Proposed Project and analyzes the feasibility of the bioswales. Based on the modeling of anticipated runoff using industry-standard methods and models, and the proposed design features were determined to feasibly mitigate impacts associated with the proposed development of additional impervious surfaces at the project site. Impacts of mitigation are analyzed in **Section 4.14.8** of the Final EIR.

Page 4.3-1 of the Draft EIS/EIR summarizes the significance thresholds that were utilized to determine the potential for significant impacts to occur from the development of the Project alternatives (including

the No Action Alternative). The Project components outlined in **Section 2.0** were compared to the existing conditions described in **Section 3.0** of the Draft EIS/EIR using standard methodologies, such as the use of the Rational Method for the hydrologic calculations in accordance with Contra Cost County guidelines. The significance criteria on Page 4.3-1 of the Draft EIS/EIR were taken from Appendix G of the CEQA *Guidelines*. The significance criteria outlined within **Section 4.3** of the Draft EIS/EIR provide adequate thresholds to identify potential impacts of the Project alternatives and satisfies the purpose and requirements of CEQA and NEPA.

Section 3.3 of the Final EIR has been updated to include a regulatory discussion of dewatering provisions of the NPDES general construction permits issued by the USEPA and the State of California Water Resources Control Board for which the project proponent would apply for coverage prior to the start of construction of the selected alternative. **Section 4.3** of the Final EIR has been updated to include an analysis of the need for dewatering during construction of the project alternatives and references the recommended Best Management Practices (BMPs) and associated mitigation measures for treatment, disposal, and monitoring during dewater activities. Where applicable, **Section 4.3** of the Final EIR has also been updated to reference the appropriate Project components and mitigation measures associated with the environmental remediation addressed under Hazardous Materials in **Section 4.12** and the existing NPDES permit for groundwater remediation that has been incorporated into **Section 3.3** of the Final EIR.

Please refer to **General Response 3.16.1** for additional information concerning analysis of environmental impacts related to site remediation.

Impacts to groundwater quality are assessed in **Section 4.3** of the Draft EIS/EIR. For Example, **Section 4.3.6** of the Draft EIS/EIR specifically states that operation of Alternative A would introduce an additional source of pollutants to surface water and groundwater. The analysis indicates that development of the site would introduce new pollutants to the site. However, a combination of site planning, structural treatment BMPs, and non-structural source control BMPs have been incorporated into the development alternatives to reduce potential impacts. The discussion includes a quantitative analysis of the anticipated reduction of pollutant loads from the incorporation of the site planning components, structural treatment BMPs, and non-structural source control BMPs. The analysis adequately addresses impacts to surface water and groundwater. The impact analysis clearly states that there are no aquifers underlying the project site capable of providing potable water in quantities to meet the need of previous on-site development and references the appropriate U.S. Navy document. The analysis states that groundwater has historically not been used on the site as a potable water source and that there are no groundwater supply wells at the project site. Furthermore, with the incorporation of bioretention swales allowing for recharge of groundwater, impacts to the existing groundwater aquifer would be less than significant.

As noted in **Section 4.3** of the Draft EIS/EIR, the complete Preliminary Drainage and Grading Study is included as **Appendix H**. The Preliminary Drainage and Grading Study details the methodology utilized to analyze the impacts associated with development of the Project alternatives. The hydrology method

clearly states that the analyses were performed utilizing Contra Costa County guidelines and that Contra Costa County information and standards were used (such as the Contra Costa County isohyetal map, Drawing B-166) to determine rainfall intensity. Additionally, **Appendix H** clearly states that each of the proposed drainage facilities are designed in accordance with the requirements of Contra Costa County. To mitigate impacts and to provide a regulatory provision for remediation, the Tribe is required to develop a design-grade Stormwater Control Plan in compliance with the City's Municipal Code 12.22.050 for trust property. The Code requires the Stormwater Control Plan to include the provisions outlined within the most current version of Contra Costa County's Stormwater Quality C.3 Guidelines. The Stormwater Control Plan shall include final design specifications as required and therefore will be developed at the time the application for development is made. The preliminary drainage plan incorporated into the Project description provides sufficient detail to assess potential impacts associated with the development alternatives.

Impact statement **4.3.6** in the Draft EIS/EIR provides referenced data regarding pollutant removal efficiencies of the water quality improvement components of the project alternatives. Refer to **Table 4.3-1** for a summary of the pollutant reduction efficiencies.

Please refer to **Response I104-57** regarding the analysis of hazards associated with tsunamis and seiches.

Section 4.3 of the Draft EIS/EIR clearly states in the introduction of each impact statement whether the analysis addresses construction (refer to Impact Statement **4.3.1**) or operation (refer to Impact Statement **4.3.3**) of the Project alternatives.

The water quality analysis for the operation of the Project alternatives has been expanded in **Section 4.3** of the Final EIR to include the analysis of impacts associated with landscape irrigation with treated grey water.

Quarrying operations are a component of the construction activities analyzed in **Sections 4.3** and **4.5** of the Final EIR. Mitigation includes the incorporation of BMPs for site control in accordance with the USEPA's and SFRWQCB's NPDES general construction permit. Aggregate materials are slated to be quarried and processed on-site and would be transferred from the designated processing locations to barges docked at the end of the pier using a fully enclosed conveyor belt system set up on the existing pier structure. Sufficient dust control of crushed materials would be accomplished prior to transport along the conveyor system. To assure a low risk that material transported along the conveyor will be discharged into the Bay by wind erosion or any other causes, the conveyor belt system will be completely enclosed and loose material will be watered as it enters the barges. This will prevent any loose sediment, soils or dust from entering the Bay during the transport operations (**Mitigation Measure 4-8**). Additionally, **Section 4.3** of the Final EIR has been updated to clarify that Project construction would involve quarrying as well as the earth moving, grading, and excavation activities cited in the Draft EIS/EIR. However, the inclusion of the quarrying activities as a component of construction of the Project is clearly addressed in

Section 2.2.2 of the Draft EIS/EIR. As stated in **Section 4.5** of the Draft EIS/EIR, pier reconfiguration and use requires consultation and approval from the San Francisco Bay Conservation and Development Commission (and the State Lands Commission). With implementation of the referenced mitigation, acquisition of the required Commission Permit(s) and compliance with all the conditions therein, no additional mitigation measures are required to mitigate impacts to the Bay's open waters.

In light of the fact that none of the commenter's criticisms raise substantive issues that are not properly addressed in the Draft EIS/EIR, no modifications to the cumulative impact analysis (**Section 4.15** of the Final EIR) are warranted.

RESPONSE I104-59

Clean Water Act requirements, including the requirement to prepare a SWPPP, are in place to ensure that significant impacts to water quality do not occur during construction. Implementation of mitigation will be verified and monitored through the Mitigation Monitoring and Reporting Plan as well as separately through the requirements in the Clean Water Act and its implementing regulations.

RESPONSE I104-60

The Final EIR reflects the most recent updated 8-hour ozone National Air Quality Standard (NAAQS) of 0.075 parts per million (ppm).

RESPONSE I104-61

Regional conformity significance is determined by calculating the Project's percentage of the emission inventory and comparing it to the regional significance threshold of 10 percent. However, given the volume of the San Francisco Bay Area Air Basin (SFBAAB) emissions inventory (refer to **Table 4.15-2** of the Draft EIS/EIR), the Proposed Project would not emit 10 percent of the SFBAAB emissions. However, a worst case scenario has been calculated using Alternative B. Alternative B would emit approximately 72.93 tons per year (tpy) of NO_x or 0.20 tons per day (tpd). The Contra Costa County emission inventory for NO_x is 82.43 tpd. Thus the Project's NO_x emissions are 0.24 percent of Contra Costa County emissions and are not regionally significant.

Appropriate changes have been made to tables cited by the commenter in **Section 4.4** of the Final EIR. **Mitigation Measure 3-16** has been amended to require use of a diesel particulate matter filter and diesel oxidation catalyst for construction equipment.

All trips generated during construction of the Proposed Project are accounted for in the URBEMIS model, including daily worker trips. Furthermore, barge and truck trips used to export soil from the project site are also accounted for in the URBEMIS model. While the URBEMIS model conservatively assumed that 2.7 million cubic yards of soil would be exported from the site in the Draft EIS/EIR, the conceptual grading plan (**Appendix H**) and the Remedial Plan (**Appendix II**) indicate that the actual amount of soil

to be exported would be substantially lower. In fact, the grading plan estimates that only 1.58 million cubic yards of soil would be exported under Alternative B (the Draft EIS/EIR alternative with the greatest amount of earthwork), while the Remedial Plan estimates that less than 205,000 cubic yards of impacted soil would require export under the worst case scenario. Moreover, the excavations of impacted soil would have to be backfilled using clean fill derived from other locations on-site, which would completely off-set the volume of impacted soils to be exported. Thus, the Draft EIS/EIR air quality analysis overestimates the amount of fill to be exported by approximately 1.12 million cubic yards. The URBEMIS model runs in the Final EIR have been revised to account for the calculations estimated in the grading plan.

Mitigation measures are provided in **Section 5.2.3** of the Final EIR, as well as **Tables 5-1** and **5-2**, which show the emission reductions achieved by the measures. The 0.43 percent reduction in the URBEMIS model taken for transit and shuttle service to and from the project site has been removed and the referenced tables in **Section 4.4** and **4.15** have been updated to reflect the modest change in mitigated emissions. The two percent reduction for “Local Serving Retail” has been retained in the model since this reduction factor does not double count reductions already accounted for in the transportation analysis (**Appendix S**). The “Local Serving Retail” reduction reflects the fact that, as an infill project, the retail services offered by the Proposed Project would reduce overall vehicle miles traveled by local residents (San Pablo Yacht Harbor, Point Richmond, etc.) who would otherwise travel further to acquire the same goods and services. In contrast, the “internal capture” reduction taken in the transportation analysis reflects the interaction between patrons using the casino component and other amenities (including retail).

URBEMIS trips are a weighted average on a yearly basis; hence, five weekdays, one Saturday, and one Sunday average to produce a weighted average daily trip. The direct calculation that the commenter performed does not accurately account for the five weekdays, one Saturday, and one Sunday scenario.

Refer to **General Response 3.12.2** regarding trip generation rates.

RESPONSE I104-62

As noted by the commenter, the current Clean Air Plan is the Bay Area 2005 Ozone Strategy (Clean Air Plan [CAP]). The City of Richmond’s adopted General Plan (1994) is not consistent with the BAAQMD CAP. The adopted BAAQMD CEQA Guidelines provide cumulative project-related NO_x, ROG (ozone precursors), and PM₁₀ thresholds for jurisdictions whose general plans are not consistent with the CAP. Project emissions are estimated in **Sections 4.4** and **4.15** of the Final EIR and are found to be above the Guideline’s cumulative thresholds; however, with the implementation of mitigation measures quantified in **Section 5.2.3** of the Final EIR, project-related emissions would be reduced below the cumulative thresholds provided in the Guidelines. Under the Guidelines, if a project’s NO_x, ROG, and PM₁₀ emissions are below the BAAQMD cumulative thresholds, the project is considered to have a less than significant impact.

RESPONSE I104-63

Please refer to **Response A14-1** and **General Response 3.8.1** which summarize the substantial revisions to the greenhouse gas impact analysis in the Final EIR, including a separate construction impact analysis and recalculated indirect emissions.

RESPONSE I104-64

No double counting of emissions reductions occurred. Trip generation rates used in the URBEMIS air quality model were raw numbers and did not include traffic related reductions such as Traffic Demand Management measures.

RESPONSE I104-65

The requirements described in **Mitigation Measure 3-19** would not need to be renewed on an annual basis. For instance, paving unpaved roads would not need to occur on a yearly basis, nor would purchasing credits to offset emissions. **Mitigation Measure 3-19** has been revised to clarify what qualifies as an emissions credit.

RESPONSE I104-66

Project site drainage is addressed in **Section 2.2.2**. Based on the impact analysis presented in **Section 4.3** of the Draft EIS/EIR, **Mitigation Measures 1-1, 2-1, 2-2, and 2-3** were developed to reduce impacts to less than significant levels. Moreover, as detailed in the above referenced section, an NPDES general construction permit will be acquired for the Project under regulation of CWA. A SWPPP will be prepared and implemented for construction-related storm water discharges. The SWPPP will detail erosion and sediment control BMPs for the construction phase. Additionally, a Stormwater Control Plan is included in **Appendix H** that details how stormwater flows, which may contain potentially turbid and/or contaminated waters, will be stored in temporary detention facilities where the water will be treated (or trucked from the site and treated) prior to surface water discharge into the Bay. In addition, all federally listed fish species are addressed in the Biological Assessment (BA) (**Appendix J**). All measures identified above would reduce potential impacts to water quality to less than significant levels, thus no significant impacts would occur to native fish species utilizing the Bay.

RESPONSE I104-67

Mitigation Measures 4-10 through **4-12** address potential impacts to wetlands. In addition, applicable Federal regulations under Section 404 and 404(b)(1) of the CWA for the fill of wetlands regulated by the USACE will assure, jointly with the USEPA, that mitigation ratios, mitigation locations, and monitoring requirements are suitable after avoidance and minimization measures have been fully exhausted for impacts to wetlands. While the general location of on-site mitigation is referenced in the Draft EIS/EIR,

specifying the exact location is not a necessary component of the required analysis of potential environmental impacts.

RESPONSE I104-68

As stated by the commenter, detailed habitat impact acreages are noted in **Tables 4.5.1** through **4.5-5. Table 4.5.1** for Alternative A shows that no impacts to mixed riparian, eel grass, tidal marsh or beach strand habitats would occur under the Proposed Project. Thus, the statement “to the maximum extent feasible” means 100 percent avoidance under Alternative A. Additionally, beach strand habitat is completely avoided for all alternatives and the USFWS concurrence letter (**Appendix J**) specifically states that Western snowy plover is not likely to be affected by the Proposed Project.

RESPONSE I104-69

The USACE verified the wetland delineation for the project site in a letter dated March 16, 2009 (**Appendix L**). The verification is noted in the Draft EIS/EIR within **Section 3.5.6**.

RESPONSE I104-70

The Biological Assessment (BA) (**Appendix J**) covers all federal special status species with the potential to occur within the project site as well as a separate and detailed discussion on Essential Fish Habitat (EFH). A Section 7 Biological Opinion of “not likely to adversely affect” has been provided within the USFWS letter (**Appendix J**). Please see **Response 104-44** regarding Section 7 consultation with NMFS. In addition to consultation with NMFS under Section 7 of the Endangered Species Act, NMFS was consulted pursuant to the EFH provisions of the Magnuson Stevens Fishery Conservation and Management Act (MSA). NMFS determined that the proposed avoidance and minimization measures may not completely compensate for the project’s adverse effects to EFH, specifically the potential for adverse effects to eelgrass resulting from the new ferry service. Therefore, NMFS offered specific conservation recommendations to ensure adverse effects to EFH do not occur. The BIA has agreed to require the implementation of the NMFS’ recommended measures (**Appendix FF**) and they have been added to **Section 5.2.4** of the Final EIR.

RESPONSE I104-71

Mitigation Measure 5-1(i) of the Final EIR has been supplemented to require that Building No. 17 be relocated to an appropriate location within the Historic District in consultation with a qualified architectural historian.

Mitigation Measure 5-1(d) of the Draft EIS/EIR requires that the 1995 Historic American Building Survey (HABS) documentation be updated prior to the demolition or alteration of any contributing buildings within the Historic District.

Mitigation Measure 5-1 of the Draft EIS/EIR also requires development of a cultural interpretive center, to be housed within one of the historic buildings, which highlights the long and unique history of Point Molate and the surrounding community.

RESPONSE I104-72

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (*e.g.*, blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes. The socioeconomic conditions at the project site and surrounding areas have been discussed in **Section 3.7** of the Draft EIS/EIR. The discussion of existing socioeconomic conditions in **Section 3.7** has been further expanded and updated to incorporate the most recently available data. Socioeconomic characteristics of the small communities immediately surrounding the project site have been identified in the Draft EIS/EIR using Census tract data. While it is true that Point Molate is physically isolated from the rest of the surrounding community, the developed portions of the City of Richmond are certainly the most proximate populated and commercial areas to the project site. As discussed in **Section 4.7** of the Draft EIS/EIR, all of the potentially significant impacts associated with the Proposed Project would occur in close proximity to the project site. Additionally, as provided in the IGA, the Tribe will collaborate with the County to develop a project-specific first-source hiring plan, with a goal to source a total of 70 percent, inclusive of the 40 percent from the City under the MSA, of non-management operational employees from within the County at opening of the gaming establishment (**Appendix BB**). Therefore, the economic benefits of employment opportunities generated by the Proposed Project would be considered most significant in Contra Costa County. For these reasons, Contra Costa County is determined to be most impacted by the Proposed Project compared to surrounding counties.

Given the scale of the Proposed Project, the Draft EIS/EIR does not dismiss the potential for socioeconomic impacts to occur in communities outside of Contra Costa County. However, the City of Richmond and Contra Costa County are expected to be most directly and quantifiably impacted by the Proposed Project due to their close proximity to the project site. Therefore, the socioeconomic impact analysis provided in **Sections 3.7** and **4.7** of the Draft EIS/EIR focuses on these locations. The analysis does not dismiss that surrounding areas would be impacted, but rather does not attempt to quantify impacts outside of Contra Costa County because these impacts would be diffused across a large area.

Potential impacts to environmental justice communities are discussed in **Section 4.7** of the Draft EIS/EIR. Four potential minority and low-income communities have been identified in the environmental justice discussion (**Sections 3.7** and **4.7**). The typographical error identified by the commenter has been

corrected. **Figure 3.7-1** has been revised to more clearly depict the environmental justice status, including minority and low-income communities, of the census tracts. Since all of the potentially significant socioeconomic impacts associated with the Proposed Project would occur in close proximity to the project site, it was determined that potential environmental justice communities are those located within the immediate vicinity of the project site (**Section 3.7**). As discussed in **Section 4.7** of the Draft EIS/EIR, no low-income or minority communities would be disproportionately adversely affected by impacts of the Proposed Project. As such, additional discussion of the characteristics of potential environmental justice communities would not alter the conclusions of the Draft EIS/EIR and is not warranted.

Adding information on the availability of existing jobs in the region would not alter the discussion of potential impacts to employment. However, a list of major employers in Contra Costa County is provided in **Table 3.7-4** of the Draft EIS/EIR to provide perspective on current industries/employment within the County. Employment and housing data provided in **Section 3.7** of the Draft EIS/EIR has been updated where more current data is available.

The environmental justice discussion in **Section 3.7** of the Draft EIS/EIR identifies Census 2000 data as the most current racial composition and median household income data available for census tracts. Affected communities are identified by the best available data. Normalizing the data presented in **Section 3.7** of the Draft EIS/EIR would not change the identified communities or conclusions of the environmental justice discussion. The economic effects discussed in **Section 4.7** of the Draft EIS/EIR are quantified for Contra Costa County using the IMPLAN model. The IMPLAN model adjusts for inflation and is commonly used to estimate economic impacts to communities and regions. As such, results of the socioeconomic study have been adjusted for inflation and are analyzed and discussed in **Sections 4.7, 4.14 and 4.15** of the Draft EIS/EIR.

Please refer to **General Response 3.11.5** for a thorough discussion of potential economic impacts to the immediate and surrounding communities.

RESPONSE I104-73

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (e.g., blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes. As discussed in Section 4.7 of the Draft EIS/EIR, data used to estimate economic impacts of the Proposed Project is limited to the County scale. However, due to the magnitude of economic activity associated with the Proposed Project, including new employment, and the location of the project site within the City of Richmond, the City has the potential to be affected the greatest by economic effects associated with the

Proposed Project. Within Section 4.7 of the Draft EIS/EIR potential impacts to the City are compared to quantified impacts at the County level.

Effects to employment and wages from the Proposed Project were analyzed using the IMPLAN model. The IMPLAN model uses a complex set of coefficients and multipliers that are specific to each county to account for how each industry in the region interacts with one another. These multipliers come pre-programmed into the data for each County. Thus, the estimated employment and wages impacts, as well as all induced effects, are an estimate of how much new economic activity will be captured by Contra Costa County, regardless of where the employees' personal residence is located. As discussed in **Section 4.7** of the Draft EIS/EIR, new jobs filled by the local labor market would have the beneficial impact of reducing the unemployment rate in the County compared to the County labor market without development of the Proposed Project. The IMPLAN model estimates the anticipated impact solely for the Contra Costa County economy; it does not attempt to estimate the economic activity anticipated to be captured by neighboring counties. As such, the entire anticipated economic output impact as presented in **Section 4.7** of the Draft EIS/EIR, including direct, indirect, and induced, is projected to be captured by Contra Costa County. Given the scale of the Proposed Project, the analysis presented in the Draft EIS/EIR does not dispute the point that an additional amount of output may also be captured by outside counties in addition to the output anticipated to be captured by Contra Costa County as described in **Section 4.7**.

Refer to **Response I104-72** regarding the first source hiring agreements the Tribe has entered into. The commenter's speculation that employees will spend a majority of their wages at their place of residence rather than at their place of work does not affect the analysis presented in the Draft EIS/EIR. As stated in the IGA, a minimum of 70 percent of initial hires will be sourced from within the County. An additional number of employees are expected to relocate to the County (**Sections 4.7** and **4.14**). As such, the vast majority of employees will reside within the County, and are therefore anticipated to spend their wages within the County.

The Gaming Market Analysis (Innovation Group, 2007) provides an estimate of visitation and projected revenues for the Proposed Project. The discussion of revenue in **Section 4.7** of the Draft EIS/EIR has been updated to provide information on how revenues are used in the IMPLAN model to estimate potential impacts. As discussed, revenue under the Proposed Project is estimated to total \$959 million annually. The economic impact is quantified using the IMPLAN model (**Appendix T**), which employs the time value of money for economic projections. That is, while the Proposed Project is anticipated to generate an estimated \$959 million of gross revenue within 2012, the first year of operation, this amount is equal to approximately \$767 million in 2009 dollars. Therefore, the time value of money accounts for the discrepancy between these two figures.

Substitution impacts would be diffused across the region because there are a large number of existing businesses that already operate in a competitive environment. As projected by the Economic Impact and

Growth Inducing Study (**Appendix T**), the greater San Francisco gaming market would be worth approximately \$1.83 billion in 2012 without development of the Proposed Project. With development of the Proposed Project, the gaming market is projected to grow by roughly 20 percent to approximately \$2.20 billion in 2012. As the facility would draw non-residents to the area, the associated increase in new visitor demand for off-site entertainment venues, restaurants, and other attractions would off-set some regional patrons choosing to visit the Proposed Project rather than other local establishments. Therefore, although a certain amount of cannibalization is expected, the development of the Proposed Project would result in a nearly 20 percent expansion of the San Francisco gaming market, which would significantly offset potential impacts due to cannibalization. Additionally, the amenities offered at the resort would target a different segment of the population than do the surrounding local business operations. As such, any potential cannibalization of regional businesses would be minimal, and would therefore be considered less than significant. Furthermore, quantifying the substitution effects of the casino would require knowledge of how residents spend their entertainment dollars, how patrons rank their preferences for different types of entertainment, and the distribution of where casino patrons originate. Given that most of the above variables for determining substitution effects are not known, an attempt to quantify substitution effects has not been made in the Draft EIS/EIR. Therefore, providing further detail regarding projected net revenue less anticipated cannibalization by the Proposed Project is not within the scope of the analysis presented in the Draft EIS/EIR. Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities, including regional businesses.

Section 4.7 of the Draft EIS/EIR concludes that the Proposed Project would result in substantial new construction and operational output into Contra Costa County, including indirect and induced output that would be dispersed and distributed among a variety of different industries and businesses. **Section 4.14** of the Draft EIS/EIR discusses potential growth-inducing impacts associated with the Proposed Project and identifies that commercial growth would likely result from economic activity generated by the Proposed Project. Based on the inherent touristic value of the Proposed Project and new household spending that would result in the County, it is estimated that the Proposed Project would result in approximately nine new commercial developments, including three new gas stations, three new restaurants, and three new fast food (or similar) establishments. The commenter's assertion that local businesses would not be capable of supporting the needs of the Proposed Project is speculative.

RESPONSE I104-74

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (e.g., blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes. The analysis presented in **Section 4.15** of the EIS/EIR has been expanded to include the proposed Scotts Valley Casino. The commenter fails to identify any relevant studies which indicate that Class III gaming

facilities are more likely to result in problem gambling than Class II gaming facilities. Therefore, given the presence of an existing Class II casino approximately five miles east of the Proposed Project site, nearby residents, including low-income and minority communities are already exposed to gambling. Please refer to **General Response 3.11.4** for a full discussion regarding potential impacts to problem and pathological gambling as a result of the Proposed Project.

RESPONSE I104-75

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (e.g., blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes. As indicated in the IGA (**Appendix BB**), with operation of Class III gaming at the project site, the Tribe will pay the County the annual sum of \$12 million for public safety, fire fighters, first responders, health, as well as social services-related costs, and community benefit payments, payable for as long as the IGA is in effect. Additionally, as stated in the MSA (**Appendix C**), the Tribe agrees to pay the City service fee of \$8 million per year for the first eight years beginning with the commencement of gaming operations. The Tribe agrees to pay the City services fee of \$10 million per year thereafter. City service fees include fees for police and fire protection services. Fees shall be adjusted each year by changes in the Consumer Price Index, beginning one after the agreement is executed. The fee shall be paid regardless of the amount of service provided. These fees shall cover potential impacts to social services, including any potential impacts to mental health treatment. The Tribe, the City, and the County will further engage in consultation to determine if the fees assessed are appropriate. If it is determined that they are not, adjustments will be made accordingly.

The Draft EIS/EIR determined that, with mitigation, the potential impacts to problem gambling are less than significant. Refer to **General Response 3.11.2** for a thorough discussion of problem gambling.

RESPONSE I04-76

In addition to the transportation analyses cited by the commenter, supplemental analyses were undertaken following release of the Draft EIS/EIR. Please refer to **Appendix HH**, which presents the supplementary analysis for State Route 4 (SR-4) and four intersections in the City of Larkspur along Sir Francis Drake Boulevard. The analysis of SR-4 was incorporated into the Final EIR in **Sections 3.8, 4.8, and 4.15**. This facility was analyzed following the agreement between Contra Costa County and the Tribe, which provides for a goal of sourcing 70 percent of initial hires from within the County. Based on this consideration, it was deemed reasonable to include this artery despite its significant distance from the project site.

There are slight differences between the TIA (AECOM, 2008) and the STIA (Abrams Associates, 2009), which are noted in the latter. The modest differences are due to updated information available at the time the STIA was produced, a mistake in the TIA traffic counts, and a re-evaluation of assumptions, all of which are discussed in the STIA (**Appendix S**). The information presented in the Final EIR uses the most current information as derived from the transportation analyses. As stated in the introduction of the STIA, the supplemental analysis was undertaken to independently verify the findings of the TIA as well as to conduct analyses that were not included in the scope of the first study. The STIA added three intersections to the analysis, as well as analysis of the Richmond - San Rafael Bridge toll plaza. The supplemental traffic memorandum, provided as **Appendix HH** of the Final EIR, provides additional analysis that was requested by the Lead Agency following release of the Draft EIS/EIR.

RESPONSE 104-77

The reference to the release of a public draft of the updated Richmond General Plan has been updated in **Section 3.8** of the Final EIR. The City's updated General Plan will not be adopted prior to circulation of the Final EIR for the Proposed Project. As such, use of the adopted 1994 City of Richmond General Plan is appropriate and no changes to the regulatory setting are warranted.

RESPONSE 104-78

As stated in Section 2.1 of the STIA, a review of the existing traffic volumes reported in the TIA identified a mistake on the northbound through volume at Intersection #21 (Richmond Parkway at Gertrude Avenue). This volume was corrected based on traffic counts conducted in March of 2009 and the traffic data at the adjacent intersections. This resulted in improved level-of-service at this intersection reported in the STIA and Draft EIS/EIR.

Another error was identified in the TIA on the eastbound through volume at Intersection #24 (Richmond Parkway and Blume Drive) in the PM peak hour. In this case, the error was verified with several traffic counts from previous traffic studies conducted in the area. Instead of conducting new counts, the erroneous eastbound through volume at this intersection was adjusted based on the traffic counts for the adjacent intersections. The corrected volume resulted in LOS D operations under existing conditions, which are reported in the Draft EIS/EIR.

RESPONSE 104-79

The "vehicles per lane" designation at the Richmond San – Rafael Bridge toll plaza, which was incorrectly stated as 4225 vehicles *per lane per hour* in the Draft EIS/EIR, has been corrected in the text of the Final EIR.

While it is acknowledged that queuing does occur on the approach to the Richmond – San Rafael Bridge toll plaza, field surveys indicate that delays of up to five minutes as cited by the commenter do not

occur on a regular basis. The queues approaching the toll plaza on westbound I-580 have been observed to have substantial seasonal fluctuations and the conditions referred to by the commenter may have been observed during the peak times of year. At certain times of year vacation travel traffic can increase the queues at the toll plaza due to the fact that Fastrak usage is lower for vacation-oriented traffic than it is for regular commute traffic.

It should also be noted that the queues approaching the toll plaza would only affect inbound traffic and that the only established measure of effectiveness for I-580 in Contra Costa County is LOS E for all segments. There are no established criteria of significance for freeway or toll plaza queuing impacts included in the analysis guidelines established by Contra Costa County or Caltrans. However, an analysis of toll plaza capacity was provided in the STIA and Draft EIS/EIR to address the potential for significant increases in congestion on westbound I-580 in this area. Significant impacts to the Richmond – San Rafael Bridge toll plaza operations were identified under cumulative conditions and mitigations were identified **Section 5.2.7** of the Draft EIS/EIR.

RESPONSE 104-80

For the analysis presented in the Final EIR, construction truck trips have been converted into passenger car trips equivalents using a conversion factor provided in the 2003 Highway Capacity Manual. This conversion allows a more accurate correlation between construction traffic and operational traffic. Using this conversion it was determined that construction-related traffic would have a less than significant impact with implementation of mitigation provided in **Section 5.2.7** of the Final EIR. The impact statements for Alternatives A through D have been updated to state that construction traffic poses a potentially significant impact, which is mitigated to a less than significant level with implementation of measures specified in **Section 5.2.7** of the Final EIR.

RESPONSE 104-81

Please refer to **General Responses 3.12.2** and **3.12.4** regarding trip generation rates and trip reductions, respectively.

RESPONSE 104-82

Please refer to **Response A22-2** regarding transit service to the project site.

Please refer to **General Response 3.12.4** regarding the use of TDM measures.

RESPONSE 104-83

It is acknowledged that the trips referred to in the Draft EIS/EIR as “pass-by” trips can more accurately be described as “diverted link” trips. Thus, Final EIR **Section 4.8** has been revised to change references to “pass-by” trips to “diverted link” trips. The visible nature of the site, high profile in the media, proposed

marketing campaign, and its close proximity to I-580 indicate that a significant number of existing automobile trips would be diverted to the project site. Historically, Indian casinos rely heavily on pass-by and/or diverted link traffic. As such, the 15 percent diverted link assumption is considered conservative.

RESPONSE 104-84

Please refer to **General Response 3.12.1** regarding ferry service to the project site. The vehicle trip reduction applied as a result of ferry service to the site in the Draft EIS/EIR is 15 percent, not 25 percent as stated by the commenter.

RESPONSE 104-85

The reason for the differences in LOS for the cumulative year cited by the commenter is that the STIA includes traffic from the proposed Sugar Bowl Casino in calculating intersection and roadway LOS, which was not factored into the cumulative analysis in the TIA. The cumulative analysis in the Draft EIS/EIR assumes that the Sugar Bowl Casino would be operating in the year 2025, despite the fact that the project has not been approved, which results in a more conservative analysis.

The year 2025 was selected for the cumulative analysis since that provided a 20 year horizon from the time when the Notice of Preparation and Notice of Intent were published in 2005. Based on consultations with the Lead Agencies, Cooperating Agencies, and other stakeholders, the year 2025 was deemed appropriate for the cumulative analysis. Additionally, at the time the transportation analyses were prepared, the Contra Costa Countywide Comprehensive Transportation Plan (CCCTP; adopted May 19, 2004) used 2025 as the horizon year.

The nature of casino traffic is such that it typically peaks in the evenings after 6:00 PM and therefore does not overlap with the primary peak hours of background traffic on Saturdays (which occur in the mid-afternoon). During the surveys conducted for the environmental review, the Saturday freeway volumes were determined to be substantially less than weekday volumes (ranging from 25 to 35 percent lower depending on the location).

RESPONSE 104-86

Section 1.1 of the STIA clearly states the purpose of the supplemental analysis. The introduction reads, in part:

The purpose of this study is to provide a supplemental analysis of the proposed project's impacts on the Richmond-San Rafael Bridge and the U.S. 101/I-580 interchange. Furthermore, this study analyzes potential project impacts within the study area under both background and cumulative conditions with the inclusion of traffic from the proposed Scotts Valley Casino [Sugar Bowl] Project. It should be noted that two new

study intersections (Pittsburg Avenue and Goodrick Avenue at the Richmond Parkway) were added to the analysis based on the updated review of cumulative traffic operations. This supplemental analysis compliments the transportation impact analysis prepared by DMJM Harris (DMJM Harris Study) for the proposed project.

Where appropriate, the STIA notes discrepancies with the TIA as it relates to traffic counts (refer to **Response I104-78**), addition of transportation network facilities to the analysis, assumptions regarding trip reductions (see Section 2.1 of STIA), and other minor differences.

RESPONSE I104-87

Please refer to **General Response 3.13.1** regarding the General Plan Update.

Cross references to the Hazardous Materials section of the document (**Section 3.12**) have been added to the Final EIR in **Section 3.9** as suggested by the commenter.

RESPONSE I104-88

Please refer to **General Response 3.13.1** regarding the General Plan Update and consistency with the General Plan.

RESPONSE I104-89

As discussed in **Section 4.15** of the Draft EIS/EIR, Section 15130(b) of the CEQA Guidelines identifies two acceptable approaches for cumulative analysis: “Either a list of past, present, and reasonably anticipated future projects producing related or cumulative impacts, including those projects outside the control of the agency (i.e., the list approach); or a summary of projections contained in an adopted general plan or related planning document designed to evaluate regional or area-wide conditions (i.e., the plan approach).” Although the CEQA Guidelines only require the use of one method of cumulative analysis (i.e., the list or the plan approaches), the approach used in the Draft EIS/EIR uses both methodologies. A list of foreseeable projects (**Section 4.15.2**) was generated by consulting with staff of relevant agencies. In addition, planned development, infill, and other actions identified in regional governmental plans have been incorporated. Furthermore, revision of the land use analysis based on a draft document that has not been adopted by the City is unwarranted.

RESPONSE I104-90

The Proposed Project includes a number of progressive water conservation systems and measures, which are described in **Section 2.1.1** of the Draft EIS/EIR. These design components include the use of low-flow bathroom fixtures, an on-site gray water recycling system, and use of native, drought-tolerant landscaping vegetation.

Moreover, the Tribe fully intends to implement the water conservation measures which are included within Final EIR **Mitigation Measure 9-1**. **Mitigation Measure 9-1d** and **9-1e** have been added to the

Final EIR to further provide on-site methods of water conservation. Through these mitigation measures, and continued cooperation with East Bay Municipal Utility District (EBMUD), the Proposed Project is expected to meet or exceed some of the strictest adopted water efficiency standards in the West. Furthermore, all new on-site water infrastructure would be required to meet the most current EBMUD design standards which include various water efficiency measures (see Appendix D of **Appendix G**).

On-site replacement and installation of water and wastewater service lines are analyzed within **Section 4.10** of the Draft EIS/EIR. **Section 3.10** of the Draft EIS/EIR states that during EBMUD local system upgrades undertaken in 1997, a 12-inch diameter pipeline was installed along Western Drive. This 12-inch diameter pipeline was sized to meet demands of a similar nature as those proposed in the Final EIR. Furthermore, the City completed a Water Supply Assessment through EBMUD, and received a “Will-Serve” letter, which is included in **Appendix G** of the Draft EIS/EIR. The estimated demands for the Proposed Project are consistent with, and included in, the EBMUD Urban Water Master Plan (UWMP) future demand projections. As stated in **Mitigation Measure 9-1**, the Tribe shall comply with the EBMUD application process, including future cost estimating and engineering analysis. As part of the standard service process, EBMUD will perform a hydraulic analysis of the system and determine the cost implications associated with the development of the Proposed Project. The costs for upgrading any elements on the system will be borne by the project proponents.

All off-site impacts associated with utility infrastructure improvements necessary to serve the project site are analyzed in **Section 4.14.8** of the Final EIR.

Please refer to **General Response 3.6.2** regarding capacity of the Richmond Municipal Sewer District, infrastructure upgrades, and analysis of off-site impacts.

RESPONSE I104-91

As discussed in **Section 4.10** of the Draft EIS/EIR, the Proposed Project would have a less than significant impact on utilities (electricity, natural gas, telecommunications, etc.). Nonetheless, the Draft EIS/EIR includes **Mitigation Measure 9-22**, which states “The Tribe shall purchase and install on-site fuel cells, providing a source of clean alternative energy to the Proposed Project.” While the above referenced mitigation measure may have been more accurately described as an “improvement measure” given the absence of a significant impact, the benefit of such a measure is not in dispute. Further analysis of an on-site clean alternative energy source is not warranted in this Final EIR, as implementation of the fuel cell would not cause any adverse environmental impacts. The fuel cell is, however, anticipated to decrease the Project’s demand of electrical loads drawn off the regional grid, creating a beneficial impact.

As stated in **Section 2.2.2** of the Draft EIS/EIR, the Tribe would provide an on-site fire station, to be operated by the City, with all necessary fire apparatus and equipment, sized to reasonably address fire and emergency response needs of the Proposed Project, pursuant to Section 2.3 of the MSA (Exhibit E of the LDA within **Appendix C**). To supplement the provisions of the MSA, **Mitigation Measure 9-13** of the

Final EIR requires the Tribe to “Provide for one (1) fire captain and three (3) firefighter positions per shift on a 24-hour per day basis to meet the burdens undertaken by the Fire Department to serve the project site.”

Contrary to the statements of the commenter, the MSA does address ambulance transportation (refer to **Table 2-1** of the Draft EIS/EIR). However, based on Article 10A of the IGA, the Tribe agrees to contract with the County to provide emergency ambulance service to the project site. As described in **Section 3.10** of the Final EIR, emergency medical services to the project site are coordinated by the Contra Costa County Health Services Department. Initial calls are received at a joint police/fire dispatcher and emergency medical calls are then transferred to American Medical Response (AMR) for ambulance service. AMR provides ambulance service through contract with the County. Air ambulance services are provided by a number of companies including, California Shock Trauma Air Rescue (CALSTAR), Redwood Empire Air Care Helicopter (REACH), and Stanford Life.

RESPONSE II04-92

The error in **Section 3.11** on page 3.11-1 of the Draft EIS/EIR cited by the commenter has been corrected in the Final EIR.

Refer to **General Response 3.15.2** regarding the methods used in measuring ambient noise at the project site.

Refer to **General Response 3.15.2** regarding the measurement of ambient noise at the proposed southern residential area (Alternatives B and D).

RESPONSE II04-93

The nearest sensitive receptor of vibration is approximately 7,000 feet from the project site. As discussed in **Section 4.11** of the Draft EIS/EIR, no impacts associated with project-related vibrations would occur due to the significant distance to sensitive receptors (more than 1.3 miles) and the rapid dissipation of vibration.

Refer to **General Response 3.15.1** regarding residential occupation of the project site during construction.

Refer to **General Response 3.12.2** regarding trip generation rates. No change in the noise analysis is warranted.

RESPONSE II04-94

Section 3.12 of the Final EIR has been updated to include a summary of the Contra Costa County Environmental Health Services Department in the regulatory setting.

RESPONSE I104-95

Every effort has been made to organize and clearly present the voluminous amount of information related to past hazardous materials releases, site characterization, monitoring, and clean-up work in **Section 3.12** of the Draft EIS/EIR. Supplementary technical information is provided in **Appendices P, Q, and X** of the Draft EIS/EIR. **Section 3.12** establishes the existing setting, which is organized by impact area. The chronology of events regarding the transfer of lands from the Navy to the City is presented in **Section 2.1.3** of the Draft EIS/EIR. A precise description of the chronology of the site investigation, remediation, and transfer actions undertaken by the Navy for the property is presented in **Section 2.1.4** of the Draft EIS/EIR.

The background setting presented in **Section 3.12.2** of the Draft EIS/EIR has been augmented to clarify the difference between structural closure and regulatory closure of the underground storage tanks (UST). As described in **Section 3.12.2** of the Final EIR, *structural closure* of individual USTs requires removing all standing liquids from the tank bottom, draining and removal of piping and valves, soil sampling within the valve box and piping excavation areas, and installation of drainage systems that accelerate surface water percolation and limit ponding of rain water around the UST perimeter. *Regulatory closure* of USTs occurs when the SFRWQCB determines that individual USTs no longer present a health risk to the environment according to thresholds established in the Final Corrective Action Plan. The SFRWQCB has authorized regulatory closure of USTs 1, 7, 9, 10, 11, 16, 17, and 20.

RESPONSE I104-96

The text within **Section 3.12.2** has been clarified to state that “an evaluation of the efficacy of previously executed remediation resulting in regulatory closure was performed to develop a baseline for comparison of each project alternative and potential impacts associated with development of the project site.”

RESPONSE I104-97

The discussion in **Section 3.12** of the Final EIR referenced by the commenter has been updated to clarify the difference between tank closure by the Navy and regulatory closure by the SFRWQCB.

RESPONSE I104-98

The discussion of Fuel Action Product Levels (FPAL) has been updated in **Section 3.12** of the Final EIR. The discussion identifies the responsible agency, enforceability, and regulatory action required should an FPAL be exceeded.

RESPONSE I104-99

As discussed in **Section 3.12.2** of the Draft EIS/EIR, a No Further Action Record of Decision for IR-2 was prepared in 1999 and approved by the SFRWQCB with the EPA concurring with the Navy findings. No further action is planned for IR-02.

RESPONSE I104-100

A summary of human and ecological impacts from a release of anhydrous ammonia was added within the text of the Final EIR at **Section 3.12.2**.

RESPONSE I104-101

The correlation between the Project actions outlined in **Section 2.1.5** of the Draft EIS/EIR and the proposed mitigation measures is explained in the second paragraph of **Section 5.1** of the Draft EIS/EIR. As stated in the referenced section, where potential impacts to the environment were identified in the early stages of project design and Draft EIS/EIR preparation, the Project was appropriately modified to minimize or eliminate environmental impacts. Additional mitigation measures have been incorporated into the Draft EIS/EIR to supplement the remediation efforts. It is recognized that there is a degree of redundancy between some of the clean-up actions specified in **Section 2.1.5** of the Draft EIS/EIR and the mitigation measures presented in **Section 5.0**, which results in a conservative analysis.

RESPONSE I104-102

Section 3.12.1 of the Final EIR has been supplemented to clarify what constitutes the Navy Compliance Program.

RESPONSE I104-103

Mitigation Measure 11-1 (operation) requires that landscaping chemicals such as pesticides and fertilizers would consistently be kept at the lowest volumes needed and in the least toxic amounts. In response to other comments received, this text has been expanded to include herbicides and details the manner of application.

RESPONSE I104-104

The text within **Impact 4.12-2** of **Section 4.12.1** of the Final EIR has been updated to reference the applicable mitigation measure.

RESPONSE I104-105

The IR-01 landfill has been closed under a Comprehensive Environmental Response Compensation Liability Act (CERCLA) Record of Decision (ROD) approved by the USEPA and the SFRWQCB. As discussed in **Section 4.12** of the Final EIR, groundwater monitoring would continue under a facility-wide groundwater monitoring plan (GMP). Issues associated with free-phase hydrocarbon product on the groundwater table below IR-01 were addressed in the ROD would continue to be addressed in the GMP. Post-closure reviews under CERCLA would be conducted every five years to assure human health and environmental impacts remain less-than-significant until such time as the USEPA and the SFRWQCB

conclude that the landfill no longer poses a hazard to the environment. The SFRWQCB would continue to review and comment on the post-closure reviews.

RESPONSE I104-106

The text of the Draft EIS/EIR references a conclusion within the Site 1 Post Closure Maintenance and Monitoring Plan (PCMMP) stating that an adverse impact could occur should the soil cap and land use restrictions not be maintained. The analysis within **Section 4.12** of the Final EIR then states that, because no development would occur within IR-01, the soil cap integrity would be maintained thereby limiting potential impacts. However, because IR-01 is identified as a potential environmental issue, mitigation is provided to further reduce potential impacts from the implementation of Alternative A.

RESPONSE I104-107

Refer to **Mitigation Measure 11-1** presented in the Draft EIS/EIR, which adequately identifies performance standards related to the development of a Soil Management Plan (SMP) to mitigate impacts related to Areas A and B (Historic District). In addition, the SMP will be reviewed and commented on by the SFRWQCB which would only approve an SMP that is protective of human health and the environment.

RESPONSE I104-108

As stated by the commenter, the Phase I Environmental Site Assessment (ESA) states that additional analysis may be required if soil is excavated from Areas C, D, and E of IR-02. The analysis for each development alternative compares the area of impact to the findings of the Phase I ESA. For example, as discussed in **Impact 4.12.5** of Alternative A, Areas C, D, and E would remain in their current condition and would be used occasionally for event parking. No excavations are planned for this area and therefore the analysis complies with the findings of the Phase I ESA. Additionally, under the analysis of Alternative B (**Impact 4.12.12**), grading would occur and the analysis states that lead levels may result in adverse human health affects and such an impact is considered potentially significant. A SMP is required for mitigation as presented in **Section 5.2.11** of the Draft EIS/EIR.

RESPONSE I104-109

The Site Cleanup and Abatement Order to be issued by the SFRWQCB will direct implementation of the remedial action, which may include additional monitoring requirements such as new well installation. Mitigation is adequately identified in **Section 5.2.11** of the Final EIR.

RESPONSE I104-110

With the exception of USTs 1, 2, and 3 that are proposed to be removed as part of the construction of the Project, all other USTs would remain in place. Environmental impacts of excavation have been addressed in the appropriate sections of the Draft EIS/EIR. For example, excavation and hauling of impacted soils were included in the vehicle counts used to analyze air quality impacts of the project alternatives in

Section 4.4 of the Draft EIS/EIR. The Final EIR has been clarified to state that all remedial activities are analyzed as part of the construction phase of the Proposed Project.

“Regulatory closure” would occur when the SFRWQCB assesses the remediation performed at the tank sites and concludes that the clean-up is adequate to eliminate the potential for significant human health and environmental impacts. “Unrestricted use” refers to the ability to implement unrestricted land uses in the areas currently subject to deed restrictions. As stated in **Section 2.1.3** of the Draft EIS/EIR, “It is anticipated that some land use restrictions will remain in place in perpetuity, such as in open space areas where residential development is precluded as a term of the LDA. Refer to *Parkland and Recreation* in **Section 2.2.2** for a discussion of open space conservation easements.” Even with “unrestricted” reuse, development of portions of the fee lands would still require building, grading and demolition permits from the City of Richmond and the Bay Area Air Quality Management District.

RESPONSE I104-111

The analysis within **Section 4.12** of the Final EIR adequately references the location of mitigation proposed to reduce identified environmental impacts.

RESPONSE I104-112

Mitigation Measure 11-1 has been revised to specify specific protocols that will be implemented, including the use of a confined space monitor or any other type of monitoring as deemed necessary by a registered professional engineer. Development of the SMP and implementation of the specific protocols identified in **Mitigation Measure 11-1** would reduce potential impacts to a less than significant level.

Mitigation Measure 11-1(c) has been revised to remove the reference to previous mitigation and to include BMPs within the SWPPP specific to hazardous materials.

Mitigation Measure 11-1(d) of the Final EIR has been updated to require that landscaping chemicals such as pesticides, herbicides, and fertilizers be applied in a manner that prevents contact with groundwater, streams, domestic water supply, or wetlands. This shall be achieved in conjunction with mitigation providing for the planting of native vegetation that requires less, or no, pesticides or herbicides.

Mitigation Measure 11-2 describes the specific components of the emergency response plan (ERP) that would reduce impacts as a result of a natural disaster or other emergency during construction. The plan shall provide for emergency escape routes from the site and will include integration with the Contra Costa Health Services (CCHS) Community Warning System (CWS).

Specific clean-up levels will be identified in the SFRWQCB’s Order and cannot be identified at this time. They will, however, be protective of human health and the environment in the judgment of the SFRWQCB.

RESPONSE I104-113

Please refer to **General Response 3.17** concerning analysis of potential aesthetic impacts.

RESPONSE I104-114

The commenter's assertion that less than 30 percent of employees from the Proposed Project will live in Contra Costa County is incorrect. Refer to **Response I104-72** regarding local first source hiring agreements.

Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities, including regional businesses.

RESPONSE I104-115

Please see **Response I104-7** regarding the temporal span and methodology of the cumulative analysis.

Please refer to **General Response 3.13.1** regarding the General Plan update.

COMMENT I105

RESPONSE I105-1

The STIA addresses the approach to the Richmond – San Rafael Bridge in Section 1.6 (**Appendix S**). Please refer to **Section 4.8** and **4.15** of the Draft EIS/EIR for an analysis of potential impacts to the Richmond – San Rafael Bridge as a result of the Proposed Project.

Actions, permits, and approvals related to the Proposed Project are listed in **Table 1-1** of the Draft EIS/EIR. As stated in the above referenced table, the City would acquire additional right-of-way along Western Drive to complete the proposed roadway improvements.

COMMENT I106

RESPONSE I106-1

Comment noted.

RESPONSE I106-2

Please refer to **Sections 4.8** and **4.15** of the Draft EIS/EIR for an analysis of the facilities referenced in the comment. The analysis presented in the TIA (**Appendix S**) concluded that a dedicated I-580 eastbound off-ramp to Western Drive would not be required for acceptable freeway and roadway operations.

RESPONSE I106-3

A number of mitigation and improvement measures are provided in **Section 5.2.7** of the Final EIR that would address traffic operations at the locations specified by the commenter. Specifically, **Mitigation**

Measures 7-2, 7-3, 7-8, and 7-13 as well as **Improvement Measures 7-19, 7-21, 7-22, and 7-23** included in the Final EIR would improve traffic operations in Point Richmond.

RESPONSE I106-4

Please refer to **Response I106-3** above regarding the referenced intersection.

RESPONSE I106-5

Widening and other improvements to Western Drive are described in **Section 2.2.2** of the Draft EIS/EIR, and the proposed alignment is presented in **Figures 2-6a and 2-6b**.

RESPONSE I106-6

Please refer to **General Response 3.4** concerning the Bay Trail.

RESPONSE I106-7

Please refer to **Response A22-2** regarding AC Transit service to the project site.

RESPONSE I106-8

Mitigation Measure 3-17(d) in the Final EIR requires shuttles to operate at least twice per hour to and from the project site to the Richmond Intermodal Station (served by BART and Amtrak). The Richmond Intermodal Station provides easy access to BART trains, Amtrak, and AC Transit. The far-reaching mitigation measures and progressive design components focused on alternative modes of transportation and ridesharing would reduce the number of vehicle trips by a significant margin, which in turn would address congestion at the intersection referenced by the commenter.

RESPONSE I106-9

Please refer to **General Response 3.12.1** regarding ferry service to the project site.

COMMENT I107

RESPONSE I107-1

The Economic Impact Study is provided as **Appendix T** of the Draft EIS/EIR. This study quantifies potential economic impacts of the Proposed Project for economic output, employment, wages, and tax revenues. Economic effects in this analysis are quantified for Contra Costa County using the IMPLAN model. The IMPLAN model is used to estimate economic impacts to communities and regions. Results of this study are analyzed and discussed in **Sections 4.7, 4.14 and 4.15** of the Draft EIS/EIR. As determined in the Economic Impact Study, and discussed in **Section 4.7** of the Draft EIS/EIR, the Proposed Project would result in beneficial impacts to the Contra Costa County labor and housing markets.

New jobs in Contra Costa County from the Proposed Project are quantified using the IMPLAN model. The IMPLAN model uses a complex set of coefficients and multipliers that are specific to each county to account for how each industry in the region interacts with one another. These multipliers come pre-programmed into the data for each county. Therefore, the number of jobs that would be generated in different industries is known but the specific salaries and benefits are unknown. Specific salaries and benefits for positions depend on the industries and companies or organizations that hire new employees. Due to the scope of this analysis, which is intended to address environmental impacts, attempting to speculate on the exact mix of salaries and benefits to be offered for each employment opportunity generated by the Project is not warranted. As discussed in **Section 4.7** of the Draft EIS/EIR, new jobs in the County resulting from the Proposed Project would have a beneficial impact on the County labor market. In addition, **Section 4.7** provides a breakdown of employment opportunities that are expected to occur at the project site.

The Final EIR evaluates all potential impacts, including short-term and long term impacts. Refer to **Section 4.7** for a discussion of potential socioeconomic and social impacts resulting from the Proposed Project. The Proposed Project would result in a large amount of new economic activity in the City of Richmond and County, translating into a stronger economy. A stronger economy would be expected to translate into stronger property values, especially in close proximity to the project site. This would be a beneficial impact. However, based on available data of economic impacts, the magnitude of this effect cannot be quantified.

RESPONSE II07-2

Figure 3.8-1 provides a map depicting roadways and intersections analyzed in the Draft EIS/EIR. Additional graphics related to transportation in the Draft EIS/EIR include **Figures 3.8-2, 3.8-3, and 3.8-4**. **Section 5.2.7** of the Draft EIS/EIR clearly identifies the location of the proposed mitigation measures, and can be cross-referenced with the maps provided in **Section 3.8**. Additional illustrations may be found in **Appendix S** of the Draft EIS/EIR and **Appendix HH** of the Final EIR.

The quoted statement from the Draft EIS/EIR that reads, in part, “will approach or exceed unacceptable levels” refers to the existing condition in the study area not the impact of the project. Project-related noise impacts resulting from traffic are discussed in **Section 4.11**, most of which are found to be less than significant. The exception is along Western Drive where potential noise impacts were found to be potentially significant. Mitigation is provided in **Section 5.2.10** which would reduce noise impacts along Western Drive to less than significant levels.

Please refer to **Table 5-5** of the TIA (**Appendix S**) that details the trip generation for Alternative A. The trips identified in the above referenced table do not include any reductions for transit use, Traffic Demand Management (TDM), diverted-link reductions, or ferry use. Please refer to **Section 4.8** and **4.15** of the Draft EIS/EIR for an analysis of the Richmond – San Rafael Bridge.

Please refer to **General Response 3.14.1** regarding emergency preparedness.

Please refer to **General Response 3.12.1** regarding ferry service to the project site.

RESPONSE II07-3

The Draft EIS/EIR analyzes the Proposed Project's consistency with the City's adopted General Plan. If an alternative were implemented that includes transferring the land into federal trust, the General Plan would no longer apply to Tribal lands. Please refer to **General Response 3.13.1** regarding the Project's consistency with the General Plan.

RESPONSE II07-4

The East Bay Municipal Utility District (EBMUD) is the municipal water supplier for the region. As discussed in **Section 4.10** of the Draft EIS/EIR, in accordance with Urban Water Management Planning Act (SB 610), EBMUD prepared a Water Supply Assessment (WSA) to compare the water demand of the Proposed Project with the 2005 Urban Water Management Plan. The WSA is included in **Appendix C** of the Draft EIS/EIR. According to EBMUD, the water demands of the Proposed Project are accounted for in the 2005 Urban Water Management Plan. Based on the existing land use and the potential for redevelopment, EBMUD anticipates both the densification and land use class changes throughout the service area.

The water demand for the project is the anticipated rate of consumption that would be removed from the EBMUD's existing capacity. For planning purposes, the water demand of the Proposed Project is compared to the capacity of the existing water supply system. The 460 to 740 gallons per minute water demand referenced in the Draft EIS/EIR is the water usage rate that would be removed from the existing municipal system. As discussed in **Section 5.2.9** of the Draft EIS/EIR, the Tribe will incorporate the provisions of EBMUD's application process (which includes a determination of rate at the time of the request for service) and will pay its fair share of the necessary upgrades to the off-site EBMUD distribution system. These impact fees cannot be determined at this time as they depend on the circumstances at the time of application such as current fee rates and other proposed developments that may also have a fair share cost of the necessary upgrades.

Refer to **General Response 3.6.2** regarding impacts to off-site municipal wastewater conveyance and treatment systems.

RESPONSE II07-5

Please refer to **Section 4.10** for analysis of impacts associated with solid waste disposal generated at the project site. The significance of the impact is determined by calculating the waste generation rate of the Proposed Project in comparison to the capacity of local facilities that would receive such waste. As stated in the analysis, the Proposed Project's solid waste is anticipated to account for 0.5 percent of the

remaining daily capacity. As stated in the Draft EIS/EIR, construction waste would be temporary in nature, and a large amount would be diverted through recycling. Please refer to **Section 5.2.9** of the Final EIR for a description of the broad recycling and solid waste diversion measures required for implementation of the Project.

RESPONSE II07-6

Cumulative effects are discussed in **Section 4.15** of the Draft EIS/EIR. Contrary to the assertions of the commenter, foreseeable development projects, including existing and proposed tribal casinos in the greater East Bay Area, have been considered in combination with the Proposed Project to analyze cumulatively considerable environmental impacts. Mitigation for cumulative impacts is provided throughout **Section 5.0** of the Draft EIS/EIR.

RESPONSE II07-7

The *Regulatory Setting* subsections in **Section 3.0** of the Draft EIS/EIR, Description of Affected Environment, define the goals and policies of the General Plan as they relate to the resource areas/issues. Impacts to each resource area/issue were measured against the environmental baseline presented in **Section 3.0**. The commenter does not specify how Alternatives A-D violate the goals of the General Plan. Please refer to **Section 2.1.1** of the Draft EIS/EIR for a description of the progressive design components of the Proposed Project, which advance the City's goals regarding sustainability and green redevelopment principals.

RESPONSE II07-8

Potential impacts to all of the issue areas cited by the commenter are analyzed throughout **Section 4.0** of the Draft EIS/EIR.

RESPONSE II07-9

Under Alternative E the City would retain Point Molate and would be the entity responsible for implementing the reuse of the project site.

Alternative D is similar to the "preferred alternative" in the draft General Plan update to which the commenter refers. The draft General Plan update, which was circulated after the Draft EIS/EIR was released for public comment, has not been adopted by the City. Please refer to **General Response 3.3.2** regarding analysis of an alternative that retains all of the historic buildings at Point Molate.

RESPONSE II07-10

Comment noted.

COMMENT I108

RESPONSE I108-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.11.3** regarding documentation for employment opportunities.

RESPONSE I108-2

Please refer to **Section 2.1.1** of the Draft EIS/EIR for a description of the progressive design components of the Proposed Project, which advance the City's goals regarding sustainability and green redevelopment principals.

RESPONSE I108-3

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I109

RESPONSE I109-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I109-2

The potential impact to social services is discussed in **Section 4.10** of the Draft EIS/EIR. As described in the Municipal Services Agreement (MSA; **Appendix C**), the Tribe would provide compensation to local law enforcement, fire service, and emergency medical service providers so that these agencies have the capacity (i.e. employees or equipment) necessary to address any increase in demand resulting from the Proposed Project.

The Draft EIS/EIR provides an analysis of all reasonably foreseeable social impacts from gambling. Please refer to **General Response 3.11.1** regarding potential impacts to crime as a result of the Proposed Project. Please refer to **General Response 3.11.2** regarding problem gambling.

Please refer to **General Response 3.11.5** regarding the impact to surrounding communities.

COMMENT I110

RESPONSE I110-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I111

RESPONSE I111-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I112

RESPONSE I112-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I113

RESPONSE I113-1

Please refer to **General Responses 3.11.1** and **3.11.2** regarding crime and problem gambling. **Section 4.7.6** and **Appendix T** of the Draft EIS/EIR analyze the impacts to crime and other social ailments. While the Draft EIS/EIR does not directly discuss impacts relating to domestic abuse, poverty or prostitution specifically, the analysis included a thorough review of literature covering crimes and social issues related to casinos. The literature review included an examination of potential ties between domestic abuse, poverty and prostitution. These social ailments are not discussed specifically in the Draft EIS/EIR because casino impact researchers have not found a specific relationship between casinos and these ailments such that they should be addressed separately from other types of crimes or social ailments.

COMMENT I114

RESPONSE I114-1

Comment noted.

COMMENT I115

RESPONSE I115-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I116

RESPONSE I116-1

Please refer to **Table 2-2** of the Draft EIS/EIR for a description of the square footage (and acreage for parkland and open space) of each major component of Alternatives A through C. Please refer to **Table 2-6** of the Draft EIS/EIR for a description of each major component proposed for Alternative D.

The economic analysis presented in the Draft EIS/EIR was conducted to gain an understanding of the potential aggregate effects of the Proposed Project as a whole on the local economy (**Section 4.7**). It was determined that performing the analysis at an aggregate level would yield the best estimate for potential impacts of the Proposed Project. To break down the impacts to wages according to different areas of the Proposed Project (i.e. gaming facility, hotel, retail, etc.) would not change the conclusions of the analysis presented in the Draft EIS/EIR.

COMMENT I117

RESPONSE I117-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I118

RESPONSE I118-1

Community benefit payments, as required by the MSA and IGA for Alternatives A through C, are detailed in **Section 2.1.2** of the Final EIR.

RESPONSE I118-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I118-3

Please refer to **General Response 3.7.2** regarding indoor smoking.

COMMENT I119

RESPONSE I119-1

Please refer to **Response I113-1** regarding the socio-economic issues raised in the comment.

RESPONSE I119-2

Please refer to **Response A28-1** regarding the Tribe's historical connection to the project site.

RESPONSE I119-3

Please refer to **General Response 3.17** for a discussion of aesthetics and preservation of natural vistas within the project site.

RESPONSE I119-4

Please refer to **Response I44-1** regarding the analysis of impacts to archaeological resources at the project site.

COMMENT I120

RESPONSE I120-1

Mitigation Measure 7-2 in the Final EIR has been augmented to require that Western Drive remain passable to through traffic 24 hours a day, seven days a week, to provide access to and from other land uses located on the San Pablo Peninsula. In the event that portions of Western Drive must be closed temporarily, reasonable detours shall be provided such that access to the San Pablo Yacht Harbor and other adjacent land uses is not curtailed.

RESPONSE I120-2

Potential impacts to public services are discussed in **Section 4.10** of the Draft EIS/EIR. As described in the Municipal Services Agreement (MSA; **Appendix C**), the Tribe would provide compensation to local law enforcement, fire service, and emergency medical service providers so that these agencies have the capacity (i.e. employees and equipment) necessary to address any increase in demand resulting from the Proposed Project. Additionally, Alternatives A through C provide for the construction and staffing of a combined police and fire station on-site, which would provide for reduced response times throughout the San Pablo Peninsula. Under Alternative D the existing on-site fire station would be renovated to serve the needs of the project. Please refer to **Section 2.1.2** of the Draft EIS/EIR for a description of the provisions of the MSA related to police and fire services.

RESPONSE I120-3

Mitigation Measure 7-1 in the Final EIR has been augmented to require a minimum two week notice to all residents of the San Pablo Peninsula regarding any blockage of Western Drive.

COMMENT I121

RESPONSE I121-1

Please refer to **General Response 3.11.2** regarding problem gambling.

COMMENT I122

RESPONSE I122-1

Please refer to **General Response 3.11.2** and **3.11.3** regarding problem gambling and employment opportunities. As stated in **Section 5.2.6** of the Draft EIS/EIR, the Tribe will adopt a policy statement on problem gambling, as well as provide compensation to an organization that provides services to problem and pathological gamblers for two new licensed counselors. The Tribe and County will further engage in consultation every two years and assess the needs for counselors, based on the discussion of problem and pathological gambling treatment in **Section 4.7** of the Final EIR.

COMMENT I123

RESPONSE I123-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I124

RESPONSE I124-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I125

RESPONSE I125-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I125-2

Comment noted.

COMMENT I126

RESPONSE I126-1

Please refer to **General Response 3.3.2** regarding alternatives to demolition or relocation of historic buildings at Point Molate.

COMMENT I127

RESPONSE I127-1

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

RESPONSE I127-2

Please refer to **General Response 3.12.1** regarding ferry service to the project site. Contrary to the statement of the commenter, the transportation analysis presented in **Sections 3.8, 4.8, and 4.15** of the Draft EIS/EIR assume 15 percent of patrons and employees would arrive via ferry.

COMMENT I128

RESPONSE I128-1

As discussed in **Section 4.7.3**, there would be an increase in demand for housing as a result of the Proposed Project due to the relocation of employees from outside the County to fill employment opportunities generated from the operation of the Project. The increase in the demand for existing housing is considered a beneficial impact. Increased demand results in increased value. As summarized in **General Response 3.11.5**, the Proposed Project is projected to boost the economy of Richmond and Contra Costa County substantially.

Please refer to **General Response 3.11.1** regarding potential impacts to crime.

RESPONSE I128-2

The Warm Springs Reservation, located in central Oregon, is composed of people descended from the Warm Springs, Wasco, and Paiute tribes. The Guidiville Band of Pomo Indians is not affiliated with the Warm Springs Reservation.

RESPONSE I28-3

Harrah's Operating Company is not currently a partner with the Guidiville Band of Pomo Indians and is no longer involved in the Proposed Project.

Potential impacts to all of the issue areas cited by the commenter are analyzed throughout **Section 4.0** of the Draft EIS/EIR. Please refer to **General Response 3.11.1** regarding potential impacts to crime as a result of the Proposed Project. Please refer to **General Response 3.11.2** regarding problem gambling.

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

As stated in **Section 2.1.2** and **Appendix C** of the Draft EIS/EIR, the Tribe agrees to pay the City a service fee of \$8 million per year for the first eight years beginning with the commencement of gaming operations. The Tribe agrees to pay the City a service fee of \$10 million per year thereafter. The fees compensate the City for police and fire protection services. Fees shall be adjusted each year by changes in the Consumer Price Index, beginning after year one of the agreement. The fee shall be paid regardless

of the amount of service provided. Additionally, as provided by the IGA entered into with Contra Costa County (**Appendix BB**), the Tribe will pay the County the annual sum of \$12 million for public safety, fire fighters and responders, health, and social services related costs, and community benefit payments, commencing with the project start date (the date that public use commences for the new casino gaming facilities), and payable for as long as the IGA is in effect. Provisions of the MSA and the IGA would result in positive fiscal benefits for the City and the County, and no reduction in public services.

RESPONSE I128-4

Comment noted.

COMMENT I129

RESPONSE I129-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I129-2

Please refer to **General Response 3.11.1** and **3.11.2** regarding potential impacts to crime and problem gambling. Mitigation for the potential increase of problem and pathological gamblers within ten miles of the project site is provided in **Section 5.2.6** of the Final EIR to reduce potential impacts to less than significant levels.

Please refer to **General Response 3.11.6** regarding potential impacts to social services as a result of the Proposed Project.

COMMENT I130

RESPONSE I130-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I130-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I131

RESPONSE I131-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I131-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I132

RESPONSE I132-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I132-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I133

RESPONSE I133-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I133-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I134

RESPONSE I134-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I134-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I135

RESPONSE I135-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I136

RESPONSE I136-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I136-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I137

RESPONSE I137-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I137-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I138

RESPONSE I138-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I138-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I139

RESPONSE I139-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.10** regarding enforcement of all mitigation measures specified in the Final EIR.

RESPONSE I139-2

Refer to **General Response 3.12.1** and **3.12.4** regarding the proposed ferry service and trip reductions, respectively. The analysis presented in the Draft EIS/EIR assumes that vehicle trips would be reduced by 15 percent with implementation of the ferry service.

Potential air quality impacts are analyzed in **Sections 4.4** and **4.15**, the traffic impact analysis (including the Richmond – San Rafael Bridge) is provided in **Sections 4.8** and **4.15**, and analysis of potential noise impacts is provided in **Sections 4.11** and **4.15** of the Draft EIS/EIR. Mitigation is provided in **Sections 5.2.3, 5.2.7, and 5.2.10** of the Final EIR to address all potential impacts to air quality, traffic, and noise.

RESPONSE I139-3

Please refer to **General Responses 3.14.1** and **3.16.2** regarding emergency preparedness and hazards associated with the storage of hazardous materials at the neighboring Chevron facility.

RESPONSE I139-4

Please refer to **General Response 3.6.3** regarding water quality and **General Responses 3.7.1** regarding air quality. The existing environment as it relates to hydrology and air quality are addressed in **Sections 3.3** and **3.4** of the Draft EIS/EIR, respectively. **Sections 4.3** and **4.4** of the Draft EIS/EIR provide an analysis of potential hydrological and air quality impacts associated with implementation of each of the proposed alternatives.

RESPONSE I139-5

Please refer to **General Response 3.11.3** regarding documentation for the projected employment numbers. Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities, including minority and low-income populations.

RESPONSE I139-6

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

RESPONSE I139-7

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I140

RESPONSE I140-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I140-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I141

RESPONSE I141-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I141-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I142

RESPONSE I142-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I142-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I143

RESPONSE I143-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I143-2

The approval of the Proposed Action/Project would not result in changes to the Indian Gaming Regulatory Act (IGRA) or otherwise affect other Tribes' abilities to conduct gaming. Thus, approval of the Proposed Project would not serve to create any precedent.

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I144

RESPONSE I144-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I144-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I145

RESPONSE I145-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I145-2

Mitigation has been added to Final EIR **Section 5.2.3** which requires new and redeveloped buildings to meet LEED building design certification standards, except with respect to indoor smoking allowed in certain areas of the proposed casino.

Please refer to **General Response 3.10** regarding enforcement of all mitigation measures specified in the Final EIR.

RESPONSE I145-3

In 2009, Richmond had a 14.6 percent unemployment rate, which is the equivalent of roughly 7,869 unemployed persons for the population. During the operational phase, the Proposed Project is projected to generate a total of 16,771 employment opportunities (**Section 4.7** of the Draft EIS/EIR). The Proposed Project stands to generate a significant number of jobs for the region.

The assertion that none of the Richmond residents would qualify for any of these 16,771 positions is speculative and not supported. Please refer to **Response I33-3** regarding the Tribe's commitment to source 70 percent of initial hires from within Contra Costa County, 40 percent of which would come from the City of Richmond.

RESPONSE I145-4

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I146

RESPONSE I146-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I146-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I147

RESPONSE I147-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I147-2

Comment noted.

RESPONSE I147-3

Comment noted.

RESPONSE I147-4

California has not passed legislation disallowing gaming in the state; neither has there been any referendum to this effect.

COMMENT I148

RESPONSE I148-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I148-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I149

RESPONSE I149-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I149-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I150

RESPONSE I150-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I150-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I151

RESPONSE I151-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I151-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I152

RESPONSE I152-1

There is no singular "compact with California tribes." Instead there are individual compacts between the State and each Tribe that proposes to conduct Class III gaming, per the requirements of IGRA (25 U.S.C. § 2710). Several compacts are currently in place for casinos that some might consider as being in urban areas on land that was not previously a formal reservation. For responses to the comment letter from the Governor's Office of Legal Affairs, please see **Responses A-18-1** through **A18-8**.

RESPONSE I152-2

Operational activities associated with the Proposed Project would generate an annual total of approximately 16,771 employment opportunities within the County including direct, indirect, and induced employment, as shown in **Table 4.7-5 of Section 4.7.2** in the Draft EIS/EIR. The majority of these jobs would be located away from the project site and would be the result of indirect and induced employment effects. As such, there would not be 17,000 employees commuting to the project site on a daily basis as suggested by the commenter.

RESPONSE I152-3

Please refer to **General Response 3.11.1** regarding the potential impacts to crime. The commenter's contention that crime increased up to 300 percent in San Pablo as a result of Casino San Pablo is not supported by the facts. This assertion is directly refuted by statements made by San Pablo Chief of Police, Joseph P. Aita, which are summarized in **General Response 3.11.1**.

Please refer to **General Response 3.11.6** regarding potential impacts to social services, including emergency medical services, as a result of the Proposed Project.

With respect to alcohol availability and consumption, it is important to note that it will not be a policy of the Tribe to offer complimentary alcoholic beverages to its customers, as is the case with certain other casino establishments. As stated under **Mitigation Measure 6-2**, "The Tribe shall provide training to all appropriate employees regarding the identification of intoxicated patrons gambling; shall adopt procedures to prohibit intoxicated persons from gambling at the gaming establishment; and shall provide information to intoxicated gambling patrons regarding the dangers of intoxicated gambling, and available counseling and treatment resources." Furthermore, as stated under **Mitigation Measure 9-15**, "the Tribe shall adopt a 'Responsible Alcoholic Beverage Policy' that would include, but not be limited to, requesting identification of patrons and refusing service to those who have had enough to drink. This policy shall be discussed with the Richmond Police Department." Based on the analysis in the Draft EIS/EIR, the Proposed Project is not likely to significantly impact local drunk driving. It should be noted that since driving under the influence is illegal, any impacts to drunk driving would be included in the overall crime rate impacts and are addressed in crime-related mitigations.

RESPONSE I152-4

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

RESPONSE I152-5

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I152-6

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I153

RESPONSE I153-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I153-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I154

RESPONSE I154-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I154-2

Please refer to **Response A18-4** concerning the Governor's Proclamation on Tribal Gaming.

RESPONSE I154-3

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I154-4

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I155

RESPONSE I155-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **Response A18-4** concerning the Governor's Proclamation on Tribal Gaming.

RESPONSE I155-2

Please refer to **Response I139-2** regarding traffic issues.

RESPONSE I155-3

Please refer to **General Response 3.11.1** regarding crime.

COMMENT I156

RESPONSE I156-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I156-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I157

RESPONSE I157-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I157-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I158

RESPONSE I158-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I158-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I159

RESPONSE I159-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I159-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I160

RESPONSE I160-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I160-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I161

RESPONSE I161-1

The existing conditions related to traffic and regional transportation infrastructure are discussed in **Section 3.8** of the Draft EIS/EIR. **Sections 4.8** and **4.15** of the Draft EIS/EIR analyze potential transportation impacts associated with implementation of the Proposed Project in the near-term and under cumulative conditions (year 2025). Mitigation for impacts identified in the analysis is presented in **Section 5.2.7** of the Draft EIS/EIR.

RESPONSE I161-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I161-3

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I162

RESPONSE I162-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I162-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I163

RESPONSE I163-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I163-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I164

RESPONSE I164-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I164-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I165

RESPONSE I165-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I165-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I166

RESPONSE I166-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I166-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I167

RESPONSE I167-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I167-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I168

RESPONSE I168-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I168-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT 169

RESPONSE I169-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

The Draft EIS/EIR analyzes environmental impacts associated with six different alternatives, including a Total Park Alternative (E). Alternative E includes preservation of all historic structures within the Winehaven Historic District, although adaptive reuse was found to be infeasible due to a lack of funding required to rehabilitate the structures to make them habitable.

Please refer to **General Response 3.3.2** regarding alternatives to demolition or relocation of historic buildings.

RESPONSE II69-2

The commenter fails to acknowledge that the Proposed Project would be required to conform to the Secretary of the Interior's (SOI) Standards and Guidelines for Rehabilitation (**Mitigation Measure 5-1**). The SOI Standards define rehabilitation as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values." As such, adaptive reuse is permissible and does not conflict with historic preservation standards provided that modifications, new construction, and other on-site alterations are undertaken in a manner consistent with the SOI Standards and Guidelines. In fact, an adaptive reuse of the historic district provides the financial means to undertake the significant structural and environmental renovations required to allow human occupancy and would bring many more people to the site to enjoy and learn about the rich history of the site. Refer to **Mitigation Measure 5-1** of the Draft EIS/EIR for a description of procedural approach for resolving adverse affects on the Winehaven Historic District associated with the Proposed Project. Nonetheless, **Section 4.6** of the Draft EIS/EIR acknowledges that new construction in Alternatives A through D would have a significant and unavoidable impact on the integrity of the historic district.

RESPONSE II69-3

Please refer to **General Response 3.17** that addresses redevelopment within the Historic District.

RESPONSE II69-4

Alternatives A through E and B1 all include construction of the Bay Trail through the project site, while Alternatives A through D and B1 include adaptive reuse of the former fueling pier.

COMMENT I170

RESPONSE I170-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.11.1** regarding potential impacts to crime as a result of the Proposed Project.

COMMENT I171

RESPONSE I171-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I171-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I172

RESPONSE I172-1

Comment noted.

RESPONSE I172-2

Section 2.2.2 of the Final EIR has been corrected to note the wastewater collection line would connect to the existing system at the intersection of Tewksbury Avenue and Vaca Street. Text within **Appendix G** of this document has been updated to correctly state that the recommended wastewater alignment would be Option 1.

Please refer to **General Response 3.6.2** for wastewater treatment issues.

Environmental impacts associated with off-site improvements to the proposed wastewater alignments are analyzed in **Section 4.14.8** of the Final EIR.

While inflow and infiltration along existing collection lines is a significant problem with the existing system, the Proposed Project would likely serve as a catalyst to perform the long overdue upgrades to the system that have resulted in past discharges of untreated wastewater into the Bay.

The Remedial Plan detailing the approach to address the clean-up of hazardous materials on-site is provided as **Appendix II** to the Final EIR.

COMMENT I173

RESPONSE I173-1

Comment noted.

RESPONSE I173-2

The Chevron Refinery is separated from the project site by Potrero Ridge, which rises roughly 325 – 430 feet above sea level. Redevelopment of the project site largely focuses on the portions of the site previously developed, thus leaving a significant hillside open space buffer between habitable Project components and Chevron property to the east. Furthermore, there are no active industrial uses immediately adjacent to the project site, although such uses are found throughout the City of Richmond.

Please refer to **General Response 3.14.1** regarding emergency preparedness. Refer to **General Response 3.16.3** regarding security at the neighboring Chevron Refinery and **General Response 3.16.2** regarding proximity to the Chevron Refinery.

RESPONSE II73-3

The Draft EIS/EIR at **Section 4.15** discloses all significant impacts associated with the facilities studied.

As discussed in the context of each relevant impact statement, some impacts are considered significant because the full suite of required improvements may not be implemented since the subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan to help fund or implement the improvements. Impact Statement 4.15.11 considers all intersections within the study area; impacts to several of the intersections can be reduced to less than significant levels with implementation of mitigation. However, the impact discussion goes on to say that the “full suite of required mitigation measures are considered infeasible at this time due to lack of funding and/or because the improvements fall within the responsibility and jurisdiction of a public agency other than the City of Richmond for which there is no existing plan to implement or fund (emphasis added).” In other words, only *some* of the mitigation measures are considered infeasible at this time resulting in a significant and unavoidable impact. As such, there is no inconsistency in the analysis and no changes to the text of the document are warranted.

RESPONSE II73-4

Operations on Western Drive following the proposed improvements and capacity upgrade are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that the proposed improvements would allow for free flowing traffic on this facility. The total number of traffic trips on Western Drive during operation is provided in the TIA (**Appendix S**; refer to Table 5-5 for Alternative A) and was used to determine the project-related impacts to Western Drive. As shown in **Table 4.8-4** of the Draft EIS/EIR, the only Western Drive intersection between the project site and I-580 would operate at a Level of Service (LOS) A, which is the optimum level of operations under the City of Richmond’s significance standards provided in **Section 4.8** of the Draft EIS/EIR. LOS A is defined by Caltrans as free flowing. As such, emergency access would be unimpeded.

Please refer to **General Response 3.14.1** regarding emergency preparedness at the project site.

COMMENT II74

RESPONSE II74-1

Refer to **Response I32-3** regarding the scale of the proposed alternatives and the method of impact analysis

RESPONSE I174-2

Refer to **Responses I32-4** and **I32-5** regarding impacts to historic resources, the City's status as a Certified Local Government, and other items already raised by the commenter in her previous comment letter (**Comment I34**).

RESPONSE I174-3

Refer to **Response I32-6** regarding parkland.

RESPONSE I174-4

Refer to **Response I32-7** regarding the traffic analysis.

RESPONSE I174-5

Please refer to **Response I32-8**.

COMMENT I175

RESPONSE I175-1

Please refer to **General Responses 3.11.1, 3.11.2, 3.11.5** and **3.11.6** regarding potential impacts to crime, problem gambling, social services, and the surrounding communities as a result of the Proposed Project. Please refer to **Response I44-2** regarding *Gambling in the Golden State 1998 Forward*. Statistics listed by the commenter could not be substantiated. While the Final EIR is open to considering all information, the necessary documentation, support and explanations for the assumptions and methodologies used by the commenter to calculate statistics were not provided.

COMMENT I176

RESPONSE I176-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I176-2

Comment noted.

RESPONSE I176-3

Comment noted.

COMMENT I177

RESPONSE I177-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I177-2

Please refer to **Responses I29-30** and **I29-31** regarding Councilmember Butt's comment dated October 17, 2009.

COMMENT I178

RESPONSE I178-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I178-2

Please refer to **General Response 3.13.2** concerning impacts to open space. **Mitigation Measure 4-1** in **Section 5.2.4** of the Draft EIS/EIR details the creation of open space preserves for impacted native habitats. These open space preserves would be established in areas currently supportive of non-native invasive habitats. This measure will increase the overall acreage of on-site native habitats and remove the invasive habitats currently on-site.

RESPONSE I178-3

Please refer to **Response A14-1** and **General Response 3.8.1** regarding the analysis of air quality and greenhouse gases.

RESPONSE I178-4

Refer to **General Response 3.7.2** regarding indoor smoking at certain facilities within the project site.

RESPONSE I178-5

Refer to **General Response 3.16.2** regarding the project site's proximity to the Chevron facility.

RESPONSE I178-6

The commenter does not cite information to support the statistic, thus the information cannot be substantiated and no further response can be given. Please refer to **General Response 3.11.1** regarding potential impacts to crime as a result of the Proposed Project.

RESPONSE I178-7

The existing conditions related to traffic and regional transportation infrastructure are discussed in **Section 3.8** of the Draft EIS/EIR. **Sections 4.8** and **4.15** of the Draft EIS/EIR analyze potential transportation impacts associated with implementation of the Proposed Project in the near-term and under cumulative conditions (year 2025). Mitigation for impacts identified in the analysis is presented in **Section 5.2.7** of the Draft EIS/EIR. Specific technical details regarding the traffic analysis are provided in **General Response 3.12**.

Please refer to **General Response 3.12.1** regarding ferry service to the project site. It should be noted that the vehicle trip reduction applied as a result of ferry service to the site in the Draft EIS/EIR is 15 percent, not 25 percent as stated by the commenter.

COMMENT I179

RESPONSE I179-1

Refer to **Response I34-3** regarding the scale of the proposed alternatives and the method of impact analysis

COMMENT I180

RESPONSE I180-1

Comment noted.

Response I180-2

Impacts to mixed riparian habitat are listed in **Tables 4.5-1** through **4.5-5** of the Draft EIS/EIR. Only Alternatives B and D would impact this habitat. Recommended mitigation in **Section 5.2.4** would reduce potential impacts to this important native habitat to less than significant levels by compensating for the loss of mixed riparian habitat acreages resulting from the development of Alternatives B and D. Specifically, **Mitigation Measure 4-4** states that if unavoidable impacts are to occur, the California Department of Fish and Game (DFG) would be consulted and a 3:1 ratio of replacement/creation would occur.

As discussed in **Section 4.5** of the Draft EIS/EIR, impacts to beach strand habitat would be avoided under all alternatives. Setbacks for beach strand habitat (**Mitigation Measure 4-6**) will be approved through consultation with the San Francisco Bay Conservation and Development Commission (BCDC). **Mitigation Measure 4-6** has been supplemented in the Final EIR to state, in part, “Setback distances for areas of beach strand habitats shall be approved through consultation with BCDC taking into account the soils, slope, hydrology, vegetative cover and runoff potential of areas adjacent to beach strand habitat where construction will occur.”

The unidentified *Cirsium sp.* was noted during botanical surveys on April 14, 2008 and April 21, 2009. Late season rare plant surveys conducted on August 10, 2007 and June 19, 2008 documented only (*Cirsium vulgare*), and the unknown *Cirsium sp.* was not observed/documentated at that time. These observations support the conclusion that the common bull thistle (*Cirsium vulgare*) is the only thistle occurring within the project site and that when observed in April the *Cirsium sp.* was too small to identify as the common species. CNPS lists the rare Franciscan thistle (*Cirsium andrewsii*) as identifiable during a bloom period ranging from March-July. While this bloom period coincides with multiple botanical survey dates over a two-year period, the species was not observed to occur on-site. Please see **General Response 3.9.2** regarding recent on-site botanical surveys.

Symphyotrichum lentum (Suisun Marsh Aster) is specifically addressed in **Sections 4.5.3, 4.5.11, 4.5.19, 4.5.27, and 4.5.35** of the Draft EIS/EIR. **Mitigation Measures 4-13 and 4-14** detail avoidance of impacts with adequate setbacks as well as other appropriate measures to offset any potential impacts.

The Draft EIS/EIR, complete with all appendices, has been available online (www.pointmolateeis-eir.com) since July 10, 2009. The online availability of the document was noted in the Notice of Availability, which was widely publicized.

RESPONSE I180-3

Please refer to **General Response 3.4** and **Responses I4-1 through I4-7** regarding access to Point Molate via the proposed segment of the Bay Trail.

COMMENT I181

RESPONSE I181-1

As detailed in **Section 2.0** of the Draft EIS/EIR, a significant amount of parkland and open space is provided under all of the alternatives considered. Alternatives A – D contemplate between 180 and 236 acres of shoreline parks and hillside open space, which account for between 66 and 86 percent of the total upland acreage on site (approximately 273 acres). A 35-acre Shoreline Park is proposed under Alternatives A – D which would contain a variety of natural environments including tidal, near-shore wetlands, and upland areas. Upland areas would also be provided in the 145 to 190 acres of hillside open space provided by the project under Alternatives A – D. As described in **Section 2.2.2**, these areas would also provide a variety of recreational activities, including biking/hiking trails, picnic areas, a kayak center, and other park amenities consistent with those found in regional parks in Contra Costa and Alameda Counties.

Cumulative effects are discussed in **Section 4.15** of the Draft EIS/EIR. Past, present, and foreseeable development projects, including the proposed casino in North Richmond and existing casino in San Pablo, have been considered in combination with the Proposed Project to evaluate cumulatively considerable environmental impacts. With mitigation, cumulative impacts to socioeconomic conditions

are considered less than significant. Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities.

COMMENT I182

RESPONSE I182-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I183

RESPONSE I183-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

RESPONSE I183-2

Please refer to **General Response 3.11.3** regarding employment generated by the Proposed Project.

As discussed in **Section 4.7** of the Draft EIS/EIR, no low-income or minority communities would be disproportionately adversely affected by impacts of the Proposed Project.

RESPONSE I183-3

Comment noted.

COMMENT I184

RESPONSE I184-1

Please refer to **General Response 3.10** regarding enforcement of all mitigation measures specified in the Final EIR.

Please refer to **Response A15-1**, Eastbound I-580 Off-ramp to Western Drive, for a discussion of the need for a dedicated eastbound off-ramp from I-580.

Refer to **General Response 3.12** for a discussion of issues related to traffic and circulation, including trip generation. Refer to **Sections 4.8** and **4.15** of the Final EIR and the Supplemental TIA (**Appendix S**) regarding the Richmond – San Rafael Bridge toll plaza analysis. A less than significant impact would occur in the near-term at the toll plaza. In the cumulative year a significant impact would occur with the inclusion of project traffic. Mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR which would

reduce this impact to less than significant upon implementation of the full suite of recommended measures. As discussed in the context of each relevant impact statement, some transportation impacts are considered significant because the full suite of required improvements may not be implemented since the subject facilities lie outside of the jurisdiction of the City of Richmond and there is currently no published plan to help fund or implement the improvements.

The number of vehicles per lane per hour at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated in the Draft EIS/EIR, has been corrected in the text of the Final EIR.

Refer to **General Response 3.12.1** regarding ferry service to the project site.

RESPONSE I184-2

Please see **Response I104-70**.

RESPONSE I184-3

Cumulative effects are discussed in **Section 4.15** of the Draft EIS/EIR. Contrary to the assertions of the commenter, foreseeable development projects, including existing and proposed tribal casinos in the greater East Bay Area, have been considered in combination with the Proposed Project to analyze cumulatively considerable environmental impacts. Mitigation for cumulative impacts is provided throughout **Section 5.0** of the Draft EIS/EIR.

RESPONSE I184-4

Please refer to **General Responses 3.16.2** and **3.16.3** concerning hazards associated with the project site's proximity to the Chevron facility.

RESPONSE I184-5

Comment noted.

COMMENT I185

RESPONSE I185-1

Section 4.7 of the Draft EIS/EIR examines the economic impacts from the Proposed Project, including casino and hotel development. Please refer to **General Response 3.11.4** regarding the economic viability of the Proposed Project.

The article attached by the commenter was consulted. It was determined that the examination of the hotel industry described by the article did not include hotels associated with casino establishments. Furthermore, information presented in the article would not affect the conclusions of the analysis presented in the Draft EIS/EIR.

RESPONSE II85-2

Comment noted.

COMMENT I186

RESPONSE II86-1

Please refer to **General Response to Comment 3.2.1** regarding the expression of opposition and comments unrelated to the content or scope of the Final EIR.

It is not clear to which State “public policy” the commenter refers, however similar comments referencing State public policy and the Governor’s Proclamation on Tribal Gaming can be found in **Response A18-4**.

Please refer to **Response A28-1** regarding consideration of the Tribe’s historical connection to the project site.

RESPONSE II86-2

Please refer to **General Response 3.11.3** regarding documentation for the estimated employment numbers, as well as information pertaining to the types of opportunities generated by the Proposed Project.

Statistics provided by the commenter cannot be substantiated. According to the Economic Impact Study summarized in the Draft EIS/EIR, with development of the Proposed Project, the Richmond area gaming market is expected to grow by approximately 20 percent to \$2.20 billion in 2012 (**Appendix T**). Please refer to **General Response 3.11.4** regarding the economic viability of the Proposed Project.

RESPONSE II86-3

Refer to **General Response 3.12** for a discussion of issues related to traffic and circulation. Refer to **Sections 4.8 and 4.15** of the Final EIR and the Supplemental TIA (**Appendix S**) regarding the Richmond – San Rafael Bridge toll plaza analysis. The number of vehicles per lane per hour at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated in the Draft EIS/EIR, has been corrected in the text of the Final EIR.

Refer to **General Response 3.12.1** regarding ferry service to the project site.

RESPONSE II86-4

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I187

RESPONSE I187-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I187-2

The City of Richmond's adopted General Plan is discussed at length in **Section 3.9** of the Draft EIS/EIR, and **Section 4.9** provides an analysis of the Proposed Project's consistency with relevant elements of the General Plan. In addition, each section of the Draft EIS/EIR addresses General Plan policies that are relevant to their respective issue areas. Policies regarding open space and historic sites are addressed in **Section 3.10, Utilities and Public Services**, and **Section 3.6, Cultural Resources**. Policies regarding preservation of natural sites are addressed in **Section 3.5, Biological Resources**.

RESPONSE I187-3

Please refer to **General Response 3.8.2** regarding sea level rise at the project site.

RESPONSE I187-4

Please refer to **General Response 3.8.1** regarding the analysis of greenhouse gas emissions. Neither CEQA nor NEPA require that environmental analyses to be consistent with un-adopted "climate change treaties" or "global grassroots movements."

RESPONSE I187-5

Please refer to **General Response 3.9.2** regarding habitat classification of the project site.

Please refer to **General Response 3.9.1** regarding the analysis of impacts to the eelgrass beds located on site.

Please refer to **General Response 3.6.2** regarding the analysis of impacts related to treatment and disposal of wastewater generated on-site.

RESPONSE I187-6

As stated in **Section 4.3** and **Appendix H** of the Draft EIS/EIR, the project site currently drains to the Bay through an established drainage system. Implementation of the Proposed Project would result in additional flows that would be retained on-site through the use of bio-retention swales. The resulting flows into the Bay would be similar to those under existing conditions. The site is currently developed and the types of pollutants entering the Bay would be similar. However, based on the inclusion of water quality improvement features, stormwater quality of discharges to the Bay are expected to *improve* compared to existing conditions. Impacts to biological resources are addressed in **Section 4.5** of the Draft EIS/EIR.

RESPONSE I187-7

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

The economic analysis summarized in Draft EIS/EIR relies on the IMPLAN model, which uses complex county-specific data to determine potential impacts of the Proposed Project on the regional economy. Results of this study are analyzed and discussed in **Sections 4.7, 4.14 and 4.15** of the Draft EIS/EIR.

Please refer to **General Response 3.11.4** regarding the economic viability of the Proposed Project.

Please refer to **General Responses 3.11.5 and 3.11.6** regarding potential impacts to the surrounding communities and social services.

RESPONSE I187-8

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I188

RESPONSE I188-1

Please refer to **General Response 3.11.3** and **Response I145-3** regarding employment opportunities generated by the Proposed Project. As stated in **Appendix C**, employment offered at the casino would be subject to the City of Richmond's Living Wage Ordinance, which requires employers to pay at a rate higher than minimum wage as determined by the City. If employees are not offered medical benefits, they must be compensated accordingly by the employer.

Please refer to **General Response 3.11.6** regarding the analysis of impacts to social services.

Please refer to **General Response 3.11.1** regarding impacts to crime.

RESPONSE I188-2

Comment noted.

COMMENT I89

RESPONSE I189-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I189-2

Comment noted.

COMMENT I190

RESPONSE I190-1

Comment noted.

RESPONSE I190-2

The Draft EIS/EIR assumes, for the purposes of completing the environmental impact analysis, that land can be taken into trust for the benefit of the Tribe, allowing for the operation of gaming on-site. There are many examples of land being taken into trust for tribes across the country, whereupon the land becomes “Indian” land that is generally not subject to state jurisdiction. The full effect of the *Carciere v. Salazar* decision on this process is unknown. Other legal challenges to the land-into-trust process are possible in the future as well. However, neither NEPA nor CEQA require speculation on the outcome of future legal disputes. Therefore, the Draft EIS/EIR properly assumes that the process described for taking the land into trust will take place, should an alternative that includes a land-into-trust transfer be selected. Please note that the Draft EIS/EIR considers a conventional mixed-use redevelopment alternative (D), a total parkland alternative (E), and a no action alternative (F), none of which propose transferring the Point Molate property into trust.

The viability of the proposed fee to trust transfer by the Department of Interior (DOI) is beyond the scope of the Draft EIS/EIR. The purpose of the environmental review process is to assess the environmental impacts of the Proposed Project and not to analyze the DOI realty process. Ultimately, DOI will make a determination, considering a host of factors, with respect to the eligibility of the site for transfer into Federal trust for the benefit of the Tribe and the site’s eligibility for Class III gaming.

Please refer to **Response A28-1** regarding consideration of the Tribe’s historical connection to the project site.

COMMENT I191

RESPONSE I191-1

Comment noted.

RESPONSE I191-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.4** and **Responses I4-1** through **I4-7** regarding access to Point Molate via the proposed segment of the Bay Trail.

RESPONSE I191-3

Mitigation has been added to Final EIR **Section 5.2.3** which requires the Tribe to meet LEED building design certification standards, except with respect to indoor smoking allowed in certain areas.

RESPONSE I191-4

Refer to **Response A22-2** regarding transit service to the project site. Please refer to **General Response 3.12.1** regarding ferry service to the project site.

RESPONSE I191-5

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

RESPONSE I191-6

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project. Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities, including potential impacts to low-income and minority populations, as well as economic impacts in the City of Richmond generated through the operation of the Proposed Project.

COMMENT I192

RESPONSE I192-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

The commenter's organization has been added to the mailing list maintained for the environmental analysis related to the Proposed Project.

RESPONSE I192-2

Please refer to **Section 3.5.4** of the Draft EIS/EIR which discusses the biological surveys conducted at the project site. AES biologists conducted preliminary biological assessments and wetland surveys in March and April of 2005. AES staff conducted thorough biological surveys, wetland reconnaissance, and focused floristic surveys of the project site on August 13, 14, and 30, 2007, January 18, April 14 and 15, and June 19 and 23, 2008. All visible plant and wildlife species, including birds, were noted and identified to the lowest possible taxonomic level. The habitat types within the project site were characterized and then further evaluated for their potential to support regionally occurring special-status

species taking into account blooming windows and suitable identification periods for plant as well as animal species noted with potential to occur on-site.

RESPONSE I192-3

Please refer to **General Response 3.9.1** regarding the analysis of impacts to the eelgrass habitat located on-site.

RESPONSE I192-4

CEQA requires the evaluation of individual species based upon their special status designations. The identification and evaluation of individual plant communities is a necessity for the impact analysis mandated by CEQA. Habitat diversity is established by the quantity of unique plant communities which is in turn based upon the density, composition and occurrence of component individual species. Therefore, when assessing a single special status species and the natural vegetative communities which may support that species on-site, overall habitat diversity is inherently evaluated. **Mitigation Measures 4-1 through 4-14** thoroughly detail the measures that will be implemented to reduce anticipated impacts to less than significant levels under both CEQA and NEPA. In addition, please refer to **Mitigation Measure 4-1** which details how any impacted coastal scrub or grassland habitat will be replaced at no less than a 2:1 ratio while preservation of additional acreage at a ratio no less than 1:1 will also occur. Created habitats will use existing eucalyptus woodlands or invasive scrub for conversion, thus overall native habitat diversity of the site will not be minimized, and overall acreages of native habitats will in fact be *increased* in size compared to the current condition.

RESPONSE I192-5

All impacts to Waters of the U.S. and wetlands are detailed in **Section 4.5** of the Draft EIS/EIR, within **Tables 4.5-1 through 4.5-5**. **Mitigation Measures 4-10, 4-11 and 4-12** outline the measures that would be implemented to reduce potential impacts to Waters of the U.S. to a less than significant level. No natural wetland features would be used for storm water detention or filtration of runoff.

RESPONSE I192-6

Please refer to **Response A1-5** regarding the analysis of impacts to avian species.

RESPONSE I192-7

The open waters of San Francisco Bay are currently open to the public for recreational use, such as kayaking, wind surfing, etc. As previously noted, the USFWS provided a Biological Opinion on the Proposed Project (**Appendix J**), which offers a “not likely to adversely affect” determination for all federally listed species with the potential to occur within the project site while specifically noting that the “project area contains a very small amount of low quality habitat that is isolated from other habitat areas known or likely to support these species.” This designation also includes a “not likely to adversely

affect” determination to federally listed birds that “may forage in offshore waters and eelgrass beds within the project area.”

Point Molate is not located within the North Richmond Wetlands Important Bird Area (IBA), therefore no impacts to the integrity if the IBA would occur.

RESPONSE I192-8

Please refer to **General Response 3.12.1**, which covers a range of issues associated with the proposed ferry service. Also refer to **General Response 3.9.1** for a thorough discussion of potential impacts to the eelgrass beds located on site.

RESPONSE I192-9

Regarding evacuation routes and the potential for a chemical release from the Chevron facility, please refer to **General Responses 3.14.1** and **3.16.2**.

RESPONSE I192-10

Refer to **General Response 3.6.3** regarding stormwater quality, including the proper operation of stormwater management systems.

RESPONSE I192-11

The Draft EIS/EIR provides an analysis of emissions from vehicle miles traveled for criteria pollutants in **Section 4.4** and **4.15**. Greenhouse gas emissions are addressed in **Section 4.15** of the Draft EIS/EIR.

The greenhouse gas analysis has been revised in the Final EIR to include a comprehensive estimate of GHG emissions, an analysis of impacts, and consideration of mitigation measures consistent with recommendations in the recently updated BAAQMD CEQA Air Quality Guidelines. Please refer to **Response A14-1** and **General Response 3.8.1** which summarize the substantial revisions to the greenhouse gas impact analysis in the Final EIR. Refer to **Mitigation Measures 3-26** through **3-28** and **Improvement Measures 3-29** through **3-44** in the Final EIR, which would significantly reduce project-related GHG emissions, resulting in a less than significant impact.

RESPONSE I192-12

Water and energy supply are included in the calculation of potential GHG emissions in Final EIR **Section 4.15**.

East Bay Municipal Utility District (EBMUD) prepared a Water Supply Assessment (WSA) to compare the water demand of the Proposed Project with the 2005 Urban Water Management Plan. The WSA is included in **Appendix C**. According to EBMUD, the water demands of the Proposed Project are accounted for in the 2005 Urban Water Management Plan. Based on the existing land use and the

potential for redevelopment, EBMUD anticipates both the densification and land use class changes throughout the service area. As such, potential impacts to water supply have been adequately analyzed.

Pacific Gas and Electric (PG&E) has confirmed the availability of capacity to service the project site. A PG&E will-serve letter is included within **Appendix C**.

RESPONSE I192-13

Please refer to **General Response 3.2.1**, regarding expressions of opinion and other non-substantive comments.

COMMENT I193

RESPONSE I193-1

Comment noted.

RESPONSE I193-2

Please refer to **General Response 3.14.1** regarding emergency preparedness and response.

RESPONSE I193-3

Please refer to **General Response 3.16.3** regarding security at the neighboring Chevron facility.

COMMENT I194

RESPONSE I194-1

Comment noted.

RESPONSE I194-2

Table 2-8 in the Final EIR has been updated to indicate that there would be reduced on-site noise levels under the Total Parkland Alternative (E) compared to the Proposed Project. The table has also been updated to indicate that potential impacts to aesthetic resources would be qualitatively less under the Total Parkland Alternative (E) compared to the Proposed Project. **Table 2-8** in the Draft EIS/EIR indicated these potential impacts would be similar between the Total Parkland Alternative (E) and the Proposed Project given that less than significant impacts would occur with mitigation under both alternatives. The description of hazardous materials within **Table 2-8** was not changed in the Final EIR since the project site would be subject to a higher level of hazardous materials remediation under the Proposed Project compared to the Total Parkland Alternative (E).

RESPONSE I194-3

Please refer to **General Response 3.12.1** regarding ferry service to the project site. Refer to **General Response 3.4** regarding bicycle and pedestrian access to the project site via the proposed Bay Trail.

RESPONSE I194-4

The Total Parkland Alternative (E) is described in **Section 2.6** of the Draft EIS/EIR and the No Action Alternative (F) is described in **Section 2.7**. Under Alternative E, the land would not be purchased by the Tribe or Upstream, and would not be held in federal trust, a reservation proclamation would not be requested, and a gaming management contract would not be needed. Under this alternative, the project site would be retained by the City and would be accessible by the public for use as a park. None of the buildings in the Winehaven Historic District would be demolished or relocated, and no new buildings would be constructed. The park would include a newly constructed segment of the San Francisco Bay Trail as well as a secondary trail system east of Western Drive in the hillside area. The hillside trail system would make use of the existing road network and would not require any new construction, with the exception of limited resurfacing within the trail right-of-way. The existing fueling pier located on-site would be improved and opened for use by the public. The pier would not be used for leisure boat or ferry mooring; rather, it would be retrofitted to allow for access via the Bay Trail for fishing or other activities. Hazardous materials remediation would be completed, albeit at a slower pace and a lower level compared to Alternatives A – D, which include additional funding by the project proponent.

In contrast, under the No Action Alternative (F), the project site would continue under current land uses since there is no foreseeable funding or agreements in place that would provide for the redevelopment of the project site. The segment of the Bay Trail along the shoreline of Point Molate proposed under Alternative E would not be constructed and the hillside open space would remain restricted to the public. Hazardous materials remediation would occur in generally the same time and to the same level as described for Alternative E.

RESPONSE I194-5

Section 4.2 of the Draft EIS/EIR analyzes impacts associated with liquefaction at the site. The analysis determined that impacts associated with this geologic hazard are potentially significant. Mitigation has been incorporated into **Section 5.2.1** of the Draft EIS/EIR that would reduce potential impacts to a less than significant level. Please refer to **General Response 3.5.1** regarding the analysis of hazards associated with seismicity and liquefaction. It should be noted that the underlying geology of Richmond is radically different from that of the Point Molate and areas along the San Pablo Peninsula. While Richmond is largely built upon former tidelands that were filled during the historic period, the San Pablo Peninsula is largely composed of Franciscan basement rock which is not susceptible to liquefaction.

RESPONSE I194-6

Direct impacts to vegetative habitats are listed in **Tables 4.5-1, 4.5-2, 4.5-3 and 4.5-4** in **Section 4.5** of

the Draft EIS/EIR. **Mitigation Measures 4-1** through **4-9** have been developed to reduce these impacts to a less than significant level. Indirect impacts associated with implementation of mitigation are addressed in **Section 4.14.8** of the Final EIR.

Project site drainage is addressed in **Section 2.2.2**, which states that an NPDES general construction permit will be acquired for the project under regulation of CWA and a SWPPP will be prepared and implemented for construction-related storm water discharges. The SWPPP shall require erosion and sediment control BMPs for all construction activity. Additionally, a storm water management plan (SWMP) is included in **Appendix H** that details how storm water flows, which may contain potentially turbid and/or contaminated waters, will be stored in temporary detention facilities where the water will be treated (or trucked from the site and treated) prior to surface water discharge into the Bay. Please refer to **General Response 3.6.3** for a full discussion of the analysis of stormwater impacts.

RESPONSE I194-7

Section 4.3 of the Draft EIS/EIR identifies the significance criteria that was utilized to identify impacts from the implementation of the project alternatives. The thresholds were derived from the significance criteria provided in Appendix G of the CEQA Guidelines. The significance criteria state that a water quality impact would be considered significant if the project substantially degrades water quality, which implies existing water quality for both surface and groundwater resources. The significance criteria used in the water quality analysis considers the potential for the redevelopment alternatives to degrade the existing surface and groundwater quality due to erosion and siltation. Considering the existing conditions at the project site described in **Sections 3.3** and **3.5** of the Draft EIS/EIR, implementation of the Proposed Project would have a beneficial impact on surface and groundwater within the project site.

The SWMP is provided in **Appendix H** of the Draft EIS/EIR. The SWPPP, which is required by **Mitigation Measures 1-1** and **2-1**, is a routine document prepared for construction projects and is not required to complete the analysis of environmental impacts.

RESPONSE I194-8

Please refer to **General Response 3.6.1** regarding the provision of potable water to the project site.

RESPONSE I194-9

The suggested mitigation for pesticides and fertilizers was incorporated into the mitigation for hazardous materials (**Section 5.2.11**) in the Final EIR. Specifically, Mitigation Measure 11-1(d) was augmented to state, in part, “Landscaping chemicals such as pesticides, herbicides, and fertilizers would consistently be kept at the lowest volumes needed and in the least toxic amounts. Such products shall be applied in a manner that prevents contact with groundwater, streams, domestic water supply, or wetlands. This shall be achieved in conjunction with mitigation providing for the planting of native vegetation that requires less, or no, pesticides or herbicides.”

Stormwater maintenance will be conducted as required to maintain compliance with water quality standards and to prevent flooding on the project site. **Mitigation Measure 2-2** of the Final EIR specifies that “permanent erosion control and stormwater management features shall be consistent with relevant Bay Plan policies including, but not limited to, Policies 1 through 4 detailing design, construction, and long-term maintenance guidance.”

RESPONSE II94-10

The Final EIR in **Section 3.4** provides air quality baseline conditions and information on regional air quality. Under existing conditions, emissions at the project site are relatively low. Draft EIS/EIR acknowledges that emissions would increase as a result of implementation of the Proposed Project. The types of commercial and retail uses proposed at the project site would not emit toxic air contaminants (TACs) in an amount that would require risk screening. TACs (including diesel particulate matter [DPM]) are discussed in **Section 3.4** and **Section 4.4** of the Draft EIR/EIS. The Chevron Refinery, located on the east side of the San Pablo Peninsula, is the nearest emitter of TACs in the vicinity of the project site. The Chevron Refinery is separated from the project site by Potrero Ridge, which rises roughly 325 – 430 feet above sea level. The prevailing winds are from the west/southwest 86 percent of the time. The distance, natural barriers, and prevailing winds isolate the project site from the Chevron Refinery; as such, no direct or cumulative TAC impacts would occur.

The vast majority of emissions associated with the Proposed Project are from mobile sources (automobiles). Aggressive mitigation is presented in **Sections 5.2.3** and **5.2.7** that would substantially reduce emissions such that impacts to air quality would be less than significant.

Please refer to **General Response 3.8.1** for a discussion of the analysis of greenhouse gasses in the Final EIR. **Section 4.15** of the Final EIR related to greenhouse gases has been updated based on recent guidance issued by the Bay Area Air Quality Management District

RESPONSE II94-11

Please refer to **Responses A14-1** and **I178-3**, and **General Response 3.8**.

RESPONSE II94-12

The Proposed Project is considered an infill project as defined by Senate Bill 375. Infill projects are recognized by the State of California to reduce vehicle miles traveled (VMT). Additionally, the Sacramento Area Council of Governments Blueprint (2004) provides modeling which demonstrates that infill projects significantly reduce VMT. The nearest Class III gaming facility to the Bay Area is located approximately 80 miles from Richmond in Yolo County. Capturing a small percentage of patrons that would otherwise patronize other regional facilities would reduce VMT. However, estimating the number

of diverted trips would be highly speculative and could result in an overstatement of the reductions in VMT anticipated.

The Draft EIS/EIR acknowledges that the regional gaming market is expected to grow modestly over the long term. Modeling of cumulative traffic and air quality impacts was achieved using industry standard software packages (Traffix and URBIMIS, respectively), which consider a variety of factors in determining future trends. The air quality and traffic modeling also consider vehicle trips by vendors, employees, and all individuals expected to travel to the project site, as discussed in **Sections 4.4, 4.8, and 4.15** of the Draft EIS/EIR.

Please refer to **General Response 3.12.2** regarding trips to the proposed conference center. Any attempt to quantify the number of patrons “flying...to the Project’s proposed conference center” would be highly speculative and not appropriate for the analysis of environmental impacts.

RESPONSE I194-13

Habitat classification is presented in **Section 3.5.4** of the Draft EIS/EIR. **Table 4.5-1** presented in **Section 4.5** of the Draft EIS/EIR details the acreage and relative percentage of each habitat type that would be impacted by the Proposed Project. Impacts to biological resources are evaluated using significance criteria detailed on **Page 4.5-1** of the Draft EIS/EIR. All identified impacts related to biological resources are disclosed in **Section 4.5** and **Mitigation Measures 4-1** through **4-21** are provided in **Section 5.2.4** of the Draft EIS/EIR which, upon implementation, would reduce the identified impacts to less than significant levels.

Water and hydrology are discussed in **Section 3.3** while significance criteria and the analyses of the identified potential impacts are discussed in **Section 4.3**. Evaluation of impacts associated with the use of pest/herbicides, cleaning solutions, and other chemicals is provided in **Section 4.12.1** of the Draft EIS/EIR.

As discussed in **Section 3.12.2** of the Draft EIS/EIR, the project site is located within a Very High Fire Hazard Severity Zone (VHFHSZ) as designated by the City of Richmond Fire Department. **Section 4.12** analyzes potential impacts associated with the project site’s location within a VHFHSZ. Potential impacts associated with fuel loading on the project site are considered in impact statement **4.12.7**. A number of mitigation measures address the potential for fires to occur on-site. **Mitigation Measure 4-9** provides for a comprehensive VMP to be prepared for the project site. The VMP would be divided into five components: Open Space Habitat Preserves, Open Space Restoration Preserves, Invasive Plant Species Management, Parkland Management, and Wildfire Prevention. The Invasive Plant Species Management component would seek to eradicate noxious weeds and exotic species and replace them with native species. The adaptive management strategy would ensure the goals of mitigation are achieved in perpetuity. The landscape management cited above, paved roads, sidewalks, and the presence of a fully

staffed fire station on-site will mitigate any increase in potential for fires that may affect biological resources.

Indirect impacts associated with implementation of mitigation (such as the VMP) are addressed in **Section 4.14.8** of the Final EIR. As discussed in **Mitigation Measure 4-9**, the VMP will be developed prior to project implementation. Development of a VMP is not required to complete the analysis of environmental impacts.

As previously discussed, potential impacts associated with greenhouse gases are mitigated to a less than significant level (refer to **Section 4.15** and **Mitigation Measure 3-16(d), 3-18(c), 3-18(k), 3-19(h), and 3-27** through **3-32** in the Final EIR). As such, impacts to biotic resources as a result of project-related greenhouse gas emissions have been considered and found to be less than significant.

Please refer to **General Response 3.9.1** for a thorough discussion of potential impacts to the eelgrass beds located on site.

As required under CEQA and NEPA all potential impacts to avian species (including migratory birds) are sufficiently addressed in Draft EIS/EIR **Sections 3.5** and **4.5** using the significance criteria detailed in **Section 3.5.7. Mitigation Measures 4-15** through **4-19** reduce potential impacts to potentially occurring avian species to less than significant. In addition, the USFWS Section 7 concurrence letter (**Appendix J**) offers a “not likely to adversely affect” determination for all federally listed avian species with the potential to occur within the project site while specifically noting that the “project area contains a very small amount of low quality habitat that is isolated from other habitat areas known or likely to support these species.” In addition to a host of measures referenced above, the Proposed Project would adhere to the Bird-Friendly Development Guidelines sponsored by the Fatal Light Awareness Program (FLAP, 2008).

Please refer to **Section 5.2.4** of the Final EIR for the full text of the mitigation associated with identified impacts. The exact location of restored habitat and other on-site mitigation features will be determined in consultation with the applicable agencies prior to implementation.

RESPONSE I194-14

The methodology used to evaluate potential impacts to transportation facilities is summarized in **Sections 3.8** and **4.8** of the Draft EIS/EIR. The full text of the technical studies is provided **Appendix S** of the Draft EIS/EIR, which includes the TIA and Supplemental TIA. Additional traffic analysis was completed subsequent to the release of the Draft EIS/EIR, and is provided in **Sections 3.8, 4.8** and **Appendix HH** of the Final EIR. The transportation analysis included all of the roadways referenced by the commenter. Furthermore, all trip-generating components of the Proposed Project were considered in the analysis, including those referenced by the commenter.

Please refer to **General Response 3.12.1** regarding ferry service to the project site. Analysis of potential impacts to eelgrass habitat in San Francisco Bay associated with reuse of the pier is discussed in **General Response 3.9.1**.

Please see **General Response 3.4** regarding the proposed improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

Please see **Response A22-2** regarding transportation mitigation related to expansion of regional transit and shuttle service to serve the project site.

RESPONSE I194-15

Illustrations depicting the location of past hazardous materials releases as well as areas subject to on-going and future environmental remediation are provided in **Figures 2-1, 2-2, 3.12-1, and 3.12-3** in the Draft EIS/EIR. Additional illustrations are provided in the Phase I Environmental Site Assessment included as **Appendix P** of the Draft EIS/EIR. A detailed narrative of the location of portions of the project site with documented hazardous materials releases is provided in **Section 3.12** of the Draft EIS/EIR. **Section 4.12** of the Draft EIS/EIR analyzes the location of past releases in relation to components of the Proposed Project.

RESPONSE I194-16

Please refer to **General Response 3.17** as well as **Response I4-8 through I4-12** regarding the analysis of impacts to the aesthetic character of the project site. The East Brother Light Station is located more than 1.2 miles from the nearest component of the Proposed Project and would not be impacted by the redevelopment at Point Molate.

RESPONSE I194-17

Indirect and growth-inducing impacts are analyzed in **Section 4.14** of the Draft EIS/EIR. Analysis of the Proposed Project's greenhouse gas emissions, in combination with other reasonably foreseeable emissions within the San Francisco Bay Air Quality Basin, is provided within the cumulative analysis in **Section 4.15** of the Draft EIS/EIR. The Final EIR incorporates standards and thresholds recently released by the Bay Area Air Quality Management District.

RESPONSE I194-18

Section 4.15 of the Draft EIS/EIR analyzes impacts of the Proposed Project and alternatives in combination with other reasonably foreseeable projects in the region, including the proposed Sugar Bowl Casino. Please refer to **Table 4.15-1** of the Final EIR for a list of planning documents and proposed projects considered in the cumulative analysis.

RESPONSE I194-19

Section 4.15 contains a cumulative analysis of air quality impacts. Refer to **Responses I194-17** and **I194-18** above.

RESPONSE I194-20

Refer to **General Response 3.8.2** regarding sea level rise.

RESPONSE I194-21

Significance criteria for the evaluation of impacts to biological resources are covered in **Sections 4.5** and **4.15.1** of the Draft EIS/EIR.

RESPONSE I194-22

Section 4.15 provides an analysis of the cumulative noise condition including the increased traffic expected by the year 2025. The analysis considers the increase in the ambient noise level due to Project-related sources in combination with other reasonably foreseeable developments. With the implementation of mitigation provided in **Section 5.2.10** of the Draft EIS/EIR, the cumulative noise environment would not be significantly impacted.

RESPONSE I194-23

Comment noted.

COMMENT I195

RESPONSE I195-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I195-2

The Draft EIS/EIR discusses the environmental remediation process in **Sections 2.1.5, 3.12, and 4.12** as well as the Phase I Environmental Site Assessment (ESA) provided as **Appendix P**. The above referenced sections of the Draft EIS/EIR and ESA also address the previously executed remediation performed at the project site.

RESPONSE I195-3

Please refer to **General Response 3.14.1** regarding emergency preparedness and response. Please refer to **General Response 3.16.3** regarding security at the neighboring Chevron facility.

RESPONSE I195-4

Please refer to **General Response 3.16.2** regarding anhydrous ammonia storage at the neighboring Chevron facility.

RESPONSE I195-5

Please refer to **General Response 3.3.2**.

RESPONSE I195-6

The statement in **Section 2.5.2** of the Draft EIS/EIR indicating that the historic cottages are “two-story” has been corrected in the Final EIR. As noted in **Sections 2.2.2** through **2.5.2** of the Draft EIS/EIR, the 29 cottages would be rehabilitated according to the Secretary of the Interior’s Standards for the Treatment of Historic Properties. Each cottage would require a significant investment to upgrade plumbing, wiring, and other systems.

RESPONSE I195-7

Please refer to **General Response 3.17** for a discussion of aesthetics and preservation of natural vistas within the project site.

RESPONSE I195-8

Please refer to **General Response 3.11.2** regarding potential impacts to problem gambling.

RESPONSE I195-9

Please refer to **General Response 3.17** for a discussion of aesthetics and preservation of natural vistas within the project site.

RESPONSE I195-10

Please refer to **Response A28-1** regarding consideration of the Tribe’s historical connection to the project site.

RESPONSE I195-11

The statement in **Section 3.6** of the Draft EIS/EIR regarding the length of the former Winehaven Wharf, estimated to be 1,800 feet, is correct. Please refer to the aerial photograph (**Figure 2b**) provided in **Appendix FF**, which depicts what remained of the wharf in 1957.

RESPONSE I195-12

The distance between the anhydrous ammonia tanks at Chevron and the project site corresponds to the minimum distance between habitable structures and the tanks. Thus, the distance of 4,590 linear feet reflects the distance between the proposed southern residential area (Alternatives B, D, and B1) and the

ammonia tanks. Under Alternatives A and C, the nearest occupied buildings (with the exception of the Tribal offices in the hillside area) would be closer to the distance cited by the commenter (ranging from approximately 6,653 to 7,445 linear feet). The height of Potrero Ridge is somewhat variable, ranging between roughly 335 and 450 feet above mean sea level just southeast of the project site. However, an average height of the ridgeline was used to provide a more conservative analysis than would have been achieved by referencing the higher elevations of the ridgeline.

RESPONSE I195-13

Comments noted. Please refer to **General Responses 3.11.3** and **3.11.5** regarding employment generated by the Proposed Project and potential impacts to the immediate and surrounding communities.

RESPONSE I195-14

Mitigation Measure 3-16 would provide a mechanism to encourage construction workers to carpool. During operation, shuttle and transit services would be provided from the Richmond BART station, as well as other points around Richmond, which would provide easy access to the project site from existing transit facilities. As outlined in **Response A22-2**, the Tribe has committed to funding transit improvements, which would provide a safer and more convenient public transportation experience.

RESPONSE I195-15

Air quality is a regional problem. As such, actions that would contribute to reducing pollution within the regional air basin would also benefit the local area. Note that **Mitigation Measure 3-19** provides that the credits or improvements be made within the San Francisco Bay Area Air Basin.

RESPONSE I195-16

The Draft EIS/EIR provided a list of acronyms in **Section 7** and each of the technical studies define an acronym when it is first used. The Final EIR includes a list of acronyms in **Section 5**.

RESPONSE I195-17

The MSA between the Tribe and the City of Richmond states, “the Tribe and the City Police Department shall develop a mutually agreeable written protocol for transferring detainees and for other operational matters.” Appropriate law enforcement standards shall be incorporated into the written agreement between law enforcement bodies prior to Project operation. This agreement shall be developed through consultation between the Tribal Police Department and the City Police Department.

RESPONSE I195-18

The Draft EIS/EIR concludes that all potential noise impacts are less than significant with mitigation. **Section 3.11, 4.11, and 4.15** of the Draft EIS/EIR contain a full analysis of the existing, with Project, and cumulative noise impacts. Where an impact has the potential to occur, the Final EIR provides mitigation

(Section 5.2.10) that would reduce the potential impact to a less than significant level. A comprehensive noise study is provided in **Appendix O** of the Final EIR.

RESPONSE I195-19

Section 4.12.2 of the Draft EIS/EIR addresses a range of potentially hazardous materials, including fuels, oils, solvents, paint, anhydrous ammonia, etc. Please refer to the above referenced section of the Draft EIS/EIR for a full discussion of the materials addressed. Also refer to **Section 3.12.2** which describes the specific hazardous materials located on the project site.

RESPONSE I195-20

Environmental database listings were reviewed for the project site to determine if it is listed for past hazardous materials release incidents, storage, or generation in government maintained databases (**Table 3.12-2** of the Draft EIS/EIR). This type of database search is standard for all Phase I ESAs. The database search was performed using a geographical information system to plot locations of past and/or current hazardous materials involvement. A project area environmental database report (**Appendix Q**) was prepared for the project site, which lists the available records for hazardous materials involvement on and adjacent to the project site that was current as of 2007.

RESPONSE I195-21

Land use restrictions are in place to maintain the integrity of the soil cover cap and prohibit residential development at IR-01.

RESPONSE I195-22

Comments noted. Beneficial impacts to employment opportunities and economic output generated by the Proposed Project are discussed in **Sections 4.7** and **4.15** of the Draft EIS/EIR.

RESPONSE I195-23

Comment noted.

RESPONSE I195-24

Comment noted.

COMMENT I196

RESPONSE I196-1

Comment noted.

RESPONSE I196-2

Please refer to **General Response 3.9.1** regarding potential impacts to eelgrass.

Pacific herring is addressed on page 3.5-17 in **Section 3.5.4** of the Draft EIS/EIR. Essential Fish Habitat (EFH) and impacts to special status fish are addressed throughout **Section 4.5** of the Draft EIS/EIR.

RESPONSE I196-3

Solid waste impacts are discussed in **Section 4.10** of the Draft EIR/EIS. The Draft EIR/EIS states that solid waste generation would be considered an insignificant contribution to the waste stream and is not expected to significantly decrease the life expectancy of the Solano Landfill. **Mitigation Measures 9-4** through **9-6** are included to reduce both construction and operational solid waste production and disposal. **Mitigation Measures 9-5** requires the development and implementation of a Solid Waste Management Plan (SWMP) that addresses recycling and solid waste reduction, and specifically calls for diverting 50 percent of the waste stream generated on-site.

Under existing conditions, there are extremely scarce resources available for maintenance of Point Molate. The resources that are available are directed at security, public safety, and fuels reduction at the project site. With development of the Proposed Project, open space areas would be managed in a manner similar to other East Bay parks, such that trash collection on the grounds would be conducted on a regular basis. **Mitigation Measure 9-6** requires that trash be picked up from “parking lots, grassy swales, and the park area daily.” Furthermore, much of the trash that washes ashore at Point Molate has been deposited elsewhere and transported to the site via wind, waves, and currents. With development of Alternatives A through E, fugitive trash would be collected daily from the shore of Point Molate, whereas there currently is no funding for such maintenance.

RESPONSE I196-4

Please refer to **General Response 3.6.2** regarding wastewater generated on-site.

RESPONSE I196-5

Estimates of customer visits are based on local market gaming statistics and relative drive-time. These calculations were forecasted for 2011 and were adjusted to consider the quality and size of the proposed facility relative to the competition. After compiling these factors, it was estimated that the Proposed Project would capture 21 percent of the market, or about 6.7 million visitors per year. There will be an estimated 32 million gamer visits to casinos in the Bay Area in 2011, which equates to roughly 87,400 total visits per day on average. Expanding the detail of the projected number of customers would not change the conclusions of the economic impact analysis.

RESPONSE I196-6

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I197

RESPONSE I197-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I197-2

Please refer to **General Response 3.16.2** regarding the project site's proximity to the neighboring Chevron facility.

RESPONSE I197-3

Please refer to **General Response 3.16.1** regarding the environmental remediation proposed as part of the Project. The commenter mischaracterizes the information and analysis presented in the Draft EIS/EIR to suggest that the Project would rely exclusively on remediation already completed. To the contrary, environmental remediation of the project site is a central component of the Proposed Project as described in **Section 2.1.5** of the Draft EIS/EIR. Furthermore, the commenter fails to acknowledge the additional funds that would be provided by the project proponent to fund remediation in excess of that contemplated by the Finding of Suitability for Early Transfer (FOSET).

RESPONSE I197-4

Please refer to **General Response 3.13.1** regarding the General plan. Rezoning of the project site to allow the proposed uses of the various alternatives is a component of the Proposed Project, as noted in **Table 1-1** and **Sections 2.2.1, 2.3.1, and 2.5.1** of the Draft EIS/EIR. Nonetheless, the analysis presented in **Section 4.9** of the Draft EIS/EIR considers the Project's consistency with relevant portions of the adopted General Plan.

The City's updated General Plan will not be adopted prior to circulation of the Final EIR for the Proposed Project. As such, use of the adopted 1994 City of Richmond General Plan is appropriate and no changes to the regulatory setting are warranted.

The draft General Plan Update that was recently circulated designates Point Molate as a Planned Area District. Planned Area Districts are areas where the City has determined that further analysis is needed to determine appropriate land use designations. Additionally, the entire San Pablo Peninsula Area has been designated as a Change Area. This designation refers to areas where "significant changes in land use and

development character are expected.” The draft General Plan Update states “land uses for [Point Molate] are those legally existing as of 2010 and/or permitted under the 1994 General Plan, as amended. If development or redevelopment is proposed within this area, it shall be analyzed under the ‘Planned Area District’ provisions of the Zoning Ordinance.” **Section 3.9.1** of the Final EIR has been revised to reflect these changes.

RESPONSE I197-5

The commenter’s statement that the Draft EIS/EIR “does not even contain evaluations of traffic flow at the proposed site or within the I-580 and I-80 corridors” is incorrect. Refer to **General Response 3.12.5** regarding the geographic scope of analysis for the transportation analysis, which includes all of the facilities cited by the commenter.

Operations on Western Drive following the proposed improvements and capacity upgrade (components of the Proposed Projects) are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that the proposed improvements would allow for free flowing traffic on this facility. The total number of traffic trips on Western Drive during operation is provided in the TIA (**Appendix S**; refer to Table 5-5 for Alternative A) and was used to determine the project-related impacts to Western Drive. As shown in **Table 4.8-4** of the Draft EIS/EIR, the only Western Drive intersection between the project site and I-580 would operate at a Level of Service (LOS) A, which is the optimum level of operations under the City of Richmond’s significance standards provided in **Section 4.8** of the Draft EIS/EIR. LOS A is defined by Caltrans as free flowing. As such, emergency access would be unimpeded.

Operations on I-580 and I-80 are also analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that all identified impacts in the build-out year can be mitigated (**Section 5.2.7** of the Draft EIS/EIR) to less than significant. However, in the cumulative year there would be a significant impact to transportation facilities and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. In the cumulative year there would be a significant impact to traffic operations on certain facilities and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. However, it was concluded that the required mitigation is infeasible at this time since the facilities requiring improvements are outside the jurisdiction of the City of Richmond and there is currently no plan to fund or implement the improvements on the part of the jurisdictional agencies.

Refer to **General Response 3.12.2** regarding trip generation rates used in the analysis.

Potential impacts associated with construction traffic are analyzed in **Section 4.8** of the Draft EIS/EIR. Please refer to **Responses A16**, *Construction Traffic*, and **I18-1** for additional information concerning the analysis of construction-related traffic.

Please refer to **General Response 3.12.1** regarding ferry service to the project site. It should be noted that the vehicle trip reduction applied as a result of ferry service to the site in the Draft EIS/EIR is 15 percent, not 25 percent as stated by the commenter. The modest alterations required to adaptively reuse the existing on-site pier for passenger ferry service is analyzed as part of the construction phase of the Proposed Project. Refer to **General Response 3.9.1** for additional discussion of the analysis of environmental impacts associated with the proposed ferry service.

The number of vehicles per lane per hour at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated in the Draft EIS/EIR, has been corrected in the text of the Final EIR. The findings of the analysis remain unchanged.

Refer to **Response A22-2** regarding transit service at the project site.

The Economic Impact and Growth Inducing Study provided as **Appendix T** was used to estimate the trip distribution for guests patronizing the Proposed Project. The study uses sound economic principals and standard methodologies to estimate economic impacts and the geographic distribution of potential patrons. As such, it is wholly appropriate to use this source of information to model the trip distribution patterns used in the traffic analyses.

RESPONSE I197-6

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (e.g., blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes.

Gaming Market Advisors employed an Input-Output / Social Accounting Matrix Model to determine economic impacts, as discussed on pages 6 and 90-93 of the Economic Impact and Growth Inducing Study (**Appendix T**). This study quantifies potential economic impacts of the Proposed Project for output, employment, wages, and tax revenues. Economic effects in this analysis are quantified for Contra Costa County using the Impact Analysis for Planning, (IMPLAN) model. The IMPLAN analysis was developed by the U.S. Department of Agriculture Forest Service. The Minnesota IMPLAN Group has maintained a database since 1987 at the University of Minnesota. The IMPLAN model is commonly used to estimate economic impacts to communities and regions. Results of this study are analyzed and discussed in **Sections 4.7, 4.14 and 4.15** of the Draft EIS/EIR. As determined in the Economic Impact and Growth Inducing Study, and discussed in **Section 4.7** of the Draft EIS/EIR, the Proposed Project would result in beneficial impacts to the Contra Costa County labor and housing markets.

New jobs in Contra Costa County from the Proposed Project are quantified using the IMPLAN model. The IMPLAN model uses a very complex set of coefficients and multipliers that are specific to each county to account for how each industry in the region interacts with one another. These multipliers come pre-programmed into the data for each County. Specific salaries and benefits for positions depend on the industries and companies or organizations that hire new employees. As discussed in **Section 4.7** of the Draft EIS/EIR, new jobs in the County resulting from the Proposed Project would have a beneficial impact on the County labor market. In addition, **Section 4.7** of the Draft EIS/EIR provides a breakdown of employment opportunities that are expected to occur at the project site.

Please refer to **General Response 3.11.5** for further discussion of economic impacts, including the potential for urban decay.

The proposed Scotts Valley Sugar Bowl Casino (Richmond Parkway Casino), which has not been approved, is included in the analysis of cumulative impacts in **Section 4.15** of the Draft EIS/EIR.

Based on the information provided by Dr. Thompson, it is not possible to substantiate the findings of his report. While the Final EIR is open to considering all information, the necessary documentation, support and explanations for Dr. Thompson's assumptions and methodologies were not provided. As such, no changes in the analysis of the Final EIR are warranted.

RESPONSE I197-7

Pursuant to Section 2.3 of the MSA (Exhibit E of LDA within **Appendix C**), the Tribe would provide an on-site fire station, to be operated by the City, with all necessary fire apparatus, equipment, and staff, sized to reasonably address fire and emergency response needs of the Proposed Project. Contrary to the assertions of the commenter, the Draft EIS/EIR describes the location and size of the combined emergency services center (fire and police), and the facilities characteristics. **Mitigation Measure 9-13**, presented in **Section 5.2.9** of the Draft EIS/EIR, states: "The Combined Emergency Service Center, which would be located on the ground floor of the primary parking garage and shared with the Richmond Police Department, shall be approximately 7,500 sq. ft. (including vehicle space) and would have the following amenities: Fire Department - 4 sleeping rooms, living room, showers, gym, restrooms, fueling station (diesel), double apparatus bay, and shall be first priority for back-up electrical generators." The size, equipment, and staffing requirements were determined in consultation with the City's Fire Chief and Chief of Police. Although it was not specifically called out, the fire/police station was included in the analysis of Alternatives A, B, C, and B1.

RESPONSE I197-8

Refer to **Response I104-7** regarding the temporal extent of the cumulative analysis.

RESPONSE I197-9

Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economic impacts are only relevant to the extent they cause an environmental impact (e.g., blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes.

Under NEPA, “‘human environment’ shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment...When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment” (40 CFR §1508.14). It has been determined for the purposes of the Final EIR that socioeconomic effects are interrelated with the physical environmental effects associated with the Proposed Project. For this reason, socioeconomic impacts must be considered equally significant alongside physical environmental impacts. Therefore, socioeconomic impacts can be considered either beneficial, neutral, or adverse.

The impacts to regional businesses have been assessed in the Draft EIS/EIR. Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities, including the potential for urban decay.

RESPONSE I197-10

The text referenced by the commenter does not suggest that the Proposed Project would be the sole source of “increases in tourism” for the City. To the contrary, it states that “cumulative economic influences...in conjunction with the payments to the City...would likely result in further development in the City...” It is the increased development within the City that would “further increase the City of Richmond’s participation in and reliance on the travel, tourism, and leisure industry.” Therefore, the payments to the City per the MSA would compensate for the Proposed Project’s respective increase in the use of public services. Overall, the commenter fails to demonstrate how the cumulative land use planning analysis is flawed.

The arguments put forth by the commenter reflect a fundamental misreading of the Draft EIS/EIR. Increases in the amount of vehicle trips on regional transportation facilities (and concomitant impacts) are analyzed under the Transportation and Circulation section of the cumulative analysis in the Draft EIS/EIR (**Sections 4.15.11** through **4.15.16** for Alternative A), not within the Land Use Planning section (**Section 4.15.17** for Alternative A), as suggested by the commenter. Similarly, the cumulative analysis for public services is presented in **Sections 4.15.18** through **4.15.25** of the Draft EIS/EIR, not within the Land Use Planning section.

RESPONSE I197-11

The methodology used in the cumulative analysis for traffic impacts is presented on page 4.15-24 of the Draft EIS/EIR. In summary, traffic volumes in the cumulative year (2025) were estimated by considering traffic generated by projects that are anticipated to be constructed by 2025, and growth rate projections obtained from the Contra Costa County Travel Demand Model and applied to the existing intersection and freeway segment volumes. Using the projected intersection and freeway traffic volumes, an intersection and freeway LOS analysis was completed for 2025 cumulative conditions. As is standard practice in transportation engineering and analysis, the thresholds of significance do not vary between the near term and cumulative conditions. The primary variables subject to change between near term and cumulative conditions are the volume of traffic and projected infrastructure improvements that affect capacity and delay. As such, the methods used in the cumulative analysis of traffic conditions are appropriate and no changes to the Final EIR are warranted.

All of the required mitigation measures to address impacts in the near-term operational condition were found to be feasible and would be in place at the time of operation of the Proposed Project. The mitigation measures required to address impacts in the cumulative year are different than those in the near term, and some require improvements to facilities that are located outside the jurisdiction of the City of Richmond or Contra Costa County, for which there is currently no plan to implement or fund.

RESPONSE I197-12

Refer to **Section 2.1.3** of the Final EIR and **Response 104-4** regarding deed restrictions and Interim Land Use Controls (LUCs) controls on the project site.

In summary, the existing deed restrictions are being replaced by LUCs codified in a Covenant and Agreement to reflect current conditions and cleanup status. The updated LUCs provides a mechanism for the San Francisco Regional Water Quality Control Board (SFRWQCB) to incrementally remove restrictions as part of the *No Further Action* (NFA) determination process as cleanup continues on each of the subject areas. In order for development to occur under Alternatives A, B, C and D, some of the LUCs would have to be removed, in accordance with the process described above. It is anticipated that some land use restrictions will remain in place in perpetuity, such as in open space areas where residential development is precluded as a term of the Land Disposition Agreement.

Refer to **General Response 4.16.1** regarding the vacated SFRWQCB Order.

RESPONSE I197-13

Please see **Responses A28-1, I93-3, and I104-25** regarding the ability of the Tribe to take the project site into trust for the purposes of gaming, which is beyond the scope of analysis in an EIR.

Section 1.4 of the Draft EIS/EIR describes the purpose and need of both lead agencies with respect to the Proposed Project. Considering the Draft EIS/EIR was completed to address the requirements of NEPA and CEQA, the purpose and need of both lead agencies is relevant (they are both provided in the Final EIR as well for continuity and informational purposes, although the purpose and need of the BIA are not relevant to CEQA compliance).

The City's objectives are to implement a productive reuse of the former Naval Fuel Depot Point Molate that includes economic development, job creation, establishment of a long-term revenue source for the City, preservation of historic and natural resources, and promotion of public access to the Richmond shoreline and open space recreation areas.

The purpose and need of the BIA in considering the Proposed Action is to strengthen the Guidiville Tribal Government and improve the socioeconomic status of the Tribe by providing land that can sustain a stable economic base. Strengthening tribal governments and promoting tribal self-determination is an essential trust responsibility of the federal government.

The approval of the Proposed Project would provide a Tribal land base for its members and establish a Tribal Headquarters from which its Tribal Government can operate to provide housing, health care and other governmental services, and from which it can conduct the economic development necessary to fund these Tribal Government services and provide employment opportunities for its members. The Proposed Action serves the needs of the BIA by advancing the agency's "Self Determination" policy of promoting the Tribe's self-governance capability. It serves the needs of the Tribe by promoting meaningful opportunities for economic development and self-sufficiency of the Tribe and its members, as well as satisfying some of the provisions of the *Scotts Valley et al. v. United States* decision. Approval and construction of the Proposed Project would assist the Tribe in meeting the following specific objectives:

- Replace wrongfully terminated reservation lands, pursuant to a court approved stipulation in the *Scotts Valley et. al. v. United States* decision of September 6, 1991 (NO. C-86-3660-VRW);
- Improve the socioeconomic status of the Tribe by providing a revenue source that would be used to: a) strengthen the Tribal Government, b) fund a variety of social, cultural, environmental, housing, governmental, administrative, educational, health and welfare services to improve the quality of life of Tribal members consistent with federal policy, and c) provide capital for future economic development and investment opportunities;
- Allow the Tribe to establish a foundation for economic self-sufficiency;
- Provide employment and business opportunities to the Tribal and non-Tribal community;
- Provide funding for local governmental agencies, programs, and services; and
- Make contributions to charitable organizations and governmental operations, including local educational institutions.

RESPONSE I197-14

Please refer to **General Response 3.1.1** regarding extension of the comment period. The Final EIR considers and responds to all comments submitted during the extended comment period.

RESPONSE I197-15

As stated in **Section 1.6** of the Draft EIS/EIR, various federal, state, and local approvals are required for implementation of the various Project alternatives. **Table 1-1** of the Draft EIS/EIR identifies each responsible agency and the potential permit or approval required. The analysis presented in the Draft EIS/EIR is predicated on the assumption that all of the Project components described in **Section 2.0** for each alternative would be in place at the commencement of operation. As such, the analysis presented in the Draft EIS/EIR considers the reasonably foreseeable impacts and benefits associated with implementation of the various alternatives under consideration.

In the event that all of the approvals required to conduct Class III gaming on the site are not received, or the project proponents fail to implement the primary components of an alternative approved by the lead agency, the need for supplemental environmental review may be triggered. Section 2.8 of the LDA sets forth a process whereby Upstream could still purchase the property and pursue an alternative development proposal if it is determined the development of Indian gaming uses is not legally permitted. Specifically, Section 2.8 provides that:

“Developer [Upstream] and the City shall negotiate exclusively in good faith for a period not to exceed one hundred twenty (120) days with respect to an alternative development proposal and, if such negotiations are successful, execute an amendment to this Agreement [the LDA] to reflect such alternative proposal; provided, that Developer will be required to submit land use and building plans for such alternative proposal to the City for its discretionary approval in accordance with all applicable federal, State and local laws, rules and regulations”

The above referenced section of the LDA provides a mechanism for triggering additional environmental review in the event that an alternative development proposal becomes necessary. However, to conclude at this early date that Class III gaming will not be approved at the project site is speculative.

RESPONSE I197-16

Refer to **General Response 3.1.2** regarding recirculation of the Draft EIS/EIR.

RESPONSE I197-17

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I197-18

Refer to **Response I-58** regarding the analysis of traffic impacts in the Draft EIS/EIR.

RESPONSE I197-19

Comment noted.

RESPONSE I197-20

Based on the information provided in Robert Goodman's article, it is not possible to substantiate the findings of the report. While the Final EIR is open to considering all information, the necessary documentation, support, and explanations for Mr. Goodman's assumptions and methodologies were not provided.

Please refer to **General Response 3.11.2** regarding impacts to problem gambling.

RESPONSE I197-21

Based on the information provided by Dr. Thompson, it is not possible to substantiate the findings of the report. While the Final EIR is open to considering all information, the necessary documentation, support and explanations for Dr. Thompson's assumptions and methodologies were not provided.

The documentation for the socioeconomic impact analysis, as discussed in **Sections 3.7, 4.7, and 4.15** of the Final EIR, is provided in the Economic Impact and Growth Inducing Study as **Appendix T**. This study quantifies potential economic impacts of the Proposed Project for output, employment, wages, and tax revenues. Economic effects in this analysis are quantified for Contra Costa County using the Impact Analysis for Planning, (IMPLAN) model. The IMPLAN model uses a complex set of coefficients and multipliers that are specific to each county to account for how each industry in the region interacts with one another. These multipliers come pre-programmed into the data for each County. Results of this study are analyzed and discussed in **Sections 4.7, 4.14 and 4.15**. As determined in the Economic Impact Study, and discussed in **Section 4.7**, the Proposed Project would result in beneficial impacts to Contra Costa County, including regional businesses.

RESPONSE I197-22

Please refer to **Response I197-21** regarding economic impacts of the Proposed Project.

RESPONSE I197-23

Please refer to **Response I197-21** regarding economic impacts of the Proposed Project.

RESPONSE I197-24

Please refer to **Response I104-7** regarding the timeframe used in the cumulative analysis.

Refer to **General Response 3.1.2** regarding recirculation of the Draft EIS/EIR.

RESPONSE I197-25

Comment noted.

RESPONSE I197-26

Comment noted.

RESPONSE I197-27

Comment noted.

RESPONSE I197-28

Comment noted.

RESPONSE I197-29

Comment noted.

COMMENT I198

RESPONSE I198-1

Language is included within **Section 4.10** of the Final EIR noting Pacific Gas and Electric Company's capacity to serve the Proposed Project and service requirements for utility connection.

COMMENT I199

RESPONSE I199-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I199-2

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the site.

Refer to **Response I89-3** regarding the commenter's proposed revisions to **Mitigation Measure 3-20h** provided in the Draft EIS/EIR.

COMMENT I200

RESPONSE I200-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I200-2

Comment noted.

RESPONSE I200-3

Please see **Response I190-2** regarding the assumption that land can be taken into trust for the Tribe under some of the alternatives described in the Draft EIS/EIR. Furthermore, Draft EIS/EIR **Section 2.2.1** summarizes the process under which the Tribe is proposing that land be taken into trust, clearly noting that while the Tribe is proposing that land be taken into trust pursuant to the restored lands exception, that it may seek trust lands pursuant to the two-part determination process as an alternative, which does not require any historical connection to the land. Finally, while the commenter cites a past conclusion of Contra Costa County that the Tribe has no historical connection, the County has recently come to a different conclusion, finding in a November 12, 2009 letter to the Secretary of the Interior that after reviewing approximately 5,000 pages of materials released to the County from the BIA, “We now have a greater understanding of the basis for the Guidiville Tribe to request taking the Pt. Molate Site into trust. Our previous submittals to the BIA questioning the historical nexus of the Guidiville Tribe to the Bay Area were drafted without the benefit of the review of the Guidiville submittals to the BIA, which have helped to change our opinion on the matter.”

RESPONSE I200-4

The LDA has not committed the City to a particular course of action. Note that the Draft EIS/EIR contains alternatives that do not involve the transfer of land as detailed in the LDA. Nonetheless, it is necessary to summarize the terms of the LDA in the Draft EIS/EIR for those alternatives that would involve the application of the agreement.

The commenter states that “the Draft EIS/EIR should be re-circulated with a new project description that includes a thorough discussion of whether it is appropriate for the City to convey the Point Molate parcel as a component of the overall CEQA/NEPA project.” To revise the project description in this way, however, would not comport with the CEQA/NEPA process. Under some of the alternatives, the conveyance is a part of the project. Thus, it must be disclosed as such in the document. Neither NEPA nor CEQA, however require the agency to, as part of the project description, discuss whether the project is “appropriate.” Instead agencies must identify a reasonable range of alternatives that are potentially feasible and meet the purpose and need. The alternatives are then described and disclosed to the public.

The public may then comment on the various alternatives and ultimately the implementing agency will decide whether to implement a particular alternative.

RESPONSE I200-5

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I200-6

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I200-7

Refer to **Response I103-7** regarding the geographic scope of analysis.

RESPONSE I200-8

CEQA requires the lead agency to consider

“a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” 14 C.C.R. § 15126.6(a).

Similarly, NEPA Section 1502.14(a) requires federal agencies to explore a reasonable range of alternatives, “and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” An agency’s range of alternatives is evaluated under a “rule of reason” standard, which requires an agency to set forth only those alternatives necessary to permit a reasoned choice. An agency’s consideration of alternatives is sufficient if it considers an appropriate range of alternatives, even if it does not consider every available alternative.

It is true that Alternatives A, B, and C include a casino component of a broader destination resort and brownfield redevelopment. However, Alternative D contemplates a more conventional mixed use redevelopment and Alternative E envisions reuse of the project site as a park. Finally, the No Action alternative (F) considers the potential outcome of maintaining the project site in its current state. Between these six alternatives, the Draft EIS/EIR considers a “reasonable range” of alternatives under both CEQA and NEPA.

RESPONSE I200-9

Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities. Due to the large scale of the Proposed Project, specifically the potential for the project to

generate a substantially large magnitude of revenue, a very large area is expected to be required to meet the demands of economic activity. While economic activity from the Proposed Project would impact a large area, the advantageous geographic position of the City and remainder of the County results in the potential for these areas to be impacted the greatest; and therefore, the socioeconomic impact analysis provided in **Sections 3.7** and **4.7** focuses on these geographies. Economic impacts would also diffuse across a variety of areas outside of the Contra Costa County, but to identify any outside areas where economic activity would be concentrated would be speculative. For these reasons potential impacts to Marin County were not quantified; however, the Draft EIS/EIR does not dismiss the fact that economic activity from the Proposed Project would occur within Marin County.

RESPONSE I200-10

All of the agreements referenced in the Draft EIS/EIR, including the LDA, are contingent upon approval of the development at the project site by the City following completion of environmental review. None of the agreements require that the project site be developed absent the necessary environmental review. Neither does the presence of the various agreements indicate that development must take place even in the absence of environmental review. Note that the Draft EIS/EIR contains a no action alternative which assumes that no on-site development would take place.

The amended LDA is provided in **Appendix CC**.

RESPONSE I200-11

All private discussions between the applicant and private citizens, environmental groups, and other organizations are beyond the scope of the environmental analysis presented in the Draft EIS/EIR. Nothing in the CEQA Guidelines, NEPA regulations, or established case law would abridge the First Amendment rights of the applicant to freely engage in discussions with whomever they wish.

RESPONSE I200-12

Please refer to **Response I200-8** above regarding the range of alternatives considered.

RESPONSE I200-13

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I200-14

Please refer to **Response A24-8** regarding the Point Molate Reuse Plan.

RESPONSE I200-15

Please refer to **Response I200-11** above.

RESPONSE I200-16

Regarding the Contra Costa County letters and the letter from four Senators in **Appendices B** and **D** to Comment Letter I200, please see **Response I200-3**. The letter in **Appendix C** to Comment Letter I200 is included as Comment Letter A18. For responses to this letter, please see **Responses A18-1** through **A18-8**.

RESPONSE I200-17

Please refer to **General Response 3.13.1** regarding the General plan Update and consistency with the General Plan.

RESPONSE I200-18

Mitigation measures within **Section 5.2.9** of the Final EIR shall incorporate various water conservation methods into the Proposed Project. Connection to EBMUD water supply infrastructure additionally includes standards which shall further provide conservation requirements. These requirements are provided through agreements to be signed when the Tribe contracts with EBMUD for water service. Please refer to **General Responses 3.6.1** for additional water supply related issues.

RESPONSE I200-19

Refer to **Section 4.4** and **4.15** of the Final EIR; with the implementation of mitigation measures provided in **Section 5.0** of the Final EIR all impacts would be considered less than significant; therefore the project complies with CN4.1 by minimizing disproportionate and adverse air quality impacts. The project provides a plethora of air quality mitigation measures which would reduce criteria pollutants, as well as greenhouse gases, thus adhering to CN4.B.

RESPONSE I200-20

The opinion of Contra Costa County in relation to the pending Indian Lands Determination is not germane to the environmental review of the Proposed Project. In addition, the opposition to the Project by Contra Costa County cited by the commenter has been withdrawn (**Appendix BB**).

RESPONSE I200-21

Please refer to **General Response 3.16.1** for a discussion of early transfer with privatized remediation, which was approved by the Governor of California on September 1, 2009.

RESPONSE I200-22

The Draft EIS/EIR provides a thorough analysis of the reasonably foreseeable consequences of issuance of a reservation proclamation by the Department of the Interior (DOI), transfer of the property into federal trust status and approval of a gaming management contract by the National Indian Gaming Commission. These administrative approvals are discussed in Sections **ES.3**, **1.6**, and **2.2.1** of the Draft EIS/EIR. The

analysis considers alternatives that include a fee-to-trust component (Alternatives A, B, and C) as well as two that do not (Alternatives D and E), as well as the No Action Alternative. Please refer to **Section 1.1** of the Final EIR for a thorough discussion of: 1) the BIA's responsibility for reviewing and approving tribal applications pursuant to 25 CFR Part 151 to take land into federal trust; 2) the Secretary of the Interior's authority to proclaim lands acquired in trust as a new reservation for a tribe pursuant to Section 7 of the Indian Reorganization Act (25 USC 467); and 3) the Secretary of the Interior's determination of whether the lands are eligible for gaming under Section 20 of the Indian Gaming Regulatory Act (IGRA; 25 USC 2719).

RESPONSE I200-23

Please refer to **Responses A24-8** and **A30-7** for a discussion of consistency with the San Francisco Bay Plan.

RESPONSE I200-24

Impacts related to BCDC jurisdiction of shoreline water resources are addressed in **Sections 3.5** and **4.5** of the Draft EIS/EIR.

RESPONSE I200-25

Please refer to **Response A24-8** and **A30-7** regarding the San Francisco Bay Plan.

Please refer to **General Response 3.9.1** for a discussion of potential impacts to the eelgrass beds located on-site.

RESPONSE I200-26

Contrary to the statements of the commenter, the Draft EIS/EIR in **Section 3.6.2** provides a discussion of cultural uses of the region around the project site related to pre-contact Native American occupation, the Spanish colonial period, Mexican period, and historic American period. As such, the commenter's statement that "no Native American uses of this landscape were discussed in the EIS/EIR" has no basis in fact. It is important to note that the cultural setting provided in the Draft EIS/EIR is intended only to establish a context for interpreting extant historical resources that could be subject to impacts from the development of the proposed project.

Native American occupation of the greater Bay Area extends back to the terminal Pleistocene (ca. 10,000 years before present). In the millennia between initial occupation and the modern era, the cultural and ethnic make-up of the region shifted numerous times, as indicated by the archaeological record and glottochronological analysis (Breschini and Haversat, 1997; Dixon and Kroeber, 1919; Fredrickson, 1973, 1974; Krantz, 1977; Levy, 1978; Moratto, 1984; etc.). Spanish occupation of northern California had a devastating effect on the native population, which reduced their numbers by 80 percent or more as a result of disease, hardship, and forced labor (Pritzker, 2000). Widespread disruption of native lifeways during

the contact period, which reached a crescendo in the mid 19th century, resulted in a period of punctuated redistribution of native territories as aboriginal occupants fled from areas under Euro-American domination. Given this historic reality, the Draft EIS/EIR does not attempt to provide the last word on prehistoric tribal distributions. Moreover, when such attempts have been made in the past, the findings are qualified by acknowledging that the notion of a “tribe” in the traditional sense does not apply to California and that intermarriage, seasonal transhumance, and modern notions of ethnicity preclude the ability to definitively delineate “tribal” territories.

As described in the Draft EIS/EIR in **Section 3.6.2**, the open water adjacent to the project site was likely used by native peoples from all around the northern Bay Area. Remarking on the lack of defined territory within the waters near the project site, Barrett (1908:307) states that, “There is no definite knowledge obtainable concerning fishing and other rights on the waters of San Francisco and San Pablo Bays, but from all that can be gathered it seems probable that these were neutral grounds and that the Indians of the region all had equal rights in these waters off shore.”

Regarding the commenter’s statement concerning Contra Costa County’s “determination” of the original inhabitants of Point Molate, the County has recently come to a different conclusion, finding in a November 12, 2009 letter to the Secretary of the Interior that after reviewing approximately 5,000 pages of materials released to the County from the BIA, “We now have a greater understanding of the basis for the Guidiville Tribe to request taking the Pt. Molate Site into trust. Our previous submittals to the BIA questioning the historical nexus of the Guidiville Tribe to the Bay Area were drafted without the benefit of the review of the Guidiville submittals to the BIA, which have helped to change our opinion on the matter.”

Furthermore, the issue as to whether or not ancestral ties exist and whether or not the Tribe is entitled to use this land is beyond the scope of the Draft EIS/EIR. This issue is addressed as part of the realty component of the fee-to-trust process. It is during the realty process that the federal government will make an “Indian Lands Determination.” This lengthy process is separated from the environmental compliance requirements. It is worth noting, however, that the Tribe has submitted more than 5,000 pages of archival and ethnographic documentation that they assert demonstrates a historical connection to the land (refer to comment letter **A-28**).

RESPONSE I200-27

Potential impacts associated with the implementation of **Mitigation Measure 4-9**, related to the restoration of native habitats on-site and removal of exotic species, are analyzed in **Section 4.14.8** of the Final EIR. **Mitigation Measure 4-9** has been supplemented to address potential impacts associated with implementation of the proposed vegetation management plan. With implementation of the recommended measures, potential impacts associated with the removal of exotic species would be less than significant.

RESPONSE I200-28

Project site drainage is addressed in **Section 2.2.2** of the Draft EIS/EIR. An NPDES general construction permit will be required for the project under regulation of Clean Water Act (CWA) and a Storm Water Pollution Prevention Plan (SWPPP) will be created for construction related storm water discharges which details erosion and sediment control BMPs for all phases of construction. Additionally, a storm water management plan (SWMP) is included in **Appendix H** that details how storm water flows which may contain potentially turbid and/or contaminated waters will be stored in temporary detention facilities where the water can be treated as needed (or trucked from the site and treated) prior to surface water discharge into the bay. Please refer to **Section 4.3.6** of the Draft EIS/EIR where all anticipated water quality effects are analyzed in detail; **Section 5.2.2** commits the Tribe to developing the design-grade Stormwater Control Plan in accordance with the Richmond Municipal Code Section 12.22.050. Furthermore, all State Basin Plan water quality objectives must be met as a requirement of the NPDES permit for all stormwater discharges entering State Waters. These combined measures and implementation strategies would reduce water quality effects to less than significant to eelgrass beds.

RESPONSE I200-29

Impacts associated with water runoff are assessed in **Section 4.3** of the Draft EIS/EIR. As discussed there, a drainage plan was prepared and is incorporated into the project description as **Appendix H** of the document. The drainage plan includes identification of distinct runoff watersheds on the project site and associated provisions to reduce stormwater runoff to pre-existing rates reducing the impacts to the salinity features of the Bay mentioned by the commenter. The same dilution rate from surface water entering the Bay from the project site would continue with development of the project alternatives with the incorporation of the bioretention swales and vaults thereby preventing impacts to the off-shore eelgrass beds to increase above existing conditions. Water use is adequately addressed in **Section 4.10** of the Draft EIS/EIR. As stated there within, water demands would be met through connection to the EBMUD municipal system and the demands of the development alternatives meet the anticipated densification and land use changes anticipated in EBMUD's 2005 Urban Water Management Plan.

RESPONSE I200-30

Refer to **General Response 3.6.3** regarding stormwater. As discussed in Section 4.3 of the Draft EIS/EIR, the Tribe would improve the existing stormwater drainage system to allow for on-site detention of stormwater. The detention has been sized to account for the increase in impervious surfaces proposed for development resulting in a discharge rate that would be equivalent to pre-project flow rates. Therefore, impacts to salinity would be less-than-significant.

RESPONSE I200-31

Sections 4.2, 4.3, and 4.15 of the Draft EIS/EIR address potential runoff, erosion, and water pollution impacts associated with grading and other construction activities. A host of mitigation measures have

been developed (**Mitigation Measures 1-1, 2-1, 2-2, 3-13**, etc.) which would, upon implementation, reduce all potential impacts to a less than significant level.

RESPONSE I200-32

The commenter states that clean-up of site often results in a measurable amount of pollutants to remain behind and that the Draft EIR/EIS does not address associated water quality impacts. Impacts associated with the development of the project alternatives are addressed in **Sections 4.3** and **4.12**, relating to the existing contamination on the project site. For example, **Section 4.3** and **5.3** require the incorporation of best management practices to reduce the potential for the contamination of surface water resources during construction. Clean-up efforts are a component of the project description and approvals from the SFBRWQCB are required prior to construction. The SFBRWQCB is required to determine if clean-up efforts are consistent with water quality objectives. Approval of clean-up protocols for the project site by the SFBRWQCB will assure that water quality objectives will not be significantly impacted.

RESPONSE I200-33

Please see **General Response 3.9.2** in reference to habitat classification on the project site.

RESPONSE I200-34

COASTAL BLUFF AND COASTAL DUNE COMMUNITIES

All of the areas classified as “beach strand” will be completely avoided. Mitigation for development is specified for coastal scrub and grassland habitats in Alternatives A through D at a 2:1 replacement/restoration ratio, where non-native habitats would be used for restoration. **Mitigation Measure 4-5** in **Section 5.0** does state that:

“The project proponent shall use a preponderance of drought resistant species native to the Richmond area in the selection of vegetation, plants, mulches, or other plant material used in site landscaping, with the exception of shoreline park areas, green walls and green roofs, and areas adjacent to the resort and residential buildings where non-native species may be utilized. These areas will use recycled, treated gray water as an irrigation sources.”

SPECIAL STATUS SPECIES

The commenter states that botanical surveys were inadequate, with specific reference to several CEQA-protected special status plants;

Baseline survey information was obtained through surveys that followed approved protocol methods. As stated in **Section 3.5.4** of the Draft EIS/EIR, “AES biologists conducted preliminary biological assessments and wetland surveys in March and April of 2005. AES staff conducted thorough biological surveys, wetland reconnaissance, and focused floristic surveys of the project site on August 13, 14, and 30, 2007, January 18, April 14 and 15, and June 19 and 23, 2008. All of the field assessments were

performed by pedestrian survey. AES staff conducted an additional biological survey of the required off-site road improvement areas on September 3, 2008. This survey effort was primarily pedestrian, though a portion of the study area along Interstate 580 was surveyed by car because it was unsafe to survey on foot. All visible plant and wildlife species were noted and identified to the lowest possible taxonomic level. The habitat types within the project site were characterized and then further evaluated for their potential to support regionally occurring special-status species.” Supplementary research and field survey was conducted in the fall of 2009 by AES biological staff to supplement the analysis of off-site improvements associated with utility corridors and transportation mitigation sites. **Figures 4.14-2 and 4.14-3** depict the location of off-site improvements that were examined by AES as part of the analysis.

Fragrant Lily

The commenter states that fragrant lily (*Fritillaria liliacea*) was not surveyed for at the proper time of year. The commenter states that the closest date to the appropriate period for identification was April 14-15, too early in the season. However, a review of all online records from the Jepson Interchange for California Floristics (a database containing herbarium record information for most of the larger herbaria in the region) reveals that 56 specimens throughout the range of this species from 1874 to 1992 were collected between the dates of February 15 through May 15 (and one was collected July 10, although the flowering period is generally considered to be February through April). This species is noted for having generally more than four alternate, linear to ovate (not sickle-shaped) leaves and obscure nectaries. The petals are characteristically white with faint green stripes. Fritillarias are distinguished in the lily family (Liliaceae) by having mostly cauline (along the stem, not basal) leaves. There were no plants observed in the lily family that had cauline leaves. Using the most current CNDDDB data (CNDDDB, 2009), the nearest documented occurrence of fragrant fritillary is located approximately two miles south of the project site, not on the site as referenced by the commenter, in low ground near Point Richmond (CNDDDB Occurrence Record 52, March 24, 1900). For this CNDDDB record, it is further noted that the occurrence is possibly extirpated and that: “*This area is highly developed and it is unlikely that suitable habitat remains.*” The next closest occurrence is approximately 4 miles east-southeast of the site, also possibly extirpated. Thus, the commenter is referring to a “historical” occurrence not on the project site that is over 100 years old which has not been validated since 1900.

The coastal scrub and annual grassland within the project site are suitable habitats for this species, but no plants in the lily family with the characteristic cauline leaves were observed during any of the field surveys.

LOCALLY RARE AND UNUSUAL SPECIES

The commenter states that several plant species officially designated as “locally rare” while having very limited ranges within Alameda and Contra Costa counties are protected under CEQA Guideline 15380 and were not addressed in the DEIS/DEIR. These species are documented in Lake, (2007), where *A1 and *A2 species are defined as rare at the federal, state and local level, A1x species are thought to have been extirpated from the local area, A1 species are currently known from two or fewer locations in the

local area, and A2 species are currently known from three to five locations in the local area. While these species may be considered “locally rare”, CEQA Guideline 15380 explicitly states that:

(b) A species of animal or plant is:

(1) "Endangered" when its survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors; or

(2) "Rare" when either:

(A) Although not presently threatened with extinction, the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens; or

(B) The species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered "threatened" as that term is used in the Federal Endangered Species Act.

(c) A species of animal or plant shall be presumed to be endangered, rare or threatened, as it is listed in:

(1) Sections 670.2 or 670.5, Title 14, California Code of Regulations; or

(2) Title 50, Code of Federal Regulations Section 17.11 or 17.12 pursuant to the Federal Endangered Species Act as rare, threatened, or endangered.

(d) A species not included in any listing identified in subdivision (c) shall nevertheless be considered to be endangered, rare or threatened, if the species can be shown to meet the criteria in subdivision (b).

While the species listed by the commenter may be “locally rare” they are not necessarily afforded protection under CEQA 15380 2(A), 2(B) or c(1) due to their common occurrence throughout other regions of the state. In DFG’s November 24, 2009 document entitled Protocols for Evaluating Impacts to Special Status Native Plant Populations and Natural Communities this rare designation can apply to include:

***locally significant species**, that is, a species that is not rare from a statewide perspective but is rare or uncommon in a local context such as within a county or region (CEQA §15125 (c)) or is so designated in local or regional plans, policies, or ordinances (CEQA*

Guidelines, Appendix G). Examples include a species at the outer limits of its known range or a species occurring on an uncommon soil type.

In addition, this DFG document also states that:

In general, CNPS List 3 plants (plants about which more information is needed) and List 4 plants (plants of limited distribution) may not warrant consideration under CEQA §15380. These plants may be included on special status plant lists such as those developed by counties where they would be addressed under CEQA §15380. List 3 plants may be analyzed under CEQA §15380 if sufficient information is available to assess potential impacts to such plants. Factors such as regional rarity vs. statewide rarity should be considered in determining whether cumulative impacts to a List 4 plant are significant even if individual project impacts are not.

Five of the species in the Lake (2007) CNPS publication were documented to occur on the project site as noted in **Appendix K**; beach bur (*Ambrosia chamissonis*), seaside golden yarrow (*Eriophyllum staechadifolium*), north coast dudleya (*Dudleya farinosa*), coastal bush lupine (*Lupinus arboreus*), and seaside plantain (*Plantago maritime*). It should be noted that these species are not listed for specific protection at the local scale in the *City of Richmond General Plan* nor are they offered protection at the regional scale in the *Plant and Wildlife Species of Concern in Contra Costa County* as part of the Conservation Element of the Contra Costa County General Plan. The following is a list of counties of common occurrence followed by the number of document occurrences in that county for the five species listed to occur on-site which are also listed in Lake, 2007.

Beach bur is found throughout all 15 of California's coastal counties including Del Norte [3], Humboldt [7], Los Angeles [13], Mendocino [11], Monterey [14], Marin [17], Orange [9], Santa Barbara [32], Santa Cruz [4], San Diego [8], San Francisco [14], San Luis Obispo [15], San Mateo [9], Sonoma [11], Ventura [18] as well as Alameda [14], and Contra Costa [9].

Seaside golden yarrow is found throughout Mendocino [4], Monterey [18], Marin [15], Santa Barbara [7], San Benito [1], Santa Cruz [5], San Francisco [12], San Luis Obispo [11], San Mateo [16], Sonoma [4] as well as Alameda [3] and Contra Costa [19] counties.

North coast dudleya is found throughout Del Norte [3], Humboldt [1], Los Angeles [1], Mendocino [11], Monterey [12], Marin [23], Santa Barbara [3], Santa Cruz [2], San Francisco [13], Siskiyou [1], San Mateo [10], Sonoma [11] as well as Alameda [2] and Contra Costa [21] counties.

Coastal bush lupine is found throughout Del Norte [1], Humboldt [5], Los Angeles [1], Mendocino [10], Monterey [23], Marin [25], Nevada [1], Orange [1], Sacramento [1], Santa Barbara [8], San

Bernardino [1], Santa Clara [1], Santa Cruz [4], San Diego [4], San Francisco [25], San Luis Obispo [13], San Mateo [24], Sonoma [8], Ventura [5] as well as Alameda [6] and Contra Costa [12] counties.

Seaside plantain is found throughout Del Norte [4], Humboldt [5], Mendocino [13], Monterey [5], Marin [14], Napa [2], Santa Barbara [2], Santa Cruz [4], San Francisco [10], San Luis Obispo [6], San Mateo [5], Solano [4], Sonoma [11] as well as Alameda [6] and Contra Costa [5] counties.

It is apparent that these species do not have a limited distribution, are not presently threatened with extinction, do not exist in such small numbers throughout all or a significant portion of their ranges that they may become endangered if their local environment worsens; are not likely to become endangered within the foreseeable future throughout all or a significant portion of their ranges; they are not contained in Sections 670.2 or 670.5, Title 14, CCR, nor are they listed in an officially adopted local special status list, thus they do not warrant protection under CEQA. As mentioned above, all plant surveys were comprehensive, with all taxa encountered identified to the lowest possible taxon and all plant species in the existing vegetation were noted and identified, regardless of status. In addition, all plant surveys were conducted within the periods of identification for species in the area.

Regardless of any special status designation **Mitigation Measures 4-1** through **4-9** commit to the replacement, preservation and management of all impacted habitats on-site using native species found on-site, to the extent feasible, which constitutes a less than significant impact to the plants listed above.

Grindelia hirsutula var. *maritima*

The commenter questions the identification of the common gumplant (*Grindelia hirsutula* var. *hirsutula*), stating that it may be the locally rare A2 variety of that species, San Francisco gum plant (*G. hirsutula* var. *maritima*; CNPS List 1B). Specimens of the plant in question were keyed to the common gumplant at the University of California Davis herbarium with the help of Herbarium Curator, Ellen Dean (personal communication, Kristie Haydu, AES Botanist, November 9, 2009).

Bryophytes and lichens

The commenter states that there is no indication that a survey for bryophytes was completed. Bryophytes and lichens were not included in the protocol-level botanical surveys conducted at the project site. Of the 31 mosses, spike mosses and club mosses listed by CNPS, only two appear to have the potential to occur on the project site: ephemeral or naked flag moss (*Discelium nudum*; CNPS List 2) and a selaginella with no common name (*Selaginella cinerascens*; CNPS List 4). Naked flag moss occurs in coastal bluff scrub on soil and clay banks at elevations of 10 to 50 meters above mean sea level (amsl). There are only two occurrences in the CNDDDB database, one each in Del Norte and Humboldt counties. The selaginella is not tracked in the CNDDDB, but occurs in chaparral and coastal scrub at elevations of 20 to 640 meters amsl.

Lichens are not currently tracked by CNPS or in the CNDDDB, but two have been proposed for listing by the California Lichen Society. Neither species (*Usnea longissima* and *Solorina spongiosa*) is likely to occur on the project site.

SPECIAL PLANT COMMUNITIES

Mixed Riparian Habitat

The commenter states that all impacts to Mixed Riparian habitat should be fully avoided, and requests that any areas proposed for mitigation be mapped and that existing good quality habitat be avoided. Alternatives A, C and E avoid this habitat completely. The Alternative B and D footprints do include potential impacts to 1.8 and 1.9 acres of this sensitive habitat type, respectively. Alternatives B and D will be reconfigured to avoid this impact. Mitigation **Measure 4-4** has been amended accordingly.

Tidal Marsh

The commenter states that resource agencies should determine the appropriate setback buffer, not the developer. The setback buffer shall be determined through consultation with the appropriate resource agencies. Mitigation **Measure 4-7** has been amended accordingly.

SPECIAL STATUS SPECIES

Symphiotrichum lentum

The commenter states that Suisan marsh aster (*Symphiotrichum lentum*; CNPS List 1B) should be avoided. Alternatives A, C and E avoid this species completely with a 50-foot buffer. Alternatives B and D include impacts to 0.86 acres (100 percent) of the existing Suisan marsh aster population. If avoidance is not feasible, relocation of the population to appropriate habitat, as detailed in **Mitigation Measure 4-14**, would be conducted only after approval and in consultation with CDFG.

RESPONSE I200-35

Please refer to **General Response 3.9.1** regarding impacts to eelgrass.

RESPONSE I200-36

The Project has been designed to avoid impacts to seasonal wetlands. Additionally, applicable Federal regulations under Section 404 and 404(b)(1) of the CWA for the fill of wetlands as regulated by the USACE, will assure jointly with the USEPA, through the required alternatives analysis that maximum avoidance and minimization of impacts to wetlands has been achieved through project design.

RESPONSE I200-37

Please refer to **Section 2.0** which states requirements pursuant to the LDA and the MSA. The Tribe would provide for permanent conservation easements, public access easements, or other enforceable mechanisms acceptable to the BIA and the City on hillside open space. Please refer to **Mitigation**

Measure 4-1; whereas “for every acre of habitat impacted (e.g., coastal scrub), an acre of equivalent habitat type (e.g., coastal scrub) on-site shall be placed into an open space preserve that includes a permanent conservation easement protecting the total area of open space in perpetuity.”

RESPONSE I200-38

Parkland and recreation components are fully detailed in **Section 2.2.2** whereas “approximately 145 acres of hillside land would be maintained as open space. Pursuant to Section 2.6 of the LDA (**Appendix C**) and Section 5.7 of the MSA (Exhibit E of LDA within **Appendix C**), the Tribe would provide for permanent conservation easements, public access easements, or other enforceable mechanisms acceptable to the BIA and the City and would provide for and fund the maintenance and preservation of the hillside open space. The Tribe would adopt guidelines and standards for the operation and maintenance of the hillside open space substantially similar to the guidelines and standards of the State of California Department of Parks and Recreation Park Management Plan. Open space areas would be maintained primarily in their natural state but would include pedestrian trails, picnic areas (both open and reserved), restroom facilities, and park amenities consistent with those found in regional parks in Alameda and Contra Costa Counties. The restroom facilities would be designed to blend with the natural environment.” In addition, please refer to **Response I200-37** with regards to open space and conservation easements. The DFG CNDDDB does not identify Coastal Prairie on the project site. Furthermore, **Mitigation Measure 4-9** details how the VMP will be created to assure proper planning, implementation, management, maintenance, and monitoring is achieved for all preserve and mitigation sites.

RESPONSE I200-39

Comments noted. The Biological Assessment (BA) (**Appendix J**) covers all federal special status species with the potential to occur within the project site. A Section 7 concurrence of not likely to adversely affect has been attained from the USFWS (**Appendix J**); this includes reference to the California clapper rail and California least tern as noted by the commenter.

With regards to the Audubon Society’s designated Important Bird Area (IBA), the formal Audubon disclaimer for these IBA designated areas is stated as follows:

“Comprehensive site specific surveys have not been conducted for each IBA, therefore, the data provided in this release cannot be relied on as a definitive statement of the presence or absence of all species at a given location. These data should not be considered a substitute for on-site surveys that may be required for an environmental assessment, environmental impact statement, or conservation planning (Audubon California, 2008. Important Bird Areas of California).”

The commenter’s assumptions for night lighting effects to wildlife are not validated by fact but rather assumed to be “likely”. **Mitigation Measures 4-15** through **4-19** address all potential and mitigable

impacts to migratory birds. In addition, the following is referenced in **Response A24-7** with regards to night lighting effects on local wildlife; “Since the Navy began fueling operations at the site in 1941, the Point Molate area has been highly impacted by the military/industrial uses of the site, which included significant night lighting. Since Naval operations ceased at the site the night-time lighting regime has changed, yet not to such an extent that the existing conditions reflect a pristine natural environment. In recognition of the potential impacts associated with the introduction of new light sources, **Mitigation Measure 4-18** was included in the Draft EIS/EIR, which would inherently benefit all terrestrial and aquatic wildlife in the vicinity of the project site. Implementation of the recommended mitigation measure would reduce potential impacts associated with night lighting to a less than significant level.”

RESPONSE I200-40

Please refer to **General Response 3.16.2** regarding potential impacts associated with a release of anhydrous ammonia.

RESPONSE I200-41

As stated in **Section 4.10**, Impact 4.10.8, the Proposed Project shall include the construction and operation of an on-site fire station fully staffed by City of Richmond Fire Department personnel. Provisions within the Municipal Services Agreement (MSA) between the Tribe and the City include guidelines for the operation of Fire Department personnel and equipment on the project site, as well as providing Tribal funding for these City services. The MSA additionally states that the Tribe must provide a contractual agreement with a local Emergency Medical Service (EMS) provider to further assist in transportation of patients from the project site. However, based on Article 10A of the IGA (**Appendix BB**), the Tribe agrees to contract with the County to provide emergency ambulance service to the project site. **Section 2.0** of the Final EIR provides a description of the on-site Fire Department facilities which shall be constructed under the Proposed Project.

The commenter states that there is not sufficient detail provided about the fire station. **Mitigation Measure 9-13** presented in the Final EIR has been updated to include the following language... “Provide for one (1) fire captain and three (3) firefighter positions per shift on a 24-hour per day basis to meet the burdens undertaken by the Fire Department to serve the Property”.

The commenter states concern for fire hazard posed by on-site eucalyptus. The fire hazard posed by the on-site eucalyptus woodland is discussed in **Section 3.10.2** at page 3.10-13 and **Section 3.12.2** at page 3.12-30. Potential impacts associated with fuel loading related to the eucalyptus woodland is considered in impact statement **4.12.7**. **Mitigation Measure 4-9** provides for a comprehensive Vegetation Management Plan (VMP) to be prepared for the project site. The VMP would be divided into five components: Open Space Habitat Preserves, Open Space Restoration Preserves, Invasive Plant Species Management, Parkland Management, and Wildfire Prevention. The Invasive Plant Species Management component would be seek to eradicate noxious weeds and exotic species and replace them with native

species. The adaptive management strategy would ensure the goals of mitigation are achieved in perpetuity.

The commenter states that the site must be considered to be located at a Wildland Urban Interface (WUI) and in a Very High Fire Hazard Severity Zone. **Section 3.12.2** of the Draft EIS/EIR clearly states that the project site is located within a Very High Fire Hazard Severity Zone (VHFHSZ) as designated by the City of Richmond Fire Department. **Section 4.12** analyzes potential impacts associated with the project site's location within a VHFHSZ. A number of mitigation measures address the potential for fires to occur on-site, including the VMP included as **Mitigation Measure 4-9**, and building code regulations described under **Mitigation Measure 1-3**, **Mitigation Measures 11-13** and **11-14** which address the potential for increased fire risk during construction.

Smoking will be allowed at the project site, including within designated indoor smoking areas, such that smokers will not need to be outdoors to smoke. The landscape management cited above, paved roads, sidewalks, and the presence of a fully staffed fire station on-site will mitigate any increase in the number of people choosing to smoke outdoors at the project site. Please refer to **General Response 3.14.1** regarding emergency preparedness.

Please refer to **General Response 3.7.2** for a discussion of the indoor smoking on the project site. As discussed in the above referenced general response, the Draft EIS/EIR provides a broad range of mitigation measures that include, but are not limited to: smoke-free areas of the casino with separate HVAC systems; notification signage, readily available literature, and disclosure to all prospective employees concerning the presence and effects of second hand tobacco smoke; ventilation systems that are compliant with ASHRAE Standard 62-1999 requirements; and protection of fresh air sources from tobacco smoke or other pollutants of concern.

RESPONSE I200-42

Refer to **General Response 3.8.2** regarding sea level rise.

RESPONSE I200-43

Please refer to **General Responses 3.11.1** and **3.11.2** regarding potential impacts to crime and problem gambling. Cumulative effects are discussed in **Section 4.15** of the FEIR. Foreseeable development projects have been considered in combination with the Proposed Project to assess whether the combined impacts of all the projects in the vicinity would result in cumulatively considerable environmental impacts. With mitigation, cumulative impacts are considered less than significant. Indirect and growth-inducing impacts have been discussed in **Section 4.14** of the FEIR.

RESPONSE I200-44

With the incorporation of the drainage plan (**Appendix H** of the Draft EIS/EIR) impacts to the Bay would be less than significant as the rate of surface water discharge to the Bay would remain consistent with existing conditions. Therefore, changes to the freshwater inflow from the Delta to the Bay would not be compounded by development of the project alternatives. As discussed in Section 4.15.1, the cumulative analysis incorporates three elements from Section 15130(b) of the CEQA guidelines that are considered necessary for an adequate cumulative analysis. The three elements include a list of reasonably anticipated future projects. Table 4.15-1 identifies the reasonably anticipated future projects obtained from local jurisdictions. No shoreline development projects were identified.

RESPONSE I200-45

Cumulative impacts to the Richmond-San Rafael Bridge and the I-580 corridor are analyzed in the TIA, supplemental TIA and **Sections 4.8** and **4.15** of the FEIR. With the implementation of mitigation measures provided in **Section 5.0** there would be a less than significant impact on the I-580 freeway and the Richmond-San Rafael Bridge. It should be noted that the City and Tribe do not have jurisdiction over off-reservation or non-City roadway or intersection facilities and therefore, some impacts are shown in **Section 4.15** as significant and unavoidable.

RESPONSE I200-46

Cumulative project related air quality emissions are analyzed in **Section 4.15** of the FEIR. Project related emissions are compared to *de minimus* levels, 10 percent of Contra County emissions inventory, and cumulative BAAQMD thresholds. *De minimus* and cumulative BAAQMD threshold are predicated on cumulative emission inventories; therefore project emissions and emissions from other projects and sources were considered in the cumulative analysis.

RESPONSE I200-47

Please refer to **General Response 3.2.1** regarding expressions of opinion and other non-substantive comments.

RESPONSE I200-48

The commenter fails to provide a reference for the list provided as Appendix A. Moreover, it is not clear what the geographic extent of the “Molate Region” is. As such, no specific response can be provided.

RESPONSE I200-49

Please see **Response I200-16**.

RESPONSE I200-50

Please see **Response I200-16**.

RESPONSE I200-51

Please see **Response I200-16**.

COMMENT I201

RESPONSE I201-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE I201-2

Please refer to **General Response 3.8.2** regarding impacts of sea level rise at the project site. In summary, the project site would not be impacted by rising sea levels, even if a worst case scenario of a 55 inch increase in sea level over the next 100 years is assumed. The text of the Final EIR has been updated in **Sections 3.4** and **4.15** to describe existing conditions, outline the most-likely and worst case scenarios for sea level rise, and address the potential for the project site to be impacted. **Figure 3.4-1** was added to the Final EIR, which depicts shoreline areas vulnerable to sea level rise based on data provided by BCDC.

As highlighted in the Draft EIS/EIR, central components of the Project include development of a 35-acre shoreline park (including revitalization of the Point Molate Beach Park), development of a kayaking/non-motorized boat facility, between 145 and 191 acres of hill side open space with recreational trails (using already established service roads to minimize disturbance), and construction of a significant segment of the Bay Trail traversing the entire waterfront of the project site. As noted by the commenter, the 35-acre shoreline park would be situated primarily on property retained by the City of Richmond, which would also retain title to the submerged land within the Bay at Point Molate.

RESPONSE I201-3

In order to fulfill the water-oriented recreation use encouraged in the Bay Plan, the Proposed Project includes a kayaking center south of the pier that would provide safe launching and landing access for non-motorized recreational boats. As noted by the commenter, this facility would advance the Coastal Conservancy's goal of establishing 100+ "backbone" launch sites for the phased development of the San Francisco Bay Area Water Trail.

RESPONSE I201-4

Please refer to **Responses I180-2, I192-4, and A26-2** regarding impacts to riparian habitat, coastal scrub habitat, and wetlands, respectively.

RESPONSE I201-5

Please refer to **General Response 3.9.1** for a discussion of potential impacts to the eelgrass beds located on site.

COMMENT I202

RESPONSE I202-1

Construction and operational impacts on the regional transportation network in the near-term are analyzed in **Section 4.8** of the Draft EIS/EIR, with supporting information provided in the TIA and Supplemental TIA (**Appendix S**). All significant traffic impacts in the near-term are mitigated to less than significant levels (refer to mitigation provided in **Section 5.2.7**). In the cumulative year there would be a significant impact to traffic operations and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. However, it was concluded that the full suite of mitigation required for cumulative impacts is infeasible at this time since the facilities requiring improvements are outside the jurisdiction of the City of Richmond and there is currently no plan to fund or implement the improvements on the part of the jurisdictional agencies.

Section 4.15 of the Draft EIS/EIR analyzes impacts of the Proposed Project and alternatives in combination with other reasonably foreseeable projects in the region, including the proposed Sugar Bowl Casino. Please refer to **Table 4.15-1** of the Final EIR for a list of planning documents and proposed projects considered in the cumulative analysis.

The Richmond Parkway arterial, as well as all of its intersections with the potential to be impacted, were analyzed in the Draft EIS/EIR. Please refer to **Sections 4.8** and **4.15** of the Draft EIS/EIR for a discussion of potential operational impacts along the Richmond Parkway in the near-term and cumulative years. Mitigation for potential impacts to these facilities is provided in **Section 5.2.7**.

Please refer to **General Response 3.14.1** that addresses emergency preparedness and evacuation.

Please refer to **General Response 3.12.9** regarding traffic on Western Drive. Operations on Western Drive following the proposed improvements and capacity upgrade are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that the proposed improvements would allow for free flowing traffic on this facility.

Sections 4.8 and **4.15** of the Draft EIS/EIR and the STIA analyze potential impacts to the Richmond-San Rafael Bridge. It was determined that in the build-out year project-related traffic would have a less than significant impact on the level of service on the bridge. However, in the cumulative year there would be a significant impact and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. However, the required mitigation is infeasible at this time since the facilities requiring improvements are outside the jurisdiction of the City of Richmond and there are currently no plans to fund or implement the improvements on the part of Caltrans.

Please refer to **General Response 3.11.5** regarding potential impacts to local and regional businesses.

RESPONSE I202-2

Residential units would be developed under Alternatives B, D, and B1. Potential impacts to schools as a result of the alternatives are discussed in **Section 4.10** of the Draft EIS/EIR. New students resulting from the development of the Proposed Project would have a nominal effect on the ability of West Contra Costa Unified School District to provide services at current levels. Residential development under Alternatives B, D, and B1 would generate additional property tax revenues that would offset the addition of new students. Potential impacts are considered less than significant.

Impacts to taxes as a result of the Proposed Project are discussed in **Section 4.7.4** of the Draft EIS/EIR. The Proposed Project would result in a variety of fiscal impacts, which collectively would result in substantial revenues for federal, state, and county governments. Creation of additional tax revenues generated by the Proposed Project were found to be a beneficial impact in the Draft EIS/EIR.

Please refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities. The amenities offered at the resort would target a different segment of the population than does the Richmond Auditorium. The hotel, restaurants, and other project components would make Point Molate an attractive venue for hosting functions that require all amenities to be provided in one location. Given its central location and low cost, the Richmond Auditorium would continue to be patronized by local groups that do not require overnight accommodations or other related services. For these reasons, any impacts to the Richmond Auditorium would be considered less than significant.

As stated in **Section 2.1.2** of the Draft EIS/EIR, as well as **Appendix C**, the Tribe agrees to pay the City service fees of \$8 million per year for the first eight years beginning with the commencement of gaming operations. The Tribe agrees to pay the City services fees of \$10 million per year thereafter. City service fees include fees for police and fire protection services. Fees shall be adjusted each year by changes in the Consumer Price Index, beginning after year one of the agreement. The fee shall be paid regardless of the amount of service provided. Additionally, as indicated through the IGA (**Appendix BB**), with the operation of Class III gaming, the Tribe will pay the County the annual sum of \$12 million for public safety, fire fighters, first responders, health and social services-related costs, and community benefit payments.

Regarding the lifespan of the Proposed Project, the Tribe intends to operate the casino/hotel resort in perpetuity to fund its Tribal government, cultural renewal, Tribal health, education, and other essential services and governmental functions. The Economic Impact and Growth Inducing Study (**Appendix T**) concluded that the Proposed Project would continue to operate profitably throughout the cumulative time period discussed in the Draft EIS/EIR, given the large San Francisco Bay Area market. Potential indirect and growth-inducing effects are discussed in **Section 4.14** of the Draft EIS/EIR.

RESPONSE I202-3

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

RESPONSE I202-4

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT I203

RESPONSE I203-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.12.6** regarding bicycles on the Richmond – San Rafael Bridge.

RESPONSE I203-2

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I203-3

The Final EIR includes a host of mitigation and improvement measures that would significantly reduce the number of vehicle trips to the project site during construction and operation. In addition to the mitigation cited by the commenter, several more are provided in the Final EIR in **Sections 5.2.3** and **5.2.7** that would reduce vehicle trips. Refer to **General Response 3.12.4** regarding the aggressive traffic demand management measures that the Project would be required to comply with under Alternatives A through E and B1. Please also refer to **Response A22-2** regarding mitigation in the Final EIR related to expanded use of public transit.

Refer to the response above (**Response I203-2**) regarding the off-site improvements to the Bay Trail.

RESPONSE I203-4

Bicycle lanes would be provided on Western Drive in conjunction with the widening and other improvements proposed as part of the project *if* the portion of the Bay Trail immediately south of the project site is not complete by the time the Project becomes operational. The bike lanes would then connect to the existing bicycle path that crosses under I-580 (refer to **Improvement Measure 7-20** in the Final EIR).

RESPONSE I203-5

Mitigation Measure 4-6 has been supplemented in the Final EIR to state, in part, “Setback distances for areas of beach strand habitats shall be approved through consultation with BCDC taking into account the soils, slope, hydrology, vegetative cover and runoff potential of areas adjacent to beach strand habitat where construction will occur.” Similarly, **Mitigation Measure 4-7** has been revised to state, “tidal marsh habitat on-site shall be completely avoided. While the final amount of setback will be determined by the jurisdictional agency, a minimum setback of 50 feet is recommended around the tidal marsh habitat on-site as a means of preventing any impacts to it from development. The 50-foot setback buffer shall be approved by the BCDC through consultation taking into account the soils, slope, hydrology, vegetative cover and runoff potential of areas adjacent to beach strand habitat where construction will occur.”

RESPONSE I203-6

Figure 2-17 in the Draft EIS/EIR incorporates portions of Burma Road, which fronts on the Bay and adjacent sea wall, into the proposed segment of the Bay Trail for Alternative E. The figure is intended to indicate the extent to which existing ruderal habitat would be used to establish the trail, resulting in the least amount of impacts to sensitive biotic resources. Elsewhere, the alignment of the proposed trail segment within the project site has been routed around sensitive and non-renewable cultural resources, which are protected by state and federal law. Depicting the exact location of such resources has been avoided in the publically circulated documents to minimize the potential for vandalism and/or looting at the cultural sites.

RESPONSE I203-7

Comment noted.

COMMENT I204

RESPONSE I204-1

Please refer to **General Response 3.16.1** regarding the 2008 Site Cleanup Order vacated by the San Francisco Regional Water Quality Control Board in September of 2009 following circulation of the Draft EIS/EIR.

RESPONSE I204-2

The commenter is mistaken in his characterization of why certain transportation-related mitigation measures are infeasible. While mitigation is proposed in **Section 5.2.7** for specific cumulative (year 2025) traffic-related impacts that would reduce them to less than significant levels, the full suite of required improvements are considered infeasible at this time because the improvements fall within the responsibility and jurisdiction of a public agency other than the City of Richmond for which there is no existing plan to implement or fund. Please refer to **Sections 4.15.11, 4.15.45, 4.15.79, and 4.15.113** of the Final EIR regarding the significant and unavoidable impacts to traffic in the cumulative year (2025).

RESPONSE I204-3

Please refer to **General Response 3.1.2** concerning recirculation of the Draft EIS/EIR.

RESPONSE I204-4

Comment noted.

RESPONSE I204-5

The commenter provides photocopied pages from a March 2008 Groundwater Monitoring Summary Report related to the on-going monitoring at the project site. On-going and future monitoring work at areas of the project site impacted by past hazardous materials releases is described within **Sections 2.14, 2.15, 3.12, and 4.12** of the Draft EIS/EIR, as well as **Appendices P, Q, X, and II**. Contrary to the assertions of the commenter, the Draft EIS/EIR and supporting documentation establish that the project site has been affected by past hazardous materials releases and will be subject to comprehensive environmental remediation as part of the Proposed Project (refer to **Section 2.1.5** of the Draft EIS/EIR).

The Draft EIS/EIR considered all potential environmental impacts stemming from remediation of hazardous material conditions on-site. The ultimate scope of analysis was developed based on the Remedial Plan (**Appendix II**), which provides a reasonable set of expectations for the extent, location and methods of site cleanup proposed under Alternatives A - D. Please refer to **General Response 3.16.1** for additional information regarding environmental remediation at the project site.

Finally, the commenter's statement that groundwater monitoring has been discontinued at the project site is incorrect. Moreover, the monitoring report cited by the commenter was prepared for the U.S. Navy, who retains responsibility for monitoring prior to the final transfer of the property to the City of Richmond, as described in **Section 2.1.5** of the Draft EIS/EIR. As such, no changes to the analysis or discussion presented in the EIR are warranted.

COMMENT I205

RESPONSE I205-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I205-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I206

RESPONSE I206-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I206-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I207

RESPONSE I207-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I207-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I208

RESPONSE I208-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I208-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I209

RESPONSE I209-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I209-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I210

RESPONSE I210-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I210-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I211

RESPONSE I211-1

Please see **General Responses 3.11.1** through **3.11.5** regarding the analysis of socioeconomic conditions including crime, problem gambling, employment opportunities, economic viability of Proposed Project, and economic effects on the immediate and surrounding communities.

COMMENT I212

RESPONSE I212-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I212-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I213

RESPONSE I213-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I213-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I214

RESPONSE I214-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I214-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I215

RESPONSE I215-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I215-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I216

RESPONSE I216-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I216-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I217

RESPONSE I217-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I217-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

RESPONSE I217-3

Comment noted.

COMMENT I218

RESPONSE I218-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I218-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I219

RESPONSE I219-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I219-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I220

RESPONSE I220-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I220-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT I221

RESPONSE I221-1

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

RESPONSE I221-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

4.3 RESPONSES TO PUBLIC HEARING COMMENTS

COMMENT PH1

RESPONSE PHI-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PHI-2

Please refer to **Response I90-1** regarding the analysis of traffic impacts associated with the Proposed Project.

RESPONSE PHI-3

Please refer to **General Response 3.13.2** regarding open space at the project site.

RESPONSE PHI-4

As discussed in **Section 4.7.4**, implementation of the Proposed Project would result in a variety of fiscal impacts, which collectively would result in substantial revenues for federal, state, and county

governments. The federal, state, county, and local governments would receive substantial tax revenues from sources including taxes on employee compensation, household expenditures, corporate activities, and proprietary income (**Table 4.7-8**). Specific tax revenues for federal, state, and county governments were determined using 2002 industry data for Contra Costa County in the I-O/SAM model. Appendix D of **Appendix T** provides a description of these specific tax categories. Under the Proposed Project, gross revenue is projected to total \$813 million, which would result in gaming taxes paid to the State of approximately \$163 million (**Table 4.7-9**).

Tribes do not pay corporate income taxes on revenue or property taxes on tribal (trust) land, since trust land is not subject to local jurisdiction.

RESPONSE PH1-5

Refer to **General Response 3.5.1** regarding the analysis of seismic impacts associated with development of the Project alternatives.

RESPONSE PH1-6

Comment noted.

COMMENT PH2

RESPONSE PH2-1

Please refer to **General Response 3.16.1** regarding the analysis of potential impacts associated with the proposed environmental remediation at the project site.

COMMENT PH3

RESPONSE PH3-1

Please refer to **Response I4-3** regarding the recently awarded contract to design, conduct necessary studies, and acquire permits to build a new segment of the Bay Trail from Point Richmond to the existing path under I-580. Please refer to **General Response 3.4** regarding Chevron's recent agreement to donate 1.5 miles of its property to the East Bay Regional Park District (EBRPD) for Bay Trail easements on the west side of the San Pablo Peninsula. Please refer to **Response I4-6** regarding the proposed alignment of the Bay Trail on the San Pablo Peninsula.

The description in **Mitigation Measure 3-23(h)** of the Draft EIS/EIR referenced by the commenter refers to the gap in the Bay Trail between the existing path under I-580 and the proposed Bay Trail segment at the project site. Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail.

RESPONSE PH3-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT PH4

RESPONSE PH4-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH5

RESPONSE PH5-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH6

RESPONSE PH6-1

Please refer to **General Response 3.11.1** for a discussion of potential impacts to crime and mitigation proposed in the Draft EIS/EIR.

RESPONSE PH6-2

Please refer to **General Response 3.16.1** regarding the proposed environmental remediation at the project site.

RESPONSE PH6-3

Please refer to **Response A15-3**, which address the need for an eastbound I-580 off-ramp to Western Drive.

RESPONSE PH6-4

Please refer to **General Response 3.16.3** regarding security at the neighboring Chevron facility.

COMMENT PH7

RESPONSE PH7-1

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

COMMENT PH8

RESPONSE PH8-1

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

COMMENT PH9

RESPONSE PH9-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH9-2

Comment noted.

COMMENT PH10

RESPONSE PH10-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH11

RESPONSE PH11-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH12

RESPONSE PH12-1

Mitigation Measure 7-2 in the Final EIR has been augmented to require that Western Drive remain passable to through traffic 24 hours a day, seven days a week, to provide access to and from other land uses located on the San Pablo Peninsula. In the event that portions of Western Drive must be closed temporarily, reasonable detours shall be provided such that access to the San Pablo Yacht Harbor and other adjacent land uses is not restricted.

Alternatives A through C and B1 provide for the construction and staffing of a combined police and fire station on-site, which would provide for reduced response times throughout the San Pablo Peninsula. Under Alternative D the existing on-site fire station would be renovated to serve the needs of the Project. Please refer to **Section 2.1.2** of the Draft EIS/EIR for a description of the provisions of the MSA related to police and fire services.

COMMENT PH13

RESPONSE PH13-1

Please refer to **General Response 3.11.1** for a discussion of potential impacts to crime.

COMMENT PH14

RESPONSE PH14-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH14-2

Please refer to **Response PH12-1** above regarding traffic delays on Western Drive during construction, which is estimated to take 36 months to complete.

Operations on Western Drive following the proposed improvements and capacity upgrade are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that the proposed improvements would allow for free flowing traffic on this facility.

RESPONSE PH14-3

The Draft EIS/EIR concludes that all potential noise impacts are less than significant with mitigation. **Section 3.11, 4.11, and 4.15** of the Draft EIS/EIR contain a full analysis of the existing, with Project, and cumulative noise impacts. Where an impact has the potential to occur, the Final EIR provides mitigation (**Section 5.2.10**) that would reduce the potential impact to a less than significant level. A comprehensive noise study is provided in **Appendix O** of the Final EIR.

COMMENT PH15

RESPONSE PH15-1

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

COMMENT PH16

RESPONSE PH16-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH17

RESPONSE PH17-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH18

RESPONSE PH18-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH19

RESPONSE PH19-1

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

COMMENT PH20

RESPONSE PH20-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH21

RESPONSE PH21-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH22

RESPONSE PH22-1

Please refer to **Responses PH12-1** and **PH14-2** regarding construction traffic on Western Drive.

RESPONSE PH22-2

Comment noted.

COMMENT PH23

RESPONSE PH23-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH24

RESPONSE PH24-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH24-2

Please refer to **Responses PH12-1** and **PH14-2** regarding construction traffic on Western Drive.

RESPONSE PH24-3

Please refer to **General Response 3.11.1** for a discussion of potential impacts to crime and mitigation proposed in the Draft EIS/EIR.

COMMENT PH25

RESPONSE PH25-1

Section 4.10.8 of the Draft EIS/EIR acknowledges the potential for impacts to social services, including emergency medical services as a result of the Proposed Project. Several mitigation measures have been proposed for this impact. With implementation of **Mitigation Measures 9-7** through **9-12**, impacts to fire protection and emergency medical services would be reduced to a less than significant level.

Improvement Measure 9-13 would further reduce potential impacts to fire protection and emergency medical services. In accordance with Section 2.3 of the MSA (**Appendix C**), the Draft EIS/EIR states that the Tribe shall contract with a private company for emergency ambulance services, further reducing potential impacts to emergency medical services. However, based on Article 10A of the IGA, the Tribe agrees to contract with the County to provide emergency ambulance service to the project site.

Please refer to **General Response 3.11.1** and **3.11.2** regarding potential impacts to crime and problem gambling as a result of the Proposed Project.

RESPONSE PH25-2

Please refer to **General Response 3.14.1** that addresses emergency preparedness and evacuation.

RESPONSE PH25-3

The First Amendment to the LDA for the Proposed Project was entered executed on March 7, 2006. Under this Amendment, Section 5.4 of Exhibit E to the LDA is amended in its entirety (**Appendix C**). The Amendment states, “The Tribe will adopt a First Source Program substantially similar to the City’s First Source Program and prior to opening of the casino, will require its contractors and gaming manager to enter into an agreement similar to Exhibit F of the LDA...Notwithstanding the applicability of reasonable employment qualification standards, the Tribe hereby covenants and agrees that, for initial hires it will hire at least forty percent (40%) of its operational, non-management positions for the Casino and Casino Hotel from a pool of Richmond residence who otherwise meet the qualifications of employment... For the purpose of this program, ‘initial hires’ shall include hiring to fill newly created positions, and, thereafter, re-filling the aggregate number of positions that become vacant during subsequent years.” Therefore, the First Source Agreement has been amended to require the Tribe to maintain a workforce with Richmond residents. Additionally, as indicated through the IGA (**Appendix BB**), the Tribe will collaborate with the County to develop a project-specific first-source hiring plan, with a goal to source a total of 70 percent, inclusive of the 40 percent from the City under the City MSA, of non-management operational employees from within the County at opening of the gaming establishment. The County agrees that the sourcing of jobs from within the County would have significant economic benefits for the County from the direct, indirect, and induced jobs created by the Project.

RESPONSE PH25-4

Please refer to **Response I44-2** regarding the article referenced by the commenter. Please refer to **General Responses 3.11.1, 3.11.3, and 3.11.6** regarding potential impacts to crime and social services, as well as employment generated by the Proposed Project.

COMMENT PH26

RESPONSE PH26-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH26-2

The commenter provides numerous conclusory statements regarding the character of the gaming market, the residential location of the “casino owners”, money leaving the greater Bay Area as a result of the purchase of goods and services, as well as the capacity of the regional tourism market to support a destination resort. The generalized conclusions are made without providing supporting evidence. Based on the information provided by the commenter, it is not possible to substantiate the findings of his “report.” While the Final EIR is open to considering all information, the necessary documentation, support and explanations for the commenter’s assumptions and methodologies were not provided.

The documentation for the socioeconomic impact analysis, as discussed in **Section 4.7** of the Draft EIS/EIR, is provided in the Economic Impact and Growth Inducing Study as **Appendix T**. This study quantifies potential economic impacts of the Proposed Project for output, employment, wages, and tax revenues. Economic effects in this analysis are quantified for Contra Costa County using the Impact Analysis for Planning, (IMPLAN) model. The IMPLAN model is commonly used to estimate economic impacts to communities and regions. Results of this study are analyzed and discussed in **Sections 4.7, 4.14 and 4.15**. As determined in the Economic Impact Study, and discussed in **Section 4.7**, the Proposed Project would result in beneficial impacts to the Contra Costa County labor and housing markets.

COMMENT PH27

RESPONSE PH27-1

Please refer to **General Response 3.11.3** and **Response I145-3** regarding employment opportunities for the local community.

RESPONSE PH27-2

Please refer to **Response I197-4** regarding the General Plan Update and the land use designation options. Between the six alternatives considered, the Draft EIS/EIR considers a “reasonable range” of alternatives under both CEQA and NEPA.

RESPONSE PH27-3

The casino facility will be operated pursuant to the requirements of federal law, Tribal law, and a Tribal-State Compact that will be negotiated between the State of California and the Tribal Government. It will be the responsibility of the State of California and the Tribal Government to establish fair terms for the Tribal-State Compact.

There has been no evidence that businesses have closed at the San Pablo Town Center as a result of the construction of Casino San Pablo. As discussed in **Section 4.7** of the Draft EIS/EIR, the Proposed Project is projected to aid in Richmond’s ability to recover from the recession through by generating employment opportunities, associated wages, and overall economic output. Additionally, County Sheriff Warren E. Rupf, has concluded in a letter to the County Administrator, dated November 2, 2009 that he anticipates the Proposed Project to have a negligible impact on criminal activity (**Appendix JJ**). Sheriff Rupf noted that there has not been “any significant increase in criminal activity” as a result of the neighboring Casino San Pablo and he expects the same to remain true with the Proposed Project. Sheriff Rupf agrees that the provisions of the LDA and the MSA will adequately address any potential concerns and that they will provide the necessary funding to place more deputies in unincorporated West County so that a safer environment may be provided in that area.

The percentage of Chevron employees hired from Richmond does not have an effect on the percentage of employees the Proposed Project would hire from Richmond. As stated in the MSA (**Appendix C**), “the

Tribe agrees that with initial hires, it will hire at least 40 percent of its operational, non-management positions from a pool of City residents. Wages shall be equivalent to the wage portions of the federal Davis-Bacon Act, the California Labor Code, the City's Living Wage Ordinance, the City's Business Opportunity Ordinance, and the City's Local Employment Program Ordinance." Additionally, as provided by the IGA, the Tribe will collaborate with the County to develop a project-specific first-source hiring plan, with a goal to source a total of 70 percent, inclusive of the 40 percent from the City under the City MSA, of non-management operational employees from within the County at opening of the gaming establishment (**Appendix BB**). The County agrees that the sourcing of jobs from within the County would have significant economic benefits for the County from the direct, indirect, and induced jobs created by the project.

COMMENT PH28

RESPONSE PH28-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH29

RESPONSE PH29-1

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

COMMENT PH30

RESPONSE PH30-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

COMMENT PH31

RESPONSE PH31-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH32

RESPONSE PH32-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH33

RESPONSE PH33-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

In accordance with NEPA and CEQA, the public has been afforded ample opportunities to comment on the environmental effects of the Project through the NEPA and CEQA scoping and public review process, including two public hearings for the Draft EIS/EIR. The issue of whether or not approval of the Proposed Project should be decided by popular vote is outside of the scope of analysis required by NEPA and CEQA.

RESPONSE PH33-2

Please refer to **General Response 3.16.3** regarding security at the neighboring Chevron Refinery and **General Response 3.16.2** regarding hazards at the Chevron Refinery.

COMMENT PH34

RESPONSE PH34-1

Refer to **Response I32-3** regarding the scale of the proposed alternatives and the method of impact analysis

RESPONSE PH34-2

The Draft EIS/EIR presents adequate illustrated site plans and renderings to allow for a full aesthetic analysis. As illustrated in the site plans (**Figures 2-3, 2-8, 2-11, 2-14, and 2-17**) and architectural renderings (**Figures 2-9, 2-10, 2-12, 2-13, 2-15, and 2-16**) presented in the Draft EIS/EIR, all of the alternatives would preserve views of the Bay and regional landscape from the open spaces along the shoreline area.

RESPONSE PH34-3

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

COMMENT PH35

RESPONSE PH35-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH35-2

Refer to **Response I90-1** regarding the analysis of traffic associated with the Proposed Project.

RESPONSE PH35-3

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

RESPONSE PH35-4

Potential impacts to wildlife are addressed in **Sections 4.5, 4.8** and **4.15** of the Draft EIS/EIR. Please refer to **Response A1-5** regarding the analysis of impacts to avian species. **Mitigation Measures 4-15** through **4-19** in the Final EIR cover potential impacts to migratory birds.

RESPONSE PH35-5

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH36

RESPONSE PH36-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

COMMENT PH37

RESPONSE PH37-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH38

RESPONSE PH38-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH39

RESPONSE PH39-1

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

RESPONSE PH39-2

Refer to **Response PH39-1** above.

COMMENT PH40

RESPONSE PH40-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH40-2

Please refer to the MSA (**Appendix B**) and IGA (**Appendix BB**) regarding legally binding agreements between the Tribe and local governments.

COMMENT PH41

RESPONSE PH41-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.16.1** regarding the proposed environmental remediation at the project site.

COMMENT PH42

RESPONSE PH42-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH42-2

Refer to **General Response 3.16.3** regarding security at the neighboring Chevron Refinery and **General Response 3.16.2** regarding proximity to the Chevron Refinery.

RESPONSE PH42-3

Please refer to **General Response 1.11.2** regarding potential impacts to problem gambling as a result of the Proposed Project. Mitigation for the potential impacts to problem gambling is proposed in **Section 5.2.6** of the Final EIR. The commenter does not state why the mitigation is inadequate, or what mitigation measures would be more appropriate. The Final EIR determined that the proposed mitigation measures are sufficient, and that with mitigation the potential impacts to problem gambling are considered less than significant.

Please refer to **General Response 3.11.1** regarding the potential impacts to crime.

Please refer to **General Response 3.11.5** regarding potential impact to immediate and surrounding communities, including poor and minority communities.

COMMENT PH43

RESPONSE PH43-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH44

RESPONSE PH44-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.11.4** regarding the economic viability of the Proposed Project.

COMMENT PH45

RESPONSE PH45-1

All employees of the Proposed Project would be paid living wage and would be subject to the City of Richmond's Living Wage Ordinance. As stated in **Section 2.1.2** and **Appendix C** of the Draft EIS/EIR, "wages shall be equivalent to the wage portions of the federal Davis-Bacon Act, the California Labor Code, the City's Living Wage Ordinance, the City's Business Opportunity Ordinance, and the City's Local Employment Program Ordinance."

Employment opportunities would consist of primarily entry-level positions, but would also include mid-level and management positions. Please refer to **Section 4.7.4** of the Draft EIS/EIR for a discussion of typical tribal casino and resort employment opportunities.

RESPONSE PH45-2

Please refer to **Section 3.12 Table 3.12.1** titled *Representative Catalog of Environmental Studies of the Project Site*. An Offshore Ecological Risk Assessment was prepared in June 2, 2000 by Tetra Tech EM INC. and Entrix Inc. for the US Navy. The report presented results of the assessment of risk to ecological receptors associated with the offshore areas. Additional documentation of offshore studies is summarized in **Appendix U** of the Draft EIS/EIR.

Please refer to **General Response 3.12.1**, which covers a range of issues associated with the proposed ferry service. Also refer to **General Response 3.9.1** for a thorough discussion of potential impacts to the eelgrass beds located on site.

RESPONSE PH45-3

Refer to **General Response 3.12.5** regarding the geographic scope of analysis for the transportation analysis, which includes the I-580 / US-101 interchange referenced by the commenter.

Operations on Western Drive following the proposed improvements and capacity upgrade (components of the Proposed Project) are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that the proposed improvements would allow for free flowing traffic on this facility. Refer to **Response I197-5** for additional information on the analysis of Western Drive. Contrary to the statement of the commenter, there currently is a westbound on-ramp from Western Drive to I-580.

Sections 4.8 and **4.15** of the Draft EIS/EIR and the STIA analyze potential impacts to the Richmond-San Rafael Bridge. Please refer to **Response I202-1** for more information concerning analysis and mitigation for this transportation facility.

Planned bus parking at the project site is sized to accommodate the needs of the Project and would be located at the northern end of the Winehaven Building (refer to **Section 2.2.2** and **Table 2-2** of the Draft EIS/EIR).

COMMENT PH46

RESPONSE PH46-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Responses 3.11.3** regarding types of employment opportunities that would be generated by the Proposed Project.

COMMENT PH47

RESPONSE PH47-1

Comment noted.

COMMENT PH48

RESPONSE PH48-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH49

RESPONSE PH49-1

The **Section 1.4** of the Draft EIS/EIR states that the “objectives of the local Lead Agency (City of Richmond), for purposes of CEQA requirements, are to implement a reuse for the project site that is consistent with the [Base Realignment and Closure] processes, as well as the applicable conveyance legislation, and Navy Record of Decision (ROD) for the transfer; promotes employment and long-term economic development within the City and creates business opportunities within the City and Contra Costa County.”

RESPONSE PH49-2

Please refer to **Response A28-1** regarding the content and purpose of the cultural context presented in **Section 3.6** of the Draft EIS/EIR.

COMMENT PH50

RESPONSE PH50-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Please refer to **General Response 3.16.1** regarding the analysis of potential impacts associated with the proposed environmental remediation at the project site.

COMMENT PH51

RESPONSE PH51-1

Please see **General Response 3.11.4** for a discussion of the economic viability of the Proposed Project.

COMMENT PH52

RESPONSE PH52-1

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

RESPONSE PH52-2

The documentation for the socioeconomic analysis is provided in **Appendix T** of the Draft EIS/EIR. The Economic Impact and Growth Inducing Study quantifies potential economic impacts of the Proposed Project for output, employment, wages, and tax revenues. Economic effects in the analysis are quantified for Contra Costa County using the Impact Analysis for Planning, (IMPLAN) model. The IMPLAN model is commonly used to estimate economic impacts to communities and regions. Results of this study are analyzed and discussed in **Sections 4.7, 4.14** and **4.15** of the Draft EIS/EIR. As determined in the Economic Impact and Growth Inducing Study, and discussed in **Section 4.7** of the Draft EIS/EIR, the Proposed Project would result in beneficial impacts to the regional labor and housing markets.

RESPONSE PH52-3

Please refer to **General Response 3.14.1** that addresses emergency preparedness and evacuation. Refer to **General Response 3.16.3** regarding security at the neighboring Chevron facility.

RESPONSE PH52-4

The City has engaged in a multi-year effort to define a range of reasonable alternatives for the productive reuse of Point Molate, as required in the Dellums legislation that provided for the sale of the property to the City. This process included forming a Blue Ribbon Advisory Board, Restoration Advisory Committee, as well as holding a public scoping hearing and collecting a large number of comments on the range of alternatives to be considered (**Appendix B**).

COMMENT PH53

RESPONSE PH53-1

Please refer to **General Response 3.3.2** for discussion of evaluation of impacts to Building No. 6 within Winehaven Historic District.

RESPONSE PH53-2

Please see **General Response 3.4** and **Responses I4-2** and **I4-3** regarding the need for the Proposed Project to fully fund off-site improvements to the Bay Trail and the configuration of pedestrian and bicycle access to the project site.

COMMENT PH54

RESPONSE PH54-1

Please refer to **General Response 3.11.4** regarding the economic viability of the Proposed Project.

RESPONSE PH54-2

Operations on Western Drive following the proposed improvements and capacity upgrade are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that the proposed improvements would allow for free flowing traffic on this facility.

Sections 4.8 and **4.15** of the Draft EIS/EIR and the STIA (**Appendix S**) analyze potential impacts to the Richmond-San Rafael Bridge. It was determined that in the build-out year project-related traffic would have a less than significant impact on the level of service on the bridge. However, in the cumulative year there would be a significant impact and mitigation is provided in **Section 5.2.7** of the Draft EIS/EIR that would reduce this impact to a less than significant level. However, the required mitigation is infeasible at this time since the facilities requiring improvements are outside the jurisdiction of the City of Richmond and there are currently no plans to fund or implement the improvements on the part of Caltrans.

RESPONSE PH54-3

The quarry located on Chevron south of Point Molate has a driveway entering Western Drive approximately 0.75 miles south of the southern-most edge of the project site. The quarry is addressed throughout the Draft EIS/EIR in the context of mineral resources (**Section 3.2**), traffic (**Sections 3.8** and **4.8**), air quality (**Section 4.4**), and land use (**Section 3.8**). The primary consideration for operation of the Proposed Project and the off-site quarry is the reconfiguration of the quarry driveway on Western Drive, which is discussed in **Appendix S** and would be undertaken in conjunction with the proposed improvements to Western Drive.

RESPONSE PH54-4

Refer to **General Response 3.5.1** regarding seismic impacts associated with development of the Project alternatives. Modern seismic engineering, as codified in the California Building Code, provides solutions to address risks associated with strong shaking, liquefaction, etc., which are routinely addressed throughout California's major population centers. None of the site conditions identified in past geotechnical studies preclude the construction of safe habitable structures at the project site.

COMMENT PH55

RESPONSE PH55-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH56

RESPONSE PH56-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH57

RESPONSE PH57-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH57-2

Please refer to **General Response 3.17** which details the Section 106 consultation process, application of the Secretary of the Interior's standards and guidelines, and development of design guidelines for the rehabilitation of Winehaven. In summary, the final design of new construction within the Winehaven Historic District would be subject to the Section 106 consultation process involving the public, City of Richmond, California State Historic Preservation Officer SHPO, the Tribe/Upstream Point Molate, Bureau of Indian Affairs (for Alternatives A – C and B1), and other invited signatories. During this consultation process the Tribe shall develop comprehensive Design Guidelines to comply with the Secretary of the Interior's (SOI) Standards and Guidelines for the Treatment of Historic Properties that will govern the rehabilitation of all retained buildings within the Historic District as well as new construction near or within the historic core of the District. The final design, in order to comply with the SOI Standards and Guidelines, must retain the historic character, avoid a false sense of historical development, preserve distinctive materials, features, finishes, and construction techniques, and all new construction must be differentiated from the historic buildings, yet be compatible. All of these considerations, and a host of others provided in the SOI Standards and Guidelines, will be applied in the final design guidelines as required by Final EIR **Mitigation Measure 5-2**.

RESPONSE PH57-3

Comment noted.

COMMENT PH58

RESPONSE PH58-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH58-2

The viability of the proposed fee to trust transfer by the Department of Interior (DOI) is beyond the scope of the Draft EIS/EIR. The purpose of the environmental review process is to assess the environmental

impacts of the Proposed Project and not to analyze the DOI realty process. Ultimately, DOI will make a determination, considering a host of factors, with respect to the eligibility of the site for transfer into Federal trust for the benefit of the Tribe and the site's eligibility for Class II gaming. To conclude at this stage of the process that Class III gaming will not be approved at the project site is speculative.

RESPONSE PH58-3

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

RESPONSE PH58-4

The proposed Scotts Valley Sugar Bowl Casino, which has not been approved, is included in the analysis of cumulative impacts in **Section 4.15** of the Draft EIS/EIR.

RESPONSE PH58-5

Refer to **General Response 3.12** for a discussion of issues related to traffic and circulation. Refer to **Sections 4.8** and **4.15** of the Final EIR and the Supplemental TIA (**Appendix S**) regarding the Richmond – San Rafael Bridge toll plaza analysis. The number of vehicles per lane per hour at the Richmond – San Rafael Bridge toll plaza, which was incorrectly stated in the Draft EIS/EIR, has been corrected in the text of the Final EIR.

Refer to **Response A22-2** regarding transit service to the project site. Please refer to **General Response 3.12.1** regarding ferry service to the project site. It should be noted that the vehicle trip reduction applied as a result of ferry service to the site in the Draft EIS/EIR is 15 percent, not 25 percent as stated by the commenter.

RESPONSE PH58-6

Please refer to **General Response 3.14.1** that addresses emergency preparedness and evacuation. Refer to **General Response 3.16.2** that addresses the Ammonia Consequence Modeling Analysis undertaken for the Proposed Project (**Appendix M**).

RESPONSE PH58-7

Refer to **Response I103-7** regarding the geographic scope of analysis in the Draft EIS/EIR. Refer to **Section 4.15** of the Draft EIS/EIR for a discussion of cumulative impacts to surrounding communities, including the City of San Pablo and Contra Costa County.

COMMENT PH59

RESPONSE PH59-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH59-2

Comment noted.

COMMENT PH60

RESPONSE PH60-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH61

RESPONSE PH61-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH62

RESPONSE PH62-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH63

RESPONSE PH63-1

The City has engaged in a multi-year effort to define a range of reasonable alternatives for the productive reuse of Point Molate, as required in the Dellums legislation that provided for the sale of the property to the City. This process included forming a Blue Ribbon Advisory Board, Restoration Advisory Committee, as well as holding a public scoping hearing and collecting a large number of comments on the range of alternatives to be considered (**Appendix B**).

COMMENT PH64

RESPONSE PH64-1

Please refer to **General Response 3.12.2** for a discussion of trip generation rates and trip reductions. Refer to the TIA, STIA (**Appendix S**), and supplemental transportation memorandum (**Appendix HH**), which provide a discussion of the methods and assumptions used in the transportation analysis.

Please refer to **General Response 3.12.1** regarding ferry service to the project site. It should be noted that the vehicle trip reduction applied as a result of ferry service to the site in the Draft EIS/EIR is 15 percent, not 25 percent as stated by the commenter.

Please refer to **General Response 3.12.2** regarding the analysis of traffic impacts associated with the proposed conference center.

COMMENT PH65

RESPONSE PH65-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH65-2

Please refer to **General Response 3.11.1** regarding potential impacts to crime.

RESPONSE PH65-3

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

RESPONSE PH65-4

Comment noted.

COMMENT PH66

RESPONSE PH66-1

The Economic Impact and Growth Inducing Study (**Appendix T**) determined that the Proposed Project would draw patrons from a large geographic area and not just Contra Costa County and the City of Richmond. Given this fact, as well as the character of the other amenities offered (refer to **Section 2.2.2** of the Draft EIS/EIR), the Proposed Project is most accurately characterized as a destination resort that is expected to draw heavily from the more than 15 million annual tourists that visit San Francisco.

Potential impacts to surrounding communities are assessed in **Sections 3.7, 4.7, and 4.15** of the Draft EIS/EIR. Please refer to **General Response 3.11.5** regarding impacts to local and regional businesses.

RESPONSE PH66-2

Comments noted.

COMMENT PH67

RESPONSE PH67-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH67-2

Comment noted.

RESPONSE PH67-3

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

COMMENT PH68

RESPONSE PH68-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH69

RESPONSE PH69-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH70

RESPONSE PH70-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH71

RESPONSE PH71-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH71-2

Comment noted.

COMMENT PH72

RESPONSE PH72-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH72-2

Please refer to **General Response 3.13.1** regarding consistency with the General plan.

RESPONSE PH72-3

Comment noted.

RESPONSE PH72-4

Please refer to **General Responses 3.11.3** regarding types of employment opportunities that would be generated by the Proposed Project. Refer to **General Response 3.11.1** regarding potential impacts to crime.

RESPONSE PH72-5

Comment noted.

COMMENT PH73

RESPONSE PH73-1

Please refer to **Response A28-1** regarding consideration of the Tribe's historical connection to the project site.

RESPONSE PH73-2

Comment noted.

RESPONSE PH73-3

Comment noted.

COMMENT PH74

RESPONSE PH74-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH75

RESPONSE PH75-1

Please refer to **General Response 3.9.2** which details the methodology for classifying annual grassland on-site. Per CEQA Guidelines Section 15065 (a)(1), impacts to grasslands on-site do not constitute a *threat to eliminate a plant or animal community*. It should be noted that only 0.637 acres of 39.461 acres (equaling 1.61 %) of total grassland habitat is impacted under Alternative A. **Mitigation Measure 4-1** specifies a 2:1 replacement/restoration ratio for these impacts. This would include the conversion/restoration of a 1:1 ratio of non-native habitats on-site to grasslands as well as designating an additional 1:1 ratio of existing and equivalent habitat into an open space preserve with a conservation easement in perpetuity.

RESPONSE PH75-2

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH76

RESPONSE PH76-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH76-2

Please refer to **Response PH25-3** regarding issues related to the local workforce and the Proposed Project.

RESPONSE PH76-3

Please refer to **General Response 3.11.1 and 3.11.2** regarding potential impacts to crime and problem gambling as result of the Proposed Project.

COMMENT PH77

RESPONSE PH77-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH77-2

Please refer to **General Response 3.12.2** for a discussion of trip generation rates and trip reductions. Refer to the TIA, STIA (**Appendix S**), and supplemental transportation memorandum (**Appendix HH**), which provide a discussion of the methods and assumptions used in the transportation analysis.

Air Quality is analyzed in **Sections 4.4** and **4.15** of the Draft EIS/EIR. With implementation of mitigation specified in **Section 5.2.3**, all potential air quality impacts were found to be less than significant.

RESPONSE PH77-3

Please refer to **General Response 3.11.3** regarding employment generated by the Proposed Project.

RESPONSE PH77-4

Please refer to **Response A1-8** regarding the provision of potable water to the project site.

RESPONSE PH77-5

The commenter fails to define “collectors on the roof”, but it is assumed that he is referencing the proposed “living roof” described in **Section 2.1.1** of the Draft EIS/EIR. As described therein, the proposed living roof offers a host of environmental benefits and no impacts. Such benefits include significantly improved building insulation, improved stormwater management by reducing the coverage of impermeable surfaces, collection and storage of rainwater, and improved local air quality.

RESPONSE PH77-6

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH77-7

Comment noted.

COMMENT PH78

RESPONSE PH78-1

Comment noted. Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH78-2

Please refer to **Section 2.1.1** of the Draft EIS/EIR which describes the sustainable design components of the Proposed Project.

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

COMMENT PH79

RESPONSE PH79-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

The City has engaged in a multi-year effort to define a range of reasonable alternatives for the productive reuse of Point Molate, as required in the Dellums legislation that provided for the sale of the property to the City. This process included forming a Blue Ribbon Advisory Board, Restoration Advisory Committee, as well as holding a public scoping hearing and collecting a large number of comments on the range of alternatives to be considered (**Appendix B**).

RESPONSE PH79-2

Please refer to **General Response 3.9.2** which details the methodology for classifying annual grassland on-site. Per CEQA Guidelines Section 15065 (a)(1), impacts to grasslands on-site do not constitute a *threat to eliminate a plant or animal community*. It should be noted that regardless of the typological classification of on-site grassland habitats, only 0.637 acres of 39.461 acres (equaling 1.61 %) of total grassland habitat is impacted under Alternative A. **Mitigation Measure 4-1** specifies a 2:1 replacement/restoration ratio for these impacts. This would include the conversion/restoration of a 1:1 ratio of non-native habitats on-site to grasslands as well as designating an additional 1:1 ratio of existing and equivalent habitat into an open space preserve with a conservation easement in perpetuity.

Please refer to **General Response 3.9.1** and **Response A24-5** for a discussion of potential impacts related to the eelgrass beds located on-site.

RESPONSE PH79-3

Comment noted.

COMMENT PH80

RESPONSE PH80-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH80-2

Comment noted.

RESPONSE PH80-3

Comment noted.

RESPONSE PH80-4

Comment noted.

COMMENT PH81

RESPONSE PH81-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH81-2

Please refer to **General Response 3.8.2** regarding potential impacts related to projected sea level rise.

RESPONSE PH81-3

Please refer to **Response I152-3** regarding alcohol availability and consumption. Please refer to **General Response 3.11.1** regarding potential impacts to crime.

RESPONSE PH81-4

Comment noted.

RESPONSE PH81-5

Please refer to **Response I103-7** regarding the geographic scope of analysis. Refer to **General Response 3.11.5** regarding potential impacts to the immediate and surrounding communities.

COMMENT PH82

RESPONSE PH82-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH82-2

Comment noted.

RESPONSE PH82-3

Comment noted.

COMMENT PH83

RESPONSE PH83-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH84

RESPONSE PH84-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH85

RESPONSE PH85-1

Please refer to **Response I44-2** regarding the article referenced by the commenter.

Please refer to **General Response 3.11.1** and **3.11.2** regarding potential impacts to crime and problem gambling as a result of the Proposed Project.

RESPONSE PH85-2

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project.

RESPONSE PH85-3

Please refer to **General Response 3.13.2** regarding open space at the project site.

RESPONSE PH85-4

Please refer to **Response I44-1** regarding the analysis of impacts to archaeological resources on the project site.

COMMENT PH86

RESPONSE PH86-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH86-2

Section 4.15 of the Draft EIS/EIR analyzes impacts of the Proposed Project and alternatives in combination with other reasonably foreseeable projects in the region, including the proposed Sugar Bowl Casino. Please refer to **Table 4.15-1** of the Final EIR for a list of planning documents and proposed projects considered in the cumulative analysis, including potential traffic impacts.

It is acknowledged that project traffic entering westbound I-580 from Western Drive may not be able to access the Fastrak lanes if the far right lanes remain as manual collection lanes. However, any queues or

slight delays that result would clearly be confined to Western Drive. Therefore, the lack of access from the Western Drive on-ramp to the proposed exclusive Fastrak lanes would not result in any significant impacts at the toll plaza. Because the Western Drive westbound on-ramp is controlled with a yield sign, the increased traffic using it would not have a significant effect on the mainline freeway operations.

Operations on Western Drive following the proposed improvements and capacity upgrade are analyzed in **Sections 4.8** and **4.15** of the Draft EIS/EIR. The analysis concludes that the proposed improvements would allow for free flowing traffic on this facility. With a total a five lanes of travel (and the center lane employing a moveable barrier to accommodate peak flows in both directions), the capacity of Western Drive would be substantially increased. Please refer to **General Response 3.14.1** that addresses emergency preparedness and evacuation.

COMMENT PH87

RESPONSE PH87-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT PH88

RESPONSE PH88-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH88-2

Comment noted.

RESPONSE PH88-3

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project.

RESPONSE PH88-4

Please refer to **Response I202-1** regarding the analysis of traffic impacts.

RESPONSE PH88-5

Comment noted.

COMMENT PH89

RESPONSE PH89-1

Please refer to **General Response 3.11.3** regarding employment opportunities generated by the Proposed Project. The Proposed Project will be in compliance with the City of Richmond’s Living Wage Ordinance. As stated in **Section 2.1.2** of the Draft EIS/EIR, “the Tribe agrees that with initial hires, it will hire at least 40 percent of its operational, non-management positions from a pool of City residents. Wages shall be equivalent to the wage portions of the federal Davis-Bacon Act, the California Labor Code, the City’s Living Wage Ordinance, the City’s Business Opportunity Ordinance, and the City’s Local Employment Program Ordinance.”

As stated in Section 5.4 of Exhibit E of the LDA, “the Tribe will adopt a First Source Program substantially similar to the City’s First Source Program and will require its contractors and gaming manager to enter into an agreement similar to Exhibit F of the LDA (**Appendix C**).” Exhibit F of the LDA is not the final agreement between the City and the Tribe. It will be the responsibility of the City of Richmond and the Tribal Government to establish fair terms for the advance notice period as part of the agreement prior to operation of the Project.

RESPONSE PH89-2

Section 2.1.1 of the Draft EIS/EIR summarizes several of the sustainable and “green” components of the project, which include: infill and mixed-use development on a brownfield site; rehabilitation and reuse of historic buildings; preservation of on-site open space; incorporation of an intermodal transit hub; on-site energy production using photovoltaic panels; efficient Lemnis lighting systems; daylighting buildings; keycard energy management systems in all hotel room; low-flow bathroom fixtures; on-site gray water recycling system; use of native, drought-tolerant landscaping vegetation; a “living roof” above the conference center; preservation of a large amount of open space; composting of food waste; and an aggressive recycling program. Many of the design components are strengthened and clarified in the Final EIR’s mitigation in **Sections 5.2.2, 5.2.3, 5.2.7, and 5.2.9**.

Mitigation Measure 3-28 in the Final EIR has been supplemented to require that “Buildings shall be designed to meet Leadership in Energy and Environmental Design (LEED) or equivalent certification standards, except with respect to indoor smoking allowed in certain restricted areas.”

RESPONSE PH89-3

Please refer to **Response A22-2** regarding transit service to the project site.

RESPONSE PH89-4

Please refer to **General Response 3.7.2** regarding indoor smoking.

RESPONSE PH89-5

Refer to **General Response 3.8.2** regarding sea level rise.

COMMENT PH90

RESPONSE PH90-1

Please refer to **General Response 3.2.1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

RESPONSE PH90-2

Comment noted.

RESPONSE PH90-3

Please refer to **General Response 3.17** for a discussion of aesthetics at the project site.

RESPONSE PH90-4

Please refer to **General Response 3.3.2** for a discussion of reuse of historic buildings within the Winehaven Historic District.

RESPONSE PH90-5

Please refer to **General Response 3.16.2** that addresses the Ammonia Consequence Modeling Analysis undertaken for the Proposed Project.

RESPONSE PH90-6

Please refer to **General Responses 3.11.1** regarding potential impacts to crime.

COMMENT PH91

RESPONSE PH91-1

Please refer to **General Response 3.3.2** regarding preservation of Building No. 6, retention of Building No. 17 in its present location, and the suggestion of a development alternative that retains Building No. 6.

RESPONSE PH91-2

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

RESPONSE PH91-3

Proposed improvements to Western Drive to be completed prior to operation are described in **Section 2.2.1** and **Table 2-1** of the Draft EIS/EIR. An illustration of the proposed improvements, including the I-580 and Western Drive off-ramp, is provided in **Figure 2.6b** of the Draft EIS/EIR. Furthermore, as

provided in Article 3.1 on the MSA, the Tribe is required to coordinate with Caltrans for improvements to this facility.

Based on the traffic analysis completed, the Proposed Project (specifically improving Western Drive and the addition of new trips) would not cause any significant impacts to the access or traffic operations at this facility, but one minor operational issue was identified. Vehicles that arrive via the I-580 westbound off-ramp at Western Drive may experience delays waiting vehicles to turn left into the Caltrans maintenance station located between Western Drive and the Richmond – Rafael Bridge toll plaza. Since the traffic volume entering the maintenance station is quite low, the delays would not result in any significant impacts. However, since the roadway will be improved in this area as part of the Proposed Project, **Mitigation Measure 7-25** has been added to the Final EIR to provide for a separate left-turn pocket for the maintenance station (for northbound Western Drive traffic) which would eliminate any intermittent and short term delays.

RESPONSE PH91-4

Refer to **Response PH-91-2** above regarding Building No. 6.

RESPONSE PH91-5

The Bay Trail is discussed throughout the Draft EIS/EIR (i.e., **Sections 2.1.1, 2.2.2, 3.8, 3.9, 3.10**, etc.). Please refer to **General Response 3.4** for further discussion of the Bay Trail as it relates to the Proposed Project.

COMMENT PH92

RESPONSE PH92-1

Please refer to **General Response 3.11.3** for more information on employment opportunities generated by the Proposed Project as well as binding labor agreements.

RESPONSE PH92-2

Please refer to **General Response 3.12.1** regarding ferry service to the project site. Refer to **Response A22-2** regarding expansion of transit service to the project site.

RESPONSE PH92-3

Refer to **General Response Section 3.8.2** regarding sea level rise.

RESPONSE PH92-4

Please refer to **General Response 3.7.2** regarding indoor smoking.

RESPONSE PH92-5

Social impacts are discussed in **Section 4.7** of the Draft EIS/EIR. Please refer to **General Response 3.11.1** regarding potential impacts to crime from the Proposed Project.

RESPONSE PH92-6

Comment noted.

COMMENT PH93

RESPONSE PH93-1

Please refer to **General Response 3.11.3** and **Response I170-1** regarding employment opportunities generated by the Proposed Project. Social impacts are discussed in **Section 4.7**. Please refer to **Response I202-2** regarding the lifespan of the Proposed Project.

RESPONSE PH93-2

Figure 3.8-1 provides a map depicting roadways and intersections analyzed in the Draft EIS/EIR. Additional graphics related to transportation in the Draft EIS/EIR include **Figures 3.8-2, 3.8-3, and 3.8-4**. **Section 5.2.7** of the Draft EIS/EIR clearly identifies the location of the proposed mitigation measures, and can be cross-referenced with the maps provided in **Section 3.8**. Additional illustrations may be found in **Appendix S** of the Draft EIS/EIR and **Appendix HH** of the Final EIR.

RESPONSE PH93-3

The quoted statement from the Draft EIS/EIR that reads, in part, “will approach or exceed unacceptable levels” refers to the existing condition in the study area, not the impact of the project. Project-related noise impacts resulting from traffic are discussed in **Section 4.11**, most of which are found to be less than significant. The exception is along Western Drive where potential noise impacts were found to be potentially significant. Mitigation Measures 10-1 through 10-5 detailed in **Section 5.2.10** of the Draft EIS/EIR would reduce noise impacts to less than significant levels.

RESPONSE PH93-4

Refer to **Volume I, Section 3.12** regarding trip generation and **Sections 4.8 and 4.15** regarding with-project traffic level of service. With the implementation of mitigation provided in **Section 5.0** all traffic impacts would be less than significant.

RESPONSE PH93-5

Please refer to **General Response 3.14.1** regarding emergency preparedness.

RESPONSE PH93-6

Please refer to **General Response 3.12.1** regarding ferry service to the project site.

RESPONSE PH93-7

Refer to **Response 107-4** regarding the provision and use of potable water at the project site.

Refer to **General Response 3.6.2** regarding impacts to off-site municipal wastewater conveyance and treatment systems.

RESPONSE PH93-8

Cumulative effects are discussed in **Section 4.15** of the Draft EIS/EIR. Contrary to the assertions of the commenter, foreseeable development projects, including existing and proposed tribal casinos in the greater East Bay Area, have been considered in combination with the Proposed Project to analyze cumulatively considerable environmental impacts. Mitigation for cumulative impacts is provided throughout **Section 5.0** of the Draft EIS/EIR.

RESPONSE PH93-9

The referenced General Plan Update has not been adopted by the City. Please refer to **General Response 3.13.1** and **Response I107-7** regarding the General Plan.

RESPONSE PH93-10

Please refer to **General Response 3.17** as well as **Response I4-8** through **I4-12** regarding the analysis of impacts to the aesthetic character of the project site.

RESPONSE PH93-11

It is not clear from the commenter's statements what "Option 2" is referring to. The Proposed Project is subject to the 1994 General Plan, as amended, since the General Plan Update has not been adopted. Please refer to **Response I197-4** regarding the General Plan Update and the land use designation options.