

POINT MOLATE
MIXED-USE TRIBAL DESTINATION
RESORT AND CASINO

ERRATA TO FINAL EIR

March 2011



LEAD AGENCY:
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The following minor clarifications, technical corrections and revisions are proposed for the Final EIR.

Erratum 1 – Project Phasing

For purposes of conducting the analysis of environmental impacts, the Final EIR assumes that the entire Proposed Project would be constructed in a single phase. This approach is customary under CEQA when final plans for project phasing are unknown at the time of approval because it is generally thought to be more conservative to assume that all impacts will occur up front. It also is more protective because mitigation occurs earlier.

Although the Final EIR assumed the entire Proposed Project would be constructed in a single phase, it is acknowledged that construction may occur in phases and it is possible that later phases may be delayed. Commencement of construction of the first phase will not occur until final designs have been implemented and all necessary entitlements secured. The definition of “Project” in the LDA describes “Phase 1” as meaning “the first hotel and casino complex to be built on the Property, and including the shoreline parks, pier improvements and Phase 1 parking facilities.” As a condition to closing, Developer and the Tribe must submit evidence demonstrating the availability of adequate funds to complete the entitlement, acquisition, remediation, and construction of Phase 1 of the Proposed Project. (LDA, at 2.9). To recognize this potential for phased development, the last sentence of the first paragraph on page 2-2 of the Final EIR (Volume II) shall be revised as follows:

If constructed in a single phase, Alternatives A – D and B1 would be constructed over what the Project Proponent has estimated as a 36 month period, following a design and entitlement period, whereas Alternative E ~~would~~could be completed in roughly 12 months following design, but only if funding became available from a source other than the Project Proponent. Under the LDA, prior to closing, Developer and the Tribe must demonstrate adequate financing for Phase 1, which is defined as “the first hotel and casino complex to be built on the Property, and including the shoreline parks, pier improvements and Phase 1 parking facilities.” It is possible that the Proposed Project, or any of the Alternatives, will be constructed in phases. It is also possible that the Proposed Project, or any Alternative, are not constructed at all. For purposes of this environmental analysis, it is assumed that the Proposed Project will be constructed in a single phase, which conservatively assumes the greatest impacts. The only exceptions would be the impacts related to continued deterioration of the historic structures and impacts related to potential expansion of invasive exotic plant species and continued degradation of native habitat.

The Proposed Project has been proposed as a single cohesive destination resort that will include the adaptive reuse of several of the buildings in the Winehaven Historic District. Mitigation Measure 5-1 requires the implementation of several steps to minimize impacts to historic resources, including the rehabilitation of all retained

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contributing elements to the Winehaven Historic District. In order to ensure that buildings do not fall into further disrepair if later phases are delayed, Mitigation Measure 5-1.c shall be revised as follows:

“c. All retained contributing elements of the Historic District shall be rehabilitated in keeping with the Secretary of the Interior’s Standards and Guidelines for the Treatment of Historic Properties and Design Guidelines for the Project that include preservation regulations of the City of Richmond. During any delay after approval of the Project and commencement of construction for rehabilitation of portions of the Project within the Historic District, the Project Proponent shall immediately stabilize, protect and maintain contributing elements in a manner that is consistent with the Secretary of the Interior’s Standards and approved by SHPO.”

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Erratum 2 – Increase in Demand for Vacant Housing

Section 4.7.3 of the Final EIR (Volume II) identifies as a beneficial impact the increase in demand for existing vacant housing. It should be noted that the data included in the Final EIR is based on vacancy rates from 2001 – 2006, a strong period for the housing market and prior to the massive foreclosures impacting the City and region. Thus, vacancy rates in Richmond today are actually higher than those assumed in the Final EIR and the conclusion that adequate housing exists to accommodate new residents is supported based on current conditions. It is acknowledged that the City's housing inventory and the housing market are always in flux and it is possible that vacancy rates will be lower at the time the Project opens than they are in 2011. However, because the Final EIR conservatively used data from a strong housing market, the beneficial impact conclusion is reasonable. In order to clarify this issue, the following paragraph found at Volume II, page 4.7-10 shall be revised as follows:

The 2006 County housing market consisted of 389,134 units, of which 7.7 percent (29,763 units) were vacant (**Section 3.7**). Since 1990, the total number of units in the County housing market has increased by about one and half percent per year and the vacancy rate has increased by about 5.5 percent per year. Based on County housing market data from 2001 to 2006, the 2012 County housing market was projected by calculating the average annual growth rate and utilizing the future valuation method. The 2012 County housing market was projected to have a total of 421,152 units, of which 4.7 percent (19,934 units) would be vacant (**Appendix T; Table 4.7-7**). The impact of Alternative A on the 2012 County housing market is demonstrated by evaluating the availability of 19,934 dwellings to the demand for 569 dwellings. The comparison of these values indicates that available housing could easily fulfill demand and Alternative A would not require new housing to be built. This effect would result in a slight (0.1 percent) decrease in the vacancy rate of the 2012 County housing market, which would not be a large enough change to affect housing prices (**Table 4.7-7**). On the other hand, the ABAG Regional Housing Needs Assessment (RHNA) for Richmond projected a need for 2,826 new units by 2014, approximately the earliest time that the Project could be expected to go into operation. The ABAG RHNA projections did not take into account the employment projections specific to this Project. It should be noted that the vacancy rate analysis does not account for the foreclosure crisis since 2006, which has resulted in greater vacancy rates and more availability of housing. Projecting housing inventory and vacancy rates inherently requires a degree of forecasting. With the current high vacancy rates, it is reasonable to conclude that the existing housing inventory will be able to accommodate the increased demand. However, if there is a substantial improvement in the housing market, there is the possibility that Alternative A would increase housing demand and that the existing housing inventory could not accommodate the increased demand. At this time, it would be speculative to forecast such a substantial improvement in the housing market.

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Erratum 3 – Traffic Impacts

In the interest of providing full information, the *Phased Transportation Study for Proposed Urban Casinos in West Contra Costa County* (Dowling, 2007) shall be included in full as part of the Final EIR in a new Appendix KK. To reflect this addition, the following changes will be made to the Final EIR.

Final EIR Volume II, at pg. 4.8-2 shall be revised as follows:

However, the ITE method does not have a standard trip generation rate that would apply to the gaming portion of the Proposed Project. The *Phased Transportation Study for Proposed Urban Casinos in West Contra Costa County* (Dowling, 2007) was considered during the development of a trip generation rate for the Project. ~~However, it was determined that the~~Because of a lack of reliable historical data for trip generation for a large urban casino combined with destination resort in the San Francisco Bay Area, predicting trip generation rates required the exercise of professional judgment on the part of the traffic engineer. The traffic engineer considered the Dowling study, but disagreed with the way in which it did not characterized some of the trip generation projections for the Proposed Project. in a correct manner and is predicated on a number of inaccurate assumptions (refer to Section 3.12.2 of Final EIR Volume I). In the interest of providing full disclosure, the Dowling study is included as Appendix KK. While predicting traffic impacts always involves a degree of forecasting and hence uncertainty, due to the lack of historical data for a similar casino and destination resort in the Bay Area, it is recognized that there is more uncertainty relating to the conclusions in the traffic analysis than there is with traffic analysis for a more traditional project. Despite this uncertainty, the traffic analysis represents a good faith and reasonable effort to understand the traffic impacts of the Proposed Project. ThereforeIn order to estimate traffic related to the Proposed Project, data was collected from several existing and proposed Indian gaming facilities, which are listed in the TIA, included as Appendix S. The existing and proposed facilities were chosen due to some similarities to the Proposed Project, but, due to the unique nature of the Proposed Project, none were comparable in every sense. While the approach is reasonable because it is based upon what is the best available information at this time, it is recognized that there is some uncertainty relating to the trip generation rates.

All trips calculated by the above mentioned ITE method are not necessarily new trips; some are pre-existing trips that are diverted to the casino. As documented in the STIA (**Appendix S**), it was determined that 15 percent pass-by diverted link, 15 percent traffic demand management (TDM), and 15 percent ferry trip reduction should be used as reductions to account for trips not originally destined for the project site or patrons/employee using public transit. A 70 percent internal trip reduction was used for the project hotels, and a 50 percent internal trip reduction

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was used for retail uses. Internal trip reduction is for patrons who come to the casino and visit other amenities provided on the property, such as the hotel or retail outlets. A retail pass-by diverted link trip reduction of 28.3 was used for Alternative A, 28 percent for Alternative B, 62 percent for Alternative C, and 39 percent for Alternative D. Trip generation is discussed further in the TIA provided in **Appendix S**. As with the trip generation rates, due to the unique nature of the Proposed Project, it is recognized that there is uncertainty regarding these trip reduction assumptions. If the trip generation or reduction assumptions are incorrect, traffic impacts could be worse. While experts may reasonably differ in their analysis, these trip generation rates and reductions represent good faith and reasonable assumptions by the traffic engineer.

Final EIR Volume I, at pg. 3-31 shall be revised as follows:

Response: The Dowling (2007) study was reviewed by the engineers that prepared the transportation analyses presented in the Draft EIS/EIR and Final EIR. A reference to the study has been added to **Section 4.8** of the Final EIR and the study has been included in its entirety as a new **Appendix KK**. The Dowling (2007) study is a report detailing predictions regarding transportation impacts in the event that three tribal casinos operated in the greater Richmond area. As such-discussed-below, it is recognized that there are disagreements among transportation engineers, and in this case the traffic engineer who prepared the Traffic Impact Analysis for the EIR found that careful review of application of the findings of the Dowling (2007) study indicates that application of its findings' to the present analysis would be inappropriate and misleading. If the Dowling study is accurate, the findings of the FEIR could be understated. Nonetheless, even if the Dowling study came to different conclusions, substantial evidence supports the approach and findings in the FEIR.

The following additional traffic Mitigation Measures shall be added as follows:

7-26 Working with the City and West Contra Costa Transportation Advisory Committee ("WCCTAC"), the Tribe shall monitor the Project's trip generation and traffic impacts over time. If the actual trip generation is more than the trip generation forecasted in the EIR, the Tribe shall have a traffic study conducted by a consultant approved by the City to reanalyze impacts, and determine if additional mitigations are needed. Once built out, if the actual trip generation is less than the EIR trip generation, the Tribe shall be given commensurate credits to account for any overpayment.

7-27 To the extent the agencies that make up the West Contra Costa Transportation Advisory Committee, including the City of Richmond and Contra Costa Transportation Authority, develop "Principles of Agreement" or any other similar agreement, the Tribe shall work cooperatively with such agencies, including to develop specific

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actions, timing, and responsibilities for monitoring impacts and for implementing mitigation measures on Regional Routes for inclusion in the MMRP and any additional legal instruments that may be needed to ensure enforceability.

Final EIR Volume II, at page 5-38 shall be revised as follows:

CUMULATIVE YEAR

Completion of the following traffic improvements would result in all study intersections operating at an acceptable LOS for Alternatives A, B, C, D, and B1. Table 5-6 shows the resulting mitigated LOS and unmitigated LOS for intersections that are affected by implementation of all alternatives. Table 5-7 shows the Tribe's fair share contribution for Mitigation Measures 7-8 through 7-17 as calculated using Caltrans' fair share contribution methodology. This would be the expected fair share contribution; however, the share could be adjusted in the future. For sake of clarity, the cost of a mitigation measure for the Project is not eligible to be used as a Subregional Transportation Mitigation Fee Program credit, even if the mitigation is outside of Richmond's jurisdiction, as STMP credits should be provided only for the cost of STMP-related improvements that go above and beyond what is required for a local approval.

The following clarification regarding use of the ferry service shall be made at Final EIR Volume I, page 3-30:

Section 2.14 of the Transportation Impact Analysis (TIA) states there are 27 round trips throughout the day from Vallejo to San Francisco. ~~It is conservatively~~ The FEIR estimated that ferries on the route to Point Molate are at half capacity (refer to **Appendix S**, Blue and Gold Fleet letter). Using a 400 passenger ferry, there would be approximately 200 seats per trip available for patrons to the project site, or 27 trips multiplied by 200 passengers (5,400 passenger trips daily). While the TIA and information provided by the Blue and Gold Fleet service provider indicate that there is capacity for up to 5,000+ daily passenger trips to Point Molate are within reason, a more conservative estimate was used in the Draft EIS/EIR that assumes 15 percent (approximately 3,000 trips), of average daily trips to the site would be made by ferry. It is recognized that projecting ferry use to access the casino project presents challenges due to the lack of data for similar large destination resorts accessible by ferry. While recognizing this uncertainty, the estimate that 15 percent of the average daily trips to the site (approximately 3,000) would be by ferry represents the traffic engineer's reasoned, good faith projection of ferry ridership. While the Blue and Gold Fleet indicated that this increased capacity could be served with minimal new equipment purchases and described transporting people to the site by ferry as a "tremendous opportunity," given the uncertainty with ferry ridership, subsidies or other

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incentives may be required to achieve the 3,000 daily trips. A new Mitigation Measure 7-28 has been included to help insure that 15 percent of visitors and employees arrive by ferry.

The following additional traffic Mitigation Measure shall be added as follows:

7-28 The Tribe shall pay for studies to monitor ferry use by visitors and employees to the Project and submit results to the City and ferry service providers. If after the first year fewer than 15 percent of visitors and employees arrive to the Project by ferry, the Tribe shall work with the ferry service providers to implement an incentive program to meet the 15 percent. The incentive program may include items such as fare subsidies, altered schedules, an information awareness program, or other programs designed to increase ridership. Within two years of commencing operations, at least 15 percent of visitors/employees shall arrive by ferry.

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Erratum 4 – Historic Resources

For the sake of clarity, the term “Winehaven building” and “Main Winehaven building” shall be replaced by “Winehaven Building No. 1” throughout the document. Winehaven is the name of the historic district, not a specific building.

The language in Final EIR Volume II, Section 4.6.1, page 4.6-3 shall be modified as follows:

The Winehaven Historic District (CA-CCO-422H), which covers approximately 67 acres of the project site, encompasses a significant portion of land proposed for development. As depicted in **Figure 4.6-1**, Building No. 6 would be ~~directly impacted by the proposed construction.~~ Specifically, ~~historic Building No. 6 would be demolished to accommodate the development of the casino, hotel, retail, and entertainment facilities.~~ The demolition of Building No. 6 This would be a *significant impact* and mitigation is proposed in **Section 5.2.5**.

Not only is the removal of Building 6 a significant impact, but because it represents approximately one-third of the total building area in the historic district and is the first and oldest wine processing building, it could result in the de-listing of the entire Winehaven Historic District. In the event that the demolition of Building No. 6 were to cause the de-listing of the entire Winehaven Historic District, it is possible that other buildings may further deteriorate or be modified in ways that do not preserve their historic characteristics, although such an impact could be mitigated by Mitigation Measure 5-1.

The first sentence under the heading “5.2.5 Cultural Resources” on page 5-30 shall be revised as follows:

The following mitigation measures are proposed to reduce ~~or eliminate~~ impacts to cultural resources.

- 5-1** For Alternatives A, B, C, D, and B1, a Programmatic Agreement (PA) shall be developed that addresses impacts from construction of the project and that provides for long-term treatment and maintenance of historic properties/historical resources located within the project site. Although requirements of Mitigation Measure 5-1 will reduce impacts to cultural resources, the removal of Building 6 and introduction of new buildings in the Historic District will remain significant and unavoidable impacts.

The fourth paragraph on page 3-7 in Final EIR Volume I shall be revised as follows:

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Thus, Alternative B1 ~~would~~ could result in ~~substantial~~ additional costs without resulting in any additional revenues to offset these costs. The precise amount of additional costs, as well as the amount of revenue that can be derived from adaptively reusing Alternative B1, depends on what use is programmed for Building 6. NonethelessIn any event, Alternative B1 is considered a potentially feasible alternative for the purposes of CEQA analysis. While profits resulting from one particular programmed use may be ~~would clearly be~~ diminished, the project proponent has not indicated that the development of Alternative B1 would be unprofitable overall or otherwise infeasible. Furthermore, as suggested by some commenters, the reuse of Building No. 6 may be important to the public and political acceptance of the development of the project site. Thus, while implementation Alternative B1 may not be the first choice of the project proponent, based on information available, it is considered a potentially feasible alternative that has been included in the Final EIR. ~~However, whether Alternative B1 can ultimately be accomplished in a successful manner will depend on the final costs of restoration and whether the proposed uses (retail / restaurant uses) can successfully be implemented in a rehabilitated Building No. 6. The discussion above outlines these challenges. Although~~ The project proponent has made no commitment regarding whether it can ~~is feasible or is willing to carry out Alternative B1, the Final EIR considers Alternative B1 to be a feasible alternative.~~

See Response I29-22, page 4-112, where the FEIR states:

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 5-1 for a discussion of the process by which key design elements will be finalized to ensure the unique historic character of the Winehaven Historic District is preserved.

The Standards provide only very general guidance in the review of new construction within an existing historic context. Specifically, Standard 9 states, "new additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."

There are fair arguments among preservation professionals on what constitutes appropriate design within a historic district, but it is likely that those same professionals would largely agree that a high-rise 1,500 room hotel immediately adjacent to modest contributing structures (one of the largest having been demolished to make way for the

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hotel) would not be “compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.”

Contrary to Response I29-22, the FEIR recognizes the significant and unavoidable impacts of both removing Building 6 and introducing new construction within the district that “could diminish the integrity of the property’s character-defining features” (EI No. 4.6.1, 4.6.4, 4.6.8, 4.6.11, 4.5.15, 4.6.18, 4.6.22 and 4.6.26).

EI No. 4.6.35 describes a significant and unavoidable impact of demolition by neglect, which is illegal under Richmond Municipal Code Chapter 6.06. The cost of stabilization is much less than full rehabilitation and should be estimated and quantified in the FEIR.

The third paragraph on page 4-112 of Final EIR Volume I shall be revised as follows:

In response to t~~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.~~ it should be noted that T~~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 that impacts to the unique historic character of the Winehaven Historic District may be reduced is preserved. It is recognized that the Standards provide general guidance in the review of new construction within an existing historic context and that specific measures will be determined as the Project is designed. It is also not clear that all Standards could be accomplished. For example, Standard 9 states, “new additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.” While preservation professionals may disagree on what constitutes appropriate design, it is likely that a high-rise 1,500 room hotel immediately adjacent to modest contributing structures (one of the largest having been demolished to make way for the hotel) would not be “compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.” Although **Mitigation Measure 5-2** will reduce impacts to the Historic District, removing Building 6 or introducing new construction within the district will diminish the integrity of the district’s character-defining features and are considered significant and unavoidable impacts. Further, in response to this commenter as well as other commenters, a new Alternative B1 has been added that will preserve Building 6 but will not mitigate the impacts of new construction that is not “compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.”~~

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Erratum 5 – Tax Credits for Historic Preservation

The Final EIR indicates that tax credits under the Federal Historic Preservation Incentives Program would not be available for the Proposed Project because the project site would be held in trust by the United States Government. (Final EIR, Volume I, page 4-111). While tax credits are likely not possible under federal government ownership of the land in trust for the Tribe, leasehold arrangements could potentially be structured with for-profit entities that might meet the criteria for the tax incentives program. To clarify this issue, response I29-16 on page 4-111 of the Final EIR (Volume I) shall be revised as follows:

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.~~ As for the tax credits cited by the commenter, it may be possible for leasehold arrangements to be structured with for-profit entities that might meet the criteria for the tax incentives program. However, the Tribe has not indicated an intent to rely on such credits for its financing plan.

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Erratum 6 – Areas of Controversy

In Volume II, page x, two new paragraphs shall be added immediately preceding the title “ES.5 Summary Matrix” as follows:

In addition to these areas of controversy raised during the scoping period, it should be noted that an advisory vote on Measure U was held in November 2010 regarding whether the project site should be developed with a casino use. According to the vote results, 41.7% of the voters supported a project including a casino at Point Molate, while 58.3% voted against the casino. Although the ballot measure was not directed towards environmental impacts of the EIR, but rather the proposed project as a whole, the vote may indicate that the project itself is controversial within the community. Copies of the certified results for Measure U are included as **Appendix LL**.

Next to Ballot Measure U, the greatest area of controversy was failure to include in the project and/or mitigation measures closure of the Bay Trail gap between the community and the project as needed to mitigate air quality and traffic impacts of the project and its alternatives. This subject was the focus of more comments than any other bearing on impacts of the project. Commenters on this topic included, but were not limited to, West Contra Costa Transportation Advisory Committee, Association of Bay Area Governments Bay Trail Project, East Bay Regional Park District, Trails for Richmond Action Committee, East Bay Bicycle Coalition and more than 40 other organizations and individuals.

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Erratum 7 – No “Preferred Alternative” Under CEQA

The Draft EIR/EIS indicated that a “Preferred Alternative” would be identified in the final document. The requirement to identify a “Preferred Alternative” arises under NEPA, not CEQA. As such, the Final EIR does not identify a “Preferred Alternative.” Accordingly, Volume II, page 1-7, last paragraph, should be revised as follows:

An analysis of a reasonable range of alternatives to the Proposed Project is provided in this document, as required by CEQA. ~~A Preferred Alternative will be identified in the Final EIR after a thorough review of the environmental impacts associated with each alternative, the potential for each alternative to satisfy the purpose and need (**Section 1.4**), and public comments on the Draft EIS/EIR.~~ Further details of the Proposed Project are provided in **Section 2.0** of this Final EIR.

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Erratum 8 – Sustainability

Mitigation Measure 3-19(h) on page 5-11 (Final EIR, Volume II) shall be revised as follows:

h. Purchase Criteria and GHG emissions credits (a valid credit must be real, quantifiable, permanent, and enforceable) in the amount specified in Tables 5-1A, 5-1B, and 5-2. To the extent that opportunities are available, projects that provide for purchase of credits for greenhouse gas emissions or implementation of projects that offset greenhouse gas emission shall be located in the City of Richmond.

Response I29-4 in Volume I, page 4-105 shall be revised as follows:

RESPONSE I29-4

In addition to implementing various design features to minimize greenhouse gas emissions, Mitigation Measure 3-19(h) requires that Developer purchase greenhouse gas emissions credits that are real, quantifiable, permanent and enforceable in an amount that reduces both construction and operational emissions to less than 1,100 metric tons / year, the applicable threshold of significance. As a result, pursuant to BAAQMD Guidelines on greenhouse gas emissions (which are the most stringent in the state) the Project's impacts to climate change are less than significant. 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 Project shall be certified to meet or exceed U.S. Green Building Council Standards 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." Because the Project's greenhouse gas emissions, as mitigated, would be less than significant, no further mitigation related to greenhouse gas emissions is required under CEQA.

Although the Project Proponent has represented that the Project will be a superior model of sustainability, the Project Proponent has only agreed to seek LEED certification, the lowest level of LEED and less than the LEED Silver required for City-funded projects. The Richmond Civic Center is a LEED Gold certified project. Particularly with the CalGreen Code now in place, obtaining LEED certification, or its equivalent, has become more common. Because LEED certification is not out of the ordinary, in order to ensure the Final EIR is not misleading in this respect, the description of Green Building and

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Energy Efficient Design Components on pages 2-2 to 2-3 in Volume II shall be revised as follows:

~~Within the Bay Area, the Proposed Project would be a highly visible model of energy efficiency.~~ The development alternatives incorporate a host of water and energy conservation measures, some of which ~~that~~ go beyond standard building practices typically used on mixed-use developments. Renewable energy sources such as photovoltaic panels are included in the project design that may significantly decrease the project site's reliance on the off-site energy sources. Efficient Lemnis lighting systems would be used for exterior lighting on the project site, and new construction will orient and design buildings to take advantage of natural light during the day to further reduce energy consumption. Other design components that emphasize energy efficiency include the use of solar hot water heaters and photovoltaic panels in residential units (Alternatives B, D, and B1), installation of a keycard system in all hotel rooms that permit the use of electricity only when guests are present, and maintenance of a "performance dashboard" in the central operations facility to monitor energy demand on-site.

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Erratum 9 – Environmental Tobacco Smoke

The following paragraph shall be inserted at page 4.4-5 (Final EIR, Volume II) following the first paragraph under the heading “Indoor Air Quality Impacts”:

A 2009 report prepared by the U.S. Department of Health and Human Services, National Institute for Occupational Safety and Health (“NIOSH”) found that casino dealers are exposed to ETS in the workplace and were observed to absorb ETS-specific components into their bodies. Exposed casino dealers reported a higher prevalence of respiratory symptoms than did unexposed workers, but the results were not statistically significant. The report concluded that the best way to eliminate exposure to ETS is to ban all smoking in casinos. Achutan, West, Mueller, Boudreau, and Mead, *Environmental and Biological Assessment of Environmental Tobacco Smoke Exposure Among Casino Dealers*, NIOSH (May 2009).

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Secondhand Smoke*, concluded that 100% smokefree workplace policies are the only effective way to eliminate secondhand smoke exposure in the workplace. Even sophisticated ventilation systems do not eliminate the health hazards of secondhand smoke (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006()). Casino, bar, and restaurant workers remain significantly more exposed to toxic secondhand smoke in their jobsite compared to other segments of the U.S. workforce.

Ventilation and air filtration systems do not protect workers or patrons from exposure to secondhand smoke. These systems can reduce odor, but not the health hazards. The U.S. Surgeon General determined that there is no "risk-free level of exposure to secondhand smoke." Separating smokers from nonsmokers, installing smoking rooms, or even sophisticated air cleaning technologies cannot eliminate the health hazards of secondhand smoke exposure nor remove all the poisons, toxins, gases, and particles found in secondhand smoke. Additionally, heating, ventilation, and air conditioning systems can distribute secondhand smoke throughout a building (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006).

The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) position document states: "At present, the only

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means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity... No other engineering approaches, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS exposure in spaces where smoking occurs... Because of ASHRAE's mission to act for the benefit of the public, it encourages elimination of smoking in the indoor environment as the optimal way to minimize ETS exposure." (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," *American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)*, [2005?]). Additionally, ASHRAE does not specify ventilation rates or procedures for smoke-filled hospitality venues.

Mitigation Measure 3-45 at Final EIR, Volume II, page 5-21 shall be revised as follows:

3-45 Smoking may be permitted in designated areas, provided that (i) the ventilation systems in the Project conform to LEED EQ Prerequisite 2, Option 2, and (ii) a health risk assessment is conducted that demonstrates that as a result of the ventilation system, among non-smokers, there will be less than 10 excess cancer cases per million people. The Tribe shall ensure that ventilation of air is consistent with ASHRAE Standard 62-1999 under all operating conditions.

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Erratum 10 – Biological Resources

The Regulatory Setting section for Biological Resources in Volume II, Section 3.5.2 shall be amended to reference applicable sections of the Municipal Code as follows.

City of Richmond Municipal Code

Section 8.16.080 – Very high fire hazard severity zones

Code Section 8.16.080(b) requires that properties within specified very high fire hazard severity zones implement vegetation management practices in accordance with City standards to minimize fire safety risks.

Chapter 9.50 – Weed and Rubbish Abatement

Chapter 9.50 requires that “weeds,” defined to include invasive exotic species, are managed in such a manner that they do not constitute a public nuisance.

Mitigation Measure 4-9 requiring a Vegetation Management Plan shall be clarified to apply to the entire site, including open space areas. It is acknowledged that invasive exotic plant species currently exist in large numbers on substantial portions of the site and that such “weed” must be managed in accordance with Chapter 9.50 such that they do not constitute a public nuisance. The first sentence of Mitigation Measure 4-9 at Volume II, page 5-26 shall be revised as follows:

4-9 To assure that the suggested habitat mitigation is implemented and achieved, a comprehensive Vegetation Management Plan (VMP) for the entire site, including the hillside open space areas and other areas outside the main Project area, shall be prepared within 90 days by a qualified and regionally affiliated vegetation ecologist/restoration specialist and peer reviewed by other qualified experts and that implementation will begin immediately and will proceed progressively with a schedule that will result in all weeds (including invasive exotics) being abated in a manner consistent with Richmond Municipal Code Chapter 9.50 within a five-year period.

The project description of the parkland and recreation area at Volume II, page 2-27 shall be revised as follows:

PARKLAND AND RECREATION

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

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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 and in conformance with the Vegetation Management Plan described in Mitigation Measure 4-9. Open space areas would be maintained primarily in their existing natural state, as maintained pursuant to the Vegetation and Management Plan, 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.

The last paragraph within General Response 3.9.2 in on page 3-19 of Final EIR Volume I shall be revised as follows:

Additional botanical surveys have been conducted on the site since the publication of the Draft EIS/EIR. In response to comments relative to the classification of grasslands identified in the EIR, and the need for additional baseline information for the EIR-required restoration plan that will be developed once the proposed project moves forward, follow up field surveys and analyses at Point Molate were conducted in May and July 2010. These surveys have shown that current conditions on the site are similar to the conditions reported in the Draft EIS/EIR. These studies resulted in two supplemental reports: Analytical Environmental Service (2010a) *Biological Report of Findings for the Point Molate Mixed-Use Tribal Destination Resort and Casino Project, Sacramento, CA, July, 2010* and Analytical Environmental Services (2010b) *Supplemental Habitat Analysis for the Point Molate Mixed-Use Tribal Destination Resort and Casino Project, Sacramento, CA, August, 2010.* Copies of both reports are attached as **Appendix MM.** These reports exhibit qualitative and quantitative supplemental information on the existing habitats previously identified in the EIR for Point Molate. For example, the reports further define the grassland habitat classification presented in the EIR to include a subset of grasslands called Coastal Prairie. This subset contains a higher number of native grassland species than surrounding grassland areas. The definition of Coastal Prairie used in these reports was based on recent research in grassland classification, and utilized native species composition and ubiquity in sample plots rather than overall percent cover which was the primary tool used in the EIR. Indeed, all grassland areas sampled for the two follow-up studies, even those areas considered Coastal Prairie, confirmed that upwards of 60 percent of the cover or greater was non-native annual grassland species, which would lead in most cases to an overall classification of non-native annual grassland as originally presented in the EIR. The supplemental reports further identify the Coastal Prairie subset of grasslands as those areas with the highest preservation and restoration value. The best examples of Coastal Prairie grassland are outside of the proposed project's areas of

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impact and therefore will be prime areas targeted for the restoration planning effort. For informational purposes and to further aid in identifying areas that have higher potential for restoring the former natural diversity and character of the site through the development of a comprehensive restoration and management plan, the two reports identify observed locations of locally significant plant species. The two studies together reflect a better understanding of the existing breadth of native species present on the site which will lead to more refined restoration effort that is based on this understanding of the native plant composition of the identified habits reflected in the EIR. The restoration planning efforts may include interpretative signage and trails so that the best examples of remnant native plant communities observed onsite can be avoided, preserved, and/or restored in this follow up restoration effort required as mitigation for project impacts. The surveys cited in the Draft EIS/EIR as well as recent surveys will be utilized in the development of the VMP and will be considered as applicable to permits/approvals requiring an accounting of impacts to vegetation or habitat.

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Erratum 11 – Wastewater

As described in the Final EIR, the wastewater collection system and treatment plant operated by Richmond Wastewater District No. 1 are presently at over capacity during the wet weather load. Some improvements have been funded and are progressively being implemented, although the timing of further necessary improvements is uncertain.

There is some indication that the system may be close to the end of its useful life and will require replacement or major rehabilitation in the foreseeable future beyond what is currently scheduled and funded. The state of the wastewater system results from its age and incremental population growth and is part of the baseline conditions. As the City of Richmond continues to grow, substantial capital expenditures will likely be required to upgrade the wastewater conveyance and treatment system. If substantial upgrades are required, the Project must pay its pro-rata allocation of costs based on proportional use.

The last paragraph on page 4.10-4 (Final EIR Volume II) shall be revised as follows:

According to the existing City of Richmond General Plan (1994) and supporting documents of the current draft update of the General Plan, the City recognizes that the sewage collection system is aged and requires capital expenditures to increase capacity to provide for existing needs and future development. **Table 4.10-1** provides a breakdown of capital expenditures estimated as of 2006 to complete necessary improvements to the RMSD collection and treatment systems. As identified in the **Table 4.10-1**, an I&I Rehabilitation Program is recommended to increase available capacity at the RMSD WWTP during wet weather events. The City has since undertaken, and continues to undertake, several sewer system improvement projects, including projects contemplated in Table 4.10-1.

Mitigation Measure 9-3 at Volume II, page 5-44 shall be revised as follows:

9-3 The Tribe shall apply to connect to the Richmond Municipal Sewer District (RMSD) for conveyance and treatment of wastewater generated at the project site. In accordance with the application procedure, the Tribe shall pay its fair share for incremental improvements to the system that are necessary to serve the Project, ~~if necessary, consistent with typical commercial requests for service, to fund~~ This may include upgrades to the conveyance system to reduce existing rates of infiltration and inflow and improvements to the treatment plant to such an extent as to provide adequate conveyance and treatment capacity for the selected alternative's peak day wastewater generation rate. The Tribe shall also fund whatever studies are necessary to determine necessary upgrades, with said studies to be conducted by the City of Richmond.

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Erratum 12 – Bay Trail

The last paragraph on page 3.10-17 (Final EIR Volume II) shall be revised as follows:

The existing Bay Trail within the City runs along the southern shoreline from Point Isabel through Marina Bay, turning inland at Garrard Avenue and running north along Richmond Parkway. Separated sections are established along Keller Beach and Seacliff Drive to the South and around a section of the West County Landfill to the North. An easement has been ~~provided~~ committed but not yet granted or located through Chevron property, creating the potential for a future trail spur from Marine Street and Tewksbury under Interstate 580 (I-580) connecting with Western Drive (City of Richmond 2008b). A 2001 Baseline Feasibility Study of Bay Trail Routes to the Point San Pablo Peninsula was created to plan for the future Bay Trail spur. In 2005 the Bay Trail Gap Study Analysis evaluated the current gaps along the trail system, these segments were then numbered and designated a priority level, for which planning and construction is based. The Proposed Project is located within segments 5038 and 5040 of the Gap Study. Segment 5038 is defined as a short-term, Class I project with a distance of 1,425 feet. The 5038 Segment is characterized as an eight on the beneficial scale, determining that the segment holds a high value of shoreline exposure and continuity with existing or planned segments (ABAG, 2005). Segment 5040 is noted as a Class I long-term project, encompassing 8,078 feet of trail with a benefit level of eight (ABAG, 2005). At this point, the potential future trail spur has not been funded or designed.

Mitigation Measure 3-20(i) at Final EIR Volume II, page 5-16 shall be revised as follows:

3-20(i) To the maximum extent permitted by applicable law, The Tribe shall assist in funding the improvements necessary to connect the Bay Trail south of I-580 to the proposed segment north of the freeway make a fair share contribution towards the cost of designing, permitting and building the planned San Francisco Bay Trail connection between the southern property boundary at Point Molate Beach and the bus stop at Castro Street and Tewksbury Avenue. “Fair share” shall be determined by assessing the reasonable relationship between the Proposed Project’s impact on traffic conditions and the extent to which completing this Bay Trail segment will relieve traffic congestion by providing an alternative means for accessing the project.

A new Mitigation Measure 7-20a shall be added at Final EIR Volume II, page 5-41 as follows:

7-20a To the maximum extent permitted by applicable law, the Tribe shall be required to make a fair share contribution towards the cost of designing, permitting and building the planned San Francisco Bay

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Trail connection between the southern property boundary at Point Molate Beach and the bus stop at Castro Street and Tewksbury Avenue. "Fair share" shall be determined by assessing the reasonable relationship between the Proposed Project's impact on traffic conditions and the extent to which completing this Bay Trail segment will relieve traffic congestion by providing an alternative means for accessing the project.

Erratum - Executive Summary, General Response to Comments Sec. 3.4 San Francisco Bay Trail on page 3.8:

The first sentence under the heading "3.4 San Francisco Bay Trail" on page 3-7 (Final EIR Volume I) shall be revised as follows:

Summary of Comments: Comments were received from West Contra Costa Transportation Advisory Committee, Association of Bay Area Governments Bay Trail Project, East Bay Regional Park District, Trails for Richmond Action Committee, East Bay Bicycle Coalition and more than 40 other organizations and individuals stating ~~Several of the comments received state~~ that the Proposed Project should be required to provide the funds to design, permit, and construct an approximately 2-mile segment of the San Francisco Bay Trail south of the project site to Point Richmond. In addition, some commenters suggest that such off-site improvements are required by the City of Richmond's General Plan.

The second paragraph in the "Response" section within "3.4 San Francisco Bay Trail" on page 3-7 (Final EIR Volume I) shall be revised as follows:

In November 2009, 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 south of the project site, 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. ~~In the absence of associated significant impacts, it is not the responsibility of the project proponents to complete the off-site segments of the Bay Trail, nor can the project proponents compel EBRPD to build the proposed segment.~~ Closure of the Bay Trail gap between the southern project boundary and the community is necessary to implement both air quality and traffic impacts of the Proposed Project and the Alternatives. This would be feasible once funds are secured given that Chevron has committed to provide the necessary trail easements and that the City of Richmond and East Bay Regional Park District each have started right of way and design studies, as well as made commitments to designing and building the necessary Bay Trail segments when funding is available. However, in light of these recent developments regarding the easement conveyance,

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Improvement Measure 7-20 has been added to the Final EIR clarifying requirements for bicycle and pedestrian access to the site from the existing path under I-580. The improvement measure provides for the construction of bicycle lanes and sidewalks along Western Drive to the project site if the Bay Trail segment north of I-580 is not in place at the commencement of operations at Point Molate. Alternatively, the bike lanes and sidewalks would not be built along Western Drive north of I-580 if the Bay Trail connection between the project site and I-580 is functional upon the beginning of operations.

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Erratum 13 – Socioeconomic Issues

Although CEQA does not require the discussion of social or economic issues that do not have indirect environmental impacts, such issues must be discussed under NEPA so the Draft EIR/EIS contained a discussion of socioeconomic impacts. The Final EIR included this discussion for informational purposes only. To further complete that discussion, the following studies are added by reference to the Final EIR for informational purposes:

- *Why Casinos are not Recession Proof: An Business Cycle Econometric Case Study of the Las Vegas Region*, Mark P. Legg, Oklahoma State University and Hugo Tang, Purdue University. (Attached)
- *Economic and Social Impact of Introducing Casino Gambling: A Review and Assessment of the Literature*, Alan Mallach, Federal Reserve Bank of Philadelphia, March 2010. (Attached)
- *Economic Impact of Foxwoods Casino*, Fredric H. Murphy, Fox School of Business and Management, Temple University. (Attached)
- *The Facts Are Clear*, Jerry Cassesi, Amador County Ledger-Dispatch, August 13, 2010. (Attached)
- *Gambling and Crime: Exploring the Link*, National Institute of Justice Study, 2004.
- 2007 National Money Laundering Strategy, Chapter 9, Casinos.
- *Casino San Pablo Public Health And EMS Impact Study*, August 1, 2005, prepared by Abaris Group for Contra Costa County.
- Breen, R.B. & Zimmerman, M. (2002). *Rapid Onset of Pathological Gambling In Machine Gamblers*. Journal of Gambling Studies, 18, 1.
- Breen, R.B. (2004). *Rapid Onset of Pathological Gambling in Machine Gamblers - A Replication*. International Journal of Mental Health and Addiction, 2(1).
- *Slot Machines: The Big Gamble – 60 Minutes*, January 2011, available at <http://www.cbsnews.com/stories/2011/01/07/60minutes/main7223329.shtml?tag=contentMain;contentBody>.
- *The Costs and Benefits of Gaming a Summary Report from the Literature Review*, Karen Hayward and Ronald Colman, Ph.D, GPI Atlantic, (September 2004).

PART 2

Supplemental Errata to Final EIR Prepared
for the Point Molate Mixed-Use Tribal
Destination Resort and Casino

Supplemental Errata to Final EIR Prepared for the Point Molate Mixed-Use Tribal Destination Resort and Casino

The following minor clarifications, technical corrections, and revisions are proposed for the Final EIR.

1. Socioeconomic Issues

The following citations are added to Section 8.0 References of the FEIR for informational purposes:

- *Casinos, Crime, & Community Costs*, by Earl L. Grinols and David B. Mustard, revised: September 2004.
- *Gambling in the Golden State 1998 Forward* By Charlene Wear Simmons, Ph.D., Assistant Director, California State Library, California Research Bureau

2. Quarry

Response I 104-50 in Section 4.0 of Volume I of the Final EIR shall be modified as follows:

Response I104-50

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. In regards to the potential for excess fill material to be contaminated, no soils related to the remediation of the site would be used in the on-site quarrying. As described in Section 2.0 of Volume I, only excavation materials produced during construction of the semi-subterranean parking structures and the Point Hotel Casitas would be used in the on-site quarrying. The locations of these structures are depicted on the respective site plan of Alternatives A, B, B1, and D. Mitigation Measure 11-1 calls for a hazardous materials inadvertent discovery plan (Plan) or an equivalent soil and groundwater management plan (SMP) that addresses inadvertent discovery of hazardous materials, shall be developed for the project prior to any grading or ground disturbing activities, including quarrying.

3. Cultural and Paleontological Resources

The following provision shall be added to the list of recommended provisions of the Design Guidelines included in Mitigation Measure 5-1”

- s. The cultural center and cultural exhibits located on site shall include a discussion of the relocation of any Winehaven Historic District buildings and identify the location of the old and new building sites.

4. Geology and Soils

Response I 104-55 in Section 4.0 of Volume I of the Final EIR shall be modified as follows:

Response I104-55

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

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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 and **Response I104-61** for information on the source of the assumptions used to calculate the amount of exported soil under each alternative.

5. Biological Resources

Mitigation Measure 4-5 in Section 5.2.4 of Volume II of the Final EIR shall be revised as follows:

- 4-5** Under the current project description of each alternative, ~~the~~ beach strand habitat on-site shall be is completely avoided to the maximum extent feasible. Replacement/restoration is not appropriate for this habitat type due to its inherent intrinsic value, role as habitat for plant and wildlife species (including special-status species), increasing threats by development, and its currently limited distribution within the region. ~~Under the current project description, total avoidance of beach strand habitat is accomplished.~~ To assure avoidance and avoid impacts to the beach strand habitat on-site (and Bay Conservation and Development Commission [BCDC] jurisdictional areas), the existing roadways shall be used to the degree feasible. Improvement of the existing roadways may be implemented as necessary, but no new roadways shall be built in the vicinity of the beach strand habitat on-site.

6. Transportation/Traffic

Response I 104-81 in Section 4.0 of Volume I of the Final EIR shall be modified as follows:

Response 104-81

Please refer to **General Responses 3.12.1, 3.12.2 and 3.12.4** and **Response A14-1** regarding trip generation rates and trip reductions, respectively.

General Response 3.12.2 shall be modified as follows:

It was determined, using Highway Capacity Software (HCS) consistent with Caltrans requirements using ~~Traffix~~ traffic modeling software, that project-related traffic would not degrade the level of service (LOS) on SR-4 below LOS D, nor would project-related traffic increase by two percent on any roadway segment that is currently operating below LOS D (refer to **Appendix HH** of the Final EIR).

General Response 3.12.2 shall be modified as follows:

With implementation of **Mitigation Measures 7-24 and 7-25** impacts to U.S. 101 Northbound On- and Off-Ramps at Sir Francis Drake Boulevard and Larkspur Landing Circle (Ferry Terminal) at Sir Francis Drake Boulevard would be *less-than-significant*.

7. Utilities and Public Services

Mitigation Measure 9-23 in Section 5.2.9 of Volume II of the Final EIR shall be revised as follows:

- 9-23** The Tribe shall purchase and install onsite fuel cells on the roof of the casino or parking garage, providing a source of clean alternative energy to the Proposed Project.

RESOLUTION NO. 19-11

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
CERTIFYING THE POINT MOLATE TRIBAL DESTINATION RESORT AND
CASINO PROJECT ENVIRONMENTAL IMPACT REPORT (STATE
CLEARINGHOUSE #2005032073)-FILE NO. PLN 08-089**

WHEREAS, in 2002, the City Council (the “Council”) of the City of Richmond (the “City”) certified a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) that analyzed the potentially significant environmental impacts of disposal and reuse of the Point Molate Naval Fuel Depot;

WHEREAS, in 2005 the Bureau of Indian Affairs (the “BIA”) and the City, acting as Lead Agencies, initiated the preparation of a joint EIS/EIR to analyze the environmental impacts of the Pt. Molate Mixed-Use Tribal Destination Resort and Casino (the “Proposed Project”).

WHEREAS, on March 15, 2005, the City filed a Notice of Preparation (the “NOP”) for the EIR with the California Office of Planning and Research (“OPR”) and distributed the NOP to public agencies and interested parties for a 30-day public review period that concluded on April 15, 2005;

WHEREAS, a public scoping meeting was held on March 31, 2005 to identify issues and areas of concern that should be analyzed in the EIS/EIR for the Proposed Project;

WHEREAS, a Notice of Completion of the Draft EIS/EIR was filed with OPR on July 10, 2009;

WHEREAS, the Draft EIS/EIR was circulated for a 105-day public review and comment period that concluded on October 23, 2009;

WHEREAS, on August 12, 2009, a public hearing was held before the City’s Design Review Board to receive comments on the Draft EIS/EIR;

WHEREAS, on September 8, 2009, another public hearing was held before the City’s Planning Commission to receive additional comments on the Draft EIS/EIR;

WHEREAS, on August 10 and 27, 2009, the City and BIA hosted two public workshops to provide the public two opportunities to discuss the analyses presented in the Draft EIS/EIR with the technical experts who prepared the analyses;

WHEREAS, the City received more than 400 written and verbal comments on the Draft EIS/EIR and has prepared written responses to all comments on environmental issues received during the public review and comment period;

WHEREAS, the community outreach process regarding alternative land uses for Pt. Molate provided for by the Sixth Amendment to the LDA between Upstream Pt. Molate LLC and the City dated May 18, 2010 was completed on December 7, 2010;

WHEREAS, the City and the BIA mutually determined that due to differing internal procedures and timelines, the environmental review process should be completed separately and the final documents bifurcated;

WHEREAS, on February 10, 2011, the Final EIR was published and made available to the public by providing hard copies at the Point Richmond branch library, Main Library, and Planning Division offices and a link to the document on the City’s website;

WHEREAS, on February 22, 2011 the City Council held a study session on the Final EIR;

WHEREAS, an errata to the Final EIR was prepared providing minor clarifications, technical corrections and revisions to the Final EIR;

WHEREAS, the Final EIR evaluated the potential environmental impacts that could result from the approval of the Project (and in particular focused on potentially significant impacts), analyzed a reasonable range of feasible alternatives to the Project and identified measures designed to mitigate or avoid the potentially significant impacts of the Project;

WHEREAS, where applicable, mitigation measures were identified to reduce those impacts to a less-than-significant level or to avoid those impacts, where feasible;

WHEREAS, the Final EIR was prepared, published, circulated and reviewed and completed in accordance with the requirements of CEQA, the CEQA Guidelines and the Richmond Municipal Code, and constitutes an adequate, accurate, objective and complete Final EIR in accordance with the requirements of CEQA, the CEQA Guidelines and the Richmond Municipal Code;

WHEREAS, the Final EIR reflects the independent judgment and analysis of the City Council;

WHEREAS, the Final EIR reflects the City's reasonable, good faith effort to disclose and evaluate environmental impacts of the Project, to identify and describe mitigation measures and alternatives, and to reasonably respond to comments on the Draft EIR;

WHEREAS, the Final EIR has been presented to the City Council and City Council has reviewed and considered the information contained therein and in the record supporting the Final EIR prior to making these findings;

WHEREAS, on March 8, 2011, the City Council held a public hearing to consider certification of the FEIR; and

WHEREAS, on March 8, 2011, the City Council, as Lead City Agency, has reviewed and considered the Final EIR in full compliance with State and City CEQA Guidelines.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Final Environmental Impact Report on the Point Molate Tribal Destination Resort was presented to the City Council and the City Council has reviewed and considered the information contained in the Final Environmental Impact Report on the Point Molate Tribal Destination Resort and Casino Project.

SECTION 2. The City Council certifies that the Final EIR was completed in full compliance with State law and City CEQA Guidelines, that there was adequate public review of the Draft EIR, that it has considered all comments on the Draft EIR and responses to comments and that the Final EIR adequately discusses all significant environmental issues.

SECTION 3. The Final EIR reflects the independent judgment and analysis of the City Council.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond, California at a special meeting thereof held March 8, 2011, by the following vote:

AYES: Councilmembers Beckles, Booze, Ritterman, and Rogers.

NOES: Mayor McLaughlin.

ABSTENTIONS: None.

ABSENT: Councilmember Bates and Vice Mayor Butt.

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

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

I certify that the foregoing is a true copy of **Resolution No. 19-11**, finally passed and adopted by the City Council of the City of Richmond at a special meeting held on March 8, 2011.