



October 23, 2006

Mr. Bill Lindsay, City Manager  
Ms. Janet Schneider, Assistant City Manager  
Richmond City Hall  
1401 Marina Way South  
Richmond, CA 94804

RE: Point Molate LDA Status Report

Dear Bill and Janet:

This letter is intended to satisfy our requirement to provide a semi-annual status report on our progress under the Land Disposition Agreement dated November 9, 2004 between the City of Richmond and Upstream Point Molate LLC.

#### **EIS/EIR**

We understand that the environmental review under the EIS/EIR is proceeding in a diligent manner, and that the BIA's consultants are working on a thorough analysis of the proposed project and a host of project alternatives. We understand the EIR team has most of the information they need to complete the review, however we are still working on submitting historic preservation design guidelines (which will be reviewed in the EIS/EIR), and architectural renderings of the proposed project and alternatives. To the extent that we and/or the Guidiville Band of Pomo Indians ("Guidiville" or "Tribe") have been asked to provide further information to your environmental consultant, AES of Sacramento, we have done so. Since AES is under the managerial control of the Bureau of Indian Affairs ("BIA") under its MOU with the City, we do not control the pace of work under the EIS/EIR. However, Guidiville has been advised by the BIA that they anticipate that an Administrative Draft EIS/EIR will be available early in 2007.

#### **Federal Approvals**

Guidiville has filed all necessary applications with the National Indian Gaming Commission and the United States Department of the Interior to have Point Molate declared "restored Indian lands" eligible for gaming under the provisions of the Indian Gaming Regulatory Act. This is a legal determination that the Department of Interior will make based on the review of historical information concerning the Tribe. The federal government is under no deadline to make such an administrative determination. We are hopeful that we will be advised of their decision in the first half of 2007.

#### **Negotiations with Navy**

Upstream, with its environmental and insurance consultants, continues to work with the City staff and its consultants in negotiations with the U.S Navy leading to the conveyance of

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the remainder of the property to the City pursuant to an Environmental Services Cooperative Agreement (“ESCA”) and a Finding of Suitability for Early Transfer (“FOSET”). We believe that conceptual agreement has been reached with the Navy on all issues related to the site except for the precise remediation methodology and cost for the remediation of Site 3, the site of the former oil separation ponds. Had we and the City staff acquiesced to the Navy’s preference for a remediation plan that left a majority of the oil-affected soils in-place at Site 3, we would have had an agreement on early transfer with the Navy months ago. However, Upstream and the City continue to push the Navy for a one-time comprehensive remediation of the area. We hope to reach agreement on that site in the near future.

### **Project Engineering**

Upstream and its engineering consultants have made great progress in identifying viable infrastructure routing and capacities to serve the future project. Water and power are already present at the site. However, one of the big unknowns was how to provide sewer service to the relatively isolated Point Molate property. After a significant engineering effort, we have identified two feasible routings for the proposed sewer system, both of which utilize property and/or easements owned by the City of Richmond for this purpose. We have provided this information to the City and to the EIR/EIS consultant, and we understand that infrastructure routing will be further studied in the EIR/EIS.

### **Harrah’s Entertainment**

Notwithstanding its merger with Caesar’s Entertainment in 2005 and recent press releases that Texas Pacific Corporation and Apollo Realty have made unsolicited tender offers for all of the outstanding shares of Harrah’s (with its \$12 Billion Market Capitalization), Harrah’s continues in its position to be the manager of the gaming facility for Guidiville when gaming approvals are secured. Due to the fluid nature of the capital markets, Guidiville and Upstream continue to monitor and react to the opportunities and problems that are often created by such market activity.

### **Housing Market Impact**

As has been reported in the press, the major homebuilders are experiencing softness in outlying housing markets (Sacramento, East Contra Costa County, Central Valley, etc.). Similar trends have occurred elsewhere around the country and the “majors” have suffered severe declines in stock prices. This has led to tightening of overhead (staff layoffs) and project expenditures by the National homebuilders. An obvious question is what impact this might have on the plans and funding for Point Molate.

Despite these factors, we believe that Point Molate has enough intrinsic value (including access to San Francisco through planned ferry service at the site) for environmentally sensitive residential development in selected areas of the site. We have been advised by more than one of the major builders that while there may be a temporary

“corporate” hold on project investment, the up and down cycles of the housing market will be back “up” when the project is ready to build. Since no residential project can be moved through the design review and approval process until the EIR is completed, the only real impact the temporary tightening has had is that it forces us to use more expensive predevelopment funds from other sources.

### **Funding**

Including payments to the City of Richmond under the LDA and all other expenditures that we have made since the LDA was executed, Guidiville, Harrah’s and Upstream have expended over \$7.5 Million (\$3.5 Million of which was paid to the City under the LDA or the prior Exclusive Right to Negotiate) in our efforts to advance the redevelopment of Point Molate. Our project budget over the next twelve months indicates that we will expend in excess of an additional \$5 Million (\$3 Million of which is due to the City in January 2007 under the LDA) to continue to advance the project. With our various financial arrangements and partners, we will have adequate resources available to fund those costs as they are incurred.

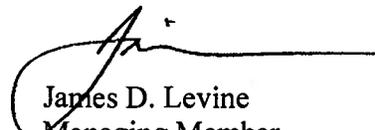
### **General Plan Update**

Although we have not actively participated in the City’s General Plan update process, we have been contacted by the City’s outside consultant and we are in the process of providing them with the various items of information that they have requested. In addition, we plan to arrange a meeting for the Tribe and Upstream with Richard Mitchell of the City’s Planning Department to provide him a report on the status of our various activities.

In summary, we are proceeding as anticipated under the LDA.

Please call me if you have any questions or comments.

Sincerely,  
Upstream Point Molate LLC

  
James D. Levine  
Managing Member

CC: John F. Salmon  
Merlene Sanchez, Guidiville Band of Pomo Indians  
Walter Gray, Guidiville Band of Pomo Indians  
Michael Derry, Black Oak Development