

City Manager's Weekly Report

Mayor and Councilmembers:

This is the weekly report for the week ending February 26th, 2010.

1. **Meeting Notes**

The next City Council meeting is scheduled for Tuesday, March 2nd beginning with a Closed Session at 5:00 PM, and with regular agenda items commencing at 6:30 PM.

2. **3rd Quarter Sales Tax Results**

This past week, Finance staff met with representatives from MuniServices, the consulting firm that analyzes and forecasts the City's sales tax trends. As expected, sales tax results for the third quarter of 2009 have continued their downward trend. The positive news is that the downward spiral, while still going down, seems to be leveling out, and the low point might have passed in the second quarter of 2009. For the State of California as a whole, the second quarter of 2009 (April 2009 through June 2009) saw the biggest drop in sales taxes since 1946. The 2009 third quarter (July 2009 through September 2009) sales tax numbers dropped 13% for the City, and 14.8% for the State, compared to the same period last year. Finance staff will continue to closely monitor the actual revenue submitted by the State Board of Equalization, the local trends developing in Richmond, and the projections provided by MuniServices. For FY2010-11, preliminary indications show a decline of about 5%, or \$900,000, compared to revenue received in FY2009-10.

3. **Point Molate Status Report**

I have attached a letter from Upstream Point Molate, LLC, which is to satisfy their requirement under the Land Disposition Agreement to provide a semi-annual status report on their progress.

4. **Proposed Scotts Valley Casino – Court of Appeals Decision on Legal Challenge**

As you may recall, on November 21, 2006, the City Council voted to approve a Municipal Services Agreement (MSA) for the Scotts Valley Casino project that is proposed for development in unincorporated North Richmond. The MSA provides, among other things, that the City will receive, in exchange for the provision of specified City services: (1) a nonrecurring payment of \$8,234,500, \$7.1 million of which is earmarked for fire protection and the remainder of which is earmarked for police and public works, (2) an annual contribution of \$6 million in years one and two, \$8 million in years three and four, \$9 million in years five

and six, and \$9 million adjusted annually by the Consumer Price Index (CPI) in years seven to 20, and (3) an annual payment of \$7,459,700, adjusted annually by the CPI, for the 20-year term of the MSA, intended to fund salaries for new police, fire, and public works personnel and equipment. The approval of the MSA was legally challenged, with the plaintiffs contending that the approval was unlawful because the City was required to conduct an environmental review under CEQA before entering into the agreement. In September of 2008, the superior court upheld the legal challenge, and the ruling was subsequently appealed. It should be noted that all legal challenges were defended by the Scotts Valley tribe, which also bore the cost of the appeal.

The City received notice yesterday that the appellate court ruled in its favor on the appeal in this legal matter. The court held that the MSA was not subject to CEQA, reversing the trial court's decision. Specifically, the court held that the casino was not a "project" for CEQA purposes, and that neither the City's expression of support for the casino nor the identification of physical improvements contemplated in the MSA were subject to CEQA review at this time.

The attorneys who handled this case for the tribe anticipate that opposing counsel will file a petition for review in the California Supreme Court.

5. **10th Annual City of Richmond Employee Black History Celebration**

City of Richmond employees celebrated "The History of Black Economic Empowerment" as part of the 10th Annual City of Richmond Employee Black History Celebration which was held today in the Auditorium. It was an outstanding event that included remarks by Mayor Gayle McLaughlin, Councilmember Nat Bates, the City Manager, Assistant City Attorney Everett Jenkins, entertainment by comedian Shea Suga, and Chicago Style Stepping by Finance Department employee Tammi Edwards and instructor Damone Hodges. Finance Director Jim Goins was the keynote speaker for the event, reflecting on his career and the influence that those like former Atlanta Mayor Maynard Jackson and former Los Angeles Mayor Tom Bradley had on black economic empowerment and on his own empowerment. Thanks to the Black History Committee (employees Tammi Edwards, Theresa Austin, Sharon Scott, Crystal Clark, Charlotte Dennis, Stacie Plummer), and Leah Clark, Rod Williams, KCRT, the Recreation Department, and the Information Technology Department for their significant help with this successful event.

6. **Bayview Branch Library**

The Bayview branch library is closed indefinitely while under repair. To continue providing services, story time will be moved to Crescent Park Family Resource Center beginning Monday, March 8th. Sheila Dickinson, children's librarian, will conduct the popular story times, which begin at 10:30 AM.

7. **Public Works Update**

- Nicholl Park's new restroom area is almost complete. Weather permitting, it will be paved next week and opened shortly thereafter.
- The re-roofing of Richmond Fire Department Station #64 (4801 Bayview Avenue) is complete. Next week, re-roofing of Fire Station #62 (1065 - 7th Street) will begin.
- The Streets Division continues to catch up with all the potholes spotted and reported.
- The Public Works paving program has completed Hazel Avenue from Yuba to the City Limits. Next week, the crew will begin to prepare and pave Broadway in front of the Post Office.

8. **Recreation Highlights**

- **Donation**: The Shields Reid Community Center received a donation of a Springfield Olhausen billiards table for the game room. The billiards table, along with a table tennis conversion top was donated and installed on Wednesday, February 17th.
- **Snow Trip**: The Shields Reid staff escorted 26 youth and teens to the Lake Tahoe area on Wednesday, February 17th for a day of sledding, snowball play, and other snow activities.

9. **Point Molate**

Attached is the Point Molate semi-annual status report that was inadvertently left off the prior weekly report.



February 25, 2010

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, as amended, between the City of Richmond and Upstream Point Molate LLC.

EIS/EIR

The Draft EIS/EIR was made available for public comment on July 20, 2009. At the City Council Meeting on September 22, 2009, the Council extended the comment period from September 23 until October 23. Since being made public, public hearings to receive verbal and written comments were held before the Design Review Board on August 12, 2009 and before the Planning Commission on September 17, 2009. In addition, public workshops with technical experts were held on August 10, 2009 and August 27, 2009 at the Richmond Memorial Auditorium. Although very marginally attended, the workshops provided an opportunity for the public to learn about the proposed project, the environmental review process and the analysis presented in the DEIS/R. Written comments were also accepted at the workshops and hundreds of written comments were received during the comment period.

Due to the extension of the EIR comment period, we understand the City is now reviewing a new schedule that would provide for City Council consideration of the EIR and other approvals. Since the City's CEQA review has been delayed, this necessarily delays the Closing Date for Upstream to acquire the property. We are discussing possible LDA Amendment strategies with the City to accommodate the need for the City to complete CEQA prior to selling the land.

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

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“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 its 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 shortly.

Early Transfer with the Navy

Upstream, with its environmental and insurance consultants, has substantially completed its work with the City staff and its consultants in negotiations with the U.S Navy leading to the conveyance of the remainder of the property to the City pursuant to an Early Transfer Cooperative Agreement (“ETCA”) and a Finding of Suitability for Early Transfer (“FOSET”). The Navy has deposited \$28.5 Million in escrow and Governor Schwarzenegger approved the early transfer. We anticipate that the Early Transfer will close in the next few weeks (subject to issuance of a final environmental insurance policy) and the City will then own all property to be transferred to Upstream under the LDA. Upstream’s obligations to begin the remediation are governed by the Remediation Agreement dated September 9, 2008 and the LDA. It is important to note that had the Early Transfer not been achieved, the Navy’s proposed approach to monitor and remediate Site 3 would have taken many years (or possibly even decades) to complete, so this is truly an important milestone. We must acknowledge the professionalism and dedication of those who led this process for the Navy and the City, as successful conclusion of these ETCA agreements are rare around the country.

On behalf of the City, we have already assumed responsibility to maintain the ground water treatment system and various site monitoring programs that the Navy was operating, in order to prevent any gaps in fulfillment of ongoing maintenance and monitoring responsibilities under existing orders from the Regional Water Quality Control Board.

Project Financing

During the last nine months, we have undertaken a comprehensive cost analysis of the proposed project, using independent consultants and contractors. The results of that work indicate that projected costs to construct the project are within the ranges previously estimated and within the financing capabilities of the team. Specific information to support this analysis will be submitted to the City with the financing plan required under the LDA.

Payments to the City of Richmond under the LDA, together with all other predevelopment expenditures that Upstream has made since the LDA was executed in November 2004, now approach \$25 Million (\$15.5 Million of which was paid to the City under the LDA or the prior Exclusive Right to Negotiate). All of these funds have been spent to advance the redevelopment of Point Molate. Our project budget for the period March 1, 2010

through February 28, 2011 is approximately \$8.8 million, assuming that we close the purchase of the property during 2010, as follows:

Project Entitlements including EIR/EIS processing, legal expenses and reimbursements to the City	\$2,060,000
Engineering and Architecture	300,000
Extension Payments to the City under the existing Tolling Provisions of the LDA or pursuant to Extension of the LDA	840,000
Closing expenses and payment of Principal on the Purchase Price pursuant to LDA, if closing occurs in 2010	5,100,000
Other Administrative Costs	250,000
Contingency	250,000
Total	8,800,000

Pursuant to our existing financial arrangements with our partners, we continue to have adequate resources available to fund these costs as they are incurred. We attach a letter dated February 23, 2010 to you from Mem Sah Corporation, a company wholly owned by the Yocha Dehe Band of Wintun Indians, owner of the Cache Creek Casino Resort, confirming the availability of these funds and the availability of the requisite collateral security necessary to be provided to the City under the LDA for the balance of the Purchase Price at the time of Closing.

Jobs and Economic Development for Richmond

While site engineering analyses have consumed significant time and expense by our project team, we have continued our work with various Richmond groups to prepare to meet the hiring goals outlined in the LDA. The bulk of that work has been to collaborate with community and church groups to identify what now numbers over fifty community partner organizations that will each function in some capacity as part of a fabric of programs and resources to identify, steer, prepare and train Richmond applicants into employment opportunities created by the Project. We believe that our community-based approach is one of the most exciting aspects of the Project and will provide the mechanism and capabilities allowing the Project to meet and exceed its local hiring goals. As we approach the final approval process, we will continue to work with Sal Vaca, labor unions, churches, community groups and others to organize programs together into as seamless a process as can be designed.

It is clear that once approved, the project will be one of the largest economic and job development opportunities ever in Richmond and will be implemented in a way that will enhance the environment. We look forward to the City completing its review of the Project and working with you to deliver the immense array of project benefits to Richmond.

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

MEM SAH CORPORATION

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February 23, 2010

CONFIDENTIAL

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

Re: Pointe Molate Annual Report

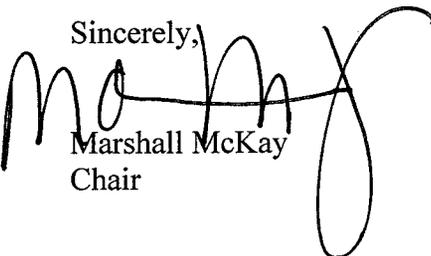
Dear Mr. Lindsay and Ms. Schneider:

Mem Sah Corporation ("Mem Sah") is a tribal corporation wholly owned by the Yocha Dehe Band of Wintun Indians. Mem Sah is a member of Winehaven Partners LLC ("Winehaven") along with The Guidiville Band of Pomo Indians and Upstream Point Molate, LLC. We bring resort development and operations experience to the team, and through Winehaven, are providing financial support to the project.

Pursuant to section 9(b) of the First Amendment of the LDA, Mem Sah represents to the City of Richmond that it will contribute up to \$3.8 million to Winehaven as necessary between March 1, 2010, and February 28, 2011, to fund the project expenses of Winehaven respecting Point Molate.

Furthermore, if the conditions set forth in section 7.1(a) and (c)-(j) of the LDA are satisfied during this period, Mem Sah will advance the \$5 million due the City of Richmond under section 1.4(b) of the LDA, and Mem Sah will post a letter of credit to secure the \$30 million Note described in section 1.4(c) of the LDA.

Sincerely,



Marshall McKay
Chair

cc: Upstream Point Molate LLC
Guidiville Band of Pomo Indians