

SECTION 3.0

GENERAL RESPONSE TO COMMENTS

3.1 CEQA AND NEPA PROCEDURAL ISSUES

3.1.1 EXTENSION OF THE COMMENT PERIOD

Summary of Comments: The Lead Agencies received numerous requests for an extension of the original comment period.

Response: The original comment period for the Draft EIS/EIR was from July 10, 2009 to September 23, 2009 (75 days). The 75-day comment period was noted in the State Clearing House Notice of Completion filing (2005032073) and was announced in the Federal Register with a Notice of Availability (NOA) on July 10, 2009. In addition, the comment period was announced in the local newspaper (West County Times) on July 10 and 11, 2009, as well as on the City's website. The comment period was extended by 30 days during a regularly scheduled meeting of the Richmond City Council on September 22, 2009, bringing the total review time for public comment to 105 days, which is far in excess of the comment period required by CEQA and NEPA. The extension was announced on the City's website, on a website dedicated to the project (www.pointmolateeis-eir.com), via mailings to all individuals on the EIS/EIR distribution list, as well as in the local newspaper (West County Times). The extended comment period ended on October 23, 2009. The Final EIR considers and responds to all substantive comments received or submitted (as indicated by the post mark) during the extended comment period.

3.1.2 RECIRCULATION OF THE DRAFT EIS/EIR

Summary of Comments: Several comments were received requesting that the Draft EIS/EIR be recirculated prior to certification.

Response: Section 15088.5 of the CEQA Guidelines states that recirculation of a Draft EIR is required when one or more of the following conditions are met:

- (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse

environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement.

"Significant new information" requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

With respect to the applicable NEPA regulations, recirculation of a Draft EIS is required only when the "draft statement is so inadequate as to preclude meaningful analysis (40 C.F.R. § 1502.9[a])." Limited revisions have been made to the document since it was initially circulated (refer to **Section 1.3** which summarizes changes to the document; all changes are presented in underline-strikeout format in Volume II of the Final EIR). Based on the criteria outlined above, recirculation of the Draft EIS/EIR is not warranted pursuant to the requirements of CEQA or NEPA for the following reasons: 1) the robust analysis presented in the document is neither inadequate nor conclusory in nature, 2) the EIR has considered a reasonable range of alternatives (refer to **General Response 3.3**); 3) none of the environmental impacts identified in the Draft EIS/EIR have increased in severity with the introduction of new information; and 4) no new significant environmental impacts have been identified since initial circulation of the EIR and inclusion of the supplementary information. It is the very purpose of a draft document to elicit agency and public comment such that the final document may be improved based on others' scrutiny and input. To this end, the Draft EIS/EIR has been updated, clarified, and improved upon in the Final EIR, all within the reasonable bounds of the EIR process.

3.2 NON-CEQA AND NEPA ISSUES

3.2.1 EXPRESSIONS OF OPINION AND OTHER NON-SUBSTANTIVE COMMENTS

Summary of Comments: Many of the comments received were expressions of opinion either for or against the Proposed Project. Letters, emails, verbal comments made at the two public hearings, and abbreviated comment cards formed the bulk of such comments. Many other comments were received which do not raise a substantive environmental issue.

Response: To warrant a response in the Final EIR, comments must fulfill two minimum requirements: 1) the comments must raise a substantive environmental issue, and 2) they must be related to either the decisions to be made by the Lead Agencies based on the EIS/EIR, or to the expected result of these decisions. Responses are not required for comments failing to raise substantive environmental issues, such as comments merely expressing an opinion.

3.3 ALTERNATIVES

3.3.1 EVALUATION OF OFF-SITE ALTERNATIVES

Summary of Comments: Several comments suggested that off-site alternatives should have been fully analyzed in the Draft EIS/EIR.

Response: As discussed in **Section 2.8** of the Draft EIS/EIR, off-site alternatives were rejected from full analysis because they would not satisfy the purpose and need of the Proposed Project. The City's objectives are to implement a productive reuse of the former Naval Fuel Depot Point Molate that includes economic development, job creation, establishment of a long-term revenue source for the City, preservation of historic and natural resources, and promotion of public access to the Richmond shoreline and open space recreation areas. As such, off-site alternatives could not, by definition, meet the City's objectives for adaptive reuse.

As detailed in the above referenced section of the Draft EIS/EIR, the Tribal Government investigated several parcels of land within or near the cities of Vallejo, Antioch, Fairfield, Hercules, unincorporated lands in Sonoma and Solano Counties, as well as former Naval installations at Mare Island and near Concord. These alternative site locations were considered for the reestablishment of a tribal land base and construction of a mixed-use development. The lands investigated were each rejected on the grounds of lack of community support, inadequate access, deficient infrastructure, and/or insufficient size to accommodate the multiple uses (gaming and non-gaming) needed by the Tribal Government to meet the goals of economic self-sufficiency, self-governance, and self-determination.

3.3.2 ALTERNATIVES TO DEMOLITION OR RELOCATION OF HISTORIC BUILDINGS

Summary of Comments: A number of commenters expressed concern that Building No. 6, a contributing element of the Winehaven Historic District, would be demolished under Alternatives A – D. Some commenters also suggested that Building No. 17 should be retained in its current location, rather than be relocated as proposed under Alternatives A – D. Finally, some commenters suggested that a new development alternative should be introduced that would not result in demolition or relocation of any historic buildings.

Response: As discussed in **Section 4.6** of the Draft EIS/EIR, the significant historic resource impacts related to demolition of Building No. 6 under Alternatives A – D are disclosed and mitigation measures are presented in **Section 5.2.5** that would lessen the severity of, but not eliminate, the impact. The Draft EIS/EIR also analyzes a Total Parkland Alternative (Alternative E) that includes preservation of all 35 buildings included within the Winehaven Historic District, including Building No. 6, such that the analysis presented in the Draft EIS/EIR included an alternative that would avoid impacts associated with demolition of Building No. 6 and relocation of Building No. 17.

The following discussion outlines the primary considerations taken into account in formulating alternatives for analysis as they relate to Building No. 6. Despite the constraints to reuse of Building No. 6 described below, in response to comments a variant to Alternative B (Alternative B1) has been added to the Final EIR that is very similar to Alternative B except that it retains and rehabilitates Building No. 6. As outlined below, rehabilitation of Building No. 6 is a costly proposition. Therefore, in modifying an alternative to retain Building No. 6, the alternative with the greatest amount of commercial development (Alternative B) was chosen so as to better offset the additional costs of the rehabilitation. Alternative B1 is very similar to Alternative B except that the design, location, and orientation of the structures has changed somewhat in order to retain Building No. 6.

In the course of developing the alternatives to be analyzed in the Draft EIS/EIR, the Lead Agencies considered several key factors, including: hillside and shoreline open space preservation; focusing redevelopment on the existing developed footprint of Point Molate; preservation of buildings within the Winehaven Historic District; economic sustainability that would finance preservation efforts; and avoidance of redevelopment within areas of the project site impacted with hazardous materials that will be monitored and maintained in perpetuity. To fully appreciate the history of visioning and feasibility analyses for the reuse of Point Molate as it relates to the Winehaven Historic District, key aspects of the Point Molate Reuse Plan are discussed below.

The Point Molate Reuse Plan (Brady and Associates, 1997) is the primary document that was used by the City to formulate a vision for the redevelopment of Point Molate and guided the development of alternatives considered in the Draft EIS/EIR. A fundamental principal articulated throughout the Reuse Plan is the preservation of open space and redevelopment within the established development footprint.

The Reuse Plan identifies four areas within the project site suitable for redevelopment: the *Historic District* (composed of 32 of 35 of the Winehaven Historic District buildings, including the main Winehaven Building [No. 1], powerhouse [No. 13], warehouse [No. 10], fire station [No. 63] and all of the historic residential structures); the *Northern Development Area* (which covers the land currently occupied by Buildings No. 6 and No. 17); the *Central Development Area* (located on the ridge immediately south of the Central Development Area); and the *Southern Development Area* (located in the southwestern portion of the project site that is currently occupied by the paved area known as Drum Lot 2). Inclusion of Building No. 6 within the Northern Development Area, and not within the Historic District, reflects the fact that the area presently occupied by the building was viewed by the drafters of the Reuse Plan as a more suitable location for new construction than the Historic District area.

The Reuse Plan explicitly recognizes the constraints that preservation of Building No. 6 would pose on the economic viability of reuse. Referring to Building No. 6, the Reuse Plan states:

It has minimal architectural merit. Its structural condition was evaluated as “good to fair - except for the ceiling of lower warehouse partially collapsed from water damage” by Naval consultants (PRC Environmental Management, Inc., 1996). An independent analysis was performed by W.B. Clausen Structural Engineers for the City. In a letter dated June 6, 1996, the company stated that “The building has suffered major water damages to wooden roofs and floors. It is our opinion that costs to repair this building will exceed its value. This building should be demolished.” (Brady and Associates, 1997:I-34)

The Reuse Plan goes on to state:

Based on structural analyses performed to date and on a preliminary market assessment of the need for space in this building, demolition is recommended over preservation, especially the longer it stands empty. Demolition would be advantageous in that it would free additional land for new development needed to help finance improvements for reuse of other historic buildings (Brady and Associates, 1997:I-34).

In the years that have transpired since this assessment was made, Building No. 6 has suffered continued deterioration and none of the deficiencies identified during the studies conducted for the Reuse Plan have been addressed.

As discussed in the Reuse Plan, a marketing study was undertaken to assess the potential demand of several potential business sectors for space within Building No. 6. The study found that reuse opportunities for the building are limited, given that it was designed for use as a warehouse. Limiting factors include its unappealing appearance, the limited number of windows, close-spacing of interior support beams that severely restrict the ability to provide large open spaces, and a sloped floor, among

other concerns. The Reuse Plan suggests that the only practicable reuses would include warehousing, light industry, or as a live/work space.

Based on the level of interest generated during the public comment period in the summer and fall of 2009, an additional study was undertaken following release of the Draft EIS/EIR to further evaluate the economic and practical limitations associated with reusing the building. A detailed structural analysis was commissioned to supplement the Historic Building Structural Condition Assessment (Lionakis Beaumont Design Group, 2008; **Appendix E**). The condition assessment completed in 2008 considered the minimum repairs required to reuse the building according to its original design (warehouse). The assessment and associated opinion of probable cost did not account for the suite of modifications required for a use other than that for which it was originally designed. For the supplemental assessment (Lionakis Beaumont Design Group, 2009; **Appendix DD**), it was assumed that the building would be adaptively reused as a conference center with limited retail and food service amenities as a component of the gaming resort project described in Alternatives A, B and C.

The supplemental assessment employed visual examination, field measurements, coring of concrete walls and floors, and laboratory materials testing in order to more fully characterize the condition of the building and to develop recommendations for reuse. The assessment observed that several of the deficiencies identified in 2008 have worsened, particularly as it relates to the failing roof system that is exposing other components of the building to damage from exposure to the elements. Deficiencies identified include: a partially collapsed roof; failing slope and drainage of the roof in areas that have not collapsed; unfinished concrete exterior walls and parapets that are spalling, cracking, and exposing rebar to oxidation; water percolating through exposed concrete walls causing damage to the eastern wall that retains up to 12 feet of earth; extensive dry rot on wooden components; inadequate seismic stability; as well as other structural and architectural issues. Refer to Appendix A of the supplemental assessment (**Appendix DD**) for recent photographs of Building No. 6 illustrating its current state of disrepair. Not surprisingly, the survey of mechanical and plumbing systems found that the existing conditions are wholly inadequate, requiring a near-complete overhaul.

As part of the supplemental structural assessment and conceptual design for reuse, Lionakis prepared an estimate of probable cost for design and construction of the building's core and shell. The analysis concluded that "actual costs would be expected to exceed \$25,000,000...other cost factors not included in the estimate of probable cost include site design and construction of circulation facilities, accessibility for compliance with the Americans with Disabilities Act (ADA), a reconfigured main entry to articulate with the other site components, and delivery access. Such considerations are expected to add approximately five percent to the overall cost. Furniture and equipment costs for the event/conference center would likely add an additional 15 – 20 percent of the construction costs (Lionakis, 2009:1; **Appendix DD**).” Lionakis echoes the findings of previous structural and architectural assessments of the building in their conclusions. They state, “Despite the fact that the building is associated with the Winehaven Historic District, it has extremely limited architectural merit. While the recommendations presented herein would

provide for adaptive reuse of the building, it is our opinion that the costs associated with the rehabilitation would far exceed its finished value (Lionakis, 2009:1; **Appendix DD**).”

Despite the questionable feasibility of the retention of Building No. 6 within a development alternative, as noted above, Alternative B1 was added to the Final EIR, which retains Building No. 6. Based on the large number of comments requesting an alternative that preserves Buildings No. 6 the project proponent provided the design for Alternative B1 which includes reuse of Building No. 6 as a retail and restaurant complex. This use is similar to the conference center / retail / restaurant uses assumed in the Lionakis assessment. Therefore, we would assume the substantial costs of reuse estimated by Lionakis would be similar for the reuse proposed in Alternative B1.

The renovation and reuse of Building No. 6 is not likely to result in increased patronage or operating revenues when compared to Alternative B, because it has not added any new components that would be expected to have such a result. The project proponent is of the opinion that the components proposed and the size of those components as detailed in both Alternatives B and B1 are appropriately tailored to the size of the project site and the surrounding market such that the expansion or addition of components would result in diminishing returns.

Thus, Alternative B1 would result in substantial additional costs without resulting in any additional revenues to offset these costs. Nonetheless, Alternative B1 is considered a potentially feasible alternative for the purposes of CEQA analysis. While profits would clearly be diminished, the project proponent has not indicated that the development of Alternative B1 would be unprofitable 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. The project proponent has made no commitment regarding whether it can or is willing to carry out Alternative B1.

With respect to Building No. 17, the City determined that the land surrounding the building is among the most ecologically suitable locations for new on-site development (see discussion above concerning development constraints) and that retention of the building in its present location would result in the elimination of critical proposed uses. The Draft EIS/EIR, at **Section 4.6**, discloses the significant impact associated with relocating the building on-site, and **Mitigation Measure 5-1(I)** is recommended to lessen the severity of the impact. In short, in-situ preservation of Building No. 17 would result in either a drastic scaling back of the project such that the City’s objectives for reuse would not be met, or that displaced amenities and programming elements would be shifted to less desirable locations on the property,

resulting in less open space, encroachment into biologically or archaeologically sensitive areas, and diminishment of the walk-ability of the site due to reduced density, etc.

3.4 SAN FRANCISCO BAY TRAIL

Summary of Comments: 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.

Response: As described under *Parkland and Recreation* in **Section 2.2.2** of the Draft EIS/EIR, the Proposed Project would include construction of a segment of the San Francisco Bay Trail through the Point Molate property. The proposed trail would be located along the shoreline of the Point Molate property and would be maintained by the project proponents.

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. However, in light of these recent developments regarding the easement conveyance, **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.

With respect to compliance with the Richmond General Plan, some commenters cite General Plan Goal OSC-S item 1, which states "City will require all new commercial, industrial, and residential developments to provide public access where a local or regional trail (e.g., Bay Trail and Bay Area Ridge Trail) is planned or located." The Proposed Project is consistent with this goal as the entire shoreline area at Point Molate would be open to the public and the Bay Trail segment through the project site would be completed.

3.5 GEOLOGY

3.5.1 SEISMICITY AND LIQUEFACTION

Comments: Several comments were received regarding the safety of constructing habitable structures within a seismically active region such as Point Molate and the San Francisco Bay Area. Commenters were concerned with the seismic shaking potential of the area and associated potential for liquefaction of soils on the project site.

Response: Because of the seismic activity of the region, provisions are included as mitigation in **Section 5.2.1** of the Draft EIS/EIR to reduce potential impacts associated with seismic shaking and liquefaction (and unstable soil conditions) to less than significant levels. As stated in **Mitigation Measure 1-3**, the Winehaven buildings and any other retained on-site historic buildings shall be retrofitted in compliance with the State Historical Building Code (Health and Safety Code 18950, et. seq. and California Code of Regulations Part 8 Title 24) to reduce the risk of collapse during strong seismic events. The above referenced mitigation measure has been clarified in the Final EIR to note the specific statutory and regulatory frameworks that apply.

New buildings shall be constructed according to the seismic stability provisions of the California Building Code, which defines seismic requirements for the project site area. These provisions will reduce potential impacts. Additionally, as required under **Mitigation Measure 1-2**, engineering of all structures and facilities shall incorporate the recommendations of the final design-grade geotechnical report to mitigate all potential impacts associated with seismic activity and liquefaction. These measures are anticipated to include requirements to construct foundations designed to resist movements of expansive soils and removal of unstable soils and replacement with suitable fill or engineered materials. Adherence to engineering standards and site-specific design specifications would mitigate potential impacts associated with seismicity as well as expansive or unstable soils. Verification of adherence to the strict structural prescriptions would be accomplished through implementation of the required Mitigation Monitoring and Reporting Plan as well as through independent plan checks and construction inspection, which are standard construction requirements.

3.6 WATER AND HYDROLOGIC ISSUES

3.6.1 WATER SUPPLY

Comments: Several comments raised the issue of potential impacts on East Bay Municipal Utility District's (EBMUD) water supply infrastructure from the Proposed Project. Comments were also received regarding the availability of EBMUD water to meet the demands of the Proposed Project, the need for a water assessment from EBMUD, and purported failure to meet CEQA Guidelines Section 15155 regarding City consultation with the appropriate water agency. Some comments also stated that

the document needs to discuss the potential impacts of the off-site connection routes to fully address direct and indirect impacts from the Proposed Project.

Response: Potential impacts to the area water supply are discussed in **Section 4.10** of the Draft EIR/EIS. As discussed therein, water demand of the Proposed Project would be met by connection to the existing EBMUD system. The Tribe has received a will-serve letter from EBMUD (November 14, 2007) stating its ability to enter into negotiations and contract for water service to meet the demands of the Proposed Project (**Appendix G**). As discussed in **Section 4.10** of the Draft EIR/EIS, Alternative B would require the highest peak demand of all the alternatives. It is estimated that Alternative B would demand 933 gallons per minute (gpm), which accounts for 0.9 percent of EBMUD's remaining water supply system capacity. EBMUD's ability to serve the Proposed Project without detrimentally impacting the supply system was verified through the completion of a Water Supply Assessment (WSA). The WSA (**Appendix G**), dated September 10, 2008, also memorializes the consultation between the City and EBMUD, fulfilling the requirements of CEQA Guidelines Section 15155. As noted in the WSA, the anticipated demand of the Proposed Project is included within the most recent EBMUD management plan. As stated in the Draft EIS/EIR, implementation of the Proposed Project would not adversely impact the water supply for the area.

A water and wastewater feasibility report (**Appendix G**) was prepared for the Proposed Project analyzing the components required to provide water service to meet the estimated demands of the Proposed Project. Based on the findings of the report, on-site storage of water in the existing one million gallon water tank would provide adequate pressure to meet fire-flow requirements. Water would be supplied by the existing 12-inch diameter water main located below Western Drive. Potential indirect impacts along Western Drive were assessed in the course of the EIR analysis (Draft EIS/EIR **Section 4.3**). The Tribe, like all other EBMUD customers, will pay the costs associated with the infrastructure improvements that would be required. EBMUD will ultimately direct the final specifications of all off-site improvements and will work closely with the project proponent in finalizing the design of on-site connections.

3.6.2 WASTEWATER

Summary of Comments: Several commenters raised the issue of potential impacts from the Proposed Project on Richmond Municipal Sewer District (RMSD) wastewater disposal infrastructure. Comments were also received regarding the availability of capacity at the RMSD Wastewater Treatment Plant (WWTP) to treat the demands of the Proposed Project. Some comments also referenced potential impacts related to the off-site connection routes.

Response: As discussed in **Section 4.10**, the RMSD is in the process of making off-site upgrades to the sewer collection system to minimize the volume of inflow and infiltration (I&I) along existing collection lines. Based upon the City's Sewer System Master Plan, improvements to the sewer collection system are planned to occur through the year 2020, with an estimated reduction in system I&I by 70 percent (**Appendix G**).

These I&I improvements will remove the current capacity issues at the WWTP, which are due strictly to wet weather I&I, and allow for future anticipated wastewater flows. Refer to **Impact Statements 4.10.3, 4.10.14, 4.10.25, and 4.10.36** in the Draft EIS/EIR for a discussion of I&I rates for each alternative analyzed. Furthermore, as required under **Mitigation Measure 9-3** of the Final EIR and by the established application procedure, the Tribe would pay its fair share for improvements, as necessary, consistent with typical commercial requests for service, and fund upgrades to the collection system to reduce existing rates of I&I to such an extent as to provide adequate conveyance and treatment capacity for the peak day wastewater generation rates.

Two potential wastewater conveyance routes are discussed in the Draft EIR/EIS. The two utility routing corridors are described in **Section 2.0** of the Draft EIS/EIR and detailed maps of the routes are provided in the water and wastewater feasibility study included in **Appendix G** as well as **Figure 4.14-3** of the Final EIR. As the existing wastewater conveyance system connecting to the project site does not meet anticipated project flow requirements, the development of new infrastructure is needed prior to project operation. Two optional routes were analyzed in the Draft EIS/EIR. Through a combination of background research and field surveys covering off-site improvement areas, the potential environmental impacts associated with the construction of the wastewater conveyance and other utility routes, as well as improvements to regional transportation facilities, were considered in the scoping and execution of resource studies (**Sections 3.5.4, 3.6.2, and 4.14.8**). Analysis of indirect and off-site effects of the Proposed Project is presented in **Section 4.14** of the Draft EIS/EIR. The Final EIR (**Section 4.14.8**) has been supplemented to more fully describe the research and field study undertaken to assess off-site impacts. Off-site locations analyzed in the Final EIR include the optional utility alignments (**Figure 4.14-3**), as well as all areas subject to ground disturbance related to mitigation (e.g., transportation facilities). Off-site surveys were conducted on September 3 and September 25, 2008 (**Sections 3.5.4, 3.6.2, and Appendix Y**). Additional background research and field survey was undertaken in October 2009 to augment work from the previous year (**4.14.8**). As such, all areas that may be affected by off-site infrastructure improvements are analyzed in the Final EIR.

3.6.3 STORMWATER

Summary of Comments: Several commenters were concerned with the ability of the project design to detain and treat stormwater in accordance with local and state standards.

Response: As discussed in **Section 3.3.2**, surface runoff from lands within the project site and lands tributary to the project site originates from the ridge located approximately one fourth to one half mile east of the western coastline. Eight distinct watersheds are present on the project site, which discharge directly to San Francisco Bay (Bay). The watersheds and existing storm drains are shown in **Figure 3.3-2** of the Draft EIS/EIR. Additional details regarding the on-site drainages are provided in **Appendix H**. To assess the capacities of the existing stormwater conveyance system to accommodate the change in

impervious surfaces, a drainage plan was developed and is included within **Appendix H**. The drainage plan includes runoff hydrographs which quantify the increase in stormwater runoff rates and recommended improvements that would result in the detention of increased flows associated with project development, thus limiting off-site flows to rates equal to or less than the pre-existing off-site stormwater discharge rates. Based on the drainage plan's recommendation to require incorporation of drainage improvements and provisions outlined within the Contra Costa Stormwater C.3 Guidelines, discharge from the project site would not result in significant impacts to the beneficial uses of the Bay.

Mitigation has been included that requires the Tribe to develop a design-grade Stormwater Control Plan that includes the provisions outlined within the most current version of Contra Costa Stormwater C.3 provisions. As discussed in **Mitigation Measure 2-3** of the Draft EIS/EIR, the Stormwater Control Plan shall include final design specifications as required by the C.3 Guidelines in place when development begins. The existing C.3 Guidelines have been incorporated into the preliminary drainage plan included in **Appendix H** of the Draft EIS/EIR.

Implementation of the planned stormwater quality improvement design provisions of the project alternatives are the responsibility of the Tribe with oversight provided by the appropriate jurisdictional agency. On trust lands, Region 9 of the U.S. Environmental Protection Agency (USEPA) is responsible for ensuring tribal actions on trust lands do not interfere with a State's ability to meet the requirements of the Clean Water Act (CWA). The Tribe is responsible for maintaining the performance of water quality improvements with the potential for civil penalties should failures result in environmental impacts. On fee lands, the City and the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) are responsible for ensuring Tribal and City actions do not degrade water quality in such a manner that CWA requirements cannot be met. As required by **Mitigation Measure 2-1**, the Tribe would be responsible for ensuring water quality improvements are maintained in accordance with the requirement to implement a stormwater pollution prevention plan (SWPPP) that addresses water quality impacts associated with construction and operation of the project. Additional provisions preventing stormwater pollution would be documented in an Erosion and Sediment Control Plan (prepared for fee lands) and a Tribal a Grading Ordinance that is the functional equivalent to the requirements of the City's grading permit (for trust lands), as required by **Mitigation Measure 2-2**. Compliance with the applicable provisions of the CWA on trust lands would be verified and enforced by the USEPA. Furthermore, all mitigation included in the Final EIR will be enforceable by the City. Please refer to **General Response 3.10** for a discussion of the mechanisms in place to enforce mitigations specified in the Final EIR.

3.7 AIR QUALITY

3.7.1 TOXIC AIR CONTAMINANTS

Summary of Comments: Some commenters stated that the Proposed Project could have a direct or cumulative impact related to air quality toxicity.

Response: The types of commercial and retail uses proposed at the project site would not emit toxic air contaminants (TACs) in an amount that would require risk screening. TACs (including diesel particulate matter [DPM]) are discussed in **Section 3.4** and **Section 4.4** of the Draft EIR/EIS. The Chevron Refinery, located on the east side of the San Pablo Peninsula, is the nearest emitter of TACs in the vicinity of the project site. The Chevron Refinery is separated from the project site by Portero Ridge, which rises roughly 325 – 430 feet above sea level. The prevailing winds are from the west/southwest 86 percent of the time. The distance, natural barriers, and prevailing winds isolate the project site from the Chevron Refinery; as such, no direct or cumulative TAC impacts would occur.

3.7.2 INDOOR AIR QUALITY

Summary of Comments: Several commenters stated that the Proposed Project would have a significant impact on indoor air quality due to second hand smoke.

Response: **Section 4.4** of the Draft EIS/EIR provides a discussion of indoor air quality. Second hand smoke has the potential to precipitate an array of health problems. While indoor smoking is regulated at the state level, there are no similar provisions at the federal level that would apply to trust lands. Moreover, there are no federal or state indoor air pollution thresholds that are applicable to the analysis.

Indoor smoking would be permitted at designated areas within the casino facility. Potential impacts related in indoor smoking are analyzed in **Sections 4.4.3, 4.4.6, and 4.4.9** of the Draft EIS/EIR. The analysis in **Section 4.4** includes second hand smoke generated within the gaming facility as well as outdoor pollutants derived from tobacco smoke brought into the facility by ventilation systems.

Mitigation Measures 3-45 through **3-53** provided in **Section 5.2.3** of the Draft EIS/EIR would reduce second hand smoke and indoor air pollutant impacts to a less than significant level. The broad range of mitigation measures includes, but are not limited to: smoke-free areas of the casino with separate HVAC systems; notification signage, readily available literature, and disclosure to all prospective employees concerning the presence and effects of second hand tobacco smoke; ventilation systems that are compliant with ASHRAE Standard 62-1999 requirements; and protection of fresh air sources from tobacco smoke or other pollutants of concern.

3.7.3 TRIP GENERATION

Summary of Comments: Some commenters stated that the trip generation rate applied in the transportation analysis is erroneous and therefore emissions from vehicle trips are underestimated.

Response:

Refer to **General Response 3.12** regarding trip generation rates.

3.8 GLOBAL CLIMATE CHANGE

3.8.1 GREENHOUSE GASES

Summary of Comments: Several commenters stated that the criteria used to evaluate potential impacts related to greenhouse gases and climate change are inappropriate.

Response: **Section 4.15** of the Draft EIS/EIR provides a quantification of the GHG emissions for all development alternatives. At the time the Draft EIS/EIR was released for public comment, no federal, state, or local agency had set numerical significance thresholds for the analysis of impacts from greenhouse gas (GHG) emissions. In the absence of such thresholds, the GHG impact analysis in the Draft EIS/EIR is properly based on guidance provided by, and/or consultation with, the California Air Resources Board (CARB), the California Air Pollution Control Officers Association (CAPCOA), the Association of Environmental Professionals (AEP), the California Office of Planning and Research (OPR), and the California Attorney General's Office. The goal of all GHG impact analysis guidance in California is to ensure compliance with the State's GHG reduction targets contained in Assembly Bill 32 (AB 32). Therefore, the Draft EIS/EIR properly considers the Proposed Project's effects on statewide efforts to achieve GHG reductions under AB 32 in determining whether a significant impact would result. In addition to the mitigation measures required to ensure a less than significant impact, an extensive list of improvement measures are provided in Draft EIS/EIR **Section 5.2.3** that would further reduce GHG emissions. As noted in Draft EIS/EIR **Section 5.2.3**, many of these measures are consistent with the Office of the Attorney General's recommended global warming mitigation measures.

Although the climate change analysis in the Draft EIS/EIR remains adequate pursuant to the requirements of NEPA and CEQA, the analysis has been substantially updated and revised in **Section 4.15** of the Final EIR consistent with the recent CEQA Guidelines issued by the Bay Area Air Quality Management District.

3.8.2 SEA LEVEL RISE

Summary of Comments: Several commenters raised the issue of potential impacts related to sea level rise associated with global warming.

Response: The project site would not be impacted by rising sea levels, even if a worst case scenario of a 55 inch increase in sea level over the next 100 years is assumed. The text of the Final EIR has been updated in **Sections 3.4** and **4.15** to describe existing conditions, outline the most-likely and worst case scenarios for sea level rise, and address the potential for the project site to be impacted. Using modeling data provided by the San Francisco Bay Conservation and Development Commission (BCDC), it was determined that only a tiny portion of the project site would be subject to inundation under the worst case scenario of sea level rise. **Figure 3.4-1** was added to the Final EIR, which depicts shoreline areas vulnerable to sea level rise based on data provided by BCDC. The portion of the project site subject to

inundation is located below the existing sea wall, and no project components would be located in this area. As such, no impacts related to sea level rise would occur.

3.9 BIOLOGICAL RESOURCES

3.9.1 Eelgrass

Summary of Comments: Several commenters have claimed that impacts to eelgrass beds have not been fully evaluated and that potential effects from project construction, site stormwater drainage, quarrying and barge transport of aggregates via the pier and ferry operations would negatively impact eelgrass beds.

Response: Potential impacts to eelgrass beds located within the submerged lands within the project site were addressed in **Section 3.5.4, 3.9.1, 4.5, and 5.2.4** of the Draft EIS/EIR. Consideration of several factors related to optimum habitat characteristics, the spatial relationship of project components to sensitive habitats, proposed water quality improvements, and proposed ferry operations indicates that the Proposed Project would have a less than significant impact on eelgrass beds located within the waters of Point Molate.

Recent (April 2009) aerial mapping of the Point Molate eelgrass beds with high resolution satellite imagery and overlays of San Francisco Bay bathymetry navigation maps shows that the eelgrass beds are confined to near shore shallow water habitats no deeper than 3feet (**Appendix FF**). Examination of the mapped extent of the eelgrass beds shows a distance in excess of 2,000 feet between the proposed mooring location on the pier and the seaward extent of the currently mapped eelgrass beds. As described in detail below, the extent of eelgrass beds off shore of Point Molate is constricted by depth and available light. The depth at the end of the pier is approximately 30 feet which is well out of the depth range of eelgrass beds in the San Francisco Bay. Furthermore, the rather long pier (approximately 1,365 feet) at Point Molate extends to the edge of the regulated navigation zone known as the San Francisco Bay Vessel Traffic Services Area, which is a major water transportation route. Refer to **Appendix FF** for a bathymetric map depicting the project site in relation to the established navigation zone.

Direct impacts to eelgrass beds from project construction are fully avoided based on the project design. Total avoidance of eelgrass bed habitat is accomplished by virtue of the fact that only the existing pier will be utilized and the total surface area of the pier will not be increased. Improvement of the existing pier may occur, but no new piles will be driven nor will any structures be built in the vicinity of eelgrass bed habitat. All activities associated with the pier reuse are subject to approval by the BCDC through consultation, and specific parameters associated with the pier reuse will likely be specified conditions of the BCDC consistency determination process.

Potential indirect impacts to eelgrass beds related to project site drainage, stormwater management and water quality are addressed in **Sections 2.2.2, 3.3 and 4.3** and **General Response 3.6.3**. A National

Pollutant Discharge Elimination System (NPDES) general construction permit will be acquired for the project under regulation of the Clean Water Act (CWA) and a Storm Water Pollution Prevention Plan (SWPPP) will be prepared and implemented for the management of construction related storm water discharges, as well as erosion and sediment control for all construction.

Additionally, a storm water management plan (SWMP) is included in **Appendix H** which details how storm water flows that may contain potentially turbid and/or contaminated waters will be stored in temporary detention facilities and filtered through vegetated swales in accordance with Contra Costa County C.3 stormwater quality control guidelines. In compliance with the CWA, these facilities will be monitored for water quality and treated if necessary prior to surface water discharge into the Bay. **Section 4.3.6** analyzes water quality effects from stormwater. **Section 5.2.2** details the Best Management Practices (BMP) to be developed in a SWPPP and a design-grade Stormwater Control Plan will be created in accordance with the Richmond Municipal Code 12.22.050. Furthermore, all regional Basin Plan water quality objectives must be met for all stormwater discharges entering State waters from non-trust lands. These combined measures and implementation strategies, in adherence with RWQCB water quality standards and objectives, will reduce water quality effects from project related surface water discharges to less than significant levels to eelgrass beds. In fact, with the implementation of the full suite of habitat restoration, on-site biological mitigation, and improvements to the aged stormwater system currently in place, the quality of water discharged to the Bay is expected to significantly increase.

Aggregate materials are slated to be quarried and processed on-site and would be transferred from the designated processing locations to barges docked at the end of the pier using a conveyor belt system set up on the existing pier structure. Sufficient dust control of crushed materials would be accomplished prior to transport along the conveyor system. To assure that all material being transported along the conveyor has a low risk of being discharged into the Bay by wind erosion or any other causes, complete enclosure of the conveyor belt system will be accomplished along with wetting the loose material as it enters the barges. This will prevent any loose sediment, soils or dust from entering the Bay during the transport operations (**Mitigation Measure 4-8**).

While the project proposes to utilize the existing pier as a ferry terminal, these ferry services would be offered using established deepwater channel routes and would not increase the overall vessel traffic in the Bay. As described in the letter dated December 8, 2008 from the President of the Blue and Gold Fleet (**Appendix S**), ferry service to the project site would be most effectively provided through “back-loading” of existing ferry routes. This is accomplished by stopping at the Point Molate pier in the reverse commute direction on “dead-head” runs that are virtually empty. As such, the number and frequency of ferry vessels passing the Point Molate pier would not increase over existing conditions. Thus, the frequency and magnitude of potential ferry wakes would not significantly increase from the current baseline condition under the Proposed Project. The ferry mooring location would be established at the deepwater channel end of the pier, where the depth of the Bay is approximately 30 feet. Ferries, oil tankers, and all manner of other vessels pass adjacent to the existing pier on a daily basis as they traverse

the San Pablo Straight located roughly 1.5 miles north. As such, the slight diversion to land at the Point Molate pier would not create wakes or turbidity in the near-shore environments that are greater than what are experienced under the baseline conditions as a result of existing water transportation. It should be noted that during Naval occupation of the site, ships with far greater draft and much larger propellers (with a concomitant ability to raise more turbidity) regularly moored at the pier with no apparent adverse effect on the eelgrass beds at Point Molate as indicated by historic aerial photographs (**Appendix FF**). Moreover, the eelgrass beds along Point Molate also survived several decades during which time a shrimp camp was located on the southern beach. The camp had several small piers that extended into the Bay and regularly dragged large nets along the bay bottom while hauling in their catch. The shrimp camp was in operation at the same time that hydraulic mining was taking place in the Sierra Nevada, creating an unprecedented amount of sediment to be washed into San Francisco Bay, undoubtedly raising the turbidity of near-shore environments. Despite such intensive past use of the shoreline at Point Molate, the eelgrass beds have nonetheless survived. Nonetheless, additional language has been added to Final EIR **Section 5.2.4** that would serve to further reduce any potential for impacts related to boat wakes.

Despite the fact that the Project was designed with habitat preservation in mind, mitigation has been added (**Mitigation Measure 4-8**) to the Final EIR that specifies the speed at which ferry vessels may approach the pier to further reduce the potential for the creation of wakes and turbidity. The area landward of the pier, which extends to the north and south of Point Molate, is restricted to motorized boat traffic and would remain so under all of the project alternatives.

In a literature review document dated February 2003 that was jointly prepared by National Oceanic and Atmospheric Administration (NOAA) Center for Coastal Fisheries and Habitat Research and the University of Washington, School of Marine Affairs titled; *Eelgrass (Zostera marina L.) Research in San Francisco Bay, California from 1920 to the Present*, the Point Molate eelgrass beds were thoroughly reviewed from available scientific literature. This document highlights studies conducted by Zimmerman et. al in 1991; Short and Duarte in 2001; and Phillips and Wyllie-Echeverria in 1989 to find and evaluate relationships between sub-marine light and eelgrass distribution in the Bay; the Point Molate eelgrass beds were evaluated in these studies. Findings presented in the study indicate that Point Molate eelgrass is a distinct ecotype adapted for locally high turbidity and lower light conditions and that these factors in combination with other unidentified environmental factors limits the growth of eelgrass at the Point Molate location. In addition, Zimmerman et. al indicated that Point Molate eelgrass was limited by available light to depths approximating 1 meter (3.3 feet).

Other literature such as Jensen et. al 2000 titled, *Eelgrass, Growth Along Depth Gradients* shows that at the 3 meter range (9.8 feet), maximum relative cover and biomass are observed for eelgrass in suitable light conditions. This study also indicated that beyond 3 meters a steady reduction in cover and biomass is observed. Therefore as available light is decreased the depth of establishment is also decreased.

Utilization of the existing pier would provide a 2,000 foot buffer, which is more than sufficient for ferry approaches and departures. In addition to this favorable buffer, **Mitigation Measure 4-8** includes supplemental measures such as limiting ferry routes to the deepwater channel as well as reducing approach velocities to the end of the pier. Furthermore, ferry traffic will not route from the terminal landward towards the shoreline and the mooring of private boats would not be allowed. In addition to these strict impact avoidance measures the Tribe has committed money and volunteer hours to a current eelgrass monitoring and restoration program developed to establish reseeding of the current population and track eelgrass growth rates as well as other applicable environmental parameters to maintain and preserve these sensitive habitats. These monitoring efforts will ensure that these sensitive habitats are preserved and maintained in perpetuity.

The conditions cited above, in combination with the relevant avoidance and mitigation measures will reduce potential impacts to eelgrass beds to a less than significant level. The National Marine Fisheries Service (NMFS) concurred with this conclusion of less than significant impact for purposes of consultation under Section 7 of the Endangered Species Act (Final EIR **Appendix FF**). NMFS recommended extended monitoring of impacts to eelgrass during operation, however, to ensure mitigation is effective and impacts to essential fish habitat are less than significant - this mitigation has been added to **Section 5.0** of the Final EIR.

3.9.2 HABITAT CLASSIFICATION

Summary of Comments: Some commenters stated that the vegetation mapping presented in the Draft EIS/EIR is not accurate, specifically with respect to the classification of grassland habitat.

Response: Habitat classification is presented in **Section 3.5.4** of the Draft EIS/EIR. All grassland encountered on-site was considered to be highly degraded and more appropriately classed as California Annual Grassland Alliance, rather than coastal prairie/coastal grassland. Plant species most frequently observed within the annual grassland habitat on-site were slender wild oat (*Avena barbata*), big quaking grass (*Briza maxima*), ripgut brome (*Bromus diandrus*), soft brome (*Bromus hordeaceus*), red brome (*Bromus madritensis ssp. rubens*), nit grass (*Gastridium ventricosum*), ryegrass (*Lolium multiflorum*), Harding grass (*Phalaris aquatica*), brome fescue (*Vulpia bromoides*), Italian thistle (*Carduus pycnocephalus*), field mustard (*Brassica rapa*), smooth cat's-ear (*Hypochaeris glabra*), morning glory (*Convolvulus arvensis*), rose clover (*Trifolium hirtum*), winter vetch (*Vicia villosa*), filaree (*Erodium botrys*), sheep sorrel (*Rumex acetosella*), Fitch's spikeweed (*Hemizonia fitchii*), sticky tarweed (*Holocarpha virgata*), blue dicks (*Dichelostemma capitatum*), Ithuriel's spear (*Triteleia laxa*), cheeseweed (*Malva parviflora*), and bristly ox-tongue (*Picris echioides*). Of these dominant species, only a few of the forbs are native: Fitch's spikeweed, sticky tarweed, blue dicks and Ithuriel's spear.

Please refer to **Section 3.5-13** where it is noted that "A comprehensive list of plant species observed on-site during the floristic surveys is provided in **Appendix K**. Plant species identification, nomenclature, and taxonomy followed The Jepson Manual: Higher Plants of California (Hickman, 1993) and Plants of

the San Francisco Bay Region: Mendocino to Monterey (Kozloff and Keidleman, 1994). Plant species observed on-site were identified to the lowest taxonomic level permitted given the timing of the surveys and phenological state of the plants. Habitat classification was based on the classification systems presented in A Manual of California Vegetation (Sawyer and Keeler-Wolf, 1995), Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986), and A Guide to Wildlife Habitats of California (Mayer and Laudenslayer, Jr. 1988), but have been modified to reflect the existing conditions on-site.”

While the distinction between coastal prairie and California Annual Grasslands is subtle, both are general grassland types that can be highly variable in species composition and have been invaded to differing degrees by non-native plants. While at some point in the past, coastal prairie was more than likely the dominant grassland habitat on Point Molate, it should be noted that without natural disturbance regimes present such as grazers and periodic wild fire, or proper management, coastal prairie does not sustain and over time becomes invaded by non-natives to the degree where a coastal prairie designation is unwarranted. Additionally, the California Department of Fish and Game (CDFG), which tracks coastal terrace prairie in CNDDDB, does not identify this habitat type on the Point Molate site and the next closest occurrence of this habitat is 5 miles to the west on Ring Mountain in Marin County.

It should be noted that regardless of the typological classification of on-site grassland habitats, only 0.637 acres of 39.461 acres (equaling 1.61 %) of total grassland habitat is impacted under Alternative A.

Mitigation Measure 4-1 outlines a 2:1 replacement/restoration ratio for these impacts. This would include the conversion/restoration of a 1:1 ratio of non-native habitats on-site to grasslands as well as designating an additional 1:1 ratio of existing and equivalent habitat into an open space preserve with a conservation easement in perpetuity. **Mitigation Measure 4-9** details how the vegetation mitigation will be designed, implemented, maintained and monitored in perpetuity with the development of a Vegetation Management Plan (VMP) for the project site. This plan will include design and implementation strategies for planting and seeding of native grasses and component species that are most indicative of the natural historic maritime setting on-site. Native grassland species documented to occur in low abundance on-site such as California oatgrass (*Danthonia californica*), red fescue (*Festuca rubra*), purple needlegrass (*Nassella pulchra*), cordgrass (*Spartina foliosa*), inland saltgrass (*Distichlis spicata*), and six week fescue (*Vulpia octiflora*) will be harvested for seeds, to the extent feasible, and used for grassland establishment in these newly created grasslands. These grasses will form a basis for establishment of a native grassland community. In addition to these species, a preponderance of additional native component species will be used for restoration of the grasslands on-site. The composition of grasses used for restoration and replacement will be detailed in the VMP.

Additional botanical surveys have been conducted on the site since the publication of the Draft EIS/EIR. These surveys have shown that current conditions on the site are similar to the conditions reported in the Draft EIS/EIR. 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.

3.10 MITIGATION ENFORCEMENT

Summary of Comments: Several comments were received that questioned the mechanism for enforcing mitigation and improvement measures provided in the Final EIR.

Response: As described in **Section 1.5.5** of the Draft EIS/EIR, all mitigation and improvement measures adopted by the City of Richmond as conditions of approval of one of the project alternatives will be included in a Mitigation Monitoring and Reporting Program to verify compliance. If the City decides to adopt one of the alternatives that includes federal trust acquisition of the project site (Alternatives A, B, and C), the mitigation will be attached as an exhibit to the Municipal Services Agreement (MSA; **Appendix C**), and thus will be incorporated into a legally enforceable contract. Recognizing the unique status of the Guidiville Band of Pomo Indians as a federally-recognized tribe, Section 11.3 of the MSA provides for a limited waiver of the Tribe's sovereign immunity for enforcement of contractual obligations specified in the LDA and its attachments, such as the MSA. Enforcement on the part of the City will consist of verifying compliance with all mitigation and improvement measures specified in the Final EIR. The Tribe also provided a limited waiver of sovereign immunity from unconsented suit for the purpose of enforcing mitigation measures stipulated in the Intergovernmental Agreement (IGA; **Appendix BB**) that was entered into with Contra Costa County.

3.11 SOCIOECONOMIC CONDITIONS

3.11.1 CRIME

Summary of Comments: Several commenters expressed concern that casino operations are linked to crime, and that the Proposed Project would significantly increase crime throughout the region. Several commenters highlighted specific crimes they were concerned would increase as a result of the Proposed Project, including prostitution, child abuse, domestic violence, public intoxication, and driving while intoxicated.

Response: As discussed in **Section 4.7.6** of the Draft EIS/EIR, there has been no demonstrated causal link between casino-style gambling and crime. The discussion of social effects from gambling casinos is based primarily on studies by the National Gambling Impact Study Commission (NGISC) (1999), the National Research Council (NORC) (1999), and the National Public Sector Gaming Study Commission (NPSGSC) (2000). While each of the studies is distinct, they consider a range of sources including: academic research, testimony on a range of topics from around the United States, review of articles and comments, and original datasets from statistics of 100 different United States communities and case studies of casino openings. Together they present the most comprehensive and objective research on the social effects of problem gambling.

Destination resorts, by nature, increase the volume of people entering a given area. Whenever large numbers of people are introduced to an area, the volume of crime typically increases proportionately. This holds true for the introduction of any large-scale development. The discussion in **Section 4.7.6** of the Draft EIS/EIR points out, criminal incidents would be expected to increase at the project site over existing conditions, since presently there is virtually no public use of the property. Law enforcement services would be required at the resort due to the additional presence of people. With the implementation of the MSA as part of the Proposed Project, the Tribe would provide compensation to local law enforcement service providers so that these agencies have the capacity (employees, facilities, and equipment) necessary to address any increase in demand for law enforcement services resulting from the Proposed Project. The MSA and supplemental mitigation measures (**Mitigation Measures 9-13** and **9-19**) require construction of a combined police and fire station on-site to serve the San Pablo Peninsula. With mitigation, the impact would be less than significant. For further discussion of law enforcement services refer to **Section 4.10.9** of the Draft EIS/EIR. Moreover, mitigation measures presented in **Section 5.2.6** of the Final EIR have been supplemented based on input from Cooperating Agencies. With implementation of the proposed mitigation measures, the provisions of the MSA, as well contemporary management practices, potential impacts related to crime would be reduced to a less-than-significant level.

As highlighted in the Public Hearing held September 17, 2009, recent email correspondence between the San Pablo Chief of Police, Joseph P. Aita, and City Manager, Brock Arner, indicates that the Lytton San Pablo Casino has had little impact on local crime. The text of the email was entered into the administrative record by City of Richmond Planning Commissioner Rao. An excerpt of Chief Aita's statement is provided below.

It is well known that the addition of any large business or entertainment venue will naturally increase a city's population, thus generating increased calls for service and/or medical responses by public safety providers. Astonishingly, the Casino only generated 4.5 percent of the City's total calls for service in 2008; and even less (1.6 percent) which required actual police intervention... Comparatively, the Town Center shopping mall adjacent to the Casino operates extended business hours with a significantly less daily population, yet recorded just 1.5 percent fewer total calls for service than the Casino. The Center also averages 11 arrests per month to the Casino's 14.

The statements made by the San Pablo Chief of Police further support the findings of the crime impact analysis presented in the Draft EIR/EIS. For more information regarding Chief Aita's full statement, please refer to Comment PH2-90.

Additionally, Contra Costa County Sheriff Warren E. Rupf stated in a letter to the County Administrator dated November 2, 2009, that he anticipates the Proposed Project would have a negligible impact on

criminal activity (**Appendix JJ**). Sheriff Rupf noted that there has not been “any significant increase in criminal activity” as a result of the neighboring Casino San Pablo and he expects the same to remain true with the Proposed Project. Sheriff Rupf agrees that the provisions of the LDA and the MSA will adequately address any potential concerns related to criminal activity associated with the Proposed Project. Furthermore, he states that the MSA and LDA will provide the necessary funding to place more deputies in unincorporated West County so that a safer environment may be provided in that area.

With respect to alcohol availability and consumption, it is important to note that it will not be a policy of the Tribe to offer complimentary alcoholic beverages to its customers. Furthermore, as stated under **Mitigation Measure 9-15**, “the Tribe shall adopt a ‘Responsible Alcoholic Beverage Policy’ that would include, but not be limited to, requesting identification of patrons and refusing service to those who have had enough to drink. This policy shall be discussed with the Richmond Police Department.” Additionally, as stated under **Mitigation Measure 6-2** of the Final EIR, “The Tribe shall provide training to all appropriate employees regarding the identification of intoxicated patrons gambling; shall adopt procedures to prohibit intoxicated persons from gambling at the gaming establishment; and shall provide information to intoxicated gambling patrons regarding the dangers of intoxicated gambling, and available counseling and treatment resources.”

The Draft EIS/EIR provides an analysis of all reasonably foreseeable impacts to the human environment from gambling. **Section 4.7** and **Appendix T** of the Draft EIS/EIR analyze potential impacts associated with crime and other social issues as a result of having a casino in the local area. Some commenters described speculative negative expectations that causally linked the Proposed Project with a wide variety of social ills, yet failed to provide new information for consideration in the Final EIR to substantiate the perceived link.

The EIR’s analysis and conclusion that the potential social impacts can be mitigated to a less than significant level is echoed in the Intergovernmental Agreement (IGA) between Contra Costa County and the Tribe, as well as a recent letter from the County to the Secretary of the Interior (**Appendix BB**). In both documents it is acknowledged that potential impacts will be fully mitigated by the mitigation measures presented in the Draft EIS/EIR.

3.11.2 PROBLEM GAMBLING

Summary of Comments: Several comments received expressed concern that the Proposed Project would increase the likelihood of problem or pathological gambling and associated social dysfunction within the region.

Response: Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (*e.g.*, blight). The Draft EIR/EIS included extensive discussion of

socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes.

Section 4.7.5 of the Draft EIS/EIR contains a discussion of social impacts, and estimates the increase in the number of problem gamblers and increased demand in treatment for these problem gamblers. As discussed, the most prevalent forms of gambling are those already found in most neighborhoods: scratch lottery cards, lotto, and video lottery terminals. Thus, problem gamblers already exist in most communities. However, several studies suggest that the prevalence of problem and pathological gambling increases for all residents within 50 miles of a casino. Given the presence of an existing Class II casino approximately five miles east of the Proposed Project site, it is assumed that nearby residents are already exposed to gambling at that facility. The Draft EIS/EIR provided several mitigation measures to reduce the significance of these potential impacts. Mitigation measures presented in **Section 5.2.6** of the Final EIR augment those provided in the Draft by providing greater specificity, timetables for implementation, and reporting protocols.

Based upon gambling service statistics, as referenced in **Section 4.7.5**, it has been estimated that approximately one counselor would be needed for every 52 persons in need of treatment for problem and pathological gambling. Mitigation provided in **Section 5.2.6** of the Final EIR states that the Tribe will compensate County Social Services for a minimum of two new licensed counselor positions to address problem and pathological gambling. The Tribe and the County will engage in consultation every two years to assess changes in the number of counselors needed, as stipulated in the IGA (**Appendix BB**). Implementation of mitigation measures to address problem gambling would provide treatment for the estimated increase in problem gamblers from the project alternatives, as well as provide gamblers with awareness of treatment and methods for problem gamblers to privately seek treatment. As detailed in **Section 5.2.6**, the Tribe would provide training for all appropriate employees regarding identification of problem gambling. Employees shall offer customers information about available problem gambling resources when signs of problem gambling are evident. The Tribe shall maintain a voluntary self-exclusion policy as well as an involuntary exclusion policy for the purposes of preventing problem gambling. The Tribe shall also provide non-monetary support to the California Council on Problem Gambling. Information will be provided to guests of the gaming establishment through signage, pamphlets, and an Internet website that describe the symptoms of problem gambling. Informational brochures will be available throughout the gaming facility that discuss how a person knows that he or she has a gambling problem and the ramifications of such a problem in terms of family, friends and social obligations. The brochures shall provide a hotline number that is available to call 24 hours each day, including the Council on Compulsive Gambling of California's 24-hour free and confidential Helpline, which offers problem gamblers and their families' information and referral to self-help and professional services. With implementation of these mitigation measures, potential impacts to problem gambling would be less than significant.

3.11.3 EMPLOYMENT OPPORTUNITIES

Summary of Comments: Some comments requested precise details regarding the employment opportunities generated by the Proposed Project. Several comments opined that most or all jobs offered would pay minimum wage and lack benefits. Some commenters challenged the validity of employment projections, and were concerned that the information regarding jobs is not “guaranteed.”

Response: Employment opportunities generated from the operation of project alternatives would consist of entry-level, mid-level and management positions. The types of positions offered would be similar to other resort facilities that offer a wide range of amenities. Typical tribal casino and resort employment opportunities are listed in **Table 4.7-4** of **Section 4.7.2** of the Draft EIS/EIR. Entry-level positions could be filled by persons with a variety of skill levels. Average salaries offered would be consistent with, or greater than those of, other tribal gaming facilities and competitive in the local labor market. Existing agreements between the Tribe and City provide for compliance with living wage, first-source hiring and other local worker benefits. The MSA between the Tribe and City requires the Tribe to hire 40 percent of the non-management operational employees from the City of Richmond at opening of the facilities. The Tribe, through the IGA with the County, has further committed to develop a county-wide first-source hiring plan with a goal to source a total of 70 percent (including the 40 percent from the City) of non-management operational employees from within the County at opening of the facilities (**Appendix BB**).

Operational activities would generate an annual total of approximately 16,771 employment opportunities within the County including direct, indirect, and induced employment, as shown in **Table 4.7-5** of **Section 4.7.2** in the Draft EIS/EIR. The modeling that generated the projected employment numbers is provided in the Economic Impact Study (**Appendix T**) of the Draft EIS/EIR. The Impact Analysis for Planning (IMPLAN) model was utilized in the Economic Impact Study. This model was developed by the U.S. Department of Agriculture Forest Service, and is a widely used modeling tool. The IMPLAN model is commonly used to estimate economic impacts to communities and regions. It uses a complex set of coefficients and multipliers that are specific to each county to account for how each industry in the region interacts with one another. These multipliers come pre-programmed into the data for each county. Therefore, the number of jobs that would be generated in different industries can be estimated, but the specific salaries and benefits cannot be estimated with confidence. Specific salaries and benefits for positions depend on the industries and companies or organizations that hire new employees. Market conditions and final programming of amenities at the time of operation would determine the ultimate mix of job types and the amount of compensation. Predicting the future labor market conditions could not be accomplished with precision or confidence and thus would be purely speculative and beyond the scope of analysis.

It is important to note that the IMPLAN model is a tool to project future events based upon certain assumptions. Assuming revenue for the Project’s first year of operations remains consistent with what

has been observed for other resort casino operations in the region, approximately 17,000 jobs are projected to be generated within the region, with the vast majority in Contra Costa County.

As summarized in **Section 2.1.2** and **Table 2-1** of the Draft EIS/EIR, “Wages shall be equivalent to the wage portions of the federal Davis-Bacon Act, the California Labor Code, the City’s Living Wage Ordinance, the City’s Business Opportunity Ordinance, and the City’s Local Employment Program Ordinance.” The goal of sourcing 70 percent of jobs from within the county labor market would have significant economic benefits for the County from the direct, indirect, and induced jobs created by the Proposed Project. To help effectuate this goal, the Tribe has committed to make three equal payments of \$50,000 to the County to fund staffing at the Employment and Human Services Department, North Richmond Young Adult Empowerment Center, as stipulated in the IGA (**Appendix BB**).

3.11.4 ECONOMIC VIABILITY OF PROPOSED PROJECT

Summary of Comments: Several commenters questioned the economic viability of the Proposed Project.

Response: The project proponent exercised due diligence prior to moving forward with the redevelopment proposal for Point Molate in order to determine the likelihood that the Proposed Project would be economically viable. A Gaming Market Analysis report was prepared (Innovation Group, 2007) in order to examine the local Richmond economy, relative location of competing facilities, and overall Bay Area gaming market conditions. The market assessment determined that the Proposed Project would indeed be successful and would be profitable in its first year of operation. Additionally, as determined in the Growth Inducing Impact Study prepared (Gaming Market Advisors, 2008), the greater Bay Area gaming market is expected to grow by approximately 20 percent to \$2.20 billion in 2012 with the introduction of the Proposed Project. Based on the above referenced considerations, the project proponents have invested more than 15 million dollars in the development option fees, project design, and other associated costs. After careful examination of local market conditions, it has been determined that the Proposed Project would be not only economically viable, but particularly successful in the current economy.

3.11.5 ECONOMIC IMPACT TO IMMEDIATE AND SURROUNDING COMMUNITIES

Summary of Comments: Several commenters stated that impacts to the immediate and surrounding communities were not assessed in the Draft EIS/EIR, that the Proposed Project would be detrimental to poor and minority communities surrounding the project site, and that the project would result in urban decay. Some commenters were concerned that the Proposed Project would result in detrimental cannibalization effects for the neighboring Casino San Pablo. In addition, some commenters were concerned that the money patrons would spend while gambling would leave the region and result in a substantial net monetary loss for the surrounding communities.

Response: Except for the limited circumstances outlined in the CEQA Guidelines (14 CCR 15131), CEQA does not require a discussion of socioeconomic impacts. CEQA addresses only environmental impacts, not social or economic impacts, so social or economical impacts are only relevant to the extent they cause an environmental impact (*e.g.*, blight). The Draft EIR/EIS included extensive discussion of socioeconomic impacts to comply with NEPA requirements. Even though the document is no longer a joint NEPA / CEQA document, the City has retained the extensive socioeconomic analysis for informational purposes. **Tables 3.7-8** and **3.7-9** provide an overview of minority and low-income communities located in proximity to the Proposed Project, including population statistics. Census tracts are used to identify minority and low-income communities for the environmental justice analysis. All of the potentially significant impacts associated with the Proposed Project would occur in close proximity to the project site. It was therefore determined that potential environmental justice communities are those located within the immediate vicinity of the project site, as identified in **Section 3.7** and shown in **Figure 3.7-1**. As discussed in **Section 4.7** no low-income or minority communities would be disproportionately adversely affected by impacts of the Proposed Project.

As stated in **Section 4.7.2** of the Final EIR, the Proposed Project would generate substantial wages in the regional economy from construction and operational activities. An estimated \$903 million would be spent on one-time construction wages. After initial construction, an estimated \$481 million annually would continue to be recycled through the surrounding communities by means of operational employee wages. These wages would serve to boost the economy of Richmond and Contra Costa County.

New spending from the Proposed Project is expected to generate a new annual total output of approximately \$767 million within the County (**Table 4.7-2**), which is roughly 80 percent of the projected revenue of \$959 million for the casino. There is no evidentiary support for the claim that the Proposed Project would result in net monetary loss for Richmond and the surrounding communities. On the contrary, studies suggest the Proposed Project stands to generate a substantial boost in the economy for Richmond, Contra Costa County and surrounding communities.

IMPACTS TO REGIONAL BUSINESSES

It is important to note that any substitution impacts as a result of the Proposed Project would be diffused across the region because there are a large number of existing businesses that already operate in a competitive environment. While Gaming Market Advisors (**Appendix T**) find that the facility most proximate to the Proposed Project is expected to experience the greatest proportional loss of revenue, declines in revenue at gaming facilities would be minimal. As projected by the Gaming Market Advisors, the greater San Francisco market would be worth approximately \$1.83 billion in 2012 without development of the Proposed Project. With development of the Proposed Project, the gaming market is projected to grow by roughly 20 percent to approximately \$2.20 billion in 2012. As the facility would draw non-residents to the area, the associated increase in new visitor demand for off-site entertainment venues, restaurants, etc. would make up for some area residents choosing to visit the Proposed Project rather than other local establishments. Therefore, although a certain amount of cannibalization is to be

expected, it is important to reiterate that the development of the Proposed Project is expected to result in a nearly 20 percent expansion of the San Francisco gaming market, which would greatly offset potential impacts due to cannibalization.

The Proposed Project is not anticipated to result in urban decay of the immediate or surrounding communities. The total gross leasable area (GLA) of all retail centers, excluding malls, is approximately 3.7 million square feet in Marin County and 16.3 million square feet in Contra Costa County (Terranomics Retail Services, 2009). Based upon the expansive retail market currently within communities surrounding the Proposed Project, the analysis presented in the Draft EIS/EIR assumes that regional businesses currently experience significant competition from preexisting retail stores. The development of approximately 367,000 square feet under the Proposed Project would be divided between restaurants, retail, entertainment and other uses as detailed in **Section 2.0** of the Draft EIS/EIR. At roughly 1.8 percent of the Contra Costa and Marin markets, the development of retail and food service space under the Proposed Project is small in the context of the broader retail market of the surrounding area. If retail space included within regional malls were considered, the Proposed Project would likely equate to less than one percent of the total regional floor space. Moreover, the types of retail establishments offered at Point Molate would be consistent with other resort facilities and would not be a large draw for regional residents shopping for daily essentials. Finally, given the relative remoteness of Point Molate it is not expected to be a major shopping destination for people who are not already using one of the many other resort amenities. Therefore, as there are many opportunities for consumers to shop throughout the region, the Proposed Project is not anticipated to draw a significant number of consumers away from established retail developments such that it would result in the failure of any regional business. For this reason, the Proposed Project would not result in urban decay of the area.

On the contrary, surrounding communities would benefit from the Tribe's expenditures on the goods and services necessary to maintain and operate a large-scale destination resort and casino. As stated in the Draft EIS/EIR, purchases would be made primarily from existing vendors located in Contra Costa County, the City of Richmond, and surrounding areas (Alameda, Marin, and Solano counties). While the exact amount of spending at county businesses cannot be quantified, spending at county businesses would generate new revenue and would be considered beneficial. Because the project site is located near a highly populated urbanized area, it is expected that local and county businesses would be able to meet a large portion of demand for goods and services. Further, local business would receive new revenue from induced and indirect expenditures on goods and services. **Table 4.7-2** provides a classification of direct expenditures on goods and services. The areas of classification provide a perspective on the industries that would receive output directly from the Proposed Project. To attempt to further quantify expenditures on goods and services at specific local businesses would be highly speculative. Moreover, given the character and mix of amenities proposed under the various alternatives, it is expected that the Proposed Project would cultivate a segment of the regional tourism economy (rather than cannibalize it) and provide a net benefit to regional businesses by creating a greater demand for goods and services.

3.11.6 POTENTIAL IMPACTS TO SOCIAL SERVICES

Summary of Comments: Several comments received expressed concern that the Proposed Project would strain social and public services, including fire, emergency medical services, law enforcement, schools, and parks and recreation.

Response: Analysis of impacts to social services is described in **Section 4.10** of the Draft EIS/EIR. It was determined that impacts to fire services, emergency medical services, and law enforcement could be potentially significant. Mitigation for the aforementioned potentially significant impacts is contained in Draft EIS/EIR **Section 5.2.9**. With mitigation, all potential impacts to social and public services would be less than significant.

IMPACTS WITHIN RICHMOND

The most pronounced impacts to social services are expected within Richmond. Impacts to fire services, emergency medical services, and law enforcement may be observed during both the construction and operational phases of the Proposed Project. The City would be fiscally impacted by increased costs to provide public services to the Proposed Project. However, these effects are addressed in the MSA (**Appendix C**), which provides for compensation by the Tribe to the City in the amount of \$8 million per year for the first eight years beginning with the commencement of gaming operations, and \$10 million per year thereafter. The City would receive additional community benefit payments based on the number of hotel rooms, size of retail floor space, and a portion of the annual construction costs. Provisions of the MSA and implementation of the recommended mitigation measures provided in **Section 5.2.9** of the Final EIR (**Mitigation Measures 9-7** through **9-12** and **Improvement Measure 9-13**) would ensure all potential public service impacts are less than significant. For further information regarding the impact analysis and mitigation measures for social services, refer to **Sections 4.7** and **5.2.9** of the Final EIR. Refer to **General Response 3.14.4** for further discussion of potential impacts to police and fire services.

IMPACTS WITHIN NEIGHBORING COMMUNITIES AND COUNTIES

As discussed in **Section 4.10**, some of the potential impacts to social services may occur within communities neighboring Richmond, and throughout Contra Costa County. According to **Section 2.2** of the MSA (**Appendix C**), potential impacts of the Proposed Project on the City Police Department would include enforcement of state criminal laws occurring on-site, issues associated with gambling that could be experienced throughout the community, traffic enforcement, and the investigation of any state criminal laws. Additionally, as required in the IGA (**Appendix BB**), under Alternatives A, B, and C, the Tribe will pay the County the annual sum of \$12 million for public safety, fire fighters and first responders, health, and social services related costs, and community benefit payments, commencing with the project start date, and payable for as long as the IGA is in effect. The County and Tribe agreed that \$7 million of each annual payment by the Tribe will be directed to programs and services in West Contra Costa County, and that the remaining \$5 million will be used for programs and services throughout the County. Of these

amounts, for seven years after the date of the first annual payment, \$2 million per year will be directed to help support the County Hospital and clinics. An additional \$2 million per year for seven years will be directed to health programs and services in West Contra Costa County, including County Clinics and Doctors Medical Center. Finally, \$1 million per year for seven years will be allocated for additional Deputy Sheriff patrols in the unincorporated areas of West Contra Costa County. With mitigation, the impacts to social services on the surrounding communities would be less than significant. Parkland would be greatly increased over existing conditions.

The impacts of the Proposed Project have also been considered for schools, as well as parks and recreation. From the generation of employment opportunities, a certain number of families are expected to relocate to Contra Costa County. As explained in **Section 4.10.10**, the Proposed Project would have a nominal effect on the ability of West Contra Costa Unified School District to provide services. Indirect, growth-inducing, and cumulative impacts are analyzed in **Sections 4.14** and **4.15** of the Draft EIS/EIR. In addition, as described in **Section 2.2.2**, the Proposed Project would create a 35-acre Shoreline Park and between 145 and 191 acres of Hillside Open Space with completely open community access. In accordance with **Section 5.7** of the MSA, the Tribe would be responsible for the maintenance of the Hillside Open Space with its trail system and the Shoreline Park, including the Bay Trail (**Appendix C**). Impacts on schools, and parks and recreation are considered less than significant.

Given the scale of the Proposed Project, the Draft EIS/EIR does not dismiss the potential for impacts to social services to occur in communities outside of Contra Costa County. However, the City of Richmond and Contra Costa County are expected to be most directly and quantifiably impacted by the Proposed Project due to their close proximity to the project site. Therefore, the socioeconomic impact analysis provided in **Sections 3.7** and **4.7** of the Draft EIS/EIR focuses on these geographies. Impacts to social services, including law enforcement, fire response, emergency medical services, schools, and parks and recreation, would be local in nature. Therefore, it is anticipated that social services demand would not be significantly affected in areas outside the immediate community.

3.12 TRANSPORTATION AND CIRCULATION

3.12.1 FERRY SERVICE

Summary of Comments: Several comments were received related to the proposed ferry service on-site. Some commenters stated their belief that the ferry service is not “guaranteed” to operate and that there is no funding for ferry service to/from the project site. Other comments received questioned the analysis of potential impacts that the Proposed Project may have on eelgrass beds and the proposed Hercules and Richmond ferry services. Finally, some commenters stated that the number of patrons that would use the ferry service is overestimated in the analysis.

Response: Regular ferry service to the project site is a central component of the Proposed Project. As such, the analysis presented in the Draft EIS/EIR considers the reasonably foreseeable impacts and benefits associated with implementation of the various alternatives under consideration. Just as the Economic Impact study presented in **Appendix T** of the Draft EIS/EIR relies on proposed project components (e.g., gaming, retail, concerts, food service, etc.) to estimate total economic output, the transportation and air quality analyses are based on the understanding that ferry service would be the anchor of an intermodal transit hub that is integral to the project. Collaboration with regional ferry service providers has identified a large amount of capacity within the existing fleet on ferry runs in the reverse commute direction. During the morning hours ferries carry commuters from Vallejo and Tiburon to San Francisco; the return (or reverse commute) leg of the run is mostly devoid of passengers. By ferrying patrons to the project site the operators will develop a new revenue stream while incurring negligible increased operating expenses. The ferry service would be funded through fares subsidized by the Proposed Project and would not require any public financial assistance. The available capacity, existing and projected operating deficits of the ferry providers, and explicit interest in serving the project site (**Appendix S**) have established the feasibility of the ferry service. The Draft EIS/EIR would be referenced in association with any future environmental review that may be required before expansion of ferry service to the project site. This environmental review, should it be required, would be expected to take place during the project construction period.

With respect to the proposed Hercules and Richmond ferries, it is not expected that the Point Molate ferry service would compete for the same riders. As noted above and in the letter provided by Blue and Gold Fleet (**Appendix S**), the project site would be served primarily by ferries originating in San Francisco, which would not serve the needs of the vast majority of commuters. Considering that it is the stated goal of virtually all surrounding municipalities to encourage the expansion of alternative modes of transportation in order to reduce congestion on regional streets and highways and reduce emissions, it stands to reason that expansion of regional ferry service, particularly when there would be no increased competition for scarce public funds, would have a beneficial impact. Additional discussion has been added to Final EIR **Section 1.3** to clarify the funding source.

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 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 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 of average daily trips to the site would be made by ferry.

Refer to **General Response 3.9.1** for a discussion of potential environmental impacts associated with the proposed ferry service.

3.12.2 TRIP GENERATION RATES

DOWLING STUDY

Summary of Comments: Some commenters cited the traffic study titled *Phased Transportation Study for Proposed Urban Casinos in West Contra Costa County* (Dowling, 2007) and noted that the study reached different conclusions than the studies cited in the Draft EIS/EIR.

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. 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 discussed below, careful review of the Dowling (2007) study indicates that application of its findings to the present analysis would be inappropriate and misleading.

The Dowling (2007) study used very different assumptions as it relates to: the mode of transportation used by patrons and employees to reach the project site; how many daily vehicle trips would be generated by the Proposed Project; where the vehicle trips originate from; and what roadways vehicles accessing the project site would use. Furthermore, it appears that the Dowling (2007) study arrived at erroneous conclusions due to methodological flaws as discussed below.

The Dowling (2007) study is predicated on a number of inaccurate assumptions. First, the study does not acknowledge that the Proposed Project is different from other tribal casinos in California which were used as a basis for comparison. As described in **Section 2.0** of the Draft EIS/EIR, the Proposed Project would function as a destination resort, offering amenities that are not found anywhere else in the California resort and gaming market. Unlike several of the existing casinos that cater to a local market, roughly 95 percent of the Proposed Project's patronage would originate outside of the Richmond area (**Appendix T**). The Dowling (2007) study also mentions taking driveway counts at an existing tribal casino in west Contra Costa County. It is unclear where, if at all, this information is used in the analysis. Nevertheless, the other casino is not an appropriate comparable destination since the facility cited is more properly considered a "stand alone" urban casino without retail, entertainment, parkland, lodging, and other resort amenities. The Dowling (2007) study's assumption to the contrary skews the resulting trip generation and distribution.

Secondly, the Dowling (2007) study does not consider the benefits of serving the project site with alternative modes of transportation. The direct ferry link to the project site is not included in the Dowling (2007) analysis and a vehicle trip reduction is not provided for this amenity. As discussed above, a conservative estimate of a 15 percent reduction was used in the analysis which has a significant effect on the estimated daily vehicle trips to the project site. In addition, the Dowling (2007) study does not provide a reduction for the planned transit and shuttle service to the project site, which is conservatively

estimated to reduce daily vehicle trips to the project site by 15 percent. Furthermore, it appears that the Dowling (2007) study did not apply any trip reductions for diverted link trips. The combined ferry and transit services, aggressive Transportation Demand Management (TDM) measures outlined in **Section 5.0** of the Final EIR (**Mitigation Measure 3-20**), as well as diverted link trips would result in a significant reduction in vehicle trips compared to that which was estimated in the Dowling (2007) study.

A third methodological flaw in the Dowling (2007) study is that it relies on a casino market model developed by ECONorthwest to determine the level of trip generation for each of the three casinos it assumed to be in operation. The model takes into account drive times, income, age and seasonal population patterns. The ECONorthwest model, which is based on studies conducted in Oregon, is in stark contrast to the targeted studies completed for Point Molate which use a combination of empirical data and existing environmental documents (primarily from California) to establish reasonable trip generations rates. The non-casino trip generation rates used in the Final EIR are taken directly from the Institute of Transportation Engineers (ITE) trip generation manual.

Another significant methodological issue is that the Dowling (2007) study does not acknowledge the large internal trip reduction that would result from casino patrons utilizing the range of amenities within the project site such as retail, restaurants, and overnight lodging. The analysis presented in the Draft EIS/EIR projects a 50 percent internal capture rate between retail and casino uses. In contrast, the Dowling (2007) study projects a 20 percent internal capture rate. Such an assumption would hold true only if the amenities proposed for the project site were consistent with a typical mixed use development primarily serving the needs of local residents, such as typical “big box” stores (i.e., Home Depot, Wal-Mart, etc.). Moreover, the transportation studies used in the Draft EIS/EIR project a 70 percent internal capture rate between hotel and casino uses, which is not accounted for in Dowling (2007) study.

For the long-term analysis, the Dowling (2007) study assumes that project generated automobile trips grow significantly over time. This approach is not substantiated by any cited documentation. A more widely accepted approach assumes that while the background traffic (non-project) grows over time, project-related trips would peak early-on, level off, and remain static. If long-term transportation infrastructure improvements are considered, project trips may even drop as a result of expanded and improved public transportation over time.

As a result of the issues cited above, it appears that the Dowling (2007) study significantly over-estimates project-related automobile trips to the project site, and therefore the Final EIR analysis has not been modified in this area.

STUDIES USED TO DETERMINE TRIP GENERATION

Summary of Comments: Several commenters inquired if the studies used to determine the trip generation rate used in the Draft EIS/EIR are independent of one another, are approved projects or are otherwise comparable to the Proposed Project.

Response: The studies used to determine the trip generation rate for the Proposed Project were in fact independent of one another. Each of the six studies cited in the TIA (**Appendix S**) represents a unique and independent look at trip generation, distribution, and reduction for tribal casinos.

INTERSECTION/ROADWAY SCOPE OF ANALYSIS

Summary of Comments: Several commenters inquired if all intersections and roadways, which had the potential to add 50 project-related trips were analyzed in the TIA, STIA, and within the Draft EIS/EIR.

Response: The TIA and STIA analyzed all intersections and roadways within the study area that had the potential to receive 50 or more trips as a result of the Proposed Project.

Prior to beginning the analysis trips were traced from each geographic region based on facility class, traffic volumes, congestion and travel times to determine the most likely travel paths for each “origin-destination” pair. Based on the trip distribution percentages, project trips were then assigned to the most applicable roadway(s). Any intersection found to carry 50 or more peak hour trips (as per county guidelines) was included as part of the projects overall assessment. This criterion does not apply to freeway segments. There is no specific criterion that determines which segments should be included in the analysis. Based on engineering judgment and comments received during the scoping phase of the analysis (**Appendix B**), the study area (intersections and freeway segments) was identified for thorough analysis.

However, in response to comments received on the Draft EIS/EIR, State Route 4 (SR-4) and four intersections in the City of Larkspur along Sir Francis Drake Boulevard were analyzed and are included in the Final EIR (**Appendix HH**). The analysis of SR-4 was incorporated into the Final EIR in **Sections 3.8, 4.8, and 4.15**. This facility was analyzed following the agreement between Contra Costa County and the Tribe, which provides for a goal of sourcing 70 percent of initial hires from within the County. Based on this consideration, it was deemed reasonable to include this artery despite its significant distance from the project site. It was determined, 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).

The following intersections were studied in the City of Larkspur:

- U.S. 101 Southbound Off-Ramp at Sir Francis Drake Boulevard
- U.S. 101 Northbound On- and Off-Ramp at Sir Francis Drake Boulevard
- Larkspur Landing Circle (Ferry Terminal) at Sir Francis Drake Boulevard
- Larkspur Landing Circle (East) at Sir Francis Drake Boulevard

The existing and cumulative traffic volumes for the above referenced intersection analysis were determined from the 2009 San Quentin State Prison Central Health Services Center Project Draft EIR, and the SMART Train Project EIR. It was determined that the intersections of U.S. 101 Southbound Off-Ramps at Sir Francis Drake Boulevard and Larkspur Landing Circle (East) at Sir Francis Drake Boulevard would operate at an acceptable LOS D or better in the background and under all alternative conditions. It was also determined that the intersections of 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 operate at a LOS E and F in the background and under all alternative conditions. Therefore, **Mitigation Measures 7-24** and **7-25** would be implemented to reduce vehicle trips to and from the project site. Intersection analysis is provided in **Sections 4.8, 4.15** and **5.7** of the Final EIR and in **Appendix GG** (Abrams Associates Traffic Engineering Memorandum). 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*.

CONFERENCE CENTER

Summary of Comments: Several commenters pointed out that the conference center proposed under Alternatives A – D was not assigned project related trips.

Response: Trips for the Conference Center were appropriately accounted for in the hotel trip generation rate. The trip generation rate for the hotel was derived from the ITE manual (ITE land use 310). This land use is described by the ITE manual as following: “Hotels are places of lodging that provide sleeping accommodations and supporting facilities such as restaurants, cocktails lounges, meeting and banquet rooms or *convention facilities* (emphasis added).” The hotel land use trip generation rate includes ancillary facilities such as a conference center and thus captures the trips that would be generated by this facility.

The concern was raised by one commenter that, even with the potential for internal capture between the hotel and convention facility, that the said convention facility would likely generate trips from local residents. While it is true that the convention facility may generate trips from local residents, the conclusion that this would not be covered by the hotel trip generation land use is not as evident. It is asserted that the hotels, and their corollary convention facility and meeting spaces, studied for the derivation of the ITE Hotel trip generation rate would also have a similar tendency to attract local residents, and therefore, the trip generation rate used for the proposed hotels would also account for this concern.

3.12.3 TRIP DISTRIBUTION

Summary of Comments: Several commenters stated that the trip distribution was not well defined and requested that a figure be included in the TIA which more clearly shows the trip distribution used in the traffic analysis.

Response: Appendix GG of the Final EIR contains a revised trip distribution figure, which depicts the trip distribution found in Table 5-3 of the TIA (**Appendix S**).

3.12.4 TRIP REDUCTIONS

TRAFFIC DEMAND MANAGEMENT

Summary of Comments: Several commenters requested clarification of how a 15 percent trip reduction from Transportation Demand Management (TDM) would be achieved.

Response: A 15 percent reduction in automobile traffic was applied to the trip generation from the casino portion of the Proposed Project. Under Alternative A, this equates to a reduction of approximately 200 trips during the critical PM peak hour. The TDM reduction is intended to account for patrons and employees who would utilize transit and shuttle buses to access the project site. This reduction would apply to patrons and employees who would utilize the various methods of transit to travel to Richmond and then transfer to a private shuttle bus or an extended AC Transit line. The TDM reduction also accounts for charter bus trips from outlying areas and employees who park in offsite parking lots and use the Point Molate shuttle. The following is a list of factors that are pertinent to the effectiveness of the Point Molate TDM program:

Effectiveness of Employee TDM Measures - The project proposes to provide economic incentives for employees to use transit, as described in **Section 5.2.3** of the Final EIR. This is in addition to the other major provisions for transit including subsidizing public buses, providing shuttle buses to and from off-site employee parking areas and BART, as well as providing charter bus service for outlying areas.

The ITE Trip Generation Handbook contains a detailed summary of surveys and studies on the effects of TDM and transit on trip generation. This is provided for overall project traffic and particularly for traffic from employees. Based on detailed surveys of various TDM programs, the ITE Trip Generation Handbook has provided a summary of the benefits to transportation (both perceived and actual).

For employees, the Trip Generation Handbook provides extensive data to support the effectiveness of various TDM measures. It is important to note that the project is proposing all of the key components that are typically part of a successful TDM program (according to ITE) including support measures, economic incentives, and transportation services; these TDM programs are outlined in **Section 5.2.3** of the Final EIR. Support measures to the TDM programs include employee transportation coordinators, promotional activities, rideshare matching, on-site dependent care, and alternative work schedules. Economic incentives are any steps taken by an employer to provide a monetary incentive to use an alternate travel mode. Transportation services include employer based efforts such as van-pool programs, shuttle bus service to off-site transit stations, guaranteed ride home programs, and the provision of on-site

showers and changing facilities all of which are provided by mitigation measures in **Section 5.2.3** of the Final EIR.

According to ITE the combination of economic incentives with transportation services (such as those proposed by the project) produced an average reduction in commuter vehicles of 24 percent at the survey sites. At a typical employment location that operates during normal business hours, there can be up to 85 percent of the employees arriving and/or departing during the peak hour. However, at a casino resort with 24-hour operations, there are normally three shifts per day so that the maximum number arriving during the peak hours would be no more than about a third of the employees. In addition, since most employees work a five day work week it was assumed that two sevenths of the employees would not be working on any given day. Also, the percent arriving would typically be reduced by another 10 percent to account for absences due to vacations, illness, etc.

The resort is estimated to have roughly 4,000 employees. Thus, assuming a vehicle occupancy rate for employees of 1.5 persons per vehicle (due to ridesharing) the above mentioned reductions equate to an estimated potential for 635 vehicle trips (due to employees) during the PM peak hour. This is based on a scenario where no transit service or TDM programs are provided. Based on the ITE surveys the 24 percent reduction for the TDM measures should readily equate to an overall reduction to the casino traffic of about 150 PM peak hour trips. Information gathered at other California tribal casinos indicates that the average occupancy of vehicles with resort patrons is about 2.4 persons per vehicle.

Therefore, based on this analysis the Proposed Project's shuttle services and public bus transit subsidies would only need to serve about 120 resort patrons during the peak hour to meet the 15 percent TDM reduction assumed in the project trip generation. This would equate to about 7 percent of the resort patrons estimated to arrive during the PM peak hour. This was determined to be a reasonable assumption given the direct connection to BART and the effects of other transportation services such as charter buses.

Overall Effectiveness of the TDM Measures – The ITE Trip Generation Handbook also contains a detailed summary of surveys and studies on the overall effects of TDM and transit on the total traffic generation of a project. Since the Proposed Project would construct both a bus transit center and a ferry terminal, the ITE survey results indicate these features should result in an overall reduction in vehicle trip generation of 20 percent.

Applying a 20 percent TDM reduction to the entire project would be reasonable because employees from the hotels and the retail areas would also be provided incentives to use transit and they would certainly be expected to utilize the on-site transit options available to them. This reduction would therefore apply to the entire project which results in an estimated reduction of 270 peak hour trips. This is greater than the 200 trip reduction used in the analysis and validates the assumptions used. This difference is largely due to the fact that the TDM reductions were only applied to the casino portion of the project.

INTERNAL CAPTURE

Summary of Comments: Several commenters noted that the 50 and 70 percent internal capture reduction in retail and hotel trips is too aggressive and not supported.

Response: Point Molate is an all inclusive “destination resort.” As such the retail uses are primarily being provided as amenities for the resort and gaming patrons. The retail uses are envisioned to be small high-end boutique retail facilities. The location of the project site is somewhat isolated and can only be accessed by one roadway or via ferry. Vehicular access to the retail facilities would require potential patrons to mix with casino, hotel and event traffic to access the site. Moreover, the central parking design would discourage short shopping trips where patrons would not take advantage of the other amenities offered. It is unlikely that this scenario would garner greater than a 50 percent share of non-casino/resort destined customers. The TIA specifically states, “Similarly, it is expected that a majority of the retail patron’s primary reason for visiting the project would be to utilize the gaming and recreational components of the project”. It was determined that a 50 percent reduction to the retail trip generation would accurately reflect this interaction between the gaming and retail facilities.”

In addition to these factors a review of trip reduction rates for mixed use developments among cities in San Mateo, Alameda, and Santa Clara counties was performed. The 50 percent reduction for retail use was a blend of adopted rates utilized within the aforementioned jurisdictions, the interaction of land uses within the Point Molate development and isolated nature of the proposed land use. A 50 percent reduction in retail use due to internal capture is appropriate and conservative.

In reviewing traffic studies for similar tribal casino/hotel complexes it was found that a greater than 70 percent internal capture rate between the casino and hotel components was often used in the transportation studies. The high internal capture rate is a result of the general isolation of most tribal casinos and the fact that the vast majority of patrons that use the hotel and retail establishments also use the casino. As an inclusive “destination resort,” it is anticipated that a much higher internal capture rate would be achieved than stand alone rural gaming properties with fewer amenities. The basis for this reduction is the *Mississippi Gulf Coast Transportation Management Plan for Waterfront Development* (Gulf Regional Planning Commission, 1993), which determined that there is a 100 percent internal capture rate when there is a casino/hotel complex. While the two casinos used in the Gulf study had different room to casino square feet ratios, they had the same reduction due to internal capture. Finally, the 70 percent internal capture rate is consistent with the rate in the Gaming Market Assessment, which estimates a 70.6 percent internal capture rate (**Appendix T**). A 70 percent internal capture rate is therefore appropriate.

3.12.5 GEOGRAPHIC SCOPE OF ANALYSIS

Summary of Comments: Some commenters stated that the geographic scope of the analysis presented in the Draft EIS/EIR was not extensive enough.

Response: The geographic scope of analysis presented in the Final EIR includes intersections and roadway segments in the City of Richmond, City of San Pablo, Contra Costa County, Marin County, City of San Rafael, Pinole, and the City of Larkspur (refer to **Appendix HH** of the Final EIR regarding transportation analysis along Sir Francis Drake Boulevard). All intersections were analyzed that had the potential to receive 50 or more new trips as a result of implementation of the Proposed Project.

During the scoping process completed for the Proposed Project, public agencies, businesses, and concerned citizens were given an opportunity to comment on the range of environmental issues to be addressed in the analysis, the types of project effects to be considered, the geographic and temporal scope of analysis, and the range of alternatives to be included in the Draft EIS/EIR (**Appendix B**). During the scoping process more than 140 comment letters were received, many of which were from governmental agencies charged with regional transportation planning. Entities that provided written comments during scoping include the California Department of Transportation (Caltrans), California Highway Patrol, County of Marin, Contra Costa County (2), West Contra Costa Transportation Advisory Committee (WCCTAC), Marin County Board of Supervisors, El Cerrito Community Development Department, and the Town of Fairfax. Numerous commenters recommended specific facilities, roadways, and intersections to be included in the analysis. The scope of analysis for the transportation study was further refined through consultation with the lead agencies, including transportation planners from the City of Richmond, as well as cooperating agencies. The scope was somewhat revised and expanded following review of the Administrative Draft EIS/EIR by the lead and cooperating agencies. The ultimate scope of analysis for the transportation analysis presented in Final EIR was slightly expanded following release of the Draft EIS/EIR on the basis of new information provided by commenters that demonstrated that other facilities required analysis for a comprehensive review.

In a couple of instances, comments received on the Draft EIS/EIR questioned why a segment of I-80 south of the I-580 split was not included in the analysis. While a significant portion of I-80 is included in the transportation studies, the segment south of the I-580 split in Alameda County was excluded from full analysis in the TIA and Final EIR because it was not identified by any agency or municipality during the scoping period or during scoping consultation with WCCTAC, Caltrans, and the City of Richmond as a segment warranting detailed analysis. This segment of I-80, which is located a significant distance from the project site (approximately 8 miles by the most direct route), is outside of the region that may reasonably be expected to be adversely impacted by traffic generated by the Proposed Project.

3.12.6 BICYCLES ON THE RICHMOND – SAN RAFAEL BRIDGE

Summary of Comments: Several comments were received that noted bicycles would not be allowed on the Richmond – San Rafael Bridge if the decking were re-stripped to allow for three lanes of travel in each direction.

Response: There are currently no bicycle lanes on the Richmond-San Rafael Bridge and bicycles are not allowed on the Bridge. At the time that the Draft EIS/EIR was distributed for public comment, there was

no approved plan to provide bicycle lanes on the Bridge by the jurisdictional agency (Caltrans), nor is there currently such a plan. As such, bicycle lanes on the Bridge were not considered part of the existing or baseline conditions. Therefore, if the Bridge decking were re-striped to allow for three lanes of travel in each direction, bicycle facilities would not be impacted. However, the Draft EIS/EIR concludes that the **Mitigation Measure 7-15**, which calls for re-striping of the Richmond – San Rafael Bridge to provide for three lanes of travel in both directions, is infeasible and impacts to the Bridge under cumulative conditions are considered significant and unavoidable. As such, implementation of the Proposed Project would not preclude the addition of bicycle lanes on the Bridge.

3.12.7 BART SHUTTLE ACCOMMODATION

Summary of Comments: Several commenters commented on the shuttle bus to Richmond and El Cerrito BART stations and the ability of these stations to handle the increase in loading and unloading of passengers.

Response: The El Cerrito del Norte BART station will not be served by project-sponsored shuttles. The focus of project shuttles will be at the multi-modal Richmond BART station. The Richmond BART station provides easy access to BART trains, Amtrak, and AC Transit. The commenter has provided a reasonable concern and therefore, additional study has been included in the Final EIR regarding bus loading/unloading at the Richmond BART station. The additional analysis is discussed in **Section 4.8** of the Final EIR and concludes that the addition of project shuttles at the Richmond BART Station would have a less than significant impact.

3.12.8 TRANSPORTATION MITIGATION

Summary of Comments: Some commenters questioned where the matching funds (to the Tribe's fair share contributions) to complete transportation mitigation measures would come from.

Response: Funds in addition to the Tribe's fair share contribution would be required to complete some of the transportation improvements described in mitigation measures presented in **Section 5.0** of the Final EIR. For improvements located within the City of Richmond for which the Tribe is not paying 100 percent, additional funds would be provided by the City. The IGA between Contra Costa County and the Tribe provides a framework and funding mechanism for improvements required within the County's jurisdiction (**Appendix BB**). Other required improvements that are identified in Region Transportation Plans (RTP) have established funding sources to which the Tribe's fair share would supplement (refer to **Section 4.8** or **4.15** of the Final EIR). Mitigation measures for which there is currently no plan to fund, or that fall within the responsibility and jurisdiction of a public agency other than the City of Richmond for which there is no existing plan to implement or fund are considered infeasible and associated significant impacts are disclosed (**Section 4.15**). It is anticipated that other regional development projects would also make fair share contributions to several of the mitigation measures identified.

3.12.9 WESTERN DRIVE

Summary of Comments: Several San Pablo Yacht Harbor residents commented that the increased traffic along Western Drive would negatively impact their commute time.

Response: **Section 2.0** of the Draft EIS/EIR proposes that the Project widen Western Drive from two lanes to five lanes, which would reduce traffic impacts under all alternatives to a less than significant level (refer to **Sections 4.8** and **4.15** of the Final EIR). It should be noted that peak hour casino traffic does not coincide with commuter traffic; generally peak hour casino traffic occurs between 9:30 am to 10:30 am and 6:30 pm to 7:30 pm. Nonetheless, **Mitigation Measure 7-2** of the Final EIR has been supplemented to require that “Western Drive shall remain passable to through traffic 24 hours a day, seven days a week to provide access to and from other land uses located on the San Pablo Peninsula. In the event that portions of Western Drive must be closed temporarily, reasonable detours shall be provided such that access to the San Pablo Yacht Harbor and other adjacent land uses is not restricted.”

WESTERN DRIVE/EASTBOUND I-580 ON-RAMP

Summary of Comments: Some commenters contend that the Western Drive/eastbound I-580 on-ramp poses safety hazard due to a poor level of service at the Marine Street off-ramp and high speeds of vehicles coming off the Richmond-San Rafael Bridge.

Response: Vehicles using the Western Drive eastbound ramp on to I-580 are prohibited from crossing the solid white line that begins at the on-ramp and continues beyond the Marine Street exit. Once eastbound traffic that has entered the roadway from the Western Drive on-ramp has passed the Marine Street off-ramp, vehicles may merge into the right hand lanes and use the Canal Street off-ramp, which is 0.68 miles east of the Marine Street off-ramp. As I-580 is currently striped (the solid white line from Western Drive on-ramp to beyond the Marine Street off-ramp) there would be no immediate interaction between Western Drive on-ramp traffic and through traffic coming off the Richmond-San Rafael Bridge. It should also be noted that I-580 between the Marine Street and Canal Street off-ramps is a straight roadway; thus, Western Drive traffic can safely merge onto eastbound I-580.

3.13 LAND USE

3.13.1 CONSISTENCY WITH REGIONAL PLANNING DOCUMENTS

CITY OF RICHMOND GENERAL PLAN

Summary of Comments: Several comments were received stating that Alternatives A - D conflict with the adopted Richmond General Plan.

Response: **Section 4.9** of the Draft EIS/EIR acknowledges that Alternatives A - D would conflict with some applicable City General Plan land use policies and zoning designations. For each of these alternatives the impact was found to be less than significant, or would otherwise be reduced to such levels through mitigation. In addition, **Table 1-1, Potential Permits and Approvals Required**, clearly states that

the City of Richmond would have to approve a General Plan amendment and rezoning prior to implementation of Alternatives A - D. Such an amendment and rezoning are part of the Proposed Project. Alternatives B, D, and B1 would require additional approval of a subdivision map. These approvals would ensure that the chosen alternative would be consistent with the City's General Plan and Zoning Ordinance.

CITY OF RICHMOND GENERAL PLAN UPDATE

Summary of Comments: Several comments were received requesting that the General Plan Update be incorporated into the analysis of the project.

Response: The recently released Draft General Plan Update, which may not be adopted prior to certification of this EIR, designates Point Molate as a Planned Area District. A Planned Area District is an area of the City where "further analysis is needed to determine appropriate land use designations." Therefore, land use designations for Point Molate are those "legally existing as of 2010 and/or permitted under the 1994 General Plan." The Draft General Plan Update is available online at <http://www.cityofrichmondgeneralplan.org/>. As the Draft EIS/EIR already analyzes the consistency with the 1994 General Plan and states the need for a General Plan amendment and zoning changes for Alternatives A – D, no additional analysis is warranted. **Section 3.9.1** of the Final EIR has been revised to include language from the Draft General Plan Update regarding land use designations and zoning.

3.13.2 OPEN SPACE

Summary of Comments: Several comments were received stating that project implementation would impact existing open space at the project site.

Response: Under the Proposed Project and Alternatives B through E and B1 there would be a permanent 35-acre Shoreline Park along the entire stretch of project shoreline that would remain undeveloped. This portion of the Proposed Project would provide publicly accessible open space along the shoreline, increasing acreage of both City and regional parkland. Currently, the project site is restricted from public access except for people traveling on Western Drive (the only road leading into and out of the project site). The development of the Proposed Project or one of the project alternatives would restore public access to the project site (including the 145-acres of Hillside Open Space). The hillside open space area would be placed into a permanent conservation easement restricting the type of uses permitted (refer to **Mitigation Measure 4-1**). The development proposed under the Proposed Project and project alternatives would be largely restricted to the existing developed footprint.

Impact Statement 4.10.11 (and respective impact statements for the additional alternatives) in the Draft EIS/EIR states that the development of the Open Space and Shoreline Park portions of the Proposed Project would not impact off-site parks in a significant fashion, as increased on-site parkland patronage is

anticipated. The incorporation of the Hillside Open Space and Shoreline Park does not warrant additional analysis of off-site parks or potential degradation of existing open space on-site.

Tribal operation and maintenance of the Shoreline Park and Hillside Open Space will be funded by the Tribe and managed through a tribal ordinance which incorporates standards and guidelines similar to those within the State of California Department of Parks and Recreation *Park Management Plan* (refer to **Section 2.2.2** of the Draft EIS/EIR).

3.14 PUBLIC SERVICES

3.14.1 EMERGENCY PREPAREDNESS AND RESPONSE

Summary of Comments: Various comments were received requesting additional information to be provided for emergency situations. Specific comments stated that significant issues would arise with only one emergency access/evacuation route along Western Drive.

Response: **Mitigation Measure 11-2** states that the Tribe shall create an emergency response plan to prepare for incidents at or near the project site for which a multiple agency response is required. For example, in the event of a catastrophic earthquake, wildfire, or other emergency situation, the plan shall outline procedures for sheltering in place, orderly evacuation when appropriate, and coordination with neighboring facilities such as Chevron and the San Pablo Yacht Harbor. The proposed facilities would provide an ideal location for sheltering in place in the event that such a response was warranted given the capacity to accommodate a large number of people, stockpiling of food, and the million gallon water tank located on-site.

The Draft EIS/EIR identifies two primary evacuation routes from the project site, one via Western Drive to I-580 and by water evacuation facilitated by the presence of the proposed on-site ferry terminal. Since the Draft EIS/EIR was released in July 2009, the City and Chevron have undertaken consultations to develop a mutual aid agreement that would provide for a higher level of preparedness planning between the two entities and formalize the existing “handshake” agreement to provide emergency ingress/egress over San Pablo Ridge, providing an additional surface evacuation route for the Proposed Project. In any event, the widening of Western Drive to five lanes would allow for orderly evacuation of the western side of the San Pablo Peninsula if such a response was deemed appropriate.

Mitigation Measure 11-2 has been supplemented to require coordination with the Water Emergency Transportation Authority (WETA) to provide enhanced emergency response planning, coordinated ferry services, and improved emergency response infrastructure for potential disasters in the greater Bay Area.

3.14.2 EMERGENCY MEDICAL SERVICES (EMS)

Summary of Comments: Various comments were received stating that impacts to Emergency Medical Services (EMS) are not thoroughly analyzed within the Draft EIS/EIR, especially the increased demand for EMS off-reservation (but generated by activities on-site), and the potential for increased response times due to project generated traffic.

Response: Existing emergency medical services are discussed in **Section 3.10** and impacts to emergency medical services are discussed in **Section 4.10** of the Draft EIS/EIR. **Section 3.10** has been clarified to state that American Medical Response (AMR) provides service to the project site through a contractual agreement with the Contra Costa County Health Services Department, as stated within the IGA. The following language has been inserted into the Final EIR **Section 3.10.2**: “Emergency medical services to the project site are coordinated by the Contra Costa County Health Services Department.”

Section 4.10 of the Draft EIR/EIS provides a discussion of the demand for services at the two emergency facilities that would most likely be impacted by the proposed alternatives. As stated in the Draft EIS/EIR, the Proposed Project is expected to increase the need for local EMS at the project site. Various mitigation measures (**9-13**, **9-23** and **9-24**) have been tailored to address the potential project impacts, including the incorporation of additional standards and compensation methods above and beyond those agreements entered into between the Tribe and local service providers (City of Richmond Fire Department, City of Richmond Police Department, and Contra Costa County). The analysis within **Section 3.10** and **4.10** of the Draft EIS/EIR provides a discussion of the appropriate agencies and jurisdictions which shall provide services to the project site. Potential impacts to EMS associated with indirect and growth induced off-site impacts are analyzed in **Section 4.14** of the Draft EIS/EIR.

As described in **Section 2.0** and **3.10**, the City of Richmond has agreed to provide police and fire protective services to the project site, which would provide for a first-response in the event that EMS is required. Furthermore, as outlined in the IGA (**Section 2.1.2** of the Final EIR and **Appendix BB**), the Tribe has agreed to contract with Contra Costa County to provide emergency ambulance service to the site. The Tribe has also agreed to reimburse the County for actual costs of uncompensated ambulance service provided to the Point Molate patrons or employees who are transported by the County’s designated ambulance provider from the project site. Moreover, a total of \$4 million in new funds, provided by the Tribe, would be directed to help support County Hospital, County clinics, Doctors Medical Center, and other west Contra Costa County health and medical services, as provided in the IGA (**Appendix BB**). Contribution of these funds would ensure that impacts to EMS in west Contra Costa County would be less than significant with implementation of the Proposed Project.

With regard to potential delays to emergency vehicles, mitigation measures identified in the Draft EIS/EIR (**Mitigation Measure 7-2**) will ensure traffic operations would not degrade to such an extent that delays to emergency vehicles would result. Any potential increases in response time by emergency

vehicles due to project-related traffic would be offset by the funding of roadway improvements included as mitigation. The potential for project induced traffic increasing regional EMS response times is analyzed within **Section 4.8** of the Draft EIR/EIS **Impact Statement 4.8.6**, and respective alternative impact statements. This analysis determined that project implementation would not result in inadequate emergency access.

3.14.3 PUBLIC HEALTH AND SAFETY

Comment: Some comments received stated that the Draft EIS/EIR did not analyze the Proposed Project's potential impact to the Contra Costa Environmental Health Division (CCEHD).

Response: The MSA with the City and the IGA with the County both include requirements that provide regulatory oversight of public health and safety issues for the development scenarios proposed under Alternatives A, B, and C. **Section 4.10** of the Draft EIS/EIR contains an analysis of potential impacts to public health and safety services. **Section 4.10** has been updated to clarify that public health measures are expected to be included in any Tribal-State Compact, which is required for the operation of Class III gaming. Additional public health and safety requirements are provided within the County Response Program included within the IGA, which states that compliance with the County Environmental Health Division shall occur on trust property. These safety provisions include jurisdiction over wells, medical waste, solid waste, public swimming pools, and retail food facilities. Through implementation of the requirements in the IGA and **Mitigation Measures 9-23** and **9-24**, no significant public health and safety impacts would occur.

3.14.4 POLICE AND FIRE SERVICES

Summary of Comments: Several comments were received citing concerns that project implementation would impact the level of service provided by the City of Richmond Police and Fire Departments.

Response: As discussed in **Sections 2.2.2, 3.10.2, and 4.10** of the Draft EIS/EIR, the City of Richmond Fire and Police Departments would be the service providers for fire protective services and law enforcement on the project site. The MSA requires that the Tribe provide and fund staffing and equipment for an on-site police substation and fire station, as well as provide compensation to the City in the amount of \$8 million per year for the first eight years beginning with commencement of gaming operations, and \$10 million per year thereafter. The City anticipated that the provisions identified in the MSA would adequately provide the City of Richmond Police and Fire Departments with adequate equipment, facilities, and staffing to provide sufficient fire protection and law enforcement services on the project site, as well as increased protection for the surrounding area. The 24-hour presence of police and fire staff on-site would benefit the surrounding areas with increased protection and decreased response times. **Improvement Measures 9-13, 9-19, 9-20, and 9-21** included within **Section 5.0** provide for additional staffing and specifics for on-site facilities for police and fire protection.

Potential off-site impacts to police and fire services (as well as other public services) would be further reduced with implementation of the IGA between the Tribe and Contra Costa County, which is fully described in **Section 2.1.2** of the Final EIR and is attached as **Appendix BB**. Among the many provisions in the IGA, the Tribe has agreed to: work with the City Police Department, Contra Costa County Sheriff and BART Police to implement enhanced security at the Richmond BART station; provide compensation for County Sheriff support services for the incarceration of persons engaging in suspected criminal activity; provide compensation to the County District Attorney, Criminal Prosecution Caseload, Public Defenders, and Probation Department for potential incarceration and prosecution; contract with the County to provide emergency ambulance service to the Tribe; and reimburse the County for actual costs of uncompensated ambulance service and emergency health service costs accrued during transportation or treatment. With funding from the annual payments the County will develop and implement a public safety, fire fighter and first responders, health, and social services related response program. Furthermore, of the \$12 million in annual payments to the County that the Tribe has committed to, \$2 million annually would go to help support the County hospitals and clinics; \$2 million annually would be directed to health programs and services in West Contra Costa County; and \$1 million annually would be directed to funding additional Deputy Sheriff patrols in the unincorporated areas of West Contra Costa County.

As discussed in **Section 4.7** of the Draft EIS/EIR, all development alternatives (A, B, C, and D) would also generate substantial additional new tax revenues for municipal, county, state, and the federal governments, which could be allocated towards improving the existing conditions of public services.

3.14.5 PROVISION OF PUBLIC UTILITIES

Comment: Several comments received stated that the Draft EIS/EIR did not analyze the Proposed Project's potential impact to regional public utility providers.

Response: Requirements for the provision of public utilities are covered in the MSA between the City and Tribe, summarized in Draft EIS/EIR **Section 2.0**, and included in full within **Appendix C**. Existing utility infrastructure is described in **Section 3.10**, with analysis of potential project impacts within **Section 4.10** of the Final EIR. Pacific Gas and Electric (electricity and natural gas) and East Bay Municipal Utility District (water) have verified their capacity to serve the project site. Refer to Comment Letter I-198 (**Section 2.0** of this document) for a letter from Pacific Gas and Electric verifying its capacity to serve the project site. On-site electrical demand would be offset by the aggressive energy efficiency design components and on-site power generation described in **Section 2.1.1** of the Final EIR, as well as **Mitigation Measure 9-2**. Refer to **General Response 3.6.1** for a discussion of water supply to the project site. Potential environmental impacts associated with off-site infrastructure improvements associated with the provision of utilities to the project site are discussed in **Section 4.14.8** of the Final EIR.

3.14.6 SOLID WASTE

Comment: Several comments were received questioning the level of impact from solid waste produced on-site, and the availability of local landfills to accept the waste.

Response: Solid waste impacts are discussed in **Section 4.10** of the Draft EIS/EIR. The Draft EIS/EIR states that solid waste generation for all project alternatives would be an insignificant contribution to the waste stream and would not significantly decrease the life expectancy of the designated landfill.

Please refer to **Sections 3.12.2** and **4.12** of the Final EIR for a discussion of maintenance of the closed Navy landfill located on the project site.

3.15 NOISE

3.15.1 CONSTRUCTION

Summary of Comments: Several commenters requested clarification whether residential housing proposed in Alternatives B and D would be occupied during construction of other elements of the Proposed Project.

Response: None of the operational activities or occupation of residential structures would overlap with construction activities.

3.15.2 OPERATION

Summary of Comments: Several commenters inquired why noise measurements were performed at 11:00 a.m. instead of the a.m. or p.m. peak hour.

Response: Commenters assume that because more traffic would be on I-580 during the a.m. or p.m. peak hour that the ambient noise level would be greatest. Peak-hour traffic generally moves at a slower rate than off-peak-hour traffic. An increase in traffic does correlate to an increase in the ambient noise level; however, not to the degree that an increase in speed raises the noise level. Traffic moving at 65 miles per hour sounds twice as loud as traffic moving at 30 miles per hour. The peak noise hour does not coincide with the peak traffic hour; therefore, measurement at 11:00 a.m. would result a more conservative ambient noise level.

Summary of Comments: Some commenters noted that noise measurements were performed in proximity to the proposed resort facilities (located more than 3,960 feet from nearest existing noise receptor), but not at the proposed southern residential site (Alternatives B and D), which is considered an on-site noise sensitive receptor.

Response: The residential component at Point Molate would be closer to the Richmond-San Rafael Bridge and therefore, may have a greater ambient background noise level than the proposed central resort component of the site. Therefore, two 15-minute noise measurements were performed subsequent to the release of the Draft EIS/EIR to supplement the noise analysis at two locations in proximity to the proposed southern residential components. Site 1 is located on the southwest corner of the proposed residential site and Site 2 is situated in the middle of the proposed residential site (refer to **Figure 2-8** in the Draft EIS/EIR, which shows the location of the proposed southern residential site). The ambient background noise level at Site 1 was measured as 53.3 Ldn dBA and Site 2 was measured as 50.8 Ldn dBA (output files provided in **Appendix GG** of the Final EIR). The standard for residential development in the City of Richmond is 60 Ldn dBA (refer to **Section 3.11** of the Draft EIS/EIR); therefore, the existing ambient noise level at the proposed residential site is below the City of Richmond standard for residential housing. Refer to **Section 4.11** of the Final EIR for a discussion of potential impacts associated with noise during operation of the Proposed Project.

3.16 HAZARDS AND HAZARDOUS MATERIALS

3.16.1 ENVIRONMENTAL REMEDIATION

Summary of Comments: Several comments were received regarding the final transfer of the remaining Navy-held property and the process for finishing the required environmental remediation. Some commenters questioned the validity of the analysis presented in the Draft EIS/EIR due to the fact that the San Francisco Regional Water Quality Control Board vacated the 2008 Site Cleanup Order in September of 2009. Finally, some comments were received requesting clarification of how the Draft EIS/EIR analyzes potential environmental impacts associated with the remediation.

Response: **Section 2.1.4** of the Draft EIS/EIR details the process by which the remaining Navy-held property at Point Molate will be transferred to the City of Richmond. Commonly referred to as an *early transfer with privatized remediation*, the process allows the Governor to defer the requirement that the United States provide a covenant in the deed conveying the property warranting that all response actions necessary to protect human health and the environment have been taken *before* the date of transfer (early transfer). Under this process, the subsequent property owner assumes the responsibility for supervising the remediation.

Pursuant to the requirements of the early transfer, remaining remediation activities will be performed on behalf of the City, by Winehaven Partners, which includes Upstream Point Molate, LLC and its business partners. Associated documents included in the Covenant Deferral Package that was submitted to the Governor for approval include: a finding of suitability for early transfer (FOSET; executed on September 8, 2008), which certifies that the property is suitable for early transfer pursuant to the deferral provisions of the Comprehensive Environmental Response Compensation Liability Act; an Early Transfer Cooperative Agreement (ETCA; executed on September 9, 2008), which constitutes a contract between

the City and the Navy that provides for transfer of identified future environmental obligations to be transferred from the Navy to the City, funding in the amount of \$28.5 million dollars to be granted by the Navy to the City for those obligations, identification of a handful of Navy-retained responsibilities, and other provisions. The Navy financial grant, along with an additional financial contribution from Upstream and the Tribe (additional \$4 million), will fund an aggressive cleanup program on-site and the purchase of environmental insurance to protect against cost overruns, new discoveries and regulatory changes, and third-party liabilities. In a letter dated September 1, 2009, the Governor approved the Navy's Covenant Deferral Request for Early Transfer of the remaining 41-acre portion of the project site.

The remediation of hazardous materials conditions at the project site will be governed by a Site Cleanup Order (Order) issued by the San Francisco Regional Water Quality Control Board (SFRWQCB). Refer to **Mitigation Measures 11-3** through **11-11** of the Final EIR that outline the cleanup requirements and mandate adherence to all existing and future Orders issued by the SFRWQCB.

An Order was adopted by the SFRWQCB on November 12, 2008 (**Appendix X**), which specified the deliverables and schedule to complete the outstanding evaluations, remediation work, monitoring, and reporting for the site. On September 15, 2009, the SFRWQCB vacated and remanded to the Board the 2008 Order. The action was in response to a petition filed arguing that the Order is subject to a determination under CEQA and is not categorically exempt from review. Upon remand, the SFRWQCB may determine that the Order is eligible for a statutory exemption, may rely on this Final EIR, or may determine that the Order qualifies for CEQA's common sense exception. A revised Order will be prepared and circulated for public comment following the City's selection of an alternative analyzed in the Final EIR. It is expected, based on consultation with the SFRWQCB, that the revised order will be similar to the 2008 Order in scope and content.

The Draft EIS/EIR considered all potential environmental impacts stemming from remediation of hazardous material conditions on-site. The ultimate scope of analysis was developed based on the Remedial Plan and Order, which provide a reasonable set of expectations for the extent, location and methods of site cleanup proposed under Alternatives A - D. Thus, in the absence of an adopted Order, a comprehensive analysis of potential impacts associated with remediation was accomplished. The Remedial Plan is provided as **Appendix II**. The Draft EIS/EIR makes clear that additional remediation would take place under Alternatives A-D when compared to Alternatives E and F. As noted in Draft EIS/EIR **Section 2.1**, "This more aggressive remedial strategy is feasible due to successful negotiations between the Navy, City, and Upstream to implement a timely and expansive cleanup, as well as a contribution of several million dollars by the Tribe and Upstream to fund the comprehensive cleanup work. The funding package would be available under Alternatives A through D and Alternative B1, but not under Alternatives E and F. At least \$4 million of additional funding would be required from the City to implement an aggressive cleanup plan under Alternatives E and F."

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 accounted for in both the traffic impact analysis as well as air quality modeling. For biotic, hydrologic, and cultural resources, the area of direct impact was compared with the distribution of all resources of concern. All remedial activities involving major ground disturbance, such as removal of impacted soils, would occur during the construction phase of the Proposed Project. Text has been added to the Final EIR to highlight how remediation is accounted for in the impact analysis and mitigation measures.

Interim Land Use Controls (LUCs), which will be codified in a Covenant and Agreement, are being prepared that restrict access to the affected portions of the property until the SFRWQCB has approved the completion of cleanup activities on those areas. As stated in the 2008 Order, “Interim LUCs will be developed for areas of the [project site] undergoing remediation. The Interim LUCs will protect the public during the completion of site remediation activities and provide for the necessary access to complete those activities. In addition, the Interim LUCs will include provisions for their removal after completion of remediation measures for each affected area of the site. In some cases, the Interim LUCs may need to be replaced by Final LUCs as appropriate, depending on the scope of each proposed cleanup action for areas of the site that do not meet unrestricted use standards. The Discharger will propose such Final LUCs for Board review and approval after an acceptable remedy has been successfully completed pursuant to this Order (SFRWQCB, 2008; **Appendix X**).”

3.16.2 ANHYDROUS AMMONIA STORAGE AT CHEVRON REFINERY

Summary of Comments: Several comments were received citing concerns with the Proposed Project’s proximity to the Chevron-Richmond Refinery, while others noted that the analysis presented in the Draft EIS/EIR relies on a study that contradicts the findings of modeling related to a potential release of anhydrous ammonia cited in the Navy’s Final EIS/EIR for the Disposal and Reuse of Point Molate.

Response: The Chevron Richmond Refinery is described in **Section 3.12** of the Draft EIS/EIR and potential impacts are assessed in **Section 4.12**. The analysis considered on-site mitigation systems and consequence modeling analysis to evaluate potential impacts associated with the Proposed Project. Mitigation is presented in **Section 5.0** that, upon implementation, would reduce potential impacts associated with a release of anhydrous ammonia (NH₃) from the Chevron Richmond Refinery under Alternatives A - E to a less than significant level.

As described in **Section 3.12.2** of the Draft EIS/EIR, Chevron is required under CalARP guidelines to implement on-site active mitigation measures at the NH₃ storage area that is designed to minimize the risk of releasing NH₃ into the environment from possible fire or over-pressurization incidents. Specific on-site active prevention and mitigation systems are currently in place and include a firewater deluge system that emits a water vapor cloud around the vessels such that potential NH₃ vapor cloud would be contained in the event of a fire. The NH₃ storage vessels have leak detection systems with audible and control room

alarms, pressure relief devices, excess flow valves, and emergency block valves to prevent or limit the severity of a release. Additionally, a firewater-monitor fog system, which consists of water fog sprays, would effectively disperse a NH₃ vapor cloud.

Under the CalARP program, the Chevron facility is required to conduct a hazard assessment as part of the RMP requirements, which include a Worst Case Scenario (WCS) analysis and an Alternative Release Scenario (ARS) analysis. This analysis is described in detail in the 2002 Navy EIS/EIR (**Appendix U**). Following the information presented in the RMP, the 2002 Navy EIS/EIR (**Appendix U**) determined that the project site was located within the scenario circle under a WCS event, and three quarters of the project site fell within the ARS. The 2002 Navy EIR/EIS determined that potential exposure would occur due to sensitive receptors being located with the ERPG 2 exposure zone. The 2002 Navy EIR/EIS concluded that the presence of ammonia storage at Chevron poses a significant impact to the project site.

These findings have been contradicted by a more recent site-specific consequence modeling analysis. A comprehensive modeling of the risks associated with a NH₃ release, which is described in the Draft EIS/EIR and is included as **Appendix M**, concluded that the assumptions used in the previous study were flawed, resulting in an overstatement of the risk posed by the neighboring Chevron facility. Specifically, the 2002 Navy EIS/EIR and WCS/ARS analysis fail to take into account that Chevron has installed on-site active mitigation systems and employs active controls to prevent and protect against a catastrophic ammonia release within the facility. Furthermore, the steep topography between Chevron and Point Molate (as high as 430 feet above mean sea level) was not taken into account in the WCS/ARS analysis.

A consequence modeling analysis was prepared in 2007 by Marine Research Specialists (MRS), to provide an additional evaluation of an accidental NH₃ release from the facility and to determine the possible site-specific exposure associated with such a release (**Appendix M**). The MRS analysis included the creation of a third scenario, which balances the probability, impacts, and dispersal between the WCS and ARS. This third scenario is referenced as the Likely Worst-Case Scenario.

The MSR consequence modeling analysis is developed along CalARP guidelines, similar to the RMP discussed in the 2002 Navy EIR/EIS (**Appendix U**), with the inclusion of quantitative estimates of the release probabilities, topographical information, and the preventative and response safety measures in place at the facility. In the 2007 MRS analysis, the intervening terrain along the Potrero Hills were recognized as forming a substantial physical barrier between Chevron and the project site thus affecting the dispersal pattern. From the facility NH₃ storage tank location, which is approximately 10 feet above mean sea level (msl), the terrain rises 350 to 430 feet, and then transitions through wooded terrain towards the project site before falling to 65 feet above msl at the upper edge of the site. The distance from the NH₃ tank to the project site between approximately 0.87 to 1.4 miles distant. The intervening terrain has several effects on the advection and dispersion of an ammonia vapor cloud including:

- (1) The height of the Potrero Ridge along the eastern border of the site increases the actual linear feet that a vapor cloud would travel from the Chevron Facility to the project site by 100 feet. With the height of the intervening hills included, the distance from the NH₃ tank to the project site increases from 4,590 linear feet to 4,690 feet.
- (2) The terrain precludes an ammonia vapor cloud from traveling over the ridge during periods with extremely low wind speeds or inversion heights below approximately 350 feet; thereby, containing the vapor and not allowing it to travel onto the project site.
- (3) Another effect of the terrain is an increase in the turbulence and vapor cloud diffusion as the potential vapor cloud travels over the terrain. As a result, the vapor cloud becomes dispersed and less concentrated as it travels over the hills, towards the project site.

All of these factors contribute to enhanced vapor cloud dispersion and lower than expected ammonia concentrations that would potentially expose the persons residing at or using the project site (MRS, 2007).

Prevailing wind patterns, as an additional dispersal factor, further reduce the probability that the project site would be affected by a release of NH₃. The MRS analysis includes a wind frequency distribution study, which found that wind blows in a northeasterly direction from Angel Island towards the Chevron facility more than 84 percent of the time. The wind blows from all other directions 16 percent of the time.

The MRS consequence modeling analysis determined that the WCS as improbable in the extreme. This fact, combined with safety record of the facility storage vessels, the fact that the vessels are never filled to more than 42 percent of capacity, and existing active mitigation measures and technical safeguards at the facility and environmental conditions at the site, led MRS to conclude that NH₃ storage at Chevron does not pose a significant risk.

Thus, based on the full range of factors, several of which were excluded from the 2002 Navy EIS/EIR and WCS/ARS analyses, it was concluded that the possibility of a NH₃ release affecting the site is very small. This small probability, combined with the ample mitigation detailed in **Section 5.2.11**, diminish the potential for adverse impacts to the health and safety of people occupying Point Molate to a less than significant level.

3.16.3 SECURITY AT THE NEIGHBORING CHEVRON REFINERY

Comment: Several comments were received citing security concerns and terrorism threats at the Chevron Refinery that may arise with the operation of the Proposed Project at Point Molate.

Response: The Chevron Refinery has a number of safeguards in place to reduce threats associated with terrorism and sabotage. At present, these precautions include chain link and barbwire fencing, controlled gate entrances, a large security force that roves the grounds and guards the entrances, identification for all

Refinery personnel, and general awareness training for all employees (ESA, 2007). In the wake of the terrorist attacks of September 11, 2001, Chevron developed a security protocol that is consistent with the national color code system. Additional safeguards that Chevron has enacted include providing additional security at critical locations, enhanced cooperation with the Contra Costa Sheriff's Department, restricted parking, vehicle searches, and other confidential measures.

Currently, a small security force, overseen by the City of Richmond, is responsible for patrolling the hillside areas of Point Molate adjacent to the Chevron facility. The additional visitors to Point Molate generated by the Proposed Project would not result in the weakening of Chevron's existing security; nevertheless, with development of the Proposed Project, security along Chevron's shared boundary with Point Molate would be enhanced by constructing and staffing an on-site emergency response station (police and fire) at Point Molate and by providing additional security forces to patrol the hillside open space at the expense of the project proponents.

3.17 AESTHETICS

Summary of Comments: Several comments have been received expressing concern regarding the potential for the Proposed Project to adversely impact the aesthetic value of the project site.

Response: The aesthetic character of the project site is described in **Section 3.13** of the Draft EIS/EIR and potential impacts are assessed in **Sections 4.13** and **4.15**. The analysis considered a host of goals and policies articulated in the City's General Plan and used explicit criteria to evaluate potential impacts associated with the Proposed Project. Mitigation is presented in **Section 5.0** that, upon implementation, would reduce potential impacts to the aesthetic character of the site under Alternatives A – E to a less than significant level. As disclosed in the Draft EIS/EIR, the No Action Alternative (Alternative F) would result in a significant impact since the Winehaven Historic District would continue to deteriorate and could substantially degrade the existing visual character or quality of the site and immediate surroundings. No feasible mitigation is available to eliminate or lessen this impact under Alternative F due to the lack of a funding source.

As described in **Section 3.13.2**, the project site's aesthetic character is defined by the presence of the Winehaven Historic District, its location adjacent to San Francisco Bay, and the open space hills climbing to Potrero Ridge on the eastern margin of the project site. Through a combination of adaptive project design on the part of the applicant, mitigation measures detailed in the Draft EIS/EIR, and a cooperative final design process, the site's character-defining features would be maintained and all potential impacts would be less than significant under Alternatives A - D.

The central facets of the site's character (location along San Francisco Bay, Potrero Ridge, and the historic structures) are also critical elements of the Winehaven Historic District's integrity, as detailed in **Sections 3.6, 4.6, and 4.15**. While many of the mitigation measures that are recommended in the context

of reducing or eliminating impacts to the Historic District, they would also mitigate potential impacts to the aesthetic character as well. As such, cross-references have been added to the aesthetics analysis in Final EIR **Section 4.13**.

The final design of new construction within the Winehaven Historic District would be subject to the Section 106 consultation process involving the public, City of Richmond, California State Historic Preservation Officer (SHPO), the Tribe/Upstream Point Molate, Bureau of Indian Affairs (for Alternatives A – C), and other invited signatories. During this consultation process the Tribe shall develop comprehensive Design Guidelines to comply with the Secretary of the Interior's (SOI) Standards and Guidelines for the Treatment of Historic Properties that will govern the rehabilitation of all retained buildings within the Historic District as well as new construction near or within the historic core of the District. Since the final color palate, materials, landscaping scheme, and new construction articulation (to existing historic structures) is subject to the final Design Guidelines, the renderings presented in the Draft EIS/EIR serve to illustrate the approximate massing of new construction. The final design, in order to comply with the SOI Standards and Guidelines, must retain the historic character, avoid a false sense of historical development, preserve distinctive materials, features, finishes, and construction techniques, and all new construction must be differentiated from the historic buildings, yet be compatible. All of these considerations, and a host of others provided in the SOI Standards and Guidelines, will be applied in the final design guidelines as required by Final EIR **Mitigation Measure 5-2**.

Other ways in which the historic character of the Winehaven Historic District would be preserved that are provided as mitigation include: all new attachments to the historic buildings shall be reversible; existing windows within Buildings 1, 10, and 13 would be repaired and preserved to the maximum extent feasible; metal sheet hood moldings over the paired windows on the west elevation and the three story portion of the Building 1 should be repaired and replaced; new construction south of Building 1 shall be cognizant of the existing scale, massing, and height of Building 1. The height of new construction shall be stepped-up gradually from the north side of new construction toward the south, with the lower side near Building 1; and incorporation of design elements into the new construction that serve the same purpose as the architectural detail on the four Teutonic-influenced buildings and carry-over existing themes in scale and texture.

As depicted in the site plans presented in **Figures 2-3, 2-8, 2-11, and 2-14**, no structures would be placed west of Building 1 (Winehaven Building) in any of the alternatives that would obstruct views of the San Francisco Bay. Similarly, the area that lies between the proposed new hotel and the Bay would remain open and accessible, with views of the Bay preserved from the shoreline areas. The principals of maintaining views of the Bay are included in several of the requirements specified in **Mitigation Measure 5-1**, including: (b) prohibiting construction in front of Building 1 that would obscure the building as viewed from the bay or vice versa; (n) retention of open space, or the impression of space, between Building 1 and any new construction south of Building 1; and, ensuring the powerhouse (Building 13) and hillside may be viewed between Building 1 and any new construction. In addition, all

of the alternatives provide for a 35 acre shoreline park open to the public. It should be noted that the vast majority of redevelopment within Point Molate would occur on lands that are highly degraded as a result of a half century of occupation by the Navy, during which time the site functioned as an industrial facility.

The vast majority of hillside open space, located east of Western Drive, would be maintained under all of the project alternatives. **Tables 2-2** and **2-6** in the Draft EIS/EIR detail the acreage of open space to be preserved under the various alternatives under consideration, which varies from 145 (Alternatives A , B, and D) to 191 acres (Alternative C). New construction planned east of Western Drive would be constructed in an area that is largely classified as ruderal and currently contains a number of Navy-era structures. The proposed 5,000 car parking structure east of Western Drive would be semi-subterranean, and adjacent amenities would be relatively low-slung so as not to obscure Potrero Ridge that rises between roughly 315 to 370 feet above sea level in this area. As such, implementation of Alternatives A – D would not significantly diminish the views of San Pablo Ridge from within or outside of the project site.

The methods used in the analysis of aesthetic impacts from off-site vantage points are discussed in **Section 3.13** and the findings are presented in **Section 4.13** of the Draft EIS/EIR. As depicted in Draft EIS/EIR **Figure 3.13-1a**, the project site lies a significant distance from population centers that have an unobscured view of Point Molate. Due to the site's surrounding terrain, it is not visible from other parts of Richmond and generally is obscured to west-bound drivers on the Richmond – San Rafael Bridge, as it is oriented between 90+ to 150 degrees perpendicular to the line of sight of drivers. For drivers passing east on the bridge, the project site lies between one and more than three miles distant. The analysis also considered fixed vantage points in Marin County, which generally lie four or more miles away. In each case it was concluded that additional light sources would be added, which require mitigation (**Mitigation Measure 12-3**) to ensure that fugitive light would be kept at a minimum and would not be a source of substantial glare. The procedural design and consultation process described above, in combination with implementation of **Mitigation Measures 4-18, 5-1** and **12-1** through **12-3**, would ensure that all off-site aesthetic impacts are reduced to less than significant levels.