



Citizens for East Shore Parks

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April 30, 2020

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Melvin Willis

Laura Snideman, City Manager

Lina Velasco, Community Development Director

Pamela Christian, City Clerk

Subject: Point Molate Mixed-Use Development Project Draft DSEIR

Dear Mayor Butt, Vice Mayor Bates, Council Member Choi, Council Member Johnson,
Council Member Martinez, Council Member Myrick, Council Member Willis, City
Manager Snideman, Community Development Director Velasco and City Clerk
Christian:

Citizens for East Shore Parks (CESP) thanks you for extending the Pt. Molate
Mixed-Use Development Project Draft SEIR comment period to April 30. However,
because this is such an important land use decision affecting all present and future
residents, we remain deeply concerned that the proposed extension will not coincide
with the rescission of imposed restrictions related to the Covid-19 pandemic. Holding
the process during the time when stay-in-place restrictions are still in place is simply
wrong.

Everyone has the legally protected right to engage in a fully open public
participation process to hear and engage face-to-face with their elected representatives
and peers in dialogue about the matter at hand. We can't do that when the enforceable
restrictions on leaving our homes except for essential matters are in place. During this
time, this Council is also restricted from meeting except on those matters considered to
be essential. Yet, we find that you are continuing to meet with the Project's developers
in closed sessions that do not include adequate notice to the public about the scope of
those meetings. We are also aware that the Historic Preservation Commission (HPC)
has formed a subcommittee that meets with the developers to discuss such matters as the
height of buildings within the Project which are, at least in part, issues that are being
considered within the DSEIR process. Such meetings have come as a complete surprise
to the public as they have not been noticed so that the public can be informed as to the
content and extent of these discussions. We frankly do not know if the Project
description which may result from such meetings will be different from the one that is
found in the Draft DSEIR that is before us at this time.

Additionally, all of us, whether residents, City staff, or you as decision makers aren't free to fully focus on the complex and lengthy issues that must be reviewed concerning the Pt. Molate mixed-use project because of the over-riding and constant worry about children and families, jobs, keeping the doors open and running small businesses, whether there will be a pay check tomorrow, paying the rent or thinking about having to sleep in a car and even having enough food to eat.

In this atmosphere when the State of California is currently operating under a State of Emergency and engaged in an effort to contain the spread of COVID-19 and since the proposed mixed-use development at Pt. Molate is not essential business, we ask that the consideration of the DSEIR be postponed until the statewide shelter-in-place order has been rescinded. We make this request in concurrence with the March 22, 2020 League of California Cities' letter sent to Governor Newsom in which the complexity of CEQA is cited, including its various time lines requesting that certain statutory requirements be paused so that cities can devote the resources necessary to protect the health and safety of all Californians. If you elect to proceed with this process, we ask that you explain to the public the specific reasons why you have made the choice to continue the process under the present circumstances.

The Project description states that the Project will provide 70% open space. However, it is unclear whether the 70% claim includes that part of the Project which is underwater or spaces between buildings in the Project. The description must include the specific percentage of only the land that the Project proposes to use in separate segments as follows: 1) construction of housing and commercial/retail development outside of the Historic District; 2) two documents which indicate where housing, commercial and retail development is proposed within the Winehaven Historic District: one that indicates the precise boundaries of the current District, and the other that indicates the precise boundaries of the District that you are seeking to change, and 3) specific areas that are set aside because of contaminated fill, widening of Stenmark Drive and construction of other roadways, construction of necessary infrastructure facilities or designated for any other purpose such as for a cultural site which is or may be off limits to the public. This is essential to clearly understand the visual and other impacts as well as understanding the location of all components of the Project.

The underlying assumption that the DSEIR does not conflict with the General Plan is highly questionable at best. The DSEIR presents, without examination, a conclusion based on the statement that the proposed Mixed-Use Project is an "infill in an urban area" and which "would include retail/restaurant space that would provide needed services and amenities close to residences." General Plan Policy LU1.1 defining Infill Mixed-Use Development defines such areas as transit-oriented and pedestrian-friendly development along key commercial corridors, at key intersections (community nodes and gateways)." (Emphasis added.) Even though Pt. Molate is located within an urban area, it most decidedly is not one. Building the Project in this location meets the classic definition of "Sprawl," an action that assuredly the City's General Plan does not condone. Additionally, it is an area that has *no existing public transportation system*. It has very limited access from a well-documented, highly congested freeway (I-580) with its only entrance and exit being an existing two-lane paved road.

Further, General Plan Policy LU5.2 states that “The City will support development on the Peninsula as a regional recreation destination that is well connected to the rest of the City and accessible to the greater community.” The DSEIR does not explain how this General Plan directive is met by the Project when the Project is described as creating a “village” with neighborhood parks placed within residential areas. The DSEIR further states this General Plan directive somehow would be accomplished because the “Project Site would be served by public transit or a private shuttle that provides service to the Richmond BART Station.” Specifically mentioned by the DSEIR is that the shuttle would take people to the Richmond BART Station during the 2 hours of morning and evening commute hours, plus there would be a guarantee of providing a “ride home.” This shuttle service is to be provided by AC Transit or privately.

However, there is no commitment by transportation agencies that such a plan would happen in the foreseeable future or at all. There is no indication of the cost and financial mechanism to support privately establishing and operating such a plan, particularly over the long-term. Such costs added to the price of each proposed residential unit will do nothing except increase the difficulty in selling each unit, or is it the plan that this cost will be paid by all residents of Richmond? If so, shouldn't the residents be advised of this possibility early in the consideration of the Project? Will the City of Richmond subsidize this cost for the percentage of below market rate units that are proposed? Under the “guaranteed ride home program” will the shuttle be available at hours other than commute times? There are many ordinary, daily tasks such as transporting children to schools (none of which are located in Pt. Molate), going to routine medical and dental appointments, visiting barbershops or beauty salons, attending family events or parties, going to church or community events, going to jobs which are located outside of Pt. Molate – all activities which usually occur outside of the 2-hour commute times. So how does this shuttle service meet the needs of people coming out of or into Pt. Molate? The DSEIR lacks in-depth analysis of key transportation impacts and the resultant impacts on greenhouse gas (GHG) emissions.

General Plan Policy LLU5.3 states that “Types, intensities and ranges of use and development should be compatible with existing uses and should minimize or eliminate conflicts that adversely impact wetlands, marshlands, creeks, mudflats, public safety, human or environmental health or generate nuisances.” CESP notes that the DSEIR itself concludes that The Community Plan is the superior environmental plan to accomplish the stated goal of minimizing the adverse impacts to those areas listed in the policy. Furthermore, the DSEIR states that the Project is not in conflict with this General Plan goal by the statement that “Potrero Ridge would continue to buffer the Project's Site nonindustrial uses from the industrial activities at the Chevron Richmond Refinery to the east.” Residents from Richmond and surrounding cities are well-aware that the Chevron Refinery would be in the backyards of new residential uses at Pt. Molate through their experience from recent incidents at the Refinery that have involved widespread evacuation and/or shelter-in-place not related to the current pandemic. During these life-disrupting experiences, some 15,000 people in widespread areas around the Refinery overwhelmed existing health resources seeking relief. On April 22, 2020, the Bay Area Air Quality Management District announced a settlement with the Richmond Chevron Refinery of nearly \$150,000 for air quality violations. Such incidents cannot be ignored, and should the Project be approved, residents must have in place routine plans to deal with such circumstances. The DSEIR implies that a “buffer” will protect residential residents, even though it is clear from experience that this is not the case. Although, the DSEIR provides that community meetings be held to instruct Project residents about what to do in case of Refinery related incidents, it does not include a requirement that notice be provided to all *new* businesses or home buyers and renters *before* real estate closings or lease signings that their new home or business is subject to such incidents.

Transparency regarding this issue is vital before allowing the construction of new residential, commercial and retail units.

City of Richmond goals expressed in the Climate Change Element of the General Plan includes Policy EC-2.6 to “Work toward creation of an urban landscape that will reduce reliance on private automobiles through land use planning.” There is no disagreement with the DSEIR statement that “The transportation sector remains the largest source of GHG in the State.” Table 4.2-10 in the DSEIR lists Operational GHG Emissions amounts attributed to 10 categories (including from mobile sources) for Option 1 and Option 2 in amounts which have been determined to be “Mitigated” or “Unmitigated.” The totals listed in this chart confirm significant amounts of GHG emissions would be generated by the Project, the highest amounts coming from “Mobile” sources.

Some 2,040 residential units are contemplated in the Project’s Option 1. Information found not in the DSEIR, but which was obtained from the internet, indicates that according to the most current internet information, 2016, only about 8% of households in Richmond, California would *not* own a vehicle. 2,040 residential units less 8% (163) units leaves 1,877 units that per the DSEIR will own 1.89 cars per unit, or 3,547 new cars in the area, not counting vehicles generated by the hundreds of thousands of square feet of commercial/retail uses which uses are also included in both Options, or the additional GHG emissions generated from delivery vehicles and on-call transportation such as Uber, Lyft, etc. which have been shown to increase traffic congestion in other communities. Also, not covered in the DSEIR, but obtained from the internet, is the statement issued in 2018 by the US Environmental Protection Agency, that the typical passenger vehicle emits 10,141 pounds (4.6 metric tons) of CO₂ into the air each year. (Per the DSEIR, “CO₂ is the reference gas for climate change, as it is the GHG emitted in the highest volume.) Just considering the 3,547 cars from residential units, cars driven by Pt. Molate residents will emit about 36 million pounds of CO₂ annually.

Further, the DSEIR includes mitigation measure 4.13-4 “To ensure that the maximum additional peak hour traffic at the I-580 interchange with Stenmark Drive does not exceed 800 vehicles, any event with a potential attendance of 3,000 people or more be (sic) would be required to prepare a detailed traffic monitoring and management program, subject to city approval.” Special event car trips combined with car trips generated by residents and businesses and retail within Pt. Molate, can and will easily exceed the maximum additional peak hour at the I-580 interchange with Stenmark Drive. This kind of situation could easily be the norm, resulting in a violation of General Plan LU5.2 for Pt. Molate to be a “regional recreational destination – accessible to all.” It would also require additional City of Richmond staff to evaluate, monitor and enforce large events for 3,000 or more people. This important information is absent from the DSEIR entirely.

It does not seem likely that there will be a reliable trend away from car ownership, especially if projects such as this Modified Project are allowed to go forward. Nor does it seem likely that electric cars will dominate in the near future. While CESP supports taking actions that encourage bike and pedestrian programs, enacting enlightened parking strategies and making electric car ownership more attractive, those goals amount to wishful thinking at present and will not solve the significant traffic congestion problems attributable to this Project.

The DSEIR’s Transportation Impact Analysis indicates that Option 1 of the Project could achieve a 20% trip generation and Option 2, a 15% reduction by implementing Transportation Demand Management (TDM) strategies. The California Air Resources Board and each of the 18 Metropolitan Planning Organization regions in California under the Sustainable Communities and

Climate Protection Act of 2008 have set targets to reduce passenger vehicle GHG emissions in 2020 and 2035. In accordance, the Project is required to prepare a TDM plan based on Section 15.04.612 of the City's Municipal Code which states that certain projects "shall incorporate measures to reduce to the extent feasible single-occupant vehicle trip generation rates 15% below standard rates as established in the more recent edition of the Institute of Transportation Engineers Trip Generation Manual." To achieve these goals, the DSEIR recommends adopting such mitigations as providing more charging stations, parking and carpooling programs, BART shuttles, and building retail services that people will walk or bike to instead of driving their own cars. A long list of elements of TDM strategies is provided. While all of the elements on the list have not been adopted as part of the Project, some have been included, so it is difficult to determine the level of consistency of the Project with a rigorous TDM program. The DSEIR should provide such a list, along with a determination of the level of TDM consistency. Without more information it cannot be determined with any certainty that the Project is in compliance with General Plan, Climate Action Policies and City Codes that require proposed development to reduce reliance on private automobiles.

While the DSEIR considers GHG emissions associated with construction activities it does not consider previous, possibly precedent setting, actions set by the Richmond City Council regarding the hauling of contaminated soil away from a construction site. (AstraZeneca project where hauling away contaminated soil was rejected.) Possibly as much as 300,000 cubic yards of soil at Pt. Molate which may be clean or hazardous in part, needs to be removed mostly because of grading activity. It is essential that a plan, conforming to the General Plan and Climate Action policies, fully includes consideration of GHG emissions generated by the Project, including such hauling activity.

In considering mitigating GHG emission totals, the DSEIR concludes that it would be best to find carbon credits to purchase. The finding is then dismissed on the basis that purchasing "offsets from entirely within the SFBAAB is considered infeasible due to the unavailability of such offsets as the current estimated offset demand is far greater than the available supply of offsets within the SFBAAB. Offsets that originate outside of the SFBAAB are therefore necessary to meet the demand and reduce GHG emissions. Further, given the length of the construction period, the Modified Project would be required to purchase offsets throughout the life of the project, over a period of approximately 30 years. There is a limited supply of 'verifiable, reliable, real' carbon offsets currently." There is no chart that compares in a glance, the complete distinctions between GHG emissions from the Project with alternatives such as The Community Plan. However, it is clear that even with the disturbingly inadequate assessment of the Community Plan in the DSEIR, that considering Vehicle Miles Traveled, the Community Plan with its approximately 309,000 square feet of development vs. the Project's approximately 625,000 square feet, the Community Plan avoids most of the significant impacts regarding air contamination associated with the Project and can mitigate easily the ones it cannot eliminate or avoid. Additionally, that since the Community Plan involves far less construction, GHG emissions will be much lower than those that are associated with the Project. Since the Community Plan avoids most of the significant impacts identified with the Project in the DSEIR, the required CEQA findings cannot be met to grant approval of the Project.

Existing traffic congestion to and from Pt. Molate is already well-documented in various planning documents and news reports involving the City of Richmond and Marin and Contra Costa Counties. The congestion on I-580 and across the Richmond-San Rafael Bridge is legendary, leading to much discussion of installing bike lanes and establishing times for their operation on the Bridge, widening the freeway and even building a new Bridge. The existing traffic on ramps into and out of Pt. Molate are choke points during commute hours and are of concern in regard to emergency services

(see below for further discussion). DSEIR Section 4.2 Air Quality and Greenhouse Gas Emissions states there are four intersections (1. Castro Street and the I-580 WB Off-Ramps/Chevron; 2. Blume Drive/I-80-WB Ramps and Richmond Parkway; 3. Stenmark Drive and Dutra Materials; and 4. Richmond Parkway and Goodrick Avenue) that would “exceed acceptable Level of Standards due to the Project. The DSEIR concludes, however, that after using a different methodology established by the county congestion management agency for designated roads or highways, and plans, and considering stricter vehicle emissions standards in newer cars and increased fuel economy, and the Project being declared as consistent with a TDM program, the Project would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour, or more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited. The DSEIR concludes that “even though the Modified Project would increase vehicle trips and delay” at these intersections “project-generated local mobile-source CO emissions would not result in or substantially contribute to concentrations” that exceed certain air quality standards, “this impact would be less than significant and no mitigation has been identified.” The DSEIR provides the information that vehicle miles traveled amount to about 15 miles, but the DSEIR appears to assume that residents will use the commute hour shuttle and does not provide information on the number of other daily vehicle trips generated by residents and visitors to and from Pt. Molate. It is impossible to understand what the impact of GHG emissions from cars associated with the Project might be. There should be no question that this lack of information is a significant flaw in the DSEIR and that this kind of information must be provided.

Currently, due to the coronavirus pandemic shut down, we are experiencing vast overall reduction of GHG emissions from cars in the Bay Area, throughout the U.S. and worldwide in such places as China and Venice as people are staying home. With, for example, vehicle use down by more than 50% on the San Francisco Bay Bridge, this improvement is recognized by residents and scientists alike. While this air quality improvement is not expected to last after the shelter-in-place requirements are rescinded, it is proof of the impact of GHG emissions which will inevitably increase in areas where residents must use their cars because of the lack of public transportation such as what will happen in this Project site. Building the proposed Project at Pt. Molate will provide dramatic proof that the Pt. Molate site is inappropriate for this level of development because of the severe impacts to the health of residents everywhere. That is too big a price to pay.

Additionally, there is the issue of GHG emissions and what can be done to reduce increases goes beyond consideration of just mobile sources. Richmond’s Policy EC-3.2 is to “promote efficient use of energy and conservation of available resources in the design, construction, maintenance, and operation of public and private facilities, infrastructure, and equipment.” An example given is that the DSEIR indicates that the Project will produce significant GHG emission increases due to the use of natural gas. It does not consider banning the use of natural gas in new residential construction altogether – an action that other communities are already implementing and which the 2018 Resolution 69-19 approved unanimously by the Richmond City Council would indicate was appropriate. In Appendix M, Table 1, the Pt. Molate project indicates that only about 25% of all residential units would be all-electric (75% would use natural gas). There is no analysis of a project where 100% of the residential units would be all electric.

The purpose of the CEQA process is to objectively analyze a proposed project’s impact on specified issues and compare those results to the same analysis applied to alternatives to the proposed project, including building no project at all. Foregone in this DSEIR is a full and clear analysis of GHG emissions from all sources along with a side-by-side comparison that these and other impacts

can be reduced by denying the proposed construction and transferring development to sites where public transportation and other services already exist. The DSEIR concedes that the Project will generate a significant amount of GHG emissions annually even after taking into account compliance with Title 24 building codes, access to EV chargers, carpooling programs, and promotion of shuttle buses. Under the false assumption that the Project is an urban infill, the purpose of the DSEIR starts to appear to be to simply justify and support the Project regardless of any considerations.

Further, the proposed Mixed-Use Project also negates Richmond's regional planning agreement to provide housing. One of the Project's objectives is to purportedly address the housing crisis. Separately from this Project, the City has identified three Priority Development Areas (PDAs) which are in fact accessible to transit. The connection to transit is a core component in ABAG's and MTCs land use plan for all East Bay cities, not just Richmond. All cities are now required to fulfill the housing goals set in their specific agreement or face the real possibility of loss of State funding. The Pt. Molate Mixed-Use Project is *not* in a designated PDA and there is no explanation as to why the Project site which has no transit is an appropriate site for the development of 2,040 residential units in Option 1 or 1,260 residential units in Option 2, both numbers well above what is suggested in the Base Reuse Plan. While the Project discusses the need to provide a small percentage of below market rate units, these units do not have to be for the neediest segments of the population, low income or very low income. Developers can choose to provide all the below market rate units to those with moderate incomes. Moreover, in accordance with City ordinances, any low income requirements can be met by a developer's making payments "in lieu" of including low income housing within the Project.

In considering establishing a new community in this non-urban area, the Project proposes to ensure the safety of residents and others by establishing a public safety (police and fire) station. The number of residents forecast – almost 6,000 in Option 1 (from the DSEIR, 2.83 residents per unit) and about 4,000 in Option 2, plus in both options, employees and visitors to the proposed retail and commercial uses proposed – “ensuring” public safety demands providing adequate medical and emergency services. The distance of the site from existing medical services combined with traffic impediments on I-580 to reach off-site emergency medical services highlights the problem. Appendix D which includes the traffic study performed by Abrams Associates states that according to CEQA guidelines, a project would have a significant impact if it resulted in inadequate emergency vehicle access. The DSEIR does not address this issue.

The DSEIR indicates that the problem of ensuring public safety can be resolved by providing a “fire and police or other community facility” within the Project and that medical care can be provided by the emergency department at Kaiser Hospital in Richmond. While the level of care at Kaiser, Richmond is not in question, the DSEIR does not recognize the important difference between emergency care and trauma centers. Emergency rooms are not the same as trauma centers which provide highly specialized personnel with advanced training and equipment to treat people with severe and life-threatening conditions. The designated trauma centers that are close to Pt. Molate are John Muir Hospital, Walnut Creek (Level II), Highland Hospital, Oakland (Level II) and UCSF Benioff Children's Hospital, Oakland (Level I). In recognition of the vital role of time in getting a patient to medical care, each of these trauma facilities has a heliport. It must also be noted that the emergency center at Kaiser Richmond has a heliport. The Project's proposal to include a fire and police station at Pt. Molate does not include the construction of a heliport which would allow patients needing either emergency care at Kaiser Richmond or trauma care at John Muir, Highland, or Children's to order to bypass the existing roadway congestion. Should a heliport be considered for the

Project, included in the project, the impacts of a heliport would also be examined before approval of any Project.

Furthermore, it must be kept in mind that when transporting patients to medical facilities, the ambulance or fire engine personnel doing the transporting are required by law to remain with the patient until the patient is officially transferred to appropriate medical staff. Because of such time delays compounded by traffic congestion, and distances to trauma centers, this requires extra public safety staffing. Under Option 1, with many residential units plus some commercial units, or Option 2 with many commercial unit visitors and employees and some residential units, ensuring public safety is a significant issue and while the DSEIR asserts that this is a goal, it fails to provide the information on how it will be accomplished, or of the consequences should such service not be fully provided.

Not only is this problem not fully addressed in the DSEIR, there is no indication of how even a *minimal* public safety station will be financed. Will these costs come from the General Fund or from a Mello-Roos mechanism? Residents were assured in the third Community Forum planning meeting that the Project would be “self-sufficient,” that a Mello-Roos process which requires a vote of those affected would be used, and that the City would not be responsible for payment of any defaults. However, in the months since then, and in this process to consider the details of a proposed Project, there has never been a clear explanation as to how and when any disclosure of the Project’s financing would take place. With a 7 year build out projected, when will determination of a full array of the necessary infrastructure that will have to be constructed before occupancy take place and when will the financing costs and how they will be implemented be disclosed? Such costs could amount to a doubling of property taxes which will automatically be high as they will be assessed at the full market price which had just been paid. What happens if the likely scenario that the City will be required to guarantee payment of the costs comes true and all residents of Richmond will have to pay these costs? These costs could impact not only the payment by all Richmond residents but the City’s overall budget and consequently the services and other amenities that the City of Richmond will be able to provide both within the Project area and the City as a whole. What these costs will be and how they will be financed will have an impact on the costs of housing that is being proposed and on the types of businesses able to operate within the Project. People below an annual income of around \$200,000 and small, locally owned businesses may well be priced out. This belies the claim that this Project is supported by the General Plan as an “urban infill village” which will serve the needs of people of all ages, backgrounds and incomes. A true and real picture of the costs needs to be produced and fully disclosed. People should be advised of them *before* the Project proceeds, not *after* it happens.

CESP recommends that a complete list of infrastructure facilities which are needed for the day-to-day functioning of the Project be compiled and included in the Project Description Section. The inclusion of such a list will allow a more complete understanding by decision makers and the public as to the impacts, the total costs involved – the estimated \$300 to \$500 million, who pays them, and impacts on the City’s budget. For example, the DSEIR indicates that a sewage pumping station at the foot of Marine Street in Point Richmond is proposed. Doing this would require extensive excavation through existing development to Castro and across I-580. It’s unknown whether this is to be paid by the Pt Molate developer or included in the rate increases currently being discussed. But further in the DSEIR, in the chart listing mitigation measures it states “4-10-5. If the Modified Project includes the installation of an on-site sanitary sewer treatment facility...” (Emphasis added.) So, which is it to be – off-site or on-site and again who pays?

We find throughout the DSEIR that it does not assess the adequacy of other recommended mitigations, such as the very important one of relying on training of construction workers to discover and react to various environmental problems throughout the Project's construction. The DSEIR fully admits environmental problems will be encountered during construction activities. The recommended mitigation is to hire a qualified biologist who will prepare material and train staff to conduct an Environmental Awareness Program for all construction personnel working on the Project site. This is also a recommendation put forward regarding the protection of cultural sites where an archaeologist must prepare the material and conduct the training. However, there is nothing mentioned about consultation with representatives of the Ohlone Tribe, the Native Americans who are indigenous to this area and who have repeatedly asked to be consulted on such matters. Moreover, although a record of the training is to be kept, the recommendation does not go far enough. The training provided must include a testing component to identify those workers who have not only attended the training, but who have fully *understood* the content of the training and the responsibility that it carries. If careful and informed work is not done in the field in the first instance, many adverse impacts will occur. The Project must not proceed without adequate attention to this point.

Another issue of high importance is the basic question of whether Pt. Molate is ready for this Project until all contamination/drainage issues have been resolved and approved by the Regional Water Quality Control Board (RWQCB). According to Appendix G, while drainage issues have been reduced, post-remediation confirmation is still required for Northwest Drum Lot 2 and in other areas as well. Apparently the RWQCB has required that amendments to the current agreement be made, yet those amendments have not yet been completed, nor does the DSEIR contain a comprehensive plan for how the site's drainage problems will be managed in the long term. Continued monitoring by the RWQCB in perpetuity may be required. How do existing drainage patterns affect the location and design of housing, commercial/retail buildings, roads and infrastructure facilities, particularly the contamination around Building 87, the existing septic tank or tanks and Drum Lot 2? While the City's General Plan provides that "Daylighting of creeks that are currently in culverts or hardened channels shall be pursued where feasible in new and redevelopment projects," the DSEIR does not provide whether this was considered and a plan developed that indicates how the determination was made that some or all of the areas were feasible or infeasible as expressed in the General Plan directive. Nor does it seem to provide that in the construction of the well-proposed Bay Trail that when crossing a creek, bridges will be built, rather than culverts constructed. Nor is the question of how overall contamination of Bay waters with its threat to the eelgrass, nor how areas of native grassland which a study by the John Muir School of the Environment at UC Davis has concluded are effective in taking carbon out of the air (carbon sinks) will be protected through a clear program that targets drainage.

CESP notes that the DSEIR lists the use of sediment traps as a construction dust mitigation that relies heavily on water to avoid runoff into Bay waters and escaping into the air. In the 7 to 8 years to build out, scientists have predicted record periods of drought due to climate change. They unanimously emphasize the need to increase water conservation. On April 1, 2020, the date when snow levels are typically at their peak, statewide snowpack measured 53% of average. This number informs water planners how much melt will flow into State reservoirs. The current 53% is reported to be the 11th lowest in 71 years of record keeping. And while that number has improved somewhat, water related concerns remain. The direction given to everyone is to begin water conservation now. In the face of this information, the only meaningful mitigation possible is to build additional housing units in already developed areas such as the downtown which do not require extended methods that

prevent unhealthy quantities of air-borne dust. Controlling unhealthy dust amounts by use of a sediment barrier still relies heavily on the use of precious water resources.

The DSEIR also recommends that during construction, sediment barriers be used to control dust generated from loose aggregate, roads and escaping from the closed proposed conveyor belt system. However, it is unclear what will prevent the water used for this purpose from entering the Bay and adversely impacting the eelgrass beds offshore. To mitigate this possibility, the DSEIR proposes that the Project be required to conduct an eelgrass survey prior to construction and annually thereafter. Serious adverse impacts can and will happen during that intervening year. Will the eelgrass be able to recover? Once again, this points to the fact that this site is not appropriate for the level of construction activities requiring the substantial amount of grading and soil disturbance which is being proposed.

The eelgrass beds that are clustered in the waters offshore of Pt. Molate are protected by the Federal Fisheries Act because of their critical function in protecting fish and species like Dungeness crab. They also serve as effective carbon sinks to fight global warming and as a nursery for re-seeding other areas in SF Bay. Because of their importance to fish, humans and Bay water quality, they must be protected from the dust and silt raised by not only construction of the Project as mentioned above, but also from the increased traffic which will leave oil, brake linings and tire particles from the intensified use of Stenmark Drive and other roads over time. Furthermore, there is no analysis of the use of pesticides in residential yards that will be continually washed into the Bay after construction is completed. The DSEIR equates monitoring and purchase of mitigation credits, both of which would occur *after* the damage has been done, with protection which must be done *before* any loss of this important resource.

It is disturbing that the DSEIR does not fully consider the extraordinary loss – some say as many as 3 billion – birds in North America over the last 20 years, or more specifically the number and type of birds that have been lost around San Francisco Bay as a starting point in considering the impact on this population due to the proposed construction at Pt. Molate. The proposed mitigation for construction impacts to special bird species are based on conducting a survey no more than 5 days prior to starting ground-disturbing activities, or alternatively conducting a full survey prior to a survey associated with pending construction. This should not be an either-or situation. A full-fledged base survey that includes consideration of seasonal factors of the site's bird population should be done and from that survey a qualified biologist should designate specific areas and times that would not disrupt the bird population in general or for special species. This analysis must begin before any consideration is given to this Project and must then include potential impacts during construction and after complete build-out. This includes a study of the impacts from lights and special windows, but goes further, since there are daytime impacts of buildings and people on birds, insects, plants and animals as well. The project is part of the Pacific Flyway and disturbance to birds is a significant environmental issue.

Motion-sensitive lighting, lower intensity lights, and appropriately programmed timed lights are listed as mitigation measures for impacts on shorebirds and migratory birds. However, they are required "to the extent feasible." It should be that such lighting which is relatively low cost must be a specific requirement in this location.

Mitigations to protect birds and the eelgrass listed include the development of a night-time lighting plan prior to groundbreaking. How much prior to groundbreaking? Does this mean in the

earliest design phase? If not, doing this *after* design completion is too late. The specifics of such features must be known and thoroughly analyzed as an integral part of the DSEIR to ensure that protections are adequate to provide all necessary components from the very earliest stages of planning.

Surveys are also listed as mitigation for possible disturbance to the Suisun Marsh aster population and other special-status plants. The DSEIR does not require such surveys either prior to design or construction phases, even though their prime locations are known. This leaves changing approved design and plans to accommodate protection of special-status plants in a highly vulnerable situation that could include the inability to find areas for appropriate transplant and deliberate mis-identification and ignoring the discovery, especially if the special-status plant is found in a small area.

While CESP agrees that signage should be provided to help protect habitat, not doing these in-depth studies of where specific areas are located within the Project well in advance of location and design plans, makes it impossible for decision makers and residents to understand exactly where buildings will be constructed and how such matters as views will be impacted. Doing such surveys *during* construction leaves wide open the final design. This shifts decisions from being able to determine environmental impacts to how can we just go ahead and get our permits to build the number of residential and commercial/retail units in a particular location, even one that has not been fully analyzed by this DSEIR. Such surveys must be done *before* construction is begun and all areas have been properly analyzed and mapped in an DSEIR.

Pt. Molate is on the coastal pathway of the migration of Monarch Butterflies during the months of October to February. They have been known to nest during the months of August through March in the eucalyptus trees which are present in Pt. Molate. Unfortunately, it is well documented that the numbers of Monarchs have been severely reduced over recent years due to destruction of habitat and use of pesticides that have put them on the path to distinction. The DSEIR proposes that a future HOA would have the responsibility for removal of trees because of fire safety. There are many people who associate eucalyptus trees with being a prime contributor to increased fire danger. The mitigation proposed by the DSEIR is that if an active Monarch nest is found in a tree, the tree cannot be removed until the Monarchs have left and *then* the tree can be removed. This approach would significantly reduce chances that Monarchs would ever return in the future and is, therefore, a significant environmental consequence which is not considered in the DSEIR and must be.

The DSEIR determined that significant thresholds have changed since the F2011 EIR for the Casino. New Tribal Cultural Resources were therefore added to this DSEIR. Consequently, City reports indicate that representatives of various tribes were invited to participate in the process without success. This seems curious as representatives of the Ohlone Tribe have spoken out publicly in Richmond at various City meetings about their interest and concern over Pt. Molate which is considered to be part of their ancestral lands. CESP remains extremely concerned with the fact that consultation with the Guidiville Tribe is a conflict of interest because they are one of the parties involved in a current lawsuit against the City of Richmond regarding the Casino project and have entered into an agreement with the City, done in secret, that purports to allow a guarantee of development at Pt. Molate and a sharing of revenues from any such development. That secret agreement is the subject of a lawsuit before the Federal Court and both the City and Guidiville Tribe are defendants. It is an even greater problem because the DSEIR further includes a specific mitigation measure that the Project “shall invite Guidiville to choose a monitor and participate in monitoring

ground disturbing activities at least two months before activities begin.” The issue of conflict of interest must be openly addressed before any further consideration of the DSEIR.

Over a period of several years, multiple archeological studies have been done at several sites in Pt. Molate. It is extremely important that the findings and history that have been documented regarding the Native American people be presented on the very ground of this site. While the DSEIR proposes that the applicant will have to provide museum space within the Historic District to do this, it is not adequate. In addition to this museum space, CESP recommends that another provision be made that provides for other spaces being set aside throughout the Project site to tell the story of the Native Americans. This must be done in consultation with the Ohlone people as that group deems to be appropriate. Because it will probably mean designating some additional land that should not be used for other purposes, an agreement as to the extent and location of such additional spaces must be reached before the DSEIR is finalized. Such land must include site CA-CCO-283 which is mentioned in the DSEIR (appropriately not precisely identified because of legal restriction that such locations are not specifically identified until its boundaries and archeological value is determined). At one time, the City was to have pursued a nomination to determine whether it is an historic resource in its own right, no matter if it is located within the current Historical District or outside of it. Without such evaluation as it pertains to all such possible sites in Pt. Molate the Project should not proceed.

This also raises questions as to whether there must be a NEPA *and* a CEQA process. The current process has been announced in the DSEIR that the process of consideration of the proposed Project involves only a CEQA process. Since determination of the CA-CCO-283 site, and maybe others as well, involves the Federal governments (Bureau of Indian Affairs) it is wise to avoid further legal discussion and ensure that both processes have been properly followed in the first instance.

Furthermore, information is provided that a Chinese shrimp camp owned by the Union Shrimp Company existed at Pt. Molate west of Stenmark Drive sometime between 1865 and 1870. By 1904, there were about 30 structures, 5 wharfs and 10 boats measuring 40 ft x 10 ft with 30 ft masts with Chinese square sails and workers are said to have carried loads of shrimp in wicker baskets hung from their shoulders. The camp was abandoned in 1912-1915. Per City reports, a study done in 2011 indicated there was an historic deposit at the Chinese Shrimp Camp (CA-CCO-506H) buried by modern fill. A 2008 study concluded that the site now identified as CA-CCO-506H had the potential to qualify as an historic resource and a nomination form was prepared. The DSEIR is unclear as to the outcome of that form. The DSEIR proposes that the applicant must provide space within the Historic District dedicated to telling the full history of the area, including the Shrimp Camp. However, neither the nomination nor the decision regarding that form could be found in the DSEIR. Before decisions are made regarding the DSEIR and consideration of approvals of development plans for this site, the question of whether The Chinese Shrimp Camp should be a separate and distinct historic site in its own right must be finalized.

In consideration of the conflicts with the City of Richmond General Plan and current policies concerning Climate Action, coupled with the heavy potential impacts on habitat, birds, Monarch butterflies, special plants, and eelgrass so vital to the protection of San Francisco Bay, and the green house gas emissions that will affect the health and well-being of people, CESP recommends that the City Council reject the Mixed-Use Project proposed at Pt. Molate.

The Community Plan provides environmentally superior outcomes over the Project that proposes hundreds of housing units and thousands of square feet of commercial/ and retail uses and

results in a huge environmental price which must be paid by people, plants, and animals. On the other hand, the Community Plan provides outstanding recreational opportunities for youth and people of all ages at a time when increased densities within East Bay communities require, more than ever before, greater opportunities for improving the mental and physical health of a growing population. Further, it is clear that the Community Plan meets the City's General Plan directive for Pt. Molate to be a destination point for recreation opportunities that are accessible to all. Moreover, the Community Plan offers the expression of the vital history that includes the Ohlone peoples, the Chinese Shrimp Camp, and the role of Pt Molate in California's history and in World War II. Once this history is lost by the mundane development proposed by the Modified Project, it will be lost forever. The Community Plan will preserve not only irreplaceable historical sites and healthful recreational opportunities, it also presents revenue opportunities that exist in the careful adaptive re-use of the Winehaven Historic District. The Community Plan includes unparalleled education and research opportunities that are made more likely and exciting when surrounded by the most spectacular park along the entire East Coast of the Bay. The goals to provide needed opportunities accessible to all people and ages, respect the environment and beauty, further education, secure a healthier future for our children, recognize the unique role of this piece of land from the earliest history of the Bay Area to now and produce revenue to make it all happen, can best be achieved with the least environmental impacts by adoption of the Community Plan - a proposal which maximizes equity, economic opportunity and environmental justice.

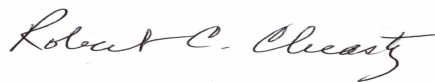
CESP notes that Stuart Flashman, Sara Tobin, Paul Carman, Jim Hansen, Gail Seymour, Lech Naumovich, Laura Cunningham and many others have submitted very thoughtful comments regarding the shortcomings of the DSEIR. We adopt and incorporate herein by reference each of the other comments submitted.

Thank you for the opportunity to comment on this important Project.

Sincerely,



Shirley Dean, CESP President



Robert Cheasty, CESP Executive Director