

**RICHMOND, CALIFORNIA, March 15, 2022**

Community Services Building  
440 Civic Center Plaza  
Richmond, CA 94804

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**A. OPEN SESSION TO HEAR PUBLIC COMMENT BEFORE CLOSED SESSION**

The Richmond City Council Evening Open Session was called to order at 5:00 p.m. by Mayor Thomas K. Butt via teleconference.

**B. ROLL CALL**

**Present:** Councilmembers Claudia Jimenez, Demnlus Johnson III, Gayle McLaughlin, Vice Mayor Eduardo Martinez, and Mayor Thomas K. Butt. **Absent:** Councilmembers Nathaniel Bates and Melvin Willis arrived after the roll was called.

**C. CLOSED SESSION**

**C.1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)**

- Title: City Clerk

**C.2 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (paragraph (1) of Subdivision [d] of Government Code Section 54956.9)**

- SPRAWLDEF et al. v. City of Richmond
- The Guidiville Rancheria of California, et al. v. The United States of America, et. al.
- North Coast Rivers Alliance et al./Point Molate Alliance et al. v. City of Richmond
- City of Richmond v. Thomas K. Butt

**C.3 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Significant exposure to litigation pursuant to paragraph (2) or (3) of Subdivision (d) [as applicable] of Government Code Section 54956.9)**

- **Three Cases**

In light of the California Court of Appeal's decision in Fowler v. City of Lafayette, the City Attorney's Office is attaching to this agenda four communications regarding the amended judgment and various agreements related to Point Molate. These letters provide the existing facts and circumstances for going into closed session on these items pursuant to California Government Code Section 54956.9(d)(2) and (e)(3).

**D. PUBLIC COMMENT BEFORE CLOSED SESSION**

There were no public speakers via teleconference.

**E. ADJOURN TO CLOSED SESSION**

The Open Session adjourned to Closed Session at 5:03 p.m. Closed Session adjourned at 6:22 p.m.

**F. SPECIAL MEETING OF THE RICHMOND HOUSING AUTHORITY**

The Special Meeting of the Richmond Housing Authority Board of Commissioners was called to order at 6:32 p.m. by Chair Thomas K. Butt via teleconference.

**G. ROLL CALL**

**Present:** Commissioners Nathaniel Bates, Claudia Jimenez, Demnlus Johnson III, Gayle McLaughlin, Melvin Willis, Vice Chair Eduardo Martinez, and Chair Thomas K. Butt.

**Absent:** Housing Authority Tenant Commissioner Jaycine Scott arrived after the roll was called.

**H. PUBLIC COMMENT INSTRUCTIONAL VIDEO**

The public comment instructional video was shown.

**I. STATEMENT OF CONFLICT OF INTEREST**

None.

**J. REPORT FROM THE EXECUTIVE DIRECTOR**

Richmond Housing Authority (RHA) Executive Director Nannette Beacham presented a PowerPoint that highlighted the following: RHA human resources updates; Nevin Plaza; Hacienda development; Nystrom Village; and the RHA and Easter Hill housing corporations quarterly meetings.

**K. AGENDA REVIEW**

Item M.1 was removed from the Consent Calendar for discussion at the end of the agenda.

**L. HOUSING AUTHORITY OPEN FORUM**

Lisa Fulton gave comments via teleconference regarding animal rescue services, spaying, and neutering cats. Ms. Fulton urged the council to review the Contra Costa County (CCC) Animal Services draft agreement for inadequacies to address the needs of Richmond concerning excessive stray cats. Ms. Fulton requested the council considered that CCC Animal Services reinstated some of its reduced or eliminated programs.

**M. HOUSING AUTHORITY CONSENT CALENDAR**

A motion made by Commissioner Bates, seconded by Vice Chair Martinez, to approve all items on the Housing Authority Consent Calendar except Item M.1 passed by the unanimous vote of the Housing Authority Board of Commissioners.

**M.1 Continued use of teleconference technology for meetings of the Board of Commissioners of the Richmond Housing Authority pursuant to the provisions of AB 361**

ADOPT a resolution requiring the continued use of teleconferencing for the meetings of the Board of Commissioners of the Richmond Housing Authority pursuant to the provisions of AB 361 – City Clerk’s Office (Pamela Christian 510-620-6513).

City Clerk Pamela Christian introduced the matter. The following individuals gave comments via teleconference: Leisa Johnson, Mark Wassberg, Don Gosney, and Jessi Taran.

A motion made by Commissioner Bates, seconded by Commissioner Johnson III, to adopt said resolution passed by the unanimous vote of the Housing Authority Board of Commissioners.

**Adopted Resolution No. 2155**

**M.2 Contract with Automatic Door Systems, Inc.**

ADOPT a resolution approving a contract with Automatic Door Systems, Inc. to complete the Nevin Plaza front door repair project, for an amount not to exceed \$24,591 including a ten (10) percent contingency (\$2,229) – Richmond Housing Authority (Nannette Beacham 510-621-1300).

**Adopted Resolution No. 2156**

**M.3 Emergency Contract with JT Plumbing**

ADOPT a resolution approving an emergency contract with JT Plumbing to complete plumbing repairs at Nevin Plaza for an amount not to exceed \$11,485 – Richmond Housing Authority (Nannette Beacham 510-621-1300).

**Adopted Resolution No. 2157**

**M.4 Contract Amendment with CD & Power DBA Got Power**

ADOPT a resolution approving an emergency contract amendment with CD & Power DBA Got Power to continue to provide load testing, and emergency or urgent repairs to generators at Nevin Plaza in the amount of \$8,457.66, for a not to exceed total contract amount of \$11,457.66, and extending the term to June 30, 2022 – Richmond Housing Authority (Nannette Beacham 510-621-1300).

**Adopted Resolution No. 2158**

**M.5 Housing Authority Minutes**

APPROVE the minutes of the January 25, 2022, special Richmond Housing Authority meeting - City Clerk's Office (Pamela Christian 510-620-6513).

**N. ADJOURNMENT**

There being no further business, the meeting adjourned at 6:56 p.m.

**O. REGULAR MEETING OF THE RICHMOND CITY COUNCIL**

The Regular Meeting of the Richmond City Council was called to order at 6:56 p.m. by Mayor Thomas K. Butt via teleconference.

**P. ROLL CALL**

**Present:** Councilmembers Nathaniel Bates, Claudia Jimenez, Demnlus Johnson III, Gayle McLaughlin, Melvin Willis, Vice Mayor Eduardo Martinez, and Mayor Thomas K. Butt. **Absent:** None.

**Q. STATEMENT OF CONFLICT OF INTEREST**

None.

**R. AGENDA REVIEW**

Item U was withdrawn from the agenda because there were no updates. Item W.4.a was continued to the April 5, 2022, City Council meeting.

**Motion by** Councilmember McLaughlin  
**Seconded by** Councilmember Jimenez

To table Item X.2 to a special City Council meeting scheduled for Friday, March 18, 2022, at 3:00 p.m. Mayor Butt ruled the motion out of order.

Ayes (4): Councilmember Jimenez, Councilmember McLaughlin, Councilmember Willis, Vice Mayor Martinez

Noes (3): Councilmember Bates, Councilmember Johnson III, and Mayor Butt

Passed (4 to 3)

**S. REPORT FROM THE CITY ATTORNEY OF FINAL DECISIONS MADE DURING CLOSED SESSION**

Interim City Attorney Dave Aleshire stated there were no reportable actions taken.

**T. REPORT FROM THE CITY MANAGER (public comment allowed under Open Forum)**

Interim City Manager Shasa Curl announced that the City of Richmond's community budget meetings were commencing on March 16, 24, and 31, 2022. More information was available via email to [community\\_budget@ci.richmond.ca.us](mailto:community_budget@ci.richmond.ca.us) or by calling the City Manager's Office at (510) 620-6512.

**U. REPORT FROM THE IMPLEMENTATION SUB-COMMITTEE FOR REIMAGINING TASK FORCE - 3rd Tuesday (public comment allowed under Open Forum)**

Withdrawn from the agenda.

**V. OPEN FORUM FOR PUBLIC COMMENT**

The following individuals gave comments via teleconference:

Mark Wassberg gave comments regarding abandoned vehicles and debris at the Rydin Road and Castro Street encampments. Mr. Wassberg gave comments against the Richmond Progressive Alliance.

Deborah Bayer gave comments in support of Item W.2.b regarding the Housing Element Annual Progress Report. Ms. Bayer advised that Contra Costa County's annual medium-income levels were two times more than Richmond's. Ms. Bayer requested a plan for more affordable housing.

Leisa Johnson expressed her gratitude to staff for closing off the public-owned lot next to the Port of Richmond cafeteria building that had been a target for illegal dumping and other activities.

**W. CITY COUNCIL CONSENT CALENDAR**

**Motion by** Vice Mayor Martinez

**Seconded by** Councilmember Johnson III

To approve all items on the Consent Calendar except Item W.4.a.

Ayes (7): Councilmember Bates, Councilmember Jimenez, Councilmember Johnson III, Councilmember McLaughlin, Councilmember Willis, Vice Mayor Martinez, and Mayor Butt

Passed (7 to 0)

## **W.1 City Clerk's Office**

- W.1.a Continued use of teleconferencing for the meetings of all City legislative bodies pursuant to the provisions of Assembly Bill (Ab) 361

ADOPT a resolution requiring the continued use of teleconferencing for the meetings of all City legislative bodies pursuant to the provisions of Assembly Bill 361 – City Clerk’s Office (Pamela Christian 510-620-6513).

**Adopted Resolution No. 27-22**

- W.1.b City Council Minutes

APPROVE the minutes of the January 25 and February 1, 2022, regular City Council meetings - City Clerk's Office (Pamela Christian 510-620-6513).

## **W.2 Community Development**

- W.2.a Contract with Action Data Systems, LLC

APPROVE a contract with Action Data Systems, LLC to design and develop a mobile and web application for a geolocated, historical walking tour of certain historical sites within the City of Richmond, for an amount not to exceed \$15,000, from March 15, 2022, to December 31, 2025 – Community Development Department (Lina Velasco 510-620-6706).

- W.2.b Housing Element Annual Progress Report 2021

ADOPT a resolution accepting the 2021 Annual Progress Report for the City’s Housing Element (2015-2023) – Community Development Department (Lina Velasco 510-620-6706).

**Adopted Resolution No. 28-22**

## **W.3 Finance Department**

- W.3.a Contract with DebtBook for Debt and Lease Management Software

APPROVE the purchase of DebtBook software using the National Cooperative Purchasing Alliance (NCPA) contract, to aid the City in meeting Governmental Accounting Standard GASB 87 – Accounting for Leases, in an amount not to exceed \$13,500, for a term of one year beginning March 16, 2022, through March 15, 2023, with a possible two year extension, for a total contract amount not to exceed \$40,500 – Finance Department (Belinda Brown 510-620-6740/Delmy Cuellar 510-620-6790).

## **W.4 Fire Department**

- W.4.a Resolution and Interagency Agreement to Support Hazardous Materials Program

ADOPT a resolution to accept and appropriate \$360,335 in funding from the Contra Costa County Health Services Hazardous Materials Division; and APPROVE a one-year interagency agreement from July 1, 2021, to June 30, 2022, in support of the Fire Department’s Hazardous Materials Response Program – Fire Department (Chief Angel Montoya 510-307-8041).

**Continued to the April 5, 2022, City Council meeting.**

## **W.5 Human Resources**

### **W.5.a Contract with Matrix Consulting Group for Emergency Services Data Analysis and Report**

APPROVE a contract with Matrix Consulting Group in an amount not to exceed \$124,000 to conduct an emergency services data analysis – Human Resources Department (Anil Comelo 510-620-6609).

### **W.5.b Resolution Amending the Salary Schedule for Neighborhood Change Agent, Resident Housing Manager, Senior Resident Housing Manager**

ADOPT a resolution amending the salary schedule for Neighborhood Change Agent, Resident Housing Manager, Senior Resident Housing Manager Classifications – Human Resources Department (Anil Comelo/ Sharrone Taylor 510-620-6600).

**Adopted Resolution No. 29-22**

## **W.6 Library and Community Services**

### **W.6.a Graphic Art Services and Promotional Products for RichmondWORKS and the RichmondBUILD Academy.**

APPROVE an amendment to the contract with Alliance Graphics, Inc. to provide additional graphic art services and promotional products for RichmondWORKS and the RichmondBUILD Academy. The contract term will be extended through June 30, 2023, and the contract amount will be increased by \$11,000, for a total contract amount not to exceed \$51,000 – Library and Community Services Department (Tamara Walker/Fred Lucero 510-621-1562)

## **W.7 Mayor's Office**

### **W.7.a Appointment(s) to the Zhoushan Sister City Commission**

APPROVE appointment(s) to the Richmond-Zhoushan Sister City Commission; APPOINT Ed Medina, new appointment, seat #7, term expiration date December 31, 2024; Jason Tran, new appointment, seat #9, term expiration date December 31, 2024 – Office of the Mayor (Mayor Tom Butt 510-620-6503).

### **W.7.b Appointment(s) to the Personnel Board**

APPROVE appointment(s) to the Personnel Board; APPOINT Larry Wirsig, new appointment, seat #3, Council appointed, term expiration December 31, 2027; APPOINT Vernetta Buckner, new appointment, seat #5, Council appointed, term expiration December 31, 2027 - Office of the Mayor (Mayor Tom Butt 510-620-6503).

### **W.7.c Appointment(s) to the Community Police Review Commission**

APPROVE appointment(s) to the Community Police Review Commission; APPOINT Steven Lacy, re-appointment, seat #7, term expiration date November 1, 2024 - Office of the Mayor (Mayor Tom Butt 510-620-6503).

### **W.7.d Appointment(s) to Update the Design Review Board**

APPROVE an appointment to the Design Review Board; APPOINT Marcus Christeson, new appointment, seat #6, term expiration date of March 17, 2024 - Office of the Mayor (Mayor Tom Butt 510-620-6503).

W.7.e Appointment(s) to the Library Commission

APPROVE appointment(s) to update the Library Commission; APPOINT Thomas Kaun new appointment, seat #3, term expiration date July 1, 2025 - Office of the Mayor (Mayor Tom Butt 510-620-6503).

W.7.f Appointment(s) to the Urban Forest Advisory Committee

APPROVE appointment(s) to the Urban Forest Advisory Committee; APPOINT Robert Stanley, new appointment, seat #4, term expiration date November 17, 2024; Stewart Winchester, new appointment, seat #8, term expiration date November 17, 2024 - Office of the Mayor (Mayor Tom Butt 510-620-6503)

**W.8 Public Works**

W.8.a Appropriate Revenues and Expenditures Related to Plan Review and Inspection Services for Development Project

ADOPT a resolution for authorization to appropriate \$175,000 in revenues and \$175,000 in expenditures related to plan review and inspection services for development projects into the Public Works Department Fiscal Year 2021-2022 budget – Public Works Department (Joe Leach 510-620-5478).

**Adopted Resolution No. 30-22**

W.8.b Contract Amendment for NCE Engineering On-call Professional Services

APPROVE a resolution amending NCE (Richmond Engineering Consultant Company) on-call professional services contract to increase their contract funding capacity by \$2,060,000, to an amount not to exceed \$3,860,000 - Public Works Department (Joe Leach 510-620-5478).

**Adopted Resolution No. 31-22**

W.8.c Harbour-8 Park Expansion – Land Donation for Subject

ADOPT a resolution authorizing the city manager or their designee to execute all required documents to facilitate the acceptance of the 6,800-sf land donation by POGO Park - Public Works Department (Joe Leach 510-620-5478/Greg Hardesty 510-620-6920).

**Adopted Resolution No. 32-22**

**X. NEW BUSINESS**

**X.1 Receive Feedback on a Fee Waiver Policy and Partnership Policy**

DISCUSS the City of Richmond's draft fee waiver and partnership policies; and PROVIDE DIRECTION on the next steps prior to policy adoption - Library and Community Services Department (LaShonda White/Rajana Maharaj 510-620-6828).

Interim Director of Library and Community Services LaShonda White introduced the matter. Ms. White and Deputy Director Community Services Recreation Ranjana Maharaj presented a PowerPoint that highlighted the following: background and purpose; policy development and process; fee waiver discount summary; proposed fee waiver and partnership policies; and next steps. Discussion ensued. The council recommended staff provide updates to the Recreation and Parks Commission regarding partnerships and fee waivers. The council requested all groups that hosted seasonal or long-term activities at city

facilities be partnerships with fee waivers as one of the components. The council expressed concerns regarding the use of city facilities with a fee waiver by political parties. The following individuals gave comments via teleconference: Don Gosney, Lorena Gonzalez, Diego Garcia, Shawn Dunning, Mark Wassberg, Norma (last name not stated), Elham (last name not stated), and Rodney Brown. The council recommended staff consider collecting refundable deposits to allow event hosts to clean the facilities after use.

**X.2 Adoption of a Resolution of Intent to Establish a Community Facilities District (CFD) for Point Molate, Adoption of Goals & Policies Statement for Community Facilities Districts, specifically for the Point Molate CFD**

ADOPT a resolution adopting Local Goals and Policies Relating to Community Facilities Districts; ADOPT a resolution of intention to establish the City of Richmond Community Facilities District No. 2022-1 (Point Molate), and to Designate Three Improvement Areas therein, to Authorize the Levy of a Special Tax to Pay the Cost of Acquiring or Constructing Certain Facilities, Provide Certain Services and Pay for Certain Incidental Expenses and to Pay Debt Service on Bonded Indebtedness; and ADOPT a resolution of intention to Incur Bonded Indebtedness Within the City of Richmond Community Facilities District No. 2022-1 (Point Molate), and Each of the Three Improvement Areas Therein. There is no requirement of General Fund support for these Bond measures - Public Works Department (Joe Leach 510-620-5478).

**Tabled to a special City Council meeting scheduled for March 18, 2022, at 3:00 p.m.**

**Y. REPORTS OF OFFICERS: REFERRALS TO STAFF, AND GENERAL REPORTS (INCLUDING AB 1234 REPORTS)**

Councilmember McLaughlin reported that she received a request from former councilmember and Richmond Kaiser chief of cardiology, Jeff Ritterman, regarding anti-semitic hate crimes in Berkeley and the resurgence of the anti-hate campaign. Dr. Ritterman suggested the city distribute posters stating, "Richmond Stands Against Hate". Councilmember McLaughlin recommended the city manager include a blurb regarding this matter in the City Manager's Weekly Report. Councilmember McLaughlin also advised that posters were available to the community in the Richmond City Hall lobby. Councilmember Bates recommended staff circulate the posters to Richmond businesses, organizations, and neighborhood councils.

**Z. ADJOURNMENT**

There being no further business, the meeting adjourned at 8:35 p.m., to meet again for a special meeting on Friday, March 18, 2022, at 3:00 p.m.

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Clerk of the City of Richmond

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Mayor

**From:** [Cordell Hindler](#)  
**To:** [City Clerk Dept User](#)  
**Subject:** public comments- Open Session prior to closed session  
**Date:** Thursday, March 10, 2022 5:38:21 PM

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Good Evening Mayor Butt, Council and Staff, I have some comments in Related to Closed Session

1. I think that Pamela Christian has done an Outstanding job as City Clerk
2. She makes sure that the Council Agenda is out in a timely manner

Sincerely  
Cordell

**From:** [Leisa Johnson](#)  
**To:** [City Clerk Dept User](#)  
**Cc:** [Leisa Johnson](#)  
**Subject:** Public Comments for Item M-1 and Item W.1.a  
**Date:** Tuesday, March 15, 2022 6:54:00 PM

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Dera City Clerk,

Can you please include the below written comments in the supplementary minutes?

Thank you!  
Leisa

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Good Evening Mayor, Councilmembers and Staff -

The community is beyond frustrated and feels completely disrespected by the fact that several City Councilmembers and other appointed commission & board members routinely keep their zoom camera off for most or all of a meeting. Many in the community believe this is a violation of the public's trust and Brown Act.

There is simply no way for staff to legally determine continuity of quorum when there is not a quorum of elected or appointed members whose cameras are live and they are sitting in front of them. When a camera is off, staff has no way to appropriately determine where that person actually is or what they are doing and if they actually engaged, or if they're illegally conferring with people in the room or on the phone, thereby making a mockery of our public meetings.

We now see live, in-person events scheduled in City Council chambers and being advertised on social media; one example is scheduled for April 7th.

Why is this allowed yet our City Council still refuses to meet in-person?

This underscores the public's sense of frustration and disrespect.

I am respectfully requesting that the public please get an update tonight with a proposed timeline for public meetings to return. The public doesn't understand why a hybrid format, at a minimum, couldn't be adopted whereby elected and appointed members plus critical staff are present in person and the public/consultants participating via Zoom. Moreover, CCC health policies allow for this hybrid option as well as in-person meetings (<https://cchealth.org/covid19/pdf/recommendations-for-safe-public-meetings.pdf>).

If there is apprehension to adopt a hybrid Zoom format, then can you at least please start requiring that cameras remain on, as has routinely been asked by members of the public for nearly two years now, with no explanation provided as to why this has not been policy since inception?

If someone needs to use the restroom, they can keep their camera on, the same exact way that KCRT remains on the council, planning commission, etc. in a live meeting and someone needs to step away to use the bathroom. The standards of decorum and actively participating in a public meeting should have never changed or allowed to have been abused.

Thank you.

Respectfully,  
Leisa

**From:** [Cordell Hindler](#)  
**To:** [City Clerk Dept User](#)  
**Subject:** public comments- Open Forum  
**Date:** Thursday, March 10, 2022 5:50:58 PM

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Good Evening Mayor Butt, Council and Staff, I have some comments to go into the Record

1. I am not in Support of W.1.a on the Consent Calendar because other Jurisdictions are doing Hybrid Meetings
2. But I am in Support of W.7.a - W.7.f on the consent calendar

Sincerely  
Cordell

**From:** [Klein, Linda C.](#)  
**To:** [City Clerk Dept User](#)  
**Cc:** [Tom Butt - external](#); [Nat Bates](#); [Claudia Jimenez](#); [Eduardo Martinez](#); [Demnlus Johnson](#); [Gayle McLaughlin](#); [Melvin Willis](#); [Marc Magstadt \(mmagstadt@suncal.com\)](#); [David Soyka](#); [Sabey, Andrew](#)  
**Subject:** City Council Agenda Item X-2  
**Date:** Tuesday, March 15, 2022 2:32:21 PM  
**Attachments:** [Letter to City re Agenda Item X-2 - 2022 03 15\(14648152.1\).pdf](#)

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Pamela,

Attached please find a letter concerning Agenda Item X-2 related to the Point Molate CFD. Please let me know if you have technical issues with the attachment.

Best,  
Linda

**Linda C. Klein**



Cox, Castle & Nicholson LLP

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Linda C. Klein  
415.262.5130  
lklein@coxcastle.com

File No. 083086

March 15, 2022

**VIA E-MAIL**

City Council  
c/o Pamela Christian, City Clerk  
City of Richmond  
450 Civic Center Plaza  
Richmond, CA 94804

**Re: City Council Agenda Item X-2: Adoption Of A Resolution of Intent to Establish A Communities Facilities District For Point Molate**

Dear Mayor, Vice-Mayor, and Councilmembers:

We write on behalf of our client, Winehaven Legacy LLC (“Winehaven Legacy”), concerning City Council Agenda Item X-2 regarding the proposed Point Molate Project (“Project”) communities facilities district (“CFD”). We write to remind the City of its obligation in the Development Agreement (“DA”) and the Disposition and Development Agreement (“DDA”) to work cooperatively with Winehaven Legacy to establish one or more CFDs for the Project. We feel that is necessary to remind the City of this commitment given the City’s past actions, including its delay in forming a CFD and desire to renegotiate the CFD terms the City previously agreed to in the DA and DDA. To refresh the City’s memory regarding its actions to delay and interfere with CFD formation, which is a requirement of the transaction, we attach our prior letter to the City on this topic as **Exhibit A**.

We understand that the City is concerned that the Project’s fire and police station will have a negative fiscal impact on the City’s general fund. To allay this concern, Winehaven Legacy has gone beyond its prior commitments and provided a proposal that promises to cover any gap between the cost of the fire and police station and the Project’s tax proceeds collected by the City. Accordingly, the City should feel confident that the Project will not adversely affect the City’s general fund and approve the formation of the CFD.

Winehaven Legacy remains committed to the Project and thanks City staff for its hard work shepherding it along. In light of Winehaven Legacy’s commitment to cover any funding

shortfall that may occur as a result of the Project, we look forward to the City Council approving CFD formation, as required by the DDA and DA, at tonight's meeting.

Sincerely,



Linda C. Klein

cc: Marc Magstadt, Winehaven Legacy LLP  
David Soyka, Winehaven Legacy LLP

083086\14646602v2

# EXHIBIT A



**Cox, Castle & Nicholson LLP**  
50 California Street, Suite 3200  
San Francisco, California 94111-4710  
P: 415.262.5100 F: 415.262.5199

Linda C. Klein  
415.262.5130  
lklein@coxcastle.com

File No. 087029

November 9, 2021

**VIA E-MAIL**

Ms. Teresa Stricker  
City Attorney  
City of Richmond  
450 Civic Center Plaza  
Richmond, CA 94804

**Re: City Breach Of The Point Molate Development and Disposition Agreement and Development Agreement Related To City Commitment To Cooperate In Forming Community Facilities Districts**

Dear Ms. Stricker:

We write on behalf of Winehaven Legacy LLC (“WL”) concerning the inaction by the City of Richmond (“City”) City Council on the Point Molate Communities Facility District (“CFD”). After months of delay, we were happy to see a proposed resolution to kick off the CFD process on the November 2, 2021, agenda, but were greatly disappointed in the City Council’s failure to adopt that resolution. The City’s repeated failure to take concrete steps to move forward with the CFD constitutes a breach of its obligations under the Point Molate Development and Disposition Agreement (“DDA”) and Development Agreement (“DA”). Pursuant to DDA section 10.3.2 and DA section 7.1 section, WL demands that the City cure this breach.

There is no reason for further discussion of the pros and cons of CFDs. The City has a binding duty to work cooperatively with WL not just to talk about but to establish one or more CFDs under both the DDA and DA as further described below.

**The DDA.** When the City Council approved and executed the DDA, the City bound itself to working “cooperatively and in good faith to establish the CFD and to reach mutual agreement as to additional detail regarding scope, terms and conditions affecting the CFD.” (DDA § 4.6.2.8.) Action 35 on the Schedule of Performance (DDA, Exhibit 2.3.1-A) states that the City Council will act on the CFD “[w]ithin six (6) months after the ‘Effective Date’ of the Development Agreement.” The DA effective date is October 15, 2020, now more than a year ago. In violation of the DDA, the City Council has taken none of the necessary actions to form the CFD. Instead, the City Council has continued to delay the CFD formation by asking for more studies about what would occur in unlikely scenarios, such as the developer’s bankruptcy prior to selling the homes but after the CFD is funded. Such studies serve no purpose given that the City has committed to work cooperatively and in good faith to establish the CFD.

**The DA.** Like the DDA, the DA also *requires* the City to “cooperate with the Developer to establish one or more CFDs pursuant to the Mello Roos Act and as permitted by State law to finance construction, development, and operation of the Master Infrastructure, Offsite Improvements and Master Developer Amenities in connection with the Project and the development of the Property.” (DA § 2.1.2.) In addition, the DA requires the City “to *cooperate with [WL] in the formation of any assessment districts* (including without limitation Mello Roos Districts and Landscaping and Lighting Districts), community facilities districts (‘CFD’), Geologic Hazard Abatement Districts, tax exempt financing mechanisms (a ‘Financing Mechanism’) that Developer *in its sole discretion* may elect to initiate related to the Project as and when so requested by Developer, provided that no such Financing Mechanisms shall obligate the City’s general fund or negatively impact the City’s General Fund . . . .” (DA § 4.2 [emphasis added].) Additionally, the DA requires that the City “*shall cooperate with the Developer to establish one or more CFDs* pursuant to the Mello-Roos Act and as permitted by State law to finance construction, development, and operation of the Master Infrastructure, Offsite Improvements, and Master Developer Amenities required in connection with the development and operation of the Project.” (DA § 4.5 [emphasis added].) The DA contains the same six-month deadline as the DDA: “Promptly following the Effective Date, City *shall conduct proceedings to form the CFD consistent with State law. The Parties shall cooperate* so that, to the extent possible, the associated public process and the resolution of intention to form the infrastructure component and services component shall be adopted by the City Council *within six (6) months of the Effective Date.*” (DA § 4.5 [emphasis added].)

The City Council lacks a reason to delay its vote to move forward with the CFD. No additional analysis or study is required. The lengthy negotiations the parties conducted to execute the DDA and DA in 2020 already formed the basis for the scope of the CFD. The agreed scope is as follows:

- The CFD will be structured in two improvement areas corresponding to the phasing of the Project.
- The total effective tax rate for assessor’s parcels within the CFD will not exceed two percent (2.0%) of the reasonably expected value of the parcel with planned vertical improvements determined at the time of approval of the CFD.
- The CFD will include a component to fund certain maintenance requirements (the “Services Tax”) and a component to fund certain infrastructure (the “Improvements Tax”). The Services Tax will have priority and be collected in perpetuity.
- The Project infrastructure costs and impact fees for which Developer may be reimbursed from CFD proceeds include those set forth on Exhibit F attached [to the DA].

- Bond issuances will include a 10.0% reserve fund to cover potential shortfalls, as well as 110% debt service assessment to provide additional security for repayment of the bonds. At Developer's election, the bonds may be issued under a "private placement" with a firm specializing in tax exempt bonds.
- The Parties shall have the ability to create a construction or acquisition district for funding improvements. The construction district would allow the CFD to build the Police and Fire Station and other Project improvements directly out of bond proceeds.
- If requested by Developer, the Bond Term shall be 40 years.
- Bond Term allowing for additional bond proceeds to fund additional infrastructure and/or agreed upon City needs shall not exceed 40 years.
- Assessments will escalate at 2.0% annually.
- If requested by Developer, City agrees to use best faith efforts to assist in obtaining a Joint Community Financing Agreement with EBMUD to allow for water improvements to be included in the CFD.
- The CFD will include a provision allowing full and/or partial prepayment of the Improvement Tax at any time.
- The CFD may fund infrastructure with surplus special taxes, if available, on a pay-as-you-go basis.

(DA §§ 4.5.1–4.5.12.) Because the DA already contains so many terms for the CFD, establishing the CFD should take less (not more) time than is typical. In short, while the DA allows the City to "evaluate" proposed Financing Mechanisms (DA § 4.2.1.1), the City does not have discretion to further consider whether to authorize the CFDs or demand terms that deviate those listed above in the CFDs.

Due to the City's repeated delays in honoring its commitment to adopt a CFD by March 29, 2021, the City is in breach of its obligations under the DDA and DA. WL is thus providing notice of breach under DDA section 10.3.2 and DA section 7.1 and demands that the City takes the steps necessary to establish the CFD as soon as possible and no later than within 30 days, as required by the DDA. If the City fails to timely cure the breach, WL could "seek specific performance of the City's obligations under [the DDA]," as well as other legal rights and remedies. (DDA § 10.3.2.) WL also could seek a court order directing the City to establish the CFD and its attorneys' fees for needing to get such an order. (DA § 7.4.2.)

November 9, 2021  
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We look forward to the City curing its breach and authorizing the hiring of consultants needed to complete the CFD as soon as possible.

Sincerely,



Linda C. Klein

cc: Richmond City Council  
Mayor Tom Butt, Vice Mayor Demnlus Johnson, III, Councilmembers Nathaniel  
Bates, Claudia Jimenez, Eduardo Martinez, Gayle McLaughlin, and Melvin Willis  
Mr. Marc Magstadt  
Mr. David Soyka  
Mr. Andrew Sabey

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**From:** [Roberta Wyn CESP](#)  
**To:** [City Clerk Dept User](#)  
**Subject:** Public Comments-- Agenda Item X.2. Adoption of A Resolution to Establish a Community Facilities District  
**Date:** Tuesday, March 15, 2022 12:58:24 PM

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March 15, 2022

Mayor Thomas Butt and Richmond City Councilmembers

Richmond City Council

450 Civic Center Plaza

Richmond CA, 94804

Re: Agenda Item X.2. March 15, 2022. Adoption of a Resolution of Intent to Establish a Community Facilities District (CFD) for Point Molate, Adoption of Goals & Policies Statement for Community Facilities Districts, specifically for the Point Molate CFD.

Letter from Citizens for East Shore Parks

Dear Mayor Butt and Councilmembers Nate Bates, Claudia Jimenez, Demnlus Johnson, Eduardo Martinez, Gayle McLaughlin, Melvin Willis:

On the agenda is the adoption of the resolution of intent regarding the formation of a Community Facilities District (CFD) for the development project at Point Molate. It is our understanding that the developer is now asking for an authorized bond amount of up to \$292 million. This is three times the allocation amount for the District in the Disposition and Development Agreement (DDA).

Citizens for East Shore Parks (CESP), Sierra Club, Richmond residents, community experts, and other organizations had repeatedly warned the previous City Council that the numbers for

this project show that it will end up burdening the City with costs not covered by the development and that the City and its residents would be burdened by the financial shortfall of this high risk project. Now the numbers have been revisited and the request for the developer is far greater and far riskier than ever discussed before. You are being asked to put the economic future of the City at risk. You will remember that the proponents of this development PROMISED THERE WOULD BE NO RISK to the City. Now the numbers show there will be millions of dollars of shortfall and the way the developer intends to paper over this is with unrealistic assumptions about sales prices, about the speed of the sales and about the size of the loan. The developer also will now tell you that the developer will stand behind the promises of no risk by pledging to cover the risk somehow or other. However this developer has no real assets or way to cover anything and if there is a debt the LLC will just go bankrupt as the SunCal LLCs have done in the past. That is the whole purpose of the LLC - to silo the exposure and bankrupt the LLC if there is a loss coming its way.

The goals of Richmond involve providing more equity to the community and providing housing that Richmond community can afford, along the transportation corridors. They do not involve exposing the community to supporting and subsidizing luxury housing enclaves for the wealthy with enormous infrastructure expenses, in a high severity fire zone, near a refinery, only accessible via a two-lane road.

It is time to act in the interests of Richmond, not the developer. There is no reason why the Council must agree to create a District or to authorize any amount, no less a \$290 million bond amount (again three times higher than the allocation in the Disposition and Development Agreement (DDA)). It is your legal right under the DA and DDA to reject this CFD; it is within the sole discretion of the city. You could do it for no reason or any reason but here you must do it because approving this CFD will put the entire economic future of Richmond at risk, exposing the City to millions of dollars of losses per year and ravaging the general fund.

We concur with the January 25, 2022 sent to the City Council by Sierra Club, San Francisco Bay Chapter. If the current developer backs out of the project, the City can pursue alternatives for resolving the issues related to Point Molate and reach a solution that ends years of litigation, provides a true benefit to the community, eliminates the high risk financial gamble, and places development energy and resources where it is needed and necessary.

We urge you not to move forward with the formation of the CFD and bond indebtedness. No City Council should approve such financial indebtedness and risk.

Sincerely,

*Shirley Dean*

Shirley Dean

Board President, Citizens for East Shore Parks

Citizens for East Shore Parks

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