

**LAND DISPOSITION AGREEMENT
(POINT MOLATE)**

This Land Disposition Agreement (this “Agreement”) is entered into as of November 9, 2004, by and between the City of Richmond, California (the “City”) and Upstream Point Molate LLC, a California limited liability company (the “Developer”). Capitalized terms used but not defined herein shall have the meanings assigned to such terms on Exhibit A hereto.

The United States of America, acting by and through the Department of the Navy (the “Navy”), recently quitclaimed to the City approximately two hundred twenty (220) acres of upland and approximately one hundred thirty-four (134) acres of tidal and submerged real property described on Exhibit B-1 (the “Owned Land”), together with all buildings, improvements, and related and other personal property located thereon, and all rights, tenements, hereditaments, and appurtenances belonging, or in any wise appertaining, including fixtures, structures, mineral rights, water rights, appurtenant easements, rail lines and utility lines, alleys, roads, streets ways, strips, gores or railroad rights of way upon the Owned Land, and any means of ingress and egress appurtenant thereto (collectively with the Owned Land, the “Owned Property”) which is a portion of the former Naval Fuel Depot Point Molate (“NFD Point Molate”), and the Navy is expected to quitclaim to the City an additional approximately fifty-one (51) acres of upland, which is described on Exhibit B-2, which constitutes the remainder of NFD Point Molate (the “Remainder Land”), together with corresponding improvements and appurtenances thereto (collectively with the Remainder Land, the “Remainder Property”). The Owned Property and the Remainder Property, are referred to collectively as the “Property”). The portion of the Property included in the proposed Bay Trail and all of the Property on the bay side of the proposed Bay Trail is referred to as the “Shoreline Property” and the portion of the Property not included in the Shoreline Property is referred to as the “Inland Property”. Both the Shoreline Property and the Inland Property are comprised of both Owned Property and Remainder Property.

WHEREAS, the City desires to sell the Inland Property and lease the Shoreline Property to the Developer, and Developer desires to purchase the Inland Property and lease the Shoreline Property from the City, on and subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of, and premised upon, the various representations, warranties, covenants and other agreements and undertakings of the parties contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer agree as follows:

ARTICLE 1. TRANSFER OF PROPERTY

1.1 Transfer of Property.

(a) City agrees to sell the Inland Property to the Developer and lease the Shoreline Property to the Developer and the Developer agrees to buy the Inland Property and lease the Shoreline Property from the City, on and subject to the terms, covenants and conditions set forth herein.

(b) The City's agreement to sell the portion of the Inland Property and lease the portion of the Shoreline Property which is included in the Remainder Property to Developer is contingent upon the Navy's transfer of the Remainder Property to the City, as provided in Section 2.3 below. If, notwithstanding the Developer's performance of its obligations under Section 2.3 below, such transfer of the Remainder Property to the City has not occurred prior to the Closing, Developer shall have the right to proceed with the Closing of the Owned Property and the City and the Developer shall negotiate in good faith as to a reduction in the Purchase Price, if warranted, to reflect the exclusion of any portion of the Inland Property which is included in the Remainder Property, and if the Developer elects to proceed with the purchase and lease of the Owned Property, (i) Developer may continue with efforts to obtain the conveyance of the Remainder Property by the Navy after Closing, (ii) the City shall cooperate with and assist Developer in such efforts (at no material cost to the City), (iii) if the Remainder Property or any portion thereof is subsequently conveyed to the City, the City shall, upon direction from Developer, promptly sell or lease, as appropriate, such Remainder Property to Developer or its designees, and (iv) if, as and when any portion of the Remainder Property which is Inland Property is conveyed to Developer or its designees, any portions of the Purchase Price which the parties agreed to reduce shall be paid to City (or an appropriate portion thereof if less than all of the Inland Property which is included in the Remainder Property is so conveyed).

(c) The City shall lease the Shoreline Property to the Developer (or the Developer's assignee) (in either case, the "Tenant") for the maximum term permitted by law, currently, not less than 50 years (the "Shoreline Lease"), and grant the Tenant a permanent easement for ingress and egress over and non-exclusive use, consistent with the Design Concept Documents, of the Shoreline Property commencing upon the expiration of the Shoreline Lease. The Shoreline Lease shall: (i) provide for rent of \$1, (ii) provide the City with permanent conservation easements, or another mechanism acceptable to the City in its sole discretion and approved by BIA, to assure permanent open space status and public access to the open space portions (as finally determined in the Design Concept Documents as approved by the City) of the Shoreline Parcel (the "Bay Trail and Open Space Rights"), (iii) provide that the construction and maintenance of the Bay Trail on the Shoreline Property will be undertaken by the Tenant at the Tenant's expense pursuant to the Bay Trail Design Guidelines promulgated by the Association of Bay Area Governments and the State of California Parks and Recreation Department as part of the first phase of construction of the Project, (vi) provide that the Tenant will repair and maintain shoreline rip rap for erosion control and (v) contain such

other reasonable or customary provisions as the City and the Tenant may reasonably agree upon. The Tenant and the City Manager shall negotiate in good faith and agree on the form of the Shoreline Lease within twelve months after the date hereof. In lieu of leasing the Shoreline Property to the Developer or its assignee, the City shall have the right, at its option, to grant the Developer or its assignee such other interest in the Shoreline Property as may be legally permitted and is agreeable to the City and the Developer or its assignee, provided that such grant shall not require additional compensation from the Developer or its assignee and shall reserve the Bay Trail and Open Space Rights.

(d) Land reasonably determined by the City, after consultation with the Developer, to be sufficient for the right of way for Western Drive shall also be excluded from the Property, provided, that such land so excluded from the Property shall be no less than the currently existing right of way for Western Drive.

(e) Prior to Closing, City shall prepare and process through the normal City procedures for City-owned property all subdivision or parcel maps necessary to create separate legal parcels for the Shoreline Property and to exclude the Western Drive right of way. Developer shall provide all map, surveys and other documentation required for processing of such maps.

1.2 Closing, Initial Consideration, Extension Consideration. The Closing of the purchase and sale and lease of the Property shall occur on or before January 15, 2006 (the "Closing Date"). To compensate the City for granting Developer the right to purchase and lease the Property until January 15, 2006, the Developer shall pay to the City the sum of \$1,000,000 (the "Initial Consideration") within 21 days after execution and delivery of this Agreement by all parties. The Developer may extend the Closing Date for up to four successive twelve-month periods, by written notice given at least 30 days prior to the then existing Closing Date and by payment to the City of additional consideration in the amount of (i) \$2,000,000 for the first 12 month extension, (ii) \$3,000,000 for the second 12 month extension, (iv) \$4,000,000 for the third 12 month extension and (v) \$5,000,000 for the final 12 month extension, in each case delivered to the City on or prior to the then existing Closing Date (the total of the Initial Consideration and any and all of such additional payments hereunder is the "Non-refundable Consideration"). The Non-refundable Consideration shall be earned by the City upon receipt and shall in all events be retained by the City and be nonrefundable.

1.3 Escrow. Escrow shall be established for the Closing hereunder not later than thirty (30) days after Developer's notice to the City that conditions in Section 7.1 have been satisfied and Developer is prepared to close on the Property. The Closing shall occur no later than sixty (60) days after satisfaction of the conditions precedent set forth in Article 7 below, but in no event shall the Closing occur later than the Closing Date (as extended pursuant to Section 1.2).

1.4 Purchase Price. The purchase price ("Purchase Price") for the Inland Property shall be \$50,000,000, payable at Closing as follows:

(a) The Non-refundable Consideration paid to the City shall be credited against the Purchase Price.

(b) Developer shall pay to the City in immediately available funds by wire transfer to an account designated by the City a sum equal to the difference between \$20,000,000 and the Non-refundable Consideration previously paid to the City.

(c) The Developer shall deliver to the City a promissory note in the principal sum of \$30,000,000 bearing interest at a variable rate per annum equal to the 30-day London Interbank Offering Rate plus 1.1% and in substantially the form attached hereto as Exhibit C (the "Note"). The Note shall provide for annual principal payments of \$2,000,000 to the City. In addition, the Developer shall deliver a guaranty of the Note from a guarantor (the "Note Guarantor") whose long-term debt is rated in one of the four highest rating categories (without regard to "+", "-", or numerical modifiers) by Moody's Investors Service or Standard & Poor's Ratings Group (a "Qualified Guarantor"), in substantially the form attached hereto as Exhibit D.

1.5 Condition of Title. Upon Closing, the City shall convey the Inland Property to Developer or its designee by quitclaim deed (the "Deed"). At Closing, the Property shall be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except the Permitted Exceptions. By acceptance of the Deed and the Shoreline Lease and the Closing of the purchase and sale and lease of the Property, (i) Developer agrees it is assuming for the benefit of City all of the obligations of City with respect to the Permitted Exceptions from and after the Closing, and (ii) Developer agrees that City shall have conclusively satisfied its obligations with respect to title to the Property. The provisions of this Section shall survive the Closing. Delivery of title in accordance with the foregoing shall be evidenced by the willingness of Fidelity National Title Company or any other title company reasonably satisfactory to Developer ("the Title Company") to issue, at Closing, its Owner's/Leasehold ALTA Policy of Title Insurance in the amount of the Purchase Price showing (i) fee title to the Inland Property which is Owned Land and, if appropriate, the Remainder Land vested in Developer, and (ii) a leasehold estate in the Shoreline Property which is Owned Land, and if appropriate, the Remainder Land, vested in Developer, all subject to the Permitted Exceptions (the "Title Policy"). Developer shall prepare, at Developer's cost, any survey of the Inland Property necessary to support the issuance of the Title Policy. Developer shall provide City with a copy of such survey at no cost to City.

ARTICLE 2. DEVELOPMENT OF THE PROPERTY

2.1 Design Concept Documents.

(a) The Preliminary Site Plan and the Scope of Development together constitute the preliminary "Design Concept Documents". The Developer acknowledges that the City has not yet approved the Design Concept Documents or the development of the Project on the Property. The Design Concept Documents will be modified in response to the

environmental review process described in Section 2.2(a). Upon completion of that process, the Developer will submit the final Design Concept Documents to the City for its approval.

(b) The Developer agrees to use commercially reasonable efforts to obtain all permits, approvals, consents and financing necessary to develop the Property with the improvements described in the Design Concept Documents. In order to develop the Project in accordance with the Design Concept Documents, at Closing Developer intends to assign its rights to purchase and lease the Property to the Guidiville Band of Pomo Indians of the Guidiville Rancheria (listed in the Federal Register as the Guidiville Rancheria of California) (the "Tribe"), and City consents to such assignment. As a condition to such assignment, and to any transfer of the Property to the Tribe, the Tribe must execute a Services Agreement substantially in the form attached hereto as Exhibit E and adopt a First Source Agreement substantially in the form attached as Exhibit F as provided in Section 5.4 of the Services Agreement.

2.2 Environmental Documentation.

(a) Prior to Closing, Developer shall prepare and submit to the City such plans, specifications, drawings, and other information, as specified by the City, which are reasonably necessary for the City to perform any City, building, planning, zoning or environmental review process related to the development of the Property which the City determines are required or as provided in the Design Concept Documents. Developer may also be required by NEPA and, to the extent applicable, CEQA, to prepare and submit additional information needed to supplement the previous environmental analyses to state and/or federal governmental agencies for approval. Developer shall provide the City any updated documentation of the Project in order to facilitate the City's performance of the environmental review process, including any required public hearings. Prior to Closing, the Developer is required to process all its development applications for review by City staff to determine compliance with any environmental or other discretionary review that complies with the process set out in CEQA or NEPA, as applicable. No final determination is made at this time as to the scope and nature of the Project. Such final determination will be made after consideration of the CEQA and NEPA review process, as applicable, and may include "no project" or "reduced project" alternatives. Developer shall not receive any refund of the Non-refundable Consideration if this Project is disapproved or if the Project or the Design Concept Documents are required to be modified by the City or any other party in connection with the review process or if the Project otherwise becomes legally or economically infeasible. To the extent that CEQA compliance is required for any City or State approvals, Developer will fund required studies and will promptly pay upon invoice all of the City's reasonable legal, engineering and consulting costs in connection with such review, and the City will diligently process the required CEQA certifications.

(b) After the completion of the environmental review process, and after the City has approved the Design Concept Documents, any proposed material change, modification, revision or alteration of the Design Concept Documents shall be submitted promptly for approval by the City Council. A material change, modification, revision or alteration of the

approved Design Concept Documents is one that would substantially alter the approved mix of uses and/or proportionate allocation of building area among such uses to be developed on the Property or the footprint of the developed portion of the Property or would alter or diminish any public access or Hillside Open Space or Bay Trail and Open Space Rights.

(c) The City understands and acknowledges that the Tribe will not be governed by CEQA and after Closing the Tribe will not be required to submit its project for discretionary approvals by the City; however, the Tribe will be bound under the Services Agreement to comply with the Design Concept Documents. No material changes shall be made to the Design Concept Documents without the prior approval of the City.

2.3 Navy FOSET. Prior to Closing Developer shall fund, manage and take all reasonable actions necessary to cause the Navy to convey the Remainder Property to the City, to secure indemnities and insurance reasonably satisfactory to the City and to manage the ultimate cleanup of the Remainder Property pursuant to all existing laws, environmental procedures, regulatory agreements and insurance requirements. If such transfer of the Remainder Property from the Navy under a Finding of Suitability for Early Transfer (“FOSET”) to the City is completed prior to the Closing, then in consideration of performing those services for the City, (i) City shall within thirty (30) days after receipt of written request by Developer (accompanied by supporting documentation in reasonable detail) advance funds or payments supplied to the City for those purposes by the Navy to pay for such services provided by the Developer prior to the Closing and (ii) Developer shall be entitled to receive upon Closing all remaining payments and funding supplied for those purposes by the Navy, without further participation by the City; provided, however, that at Closing Developer shall provide for escrowing, insuring or otherwise guarantying the availability of funding reasonably required to complete the remediation activities to achieve the land uses anticipated for the Project, including providing for any payment of self-insured retentions needed for cleanup expenses that may exceed remediation estimates or Navy payments.

2.4 State Lands Issues. Prior to Closing, Developer shall fund, manage and take all actions necessary to resolve any property boundary claims of the State of California related to the Property and to obtain any appropriate title releases from the California State Lands Commission, including without limitation obtaining all rights necessary to utilize the Pier. The City shall cooperate in such efforts, but shall not be required to incur any material expense in connection with such cooperation. The Developer acknowledges that the Pier extends into the bay beyond the boundary of the Property and that the City makes no representation as to its title to that (or any other) portion of the Pier. Pursuant to the Scope of Development, the Developer will provide public access to the Pier from Western Drive and public parking rights to allow reasonable public use of the Pier and reasonable public access to any ferry service. The Developer shall have no obligation to provide access to the Pier to private watercraft.

2.5 Public Finance. Developer (or if the Tribe purchases and leases the Property, the Tribe) shall finance and manage the construction and development of the

Project without contribution or guaranty of any kind by the City. If requested by the Developer, the City will use its best efforts to assist in providing conduit financing in order to allow the financing to be tax-exempt under federal and state law; provided, that (i) in no event shall the City be required to contribute funds, or lend its credit or guaranty of any kind to such financing and (ii) if such financing is undertaken, the City may retain reasonable fees (subject to applicable legal limits) to compensate it for providing such financing. In the event the City undertakes such financing, all professionals involved in the offering (including bond counsel, disclosure counsel, financial advisors and underwriters) shall be subject to the reasonable approval of the City.

2.6 Protection of Hillside Open Space and Historic Preservation. The Developer and the City have a mutual interest in protecting open spaces in the Property and to preserve a reasonable amount of the natural and scenic qualities within the Property which distinguish it from other regions of the City. The Developer shall manage all Hillside Open Space, historic preservation and permitting and entitlement activities required for the development of the Property to proceed. All historic preservation activities shall follow the United States Secretary of the Interior's Standards and Guidelines. The City and the Developer agree that at Closing Hillside Open Space shall be subjected to permanent conservation easements, public access easements or other enforceable mechanisms acceptable to the City in its sole discretion and approved by BIA after completion of the environmental review process described in Section 2.2(a) and approved by the City to protect the Hillside Open Space and to assure public access in perpetuity. Such easements or other mechanisms shall not subject to termination or reduction by the Developer, the Tribe, BIA or pursuant to eminent domain or other procedure. The Developer agrees to provide a mechanism reasonably acceptable to BIA and the City to provide for and fund the maintenance and preservation of the Hillside Open Space, all as described in the Design Concept Documents.

2.7 Support for Trust Application. In consideration for the obligations undertaken by the Developer herein, upon Developer's request the City shall provide correspondence to the BIA, and to the Governor of the State of California, and the County of Contra Costa which supports the application of the Tribe to the United States and requests that the United States to take the Property into trust for the benefit of the Tribe, and respond to inquiries about the Tribe's trust application from the BIA, the State of California and the County of Contra Costa in a manner that is consistent with the intent of this Agreement. The City shall also urge the Governor of the State of California to negotiate and execute with the Tribe a Compact for gaming purposes in accordance with the intent of this Agreement and the Services Agreement, and shall work proactively with the County of Contra Costa and other governmental agencies to help resolve any impediments to the approval process.

2.8 Alternative Proposal. The City acknowledges that uncertainty exists concerning the feasibility of developing Indian gaming uses on the Property due to a variety of federal, state and local permitting issues, federal land in trust issues, state compact issues and local City revenue sharing issues. If it is determined that the development of Indian gaming uses on the Property is not commercially feasible or not

legally permitted, the Developer may purchase and lease the Property without any involvement by any Native American tribe, and, prior to the Closing Date, the Developer and the City shall negotiate exclusively in good faith for a period not to exceed one hundred twenty (120) days with respect to an alternative development proposal and, if such negotiations are successful, execute an amendment to this Agreement to reflect such alternative proposal; *provided, that* Developer will be required to submit land use and building plans for such alternative proposal to the City for its discretionary approval in accordance with all applicable federal, State and local laws, rules and regulations. In such redesign Developer shall have the right to alter the distribution of uses in the Property to substitute other uses, subject the consent of the City and compliance with all applicable local, state and federal laws, rules and regulations. If Developer purchases and leases the Property pursuant to this Section 2.8 (rather than the Property being transferred to the Tribe), the Deed and the Shoreline Lease shall contain a restriction which prevents the Property from being used for any gambling or gaming purpose unless expressly permitted by an agreement between the owner of the Property and the City which contains terms no less favorable to the City than those contained in this Agreement and the Services Agreement.

2.9 Financing Plan. (a) As a condition to Closing, Developer or the Tribe will submit evidence reasonably acceptable to the City reflecting the availability of the necessary funds to complete the entitlement, acquisition, remediation, and construction of Phase 1 of the Project. Such evidence may include (i) a certified financial statement of the Developer, the Tribe or any Qualified Guarantor, (ii) a certification in writing from a financial institution doing business in California in which Developer, Tribe or any Qualified Guarantor has deposited funds or (iii) other forms of security, reasonably satisfactory to the City evidencing sources of capital sufficient to demonstrate that the Developer or Tribe has adequate funds available. Such documents are collectively referred to as the Financing Plan.

(b) Upon receipt by the City of the Financing Plan, the City shall promptly review and approve or disapprove such Financing Plan within thirty (30) days after submission. If such Financing Plan is not approved by the City, the City shall set forth in writing and notify Developer of the reasons therefor. Developer shall thereafter resubmit a revised Financing Plan to the City for its approval within thirty (30) days of the City's notification of disapproval. The City will either approve or disapprove the revised Financing Plan within fifteen (15) days of resubmission by Developer or the Permitted Assignee. If the City does not approve or disapprove the revised Financing Plan in writing within fifteen (15) days after receipt the revised Financing Plan, the Developer may provide the City Manager with written notice that the City's failure to approve or disapprove the revised Financing Plan within fifteen (15) days after such written notice is received by the City Manager shall be deemed to be approval of the revised Financing Plan by the City. If the City fails to approve or disapprove the revised Financing Plan within fifteen (15) days after the receipt of such notice by the City Manager, the revised Financing Plan shall be deemed approved.

2.10. Exclusivity Agreement. During the term of this Agreement, and during the term of the Services Agreement as provided therein, the City covenants that it will not

approve, cooperate, consent or otherwise take any action to permit or facilitate the location of any tribal gaming facility other than the facility on the Property, except to the extent the City is required to do so by applicable law.

ARTICLE 3. DEVELOPER'S INVESTIGATION

3.1 Developer's Independent Investigation.

(a) Developer acknowledges and agrees that it has inspected and investigated or will before Closing, inspect and investigate each and every aspect of the Property, either independently or through agents of Developer's choosing, including, without limitation:

(1) All matters relating to title, together with all governmental and other legal requirements such as taxes, assessments, zoning, use permit requirements and building codes.

(2) The physical condition and aspects of the Property, including, without limitation, the interior, the exterior, the square footage within the improvements on the Property, the structure, seismic aspects of the Property, the paving, the utilities, and all other physical and functional aspects of the Property. Such examination of the physical condition of the Property shall include an examination for the presence or absence of Hazardous Materials, which shall be performed or arranged by Developer at Developer's sole expense.

(3) Any easements and/or access rights affecting the Property.

(4) The documents, agreements, leases affecting the Property and all matters in connection therewith.

(5) Any matters related to Developer's proposed development of the Property including permitting, environmental review or federal, state, local or tribal governmental requirements.

(6) Any other matters of material significance affecting the Property.

(b) DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS SELLING AND DEVELOPER IS PURCHASING AND LEASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT DEVELOPER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural

elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, and utility systems, facilities and appliances, the square footage within the improvements on the Property, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the Property, (ix) the condition of title to the Property, (x) the leases, service contracts, or other agreements affecting the Property and (xi) economics of the development and operation of the Property (collectively "Property Related Matters").

3.2 Release.

(a) Without limiting the above, Developer on behalf of itself and its successors and assigns waives its right to recover from, and forever releases and discharges, City, City's affiliates, officers, employees and agents of each of them, and their respective heirs, successors, personal representatives and assigns (collectively, the "City Related Parties"), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with Property Related Matters. Developer shall reaffirm this release at Closing.

(b) In connection with section 3.2(a) above, Developer expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." DEVELOPER ACKNOWLEDGES AND AGREES THAT IT HAS BEEN REPRESENTED BY LEGAL COUNSEL OF ITS CHOICE IN CONNECTION WITH THIS AGREEMENT, AND THAT SUCH COUNSEL HAS EXPLAINED TO DEVELOPER THE PROVISIONS OF THIS SECTION 3.2. BY INITIALING BELOW, DEVELOPER CONFIRMS IT HAS AGREED TO THE PROVISIONS OF THIS SECTION 3.2.

DEVELOPER'S INITIALS: _____



3.3 Developer's Approval of New Leases and Agreements Affecting the Property.

(a) Between the date hereof and the Closing, City, as owner of the Property, shall not enter into any new lease or other agreement affecting the Property, or modify or terminate any existing agreement affecting the Property to which City, as owner, is a party, without first obtaining Developer's approval, which will not be unreasonably withheld or delayed. Developer may disapprove any lease that does not terminate prior to Closing. If Developer fails to give City notice of its approval or disapproval of any such proposed action within ten (10) business days after City notifies Developer in writing of City's desire to take such action, then Developer shall be deemed to have given its approval.

(b) Prior to the Closing the City shall provide the Developer and its agents, employees and contractors with reasonable access to the Property to investigate any and all aspects of the Property. In connection with any entry by Developer, or its agents, employees or contractors onto the Property, Developer shall give City reasonable advance notice of such entry and shall conduct such entry and any inspections in connection therewith in a manner reasonably acceptable to City. Without limiting the foregoing, prior to any entry to perform any on-site testing, Developer shall give City written notice thereof, including the identity of the company or persons who will perform such testing and the proposed scope of the testing. City shall approve or disapprove, in City's reasonable discretion, the proposed testing within three (3) business days after receipt of such notice. If City fails to respond within such three (3) business day period, the Developer may provide the City Manager with written notice that the City's failure to approve or disapprove the proposed testing within five (5) days after such written notice is received by the City Manager shall be deemed to be approval of the proposed testing by the City. If the City fails to approve or disapprove the proposed testing within five (5) days after the receipt of such notice, the City shall be deemed to have approved the proposed testing. City or its representative may be present to observe any testing or other inspection performed on the Property. The Developer shall meet with the City periodically to update the City as to the results of its investigations and testing and, shall upon the request of City, deliver to City, at least ten (10) days prior to Closing or upon any termination of this Agreement, copies of any reports relating to any testing or other inspection of the Property performed by Developer or its agents, employees or contractors. Developer shall maintain, and shall assure that its contractors maintain, public liability and property damage insurance in amounts and in form and substance adequate to insure against all liability of Developer and its agents, employees or contractors, arising out of any entry or inspections of the Property pursuant to the provisions hereof, and Developer shall provide City with evidence of such insurance coverage upon request by City. Developer shall indemnify and hold the City Related Parties harmless from and against any costs, damages, liabilities, losses, expenses, liens or claims (including, without limitation, reasonable attorney's fees) arising out of or relating to any entry on the Property by Developer, its agents, employees or contractors in the course of performing the inspections, testings or inquiries provided for in this

Agreement. The foregoing indemnity shall survive beyond the Closing, or, if the sale is not consummated, beyond the termination of this Agreement.

3.4 Survival. The provisions of this Article 3 shall survive the Closing.

ARTICLE 4. CLOSING

4.1 Escrow Instructions.

When an escrow is established pursuant to Section 1.3, the parties hereto shall deposit an executed counterpart of this Agreement with the Title Company, and this instrument shall serve as the instructions to the Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. City and Developer agree to execute such reasonable additional and supplementary escrow instructions as may be appropriate to enable the Title Company to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

4.2 Closing.

The Closing hereunder shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of the Title Company on the Closing Date or such other earlier date and time as Developer and City may mutually agree upon in writing.

4.3 Deposit of Documents.

(a) At or before the Closing, City shall deposit or cause to be deposited into escrow the following items:

(1) the duly executed and acknowledged Deed conveying the Inland Property to the Developer and the Shoreline Lease leasing the Shoreline Property to Developer, subject to the Permitted Exceptions;

(2) the Services Agreement; and

(3) such other instruments, authorizations, or resolutions as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the acquisition and leasing of the Property in accordance with the terms hereof.

(b) At or before Closing, Developer shall deposit or cause to be deposited into escrow the following items:

- (1) funds necessary to close this transaction;
- (2) the Shoreline Lease;
- (3) the Note and Guaranty;
- (4) the Services Agreement;
- (5) such certificates, resolutions and opinions with respect to the Developer, the Tribe and the Note Guarantor as City may reasonably request; and
- (6) a reaffirmation of the release set forth in Section 3.2.

4.4 Prorations.

(a) Rents, real property taxes and assessments; water, sewer and utility charges; amounts payable under any service contracts; and any other expenses of the operation and maintenance of the Property (including, without limitation, expenses already paid by City but which are being amortized over time by City and with respect to which City shall receive a credit at Closing in the amount of the unamortized portion thereof), shall all be prorated as of 12:01 a.m. on the date the Deed is recorded, on the basis of a 365-day year. City and Developer hereby agree that if any of the aforesaid prorations and credits cannot be calculated accurately on the Closing Date, then the same shall be calculated as soon as reasonably practicable after the Closing Date and either party owing the other party a sum of money based on such subsequent proration(s) or credits shall promptly pay said sum to the other party.

(b) City shall pay one-half (1/2) of the escrow fee, one-half (1/2) of the cost of the Title Policy (provided that the City's share shall not exceed \$25,000), any county transfer taxes applicable to the sale, and one-half (1/2) of any other transfer taxes legally applicable to the sale. Developer shall pay the one-half (1/2) of the Cost of the Title Policy up to a total cost of \$50,000 and any and all costs of obtaining the Title Policy in excess of \$50,000, the cost of any endorsements to the Title Policy, one-half (1/2) of any transfer taxes legally applicable to the sale other than county transfer taxes and one-half (1/2) of the escrow fee. Recording charges and any other expenses of the escrow for the sale, if any, shall be paid by Developer and City in accordance with customary practice as determined by the Title Company.

(c) The provisions of this Article 4 shall survive the Closing.

ARTICLE 5. CHANGES IN DEVELOPER; ASSIGNMENT

5.1 Changes Only Pursuant to this Agreement. The qualifications, experience and expertise of Developer are of particular value to the City. It is because of the qualifications, experience and expertise of the Developer that the City has entered into this Agreement. No voluntary or involuntary successor in interest to Developer shall acquire any rights or powers under this Agreement, except as provided in this Article 5.

5.2 Changes. Developer shall promptly notify the City in writing of any changes in the location of the principal place of business or material assets of the Developer, and of any other change in fact or circumstances represented or warranted at any time by Developer to the City.

5.3 Prohibition Against Assignment of Agreement.

(a) Developer shall not, except as permitted by this Agreement, make or attempt any total or partial assignment of all or part of its rights and obligations under this Agreement (other than (i) to an entity which is controlled by and is, directly or indirectly, at least 75% owned by Jim Levine and John Salmon, (ii) to the Tribe at Closing pursuant to section 2.1(c), or (iii) to Harrah's Operating Company, Inc, ("Harrah's") pursuant to a collateral pledge given by Developer to secure repayment of funds advanced to Developer or the Tribe by Harrah's in connection with the Project) without the prior written approval of the City.

(b) The City will approve such an assignment of this Agreement only if the following conditions are met and upon the City's exercise of its reasonable discretion, which shall not be unreasonably withheld or delayed:

(1) The proposed transferee demonstrates to the City that, in the City's reasonable judgment, the proposed transferee has sufficient financial strength and experience to competently complete construction of the Project and/or to competently manage and develop the Project in a first-class manner and as required under this Agreement.

(2) Any proposed transferee, by instrument in writing approved by the City, for itself and its successors and assigns, and for the benefit of the City, shall expressly assume all the obligations of Developer under this Agreement.

(c) In the absence of specific written agreement by the City, no assignment or approval by the City permitted by this Article 5 shall be deemed to relieve Developer or any other party from any obligations under this Agreement. The assignment of this Agreement to the Tribe shall not relieve the Developer of any obligation hereunder. The foregoing notwithstanding, if, after the assignment of this Agreement to the Tribe, the City has any claim for indemnity under Section 8.14 hereof, the City will first make such claim for indemnity to the Tribe before making a claim for indemnity to the Developer. The City will concurrently notify Developer of such indemnity claim. If the Tribe does not

accept and commence performance of such indemnity obligation within thirty (30) days of such notice, the City will give the Developer notice of the Tribe's failure, and the Developer will use its best efforts to cause the Tribe to accept and perform such indemnity obligations. If the Tribe does not accept and commence performance of such indemnity obligation within thirty (30) days of the City's notice of such failure to Developer, the City may make such claim for indemnity directly to the Developer and Developer will accept and commence performance of such indemnity. Nothing in this Section 5(c) is intended to expand the scope of the Developer's indemnity obligation set forth in Section 8.14.

(d) Subject to subparagraphs (b)(2) and (c) above, Developer may assign its rights to the Tribe.

(e) The City may, with the written consent of the Developer, which shall not be unreasonably withheld or delayed, assign this Agreement to any other local governmental agency the entire governing body of which is (i) solely comprised of the members of the City Council of the City acting *ex officio*; (ii) which assumes ownership of the Property prior to Closing and (iii) which, agrees, in concert with the City, to assure the performance of all of the City's obligations under this Agreement.

ARTICLE 6. GENERAL REMEDIES PRIOR TO CLOSING

6.1 Application of Remedies. Before Closing, the provisions of this Article 6 shall govern the parties' remedies for breach or failure of the Agreement.

6.2 Default of City. The following events each constitute a default by the City hereunder:

(a) The City fails to convey the Property as provided in this Agreement;
or

(b) The City breaches any other material provision of this Agreement.

Upon the happening of any of the above-described events, Developer shall first notify the City in writing of its purported default, giving the City sixty (60) days after receipt of such notice to cure such default. In the event the City does not then cure the default within such sixty-day period (or, if the default is not susceptible of cure within such sixty-day period, the City fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), then Developer shall be entitled to (i) terminate this Agreement in writing; and/or (ii) seek any rights or remedies afforded it in law or in equity; provided that any monetary damages payable by the City shall be limited to the amount of the sum of the Non-refundable Consideration, deposits paid to the City in connection with the Exclusive Right to Negotiate Agreement plus actual costs expended by the Developer in processing permits and applications for the Project, provided, further that such limits shall not apply in the case of a breach resulting from any willful action or omission taken or authorized to be taken by the City Council or the City Manager.

6.3 Default of Developer. The following events each constitute a default by the Developer hereunder:

(a) Developer fails for any reason, other than City's default or the failure of a condition which prevents the Developer from acquiring the Property as provided herein, to purchase and lease the Property from the City as provided in this Agreement; or

(b) There is any change in the ownership of Developer, or the parties in control of Developer or any assigns or successors, in violation of Section 5.3(a) of this Agreement; or

(c) A Bankruptcy/Insolvency Event occurs with respect to Developer; or

(d) Developer breaches any other material provision of this Agreement.

Upon the happening of any of the events described above (other than the failure to provide funds, the Note and the Guaranty at Closing which shall be an immediate default), the City shall first notify Developer in writing of its purported default giving Developer sixty (60) days from receipt of such notice to cure such default. If Developer does not cure the default within such sixty-day period (or if the default is not susceptible of being cured within such sixty (60) day period, Developer fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), the City shall be afforded all of its rights at law or in equity by taking any or all of the following remedies: (i) terminate this Agreement in writing and/or (ii) seek any remedy against Developer available at law or in equity; and in all events the City shall be entitled to retain the Non-refundable Consideration described in Section 1.2.

6.4 Rights and Remedies Cumulative. Except as otherwise provided, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise any right or remedy shall not preclude the exercise, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

ARTICLE 7. CONDITIONS PRECEDENT

7.1 Developer's Conditions. The obligation of Developer to purchase and lease the Property shall be subject to the satisfaction, at or prior to the Closing, of all of the following conditions, any one or more of which may be waived by Developer:

(a) The City shall have complied in all material respects with all obligations required to be complied with by it at or prior to the Closing.

(b) The State/Tribe Compact shall have been executed by the Tribe and the State, shall have been approved by the U.S. Department of the Interior, either affirmatively or by operation of law, and shall be in full force and effect upon the Closing.

(c) The Property shall have been approved by the BIA for placement into trust on behalf of the Tribe.

(d) All BIA Approvals shall have been obtained.

(e) All NIGC Approvals shall have been obtained.

(f) Rights to access the Property and the Pier are acceptable to the Developer.

(g) All approvals, permits and other governmental approvals necessary to construct, own and operate the Project in accordance with the Design Concept Documents have been obtained.

(h) The Services Agreement shall have been executed and delivered by the Tribe and the City.

(i) The Deed and the Shoreline Lease shall have been delivered as provided in Section 1.5.

(j) A land transfer agreement for the Remainder Property, in form acceptable to Developer, has been executed by the Navy and the City.

7.2 City's Conditions. The obligation of the City to convey the Property to Developer shall be subject to the satisfaction, at or prior to the Closing, of all of the following conditions, in addition to any other conditions set forth in this Agreement any one or more of which may be waived by the City (except for the condition specified in subsection (f) below):

(a) Developer shall have complied in all material respects with all obligations required to be complied with by it at or prior to the Closing.

(b) The Services Agreement shall have been executed and delivered by the Tribe and all conditions to the effectiveness thereof shall have occurred.

(c) The Purchase Price shall have been paid as provided in Section 1.4.

(d) The Shoreline Lease, the Note and the Guaranty shall have been executed and delivered to the City.

(e) If a land transfer agreement for the Remainder Property, is to be executed by the Navy and the City at or prior to Closing, the form of such agreement is acceptable to the City.

- (f) All required environmental reviews of the Project shall have been completed pursuant to Section 2.2.
- (g) The Financing Plan shall have been received and approved.

ARTICLE 8. GENERAL PROVISIONS

8.1 Notice, Demands and Communication. Formal notices, demands, and communications between the City and Developer shall be in writing and shall be sufficiently given if and shall not be deemed given unless, dispatched (i) by registered or certified mail/return receipt requested, or (ii) Federal Express or other receipted overnight delivery service, or if delivered personally, in each case to the principal offices of the City and Developer as follows:

- City: City of Richmond
1401 Marina Way South
Richmond, CA 94804
Facsimile: (510) 620-6542
Attn: City Manager

- With copies to: City Attorney's Office
1401 Marina Way South
Richmond, CA 94804
Facsimile: (510) 620-6522
Attn: City Attorney

- Developer: Upstream Point Molate LLC
1900 Powell Street, 12th Floor
Emeryville, CA 94608
Facsimile: (707) 940-4600 and
(510) 652-2246
Attn: James D. Levine, Managing Partner

- With copies to: Hughes Hubbard & Reed LLP
350 South Grand Avenue, Suite 3600
Los Angeles, CA 90071-3442
Facsimile: (213) 613-2950
Attn: Theodore H. Latty, Esq.

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section 8.1. No party shall evade or refuse delivery of any notice.

8.2 Conflict of Interests. No member, official or employee of the City shall make any decision relating to the Agreement which affects his or her personal interests or

the interest of any corporation, partnership or association in which he is directly or indirectly interested.

8.3 Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer, or successor in interest, in the event of any default or breach by the City or for any amount which may become due to Developer or successor or on any obligation under the terms of this Agreement.

8.4 Provision Not Merged with Deeds. None of the provisions of this Agreement are intended to or shall be merged by the Deed(s) transferring title to the Property from the City to Developer or successor in interest and such Deed(s) shall not be deemed to affect or impair the provisions and covenants of this Agreement, including without limitation Section 1.1(c).

8.5 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provision.

8.6 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

8.7 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

8.8 Legal Actions.

(a) In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the party prevailing in any such action shall be entitled to recover against the party not prevailing all reasonable costs and expenses incurred in such action, including reasonable attorney fees and costs of any appeals.

(b) In the event legal action is commenced by a third party or parties, the effect of which is to directly or indirectly challenge or compromise the enforceability, validity, or legality of the Agreement and/or the power of the City to enter into this Agreement or perform its obligations hereunder, the party subject to such challenge shall defend such action at the sole cost of the Developer. Upon commencement of any such action, the City and Developer shall meet in good faith and seek to select mutually acceptable legal counsel and to establish a mutually acceptable method of defending such action.

8.9 Warranties. The City expresses no warranty or representation to Developer as to fitness or condition of the Property or any portion thereof for the building or construction to be conducted thereon.

8.10 Counterparts. This Agreement may be executed in counterparts and multiple originals.

8.11 Amendments. The parties can amend this Agreement only by means of a writing signed by both parties.

8.12 Identity and Authority of Developer. Each of the persons executing this Agreement on behalf of Developer does hereby covenant and warrant that: (a) the Developer is a duly authorized and existing California limited liability company; (b) Developer has, is and shall remain in good standing and qualified to do business in the State of California; (c) Developer has full right, power and authority to enter into this Agreement and to carry out all actions on its part contemplated by this Agreement; (d) the execution and delivery of this Agreement were duly authorized by proper action of Developer and no consent, authorization or approval of any person or other entity is necessary in connection with such execution and delivery or to carry out all actions on Developer's part contemplated by this Agreement, except as may have been obtained and are in full force and effect; (e) the persons executing this Agreement on behalf of Developer have full authority to do so; and (f) the Agreement constitutes the valid, binding and enforceable obligation of Developer.

8.13 Identity and Authority of City. The City does hereby covenant and warrant that: (a) City has full right, power and authority to enter into this Agreement and to carry out all actions on its part contemplated by this Agreement; (b) the execution and delivery of this Agreement were duly authorized by proper action of City; (c) the persons executing this Agreement on behalf of City have full authority to do so; and (d) the Agreement constitutes the valid, binding and enforceable obligation of City.

8.14 Indemnity. Developer shall indemnify and hold the City Related Parties harmless from and against any costs, damages, liabilities, losses, expenses, liens or claims (including, without limitation, reasonable attorney's fees) arising out of or relating this Agreement or the transactions contemplated hereby except such as result from the gross negligence or willful misconduct of any such City Related Party. The foregoing indemnity shall survive beyond the Closing, or, if the sale is not consummated, beyond the termination of this Agreement.

8.15 Entire Understanding of the Parties. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement and the attached Exhibits A through H constitute the entire understanding and agreement of the parties with respect to the subject matter hereof. All prior discussions, understandings and written agreements regarding the subject matter hereof are superceded by this Agreement.

WHEREFORE, the parties have executed this Agreement on or as of the date first above written.

CITY OF RICHMOND

By: Phil Batchelor
Name: PHIL BATCHELOR
Title: CITY MANAGER

UPSTREAM POINT MOLATE LLC

By: James D. Devine
Name: James D. Devine
Title: Manager

Exhibits

The following exhibits are attached to and incorporated by reference into this Agreement.

Exhibit A	Definitions
Exhibit B	Property Descriptions
Exhibit C	Form of Promissory Note
Exhibit D	Form of Note Guaranty
Exhibit E	Form of Services Agreement
Exhibit F	Form of First Source Agreement
Exhibit G	Preliminary Site Plan
Exhibit H	Scope of Development

Exhibit A Definitions

The following terms shall have the following meanings in the Agreement:

1. “Agreement” shall mean this Land Disposition Agreement, dated as of November 9, 2004, by and between the City and the Developer.
2. “Bankruptcy/Insolvency Event” means the commencement of a voluntary, or consent to the entry of an order for relief in an involuntary, proceeding under any federal or state law for the relief of debtors or under the equitable powers of a court of competent jurisdiction.
3. “Bay Trail Rights” shall have the meaning set forth in Section 1.1(c).
4. “BCDC” means the San Francisco Bay Conservation and Development Commission.
5. “BIA” means Bureau of Indian Affairs.
6. “BIA Approvals” means all approvals and requisite action by the BIA necessary to develop and operate the Project as contemplated by this Agreement.
7. “CEQA” means the California Environmental Quality Act, Sections 21000 et seq. of the Public Resources Code and the CEQA Guidelines set forth at 14 California Code of Regulations Sections 15000 et seq.
8. “City” shall have the meaning set forth in the recitals to this Agreement.
9. “City Manager shall mean the City Manager of the City, or if there is no City Manager at the time, the acting City Manager or Assistant City Manager.
10. “City Related Parties” shall have the meaning set forth in Section 3.2(a).
11. “Class II” and “Class III” means Class II and Class III gaming activities, respectively, as defined in the Indian Gaming Regulatory Act of 1988, as amended from time to time.
12. “Closing” means the date on which the Property, or a portion thereof, is conveyed by the City to the Developer.
13. “Closing Date” shall have the meaning set forth in Section 1.2.
14. “Compact” means the Compact between the Tribe and the State of California providing for Class III gaming on the Property.

15. "Consumer Price Index" means the consumer price index applicable to Northern California, as announced by the United States government from time to time.
16. "Deed" shall have the meaning set forth in Section 1.5.
17. "Design Concept Documents" shall have the meaning set forth in Section 2.1(a).
18. "Developer" shall have the meaning set forth in the recitals to this Agreement.
19. "Financing Plan" shall have the meaning set forth in Section 2.9(b).
20. "ERN" means the Exclusive Right to Negotiate Agreement, by and between the City and the Developer, dated January 27, 2004 and as amended and extended on July 27, 2004, together with all additional amendments or extensions thereto.
21. "FOSET" shall have the meaning set forth in Section 2.3.
22. "Guaranty" means the Note Guaranty in substantially the form attached hereto as Exhibit D.
23. "Hazardous Materials" means any substance, material, or waste which is: (1) defined as a "hazardous waste", "hazardous material", "hazardous substance", "extremely hazardous waste", "restricted hazardous waste", "pollutant" or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos and asbestos containing materials; (4) polychlorinated biphenyls; (5) radioactive materials; (6) MTBE (*methyl tertiary-butyl ether*); or (7) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety, property or the environment. The term "Hazardous Materials" shall not include: (i) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of commercial properties, buildings and grounds, or typically used in household activities, or (ii) certain substances which may contain chemicals listed by the State of California pursuant to California Health and Safety Code Section 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Project, including but not limited to, alcoholic beverages, aspirin, tobacco products, nutrasweet and saccharine, so long as such materials and substances are stored, used, and disposed of in compliance with all applicable Hazardous Materials Laws.
24. "Hazardous Materials Laws" means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials.
25. "Hillside Open Space" means the approximately 150 acre portion of the Property east of Western Drive designated as Hillside Open Space in the Design Concept Documents as finally approved.

26. "Initial Consideration" shall have the meaning set forth in Section 1.2.
27. "Inland Property" shall have the meaning set forth in the recitals to this Agreement
28. "Navy" shall have the meaning set forth in the recitals to this Agreement.
29. "NEPA" means the National Environmental Policy Act.
30. "NFD Point Molate" shall have the meaning set forth in the recitals to this Agreement.
31. "NIGC" means the National Indian Gaming Commission.
32. "NIGC Approvals" means all approvals and requisite action by the NIGC necessary to develop and operate the Project as contemplated by this Agreement.
33. "Non-refundable Consideration" shall have the meaning set forth in Section 1.2.
34. "Note" shall have the meaning set forth in Section 1.4(c).
35. "Owned Land" shall have the meaning set forth in the recitals to this Agreement.
36. "Owned Property" shall have the meaning set forth in the recitals to this Agreement.
37. "Permitted Assignee" shall have the meaning set forth in Section 5.3(d).
38. "Permitted Exceptions" means those liens, encumbrances, and matters on the title to the Property shown on the Preliminary Title Report, this Agreement, and the Deed, the Shoreline Lease, any conservation or public access easements or mechanisms created in favor of the City pursuant to the terms hereof and other exceptions required in connection with the approval of the Project and conveyance of the Property and any exceptions disclosed by any subsequent title report covering the Property, the public records or otherwise disclosed to Developer, and any other exceptions to title which would be disclosed by an inspection and/or survey of the Property ("Subsequently Disclosed Exceptions"). Monetary liens voluntarily created by the City, liens inconsistent with the Design Concept Documents voluntarily created by the City, mechanic's liens arising out of work contracted for by the City, and judgment liens arising from the actions of the City shall not be Permitted Exceptions. The City will use reasonable efforts, without the expenditure of funds, to cooperate with the Developer's efforts to remove any Subsequently Disclosed Exceptions which are objectionable to the Developer, but such removal shall not be an obligation of the City or a condition to the Developer's purchase and lease hereunder.

39. "Pier" means the pier extending into San Francisco Bay located on the Property.
40. "Preliminary Site Plan" means the Preliminary Site Plan set forth in Exhibit G.
41. "Preliminary Title Report" means the following: Preliminary Title Report, number 1719735, dated April 7, 2004 issued by Fidelity National Title Company.
42. "Project" means the redevelopment of the former NFD Point Molate for a range of hospitality, retail, office, entertainment, light industrial, recreation uses, which among other possibilities allows for a large-scale mixed-use development upon the issuance of applicable local and state permits, and public-serving uses, park and open space and pedestrian, bicycle and vehicular access and circulation, as more particularly described in the Design Concept Documents. Phase 1 of the Project shall mean the first hotel and casino complex to be built on the Property, and including the shoreline parks, pier improvements and Phase I parking facilities.
43. "Property" has the meaning set forth in the recitals to this Agreement.
44. "Property Related Matters" shall have the meaning set forth in Section 3.1(b).
45. "Purchase Price" shall have the meaning set forth in Section 1.4.
46. "Qualified Guarantor" shall have the meaning set forth in Section 1.4(c).
47. "Remainder Land" shall have the meaning set forth in the recitals to this Agreement.
48. "Remainder Property" shall have the meaning set forth in the recitals to this Agreement.
49. "Scope of Development" means the description of the Project set forth in the attached Exhibit H.
50. "Services Agreement" means an agreement between the City and the Tribe in substantially the form set forth on Exhibit E attached hereto.
51. "Shoreline Lease shall have the meaning set forth in Section 1.1(c).
52. "Shoreline Property" shall have the meaning set forth in the recitals to this Agreement.
53. "SHPO" means the State Historic Preservation Officer of the State of California.
54. "SLC" means the State Lands Commission of the State of California.

55. “Subsequently Disclosed Exceptions” shall have the meaning set forth in the definition of Permitted Exceptions.
56. “Title Company” shall have the meaning set forth in Section 1.5.
57. “Title Policy” shall have the meaning set forth in Section 1.5.
58. “Tribe” shall have the meaning set forth in Section 2.1(c).

Exhibit B
Exhibit B-1 Legal Description of Owned Land
Areas 1, 2, 4, 6, 7, 8, 9, 11 and 12

Exhibit B-2 Legal Description of Remainder Land
Areas 3, 5, 10 and 13

Exhibit B-1
Legal Description of Owned Land
Areas 1, 2, 4, 6, 7, 8, 9, 11 and 12

Exhibit B-2
Legal Description of Remainder Land
Areas 3, 5, 10 and 13

Exhibit C
Form of Unsecured Promissory Note

\$30,000,000
Maturity Date:

Closing Date: _____
Richmond, California

FOR VALUE RECEIVED, the undersigned promises to pay on the Maturity Date (as defined below) to the order of City of Richmond (the "City"), the principal amount of Thirty Million Dollars (\$30,000,000) or such lesser aggregate amount as may be outstanding on the Maturity Date, payable as hereinafter set forth. The undersigned also promises to pay interest on the principal amount hereof outstanding from time to time from the date hereof until the date of payment in full both before and after an Event of Default and before and after maturity and judgment, payable as hereinafter set forth.

Reference is made to that certain Land Disposition Agreement, dated as of November 9, 2004 initially entered into by and between the City and Upstream Point Molate, LLC (the "Developer"), which has been assigned in part by the Developer to the Guidiville Band of Pomo Indians of the Guidiville Rancheria (listed in the Federal Register as the Guidiville Rancheria of California), a federally recognized Indian Tribe and Native American sovereign nation (as so assigned and as amended, supplemented or otherwise modified from time to time, the "LDA"). Terms defined in the LDA and not otherwise defined herein are used herein with the meanings given those terms in the LDA.

The principal indebtedness evidenced by this Note shall be payable in 15 annual payments of \$2,000,000 for 15 years, beginning one year after the Interest Start Date (as defined below) and on each anniversary thereof (unless accelerated), and in any event shall be due and payable in full on the Maturity Date. The Maturity Date shall be defined as the date which is the fifteenth (15th) anniversary of the Interest Start Date. If the undersigned or any Guarantor elects to pay the Note, in full or in part, prior to the Maturity Date, there shall be no pre-payment penalty.

Interest shall accrue and be payable on the outstanding daily unpaid principal amount from the Closing Date until payment in full of all principal amounts due and owing under this Note at the rate of 30-day London Interbank Offering Rate plus 1.1% (110 basis points), which such rate shall be adjusted monthly. The Interest Start Date shall be the earlier of (i) the commencement of gaming operations on the Property (the "Commencement Date") or (ii) eighteen (18) months after the Closing Date. All interest accrued between the Closing Date and the Interest Start Date shall be paid on the Interest Start Date. Thereafter, accrued interest shall be paid on the first Business Day of each month after the Interest Start Date, both before and after maturity and judgment, with interest on overdue principal and interest to bear interest at a per annum rate equal to the prime rate of interest announced from time to time by The Wall Street Journal plus two percent (2.00%) per annum.

For so long as any amounts are owing under this Note, the undersigned shall cause the Guaranty of Harrah's Operating Company, Inc. (the "Guarantor"), dated _____ (the "Guaranty"), to remain in full force and effect, subject, however, to the release provisions of Section 2.11 of the Guaranty. If at any time the Guarantor fails to maintain its "Investment Grade Rating" (as defined in the Guaranty) or post a letter of credit in lieu thereof in accordance with the terms of the Guaranty, the undersigned shall, within 30 days, cause a new guaranty from a Qualified Guarantor to be executed in a form substantially identical to the Guaranty, together with such legal opinions and other supporting documentation as the City shall reasonably require (the "Substitute Guaranty").

Notwithstanding anything to the contrary herein or in the Guaranty, this Note may not be amended by written agreement of the parties hereto without notice to, and the express written consent of, the Guarantor, at its sole discretion. Any such amendment shall only be effective in the form of a written modification of this Note, and approved by the Guarantor.

The occurrence of any of the following, if uncured, shall constitute an Event of Default hereunder:

(a) the undersigned fails to make any payment required under this Note within five (5) days after the same becomes due;

(b) any uncured Event of Default under the Guaranty or a Substitute Guaranty;

(c) the undersigned shall (i) have an order for relief entered with respect to it under the federal bankruptcy laws as now or hereafter in effect, (ii) make an assignment for the benefit of creditors, (iii) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial portion of its property, or (iv) institute any proceeding seeking an order for relief under the federal bankruptcy laws as now or hereafter in effect or seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to timely file an answer or other pleading denying the material allegations of any such proceeding filed against it;

(d) without the application, approval or consent of the undersigned, a receiver, trustee, examiner, liquidator or similar official shall be appointed for the undersigned and its assets or any substantial portion of its property, or a proceeding described in subsection (d) above shall be instituted against the undersigned and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of thirty (30) consecutive days;

(e) any revocation, replacement or change to the resolution(s) of the undersigned's General Council and/or Tribal Council authorizing the Note that is materially adverse to the City;

(f) any law of the undersigned (including but not limited to any initiative, referendum, constitution, articles or other organizational document) is adopted or otherwise placed into effect which materially impairs or interferes, or could materially impair or interfere, in any manner with any right or remedy of the City under this Note (it being understood and agreed that any such law which is adopted or otherwise placed into effect without the consent of the City shall be of no effect as to the undersigned's obligations under this Note), or the undersigned demands, imposes or receives any tax, charge, assessment, fee or other imposition, or imposes any regulatory or licensing requirement, against the City; or

(g) any action by the undersigned which materially impairs its obligations hereunder.

The amount of each payment hereunder shall be made to the City by electronic means in immediately available funds not later than 2:00 p.m. Richmond, California time on the day of payment (which must be a Business Day). All payments received after 2:00 p.m. Richmond, California time on any particular Business Day shall be deemed received on the next succeeding Business Day. All payments shall be made in lawful money of the United States of America.

The City shall keep a record (which may be in electronic or other intangible form) of payments of principal received by it with respect to this Note, and such record shall be presumptive evidence of the amounts owing under this Note.

The undersigned hereby promises to pay all costs and expenses of the City or any rightful holder hereof incurred in collecting the undersigned's obligations hereunder or in enforcing or attempting to enforce any of the City's or any such holder's rights hereunder, including reasonable attorneys' fees and disbursements (including allocated costs of legal counsel employed by the City or the Holder), whether or not an action is filed in connection therewith.

The undersigned hereby waives presentment, demand for payment, dishonor, notice of dishonor, protest, notice of protest and any other notice or formality, to the fullest extent permitted by applicable laws.

The undersigned hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action arising under this Note, whether now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and the undersigned hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury, and that the City or any holder of this Note may file an original counterpart or a copy of this section with any court as written evidence of the undersigned's waiver of its right to trial by jury.

The undersigned hereby expressly and irrevocably waives its sovereign immunity (and any defense based thereon) from any suit, claim, action or proceeding (including an arbitration proceeding) or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution, exercise of contempt powers, or otherwise) in any forum, with respect to this Note.

The undersigned hereby expressly submits and consents to the jurisdiction of the courts of the State of California (including all courts to which decisions of the courts of the State of California may be appealed), the courts of the United States, and the courts of any other state which may have jurisdiction over the subject matter, over any such action, and over the parties, with respect to any dispute or controversy arising out of this Note, including any amendment or supplement which may be made hereto or to any transaction in connection herewith and enforcement of any arbitration award. While the parties do not purport to confer jurisdiction upon any court that does not have competent jurisdiction to enforce this Note, it is the intent of both parties to have any enforcement action occur in either federal or state court. Without in any way limiting the generality of the foregoing, the parties expressly authorize any government or other agency authorities who have the right and duty under applicable law to take any and all action authorized or ordered by any federal or state court, including without limitation, entering the Property in giving effect to any judgment entered. In the event a suit is commenced on this Note regarding the subject matter of this Note (including the enforcement of an arbitration award), neither party will dispute the jurisdiction of the courts of the State of California (including all courts to which decisions of the courts of the State of California may be appealed), the courts of the United States, and the courts of any other state which may have jurisdiction over the subject matter, over any such action and over the parties.

If jurisdiction cannot be obtained in any of the courts described in the preceding paragraph, the City may, at its sole option, require that any claims or disputes arising under this Note be resolved in Oakland, California by binding arbitration in accordance with the Voluntary Commercial Arbitration Rules of the American Arbitration Association (“AAA”) or any other rules mutually agreed upon by the parties. The undersigned, in waiving its immunity from suit or arbitration, recognizes and agrees that submitting to the rules of the AAA is deemed to be a consent that judgment upon any arbitration award may be entered in any court described herein. In any arbitration proceeding, each party will select one arbitrator. An additional arbitrator will be selected by the two arbitrators chosen by the parties. If the additional arbitrator is not chosen in this manner within ten (10) days after the parties select their arbitrators, the additional arbitrator shall be chosen in accordance with the rules of the AAA. No person shall be eligible to serve as an arbitrator if the person is related to, affiliated with, or has represented in a legal capacity either party to this Note. The arbitrators shall be retired California state or federal judges or attorneys at law admitted to practice and in good standing in California. The parties hereto further agree that the arbitrators may award interim injunctive relief before the final arbitration award. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrators.

Except for entry of judgment on and enforcement of an arbitration award, the undersigned expressly waives jurisdiction of any Tribal court which may be created

or become effective after the date of this Note with respect to any action commenced relating to this Note, including any amendment or supplement thereto or hereto, and the undersigned waives any requirement which may exist for exhaustion of any remedies available in any Tribal court or other Tribal forum prior to commencing any such action.

The waivers and consents described in this Note shall inure to the benefit of the City and each other person who is entitled to the benefits of the Note. The City and such other persons shall have and be entitled to all available legal and equitable remedies, including the right to specific performance, money damages and injunctive or declaratory relief. The waivers of sovereign immunity and consents to jurisdiction contained in this Note are irrevocable.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAW OF THE STATE OF CALIFORNIA.

This Note was executed on the ____ day of _____, 20__ at Richmond, California, for the particular purposes set forth above.

GUIDIVILLE BAND OF POMO INDIANS

By: _____
Name: Merlene Sanchez
Title: Chairperson

Exhibit D
Form of Note Guaranty

GUARANTY

Dated as of _____, 200_

by

Harrah's Operating Company, Inc.,

in favor of

the City of Richmond

GUARANTY

This GUARANTY (“Guaranty”), dated as of _____, 200_, is made by HARRAH’S OPERATING COMPANY, INC. (“Guarantor”), a Delaware corporation, in favor of the CITY OF RICHMOND (the “City”), with reference to the November 9, 2004 Land Disposition Agreement, initially entered into by and between the City and Upstream Point Molate, LLC (the “Developer”), and assigned by Developer in part to the Guidiville Band of Pomo Indians of the Guidiville Rancheria, listed in the Federal Register as the Guidiville Rancheria of California (the “Tribe”)(as so assigned and as the same from time to time hereafter may be amended, modified, supplemented or restated, the “LDA”), and the Promissory Note attached thereto in the principal sum of \$30,000,000 (the “Note”) of _____, 2004, executed by the Tribe in favor of the City.

A. The Tribe is an assignee of Developer under the LDA, pursuant to which the City has agreed to sell the Property (as described and defined in the LDA) to the Developer for the purposes, and on the terms and subject to the conditions, set forth in the LDA.

B. Guarantor is a wholly owned subsidiary of Harrah’s Entertainment Inc., a Delaware corporation. It is anticipated that Guarantor, or an affiliate of Guarantor, will manage a hotel and gaming facility for the Tribe to be constructed on the Property pursuant to a Management Contract, and therefore Guarantor will benefit directly and indirectly from the sale of the Property to the Tribe.

C. The City is willing to convey the Property to the Tribe upon satisfaction of certain conditions outlined in the LDA, including, among others, that the Tribe shall have executed and delivered the Note to the City and that a Qualified Guarantor (as defined in the LDA) shall have executed and delivered a guaranty in substantially this form of timely payment of amounts due under the Note to the City.

D. To induce the City to convey the Property and to accept the Note, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor has agreed to guarantee the Guaranteed Obligations upon the terms and conditions of this Guaranty.

NOW, THEREFORE, in order to induce the City to enter into the Note, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Guarantor hereby represents, warrants, covenants, agrees and guaranties as follows:

SECTION 1. DEFINITIONS.

1.01. Definitions. Unless otherwise defined herein, all capitalized terms used in this Guaranty that are defined in the LDA (including those terms incorporated by reference) shall have the respective meanings assigned to them in the LDA. In addition, the following terms shall have the following meanings under this Guaranty:

“Bankruptcy Code” shall mean Title 11 of the United States Code.

“Guarantied Obligations” shall mean any and all outstanding obligations of the Tribe for the payment of all amounts, liabilities and indebtedness (whether for principal, interest, fees, charges, penalties, expenses or otherwise) owed to the City from time to time under the Note.

“Investment Grade Rating” shall mean a long-term debt rating in one of the four highest rating categories (without regard to “+” or “-“ or numerical modifiers) by Moody’s Investors Service or Standard & Poor’s Ratings Group.

“Management Contract” means a management contract approved by the Chairman of the National Indian Gaming Commission pursuant to the Indian Gaming Regulatory Act.

1.02. Interpretation. In this Guaranty, unless otherwise indicated, the singular includes the plural and plural the singular; words importing any gender include the other gender; references to statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; references to “writing” include printing, typing, lithography and other means of reproducing words in a tangible visible form; the words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation”; references to articles, sections (or subdivisions of sections), exhibits, annexes or schedules are to this Guaranty; references to agreements and other contractual instruments shall be deemed to include all subsequent amendments, extensions and other modifications to such instruments (without, however, limiting any prohibition on any such amendments, extensions or modifications by the terms of the Note); and references to persons include their respective successors and permitted assigns and, in the case of governmental authorities, persons succeeding to their respective functions and capacities.

SECTION 2. THE GUARANTY.

2.01. Guaranty. Subject to the limitation set forth in Section 2.09, Guarantor hereby guarantees to the City the timely payment in full when due (whether at stated maturity, by acceleration or otherwise) of the Guarantied Obligations in each case strictly in accordance with their terms. Guarantor hereby further agrees that if the Tribe shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) all or any part of the Guarantied Obligations and written notice of such failure has been provided to the Guarantor, then Guarantor will immediately pay in full such Guarantied Obligations; *provided*, however, that after notice of a failure by the Tribe to pay regularly scheduled principal and interest on the Note, Guarantor shall have five (5) days to cure such amounts then due and without acceleration. In the case of any extension of time of payment or renewal of all or any part of the Guarantied Obligations, the same will be timely paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal. This Guaranty is absolute, irrevocable and unconditional in nature and is made with respect to any and all Guarantied Obligations. Guarantor’s liability under this Guaranty shall continue until full satisfaction of all Guarantied Obligations, or until release of

Guarantor's obligations hereunder pursuant to Section 2.11. This Guaranty is a guarantee of due and punctual payment and not of collectibility.

Notwithstanding anything to the contrary herein or in the Note, the Note and this Guaranty may not be amended by written agreement of the respective parties without notice to, and the express written consent of, the Guarantor, at its sole discretion. The intent of this Section is that the guaranteed amount may not be increased above \$30,000,000, subject to additions for late fees, costs of collection and interest payments, all as arising solely under the Note, but less any principal reduction payments made in accordance with such Note, without notice to and express consent of Guarantor. The Note and this Guaranty are separate and apart from the terms, obligations and payments due to the City under the LDA and/or the Services Agreement dated _____ between the Tribe and the City.

2.02. Acknowledgments, Waivers and Consents. Guarantor acknowledges that the obligations undertaken by it under this Guaranty involve the guarantee of obligations of persons other than such Guarantor and that such obligations of the Guarantor are absolute, irrevocable and unconditional under any and all circumstances, subject to the limitations of Section 2.09 herein. In full recognition and in furtherance of the foregoing, Guarantor agrees that:

(a) Without affecting the enforceability or effectiveness of this Guaranty in accordance with its terms and without affecting, limiting, reducing, discharging or terminating the liability of Guarantor, or the rights, remedies, powers and privileges of the City under this Guaranty, the City may (subject to the limitation in Section 2.1 above), at any time and from time to time and without notice or demand of any kind or nature whatsoever:

(i) amend, supplement, modify, extend, renew, waive, accelerate or otherwise change the time for payment or performance of, or the terms of, all or any part of the Guaranteed Obligations (including any increase or decrease in the principal portion of, or rate or rates of interest on, all or any part of the Guaranteed Obligations);

(ii) amend, supplement, modify, extend, renew, waive or otherwise change, or enter into or give, any agreement, security document, guarantee, approval, consent or other instrument with respect to all or any part of the Guaranteed Obligations or any such other instrument or any term or provision of the foregoing;

(iii) accept or enter into new or additional agreements, security documents, guarantees (including letters of credit) or other instruments in addition to, in exchange for or relative to all or any part of the Guaranteed Obligations or any collateral now or in the future serving as security for the Guaranteed Obligations;

(iv) accept or receive (including from any other guarantor) partial payments or performance on the Guaranteed Obligations (whether as a result of the exercise of any right, remedy, power or privilege or otherwise);

(v) accept, receive and hold any additional collateral for all or any part of the Guaranteed Obligations (including from any other guarantor);

(vi) release, reconvey, terminate, waive, abandon, allow to lapse or expire, fail to perfect, subordinate, exchange, substitute, transfer, foreclose upon or enforce any collateral, security documents or guarantees (including letters of credit or the obligations of any other guarantor) for or relative to all or any part of the Guaranteed Obligations;

(vii) apply any collateral or the proceeds of any collateral or guarantee (including any letter of credit or the obligations of any other guarantor) to all or any part of the Guaranteed Obligations;

(viii) release any person (including any other guarantor) from any personal liability with respect to all or any part of the Guaranteed Obligations;

(ix) settle, compromise, release, liquidate or enforce upon such terms and in such manner as the City may determine or as applicable law may dictate all or any part of the Guaranteed Obligations or any collateral on or guarantee of (including any letter of credit issued with respect to) all or any part of the Guaranteed Obligations (including with any other guarantor);

(x) consent to the merger or consolidation of, the sale of substantial assets by, or other restructuring or termination of the existence of the Tribe or any other person (including any other guarantor);

(xi) proceed against the Tribe, Guarantor or any other guarantor of (including any issuer of any letter of credit issued with respect to) all or any part of the Guaranteed Obligations or any collateral provided by any person and exercise the rights, remedies, powers and privileges of the City under the Note or otherwise in such order and such manner as the City may, in its discretion, determine, without any necessity to proceed upon or against or exhaust any collateral, right, remedy, power or privilege before proceeding to call upon or otherwise enforce this Guaranty as to Guarantor;

(xii) foreclose upon any deed of trust, mortgage or other instrument creating or granting liens on any interest in real property by judicial or nonjudicial sale or by deed in lieu of foreclosure, bid any amount or make no bid in any foreclosure sale or make any other election of remedies with respect to such liens or exercise any right of set-off;

(xiii) obtain the appointment of a receiver with respect to any collateral for all or any part of the Guaranteed Obligations and apply the proceeds of such receivership as the City may in its discretion determine (it being agreed that nothing in this clause (xiii) shall be deemed to make the City a party in possession in contemplation of law, except at its option);

(xiv) enter into such other transactions or business dealings with the Tribe, any subsidiary or affiliate of the Tribe or any other guarantor of all or any part of the Guaranteed Obligations as the City may desire; and

(xv) do all or any combination of the actions set forth in this Section 2.02(a).

(b) The enforceability and effectiveness of this Guaranty and the liability of Guarantor, and the rights, remedies, powers and privileges of the City under this Guaranty shall not be affected, limited, reduced, discharged or terminated, and Guarantor hereby expressly waives to the fullest extent not prohibited by applicable law any defense now or in the future arising (other than a defense that the Guaranteed Obligations have been indefeasibly paid in full in cash), by reason of:

(i) the illegality, invalidity or unenforceability of all or any part of the Guaranteed Obligations, or any agreement, security document, guarantee or other instrument relative to all or any part of the Guaranteed Obligations;

(ii) any disability or other defense with respect to all or any part of the Guaranteed Obligations of the Tribe, or any other guarantor of all or any part of the Guaranteed Obligations (including any issuer of any letters of credit), including the effect of any statute of limitations that may bar the enforcement of all or any part of the Guaranteed Obligations or the obligations of any such other guarantor;

(iii) the illegality, invalidity or unenforceability of any security or guarantee (including any letter of credit) for all or any part of the Guaranteed Obligations or the lack of perfection or continuing perfection or failure of the priority of any lien on any collateral for all or any part of the Guaranteed Obligations;

(iv) the cessation, for any cause whatsoever, of the liability of the Tribe or any other guarantor of all or any part of the Guaranteed Obligations (other than, subject to Section 2.05, by reason of the full payment and performance of all Guaranteed Obligations);

(v) any failure of the City to marshal assets in favor of the Tribe or any other person (including any other guarantor), to exhaust any collateral for all or any part of the Guaranteed Obligations, to pursue or exhaust any right, remedy, power or privilege it may have against the Tribe, any other guarantor of all or any part of the Guaranteed Obligations (including any issuer of any Letter of Credit) or any other person or to take any action whatsoever to mitigate or reduce such or any other liability of such Guarantor under this Guaranty, the City not being under any obligation to take any such action notwithstanding the fact that all or any part of the Guaranteed Obligations may be due and payable;

(vi) any failure of the City to give notice of sale or other disposition of any collateral (including any notice of any judicial or nonjudicial foreclosure or sale of any interest in real property serving as collateral for all or any part of the Guaranteed Obligations) for all or any part of the Guaranteed Obligations to the

Tribe, Guarantor or any other person or any defect in, or any failure by Guarantor or any other person to receive, any notice that may be given in connection with any sale or disposition of any collateral;

(vii) any failure of the City to comply with applicable laws in connection with the sale or other disposition of any collateral for all or any part of the Guaranteed Obligations;

(viii) any judicial or nonjudicial foreclosure or sale of, or other election of remedies with respect to, any interest in real property or other collateral serving as security for all or any part of the Guaranteed Obligations, even though such foreclosure, sale or election of remedies may impair the subrogation rights of Guarantor or may preclude Guarantor from obtaining reimbursement, contribution, indemnification or other recovery from the Tribe, any other guarantor or any other person and even though the Tribe may not, as a result of such foreclosure, sale or election of remedies, be liable for any deficiency;

(ix) any act or omission of the City or any other person that directly or indirectly results in or aids the discharge or release of the Tribe or any other guarantor of all or any part of the Guaranteed Obligations or any security or guarantee for all or any part of the Guaranteed Obligations by operation of law or otherwise;

(x) any law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation;

(xi) the possibility that the obligations of the Tribe to the City independent of the Note may at any time and from time to time exceed the then outstanding liability of Guarantor under this Guaranty;

(xii) any counterclaim, set-off or other claim which the Tribe or any other guarantor has or alleges to have with respect to all or any part of the Guaranteed Obligations;

(xiii) any failure of the City to file or enforce a claim in any bankruptcy or other proceeding with respect to any person.

(xiv) the election by the City in any bankruptcy proceeding of any person, of the application or nonapplication of Section 1111(b)(2) of the Bankruptcy Code;

(xv) any extension of credit or the grant of any lien under Section 364 of the Bankruptcy Code;

(xvi) any use of cash collateral provided under any other agreement between the City and the Tribe under Section 363 of the Bankruptcy Code;

(xvii) any agreement or stipulation with respect to the provision of adequate protection with respect to cash collateral or any other purpose in any bankruptcy proceeding of any person;

(xviii) the avoidance of any lien in favor of the City for any reason;

(xix) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, liquidation or dissolution proceeding commenced by or against any person, including any discharge of, or bar or stay against collecting, all or any part of the Guaranteed Obligations (or any interest on all or any part of the Guaranteed Obligations) in or as a result of any such proceeding;

(xx) any action taken by the City, whether similar or dissimilar to any of the foregoing, that is authorized by this Section 2.02 or otherwise in this Guaranty or any omission to take any such action; or

(xxi) any other circumstance whatsoever, whether similar or dissimilar to any of the foregoing, that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, including by reason of Sections 2787 to 2855, inclusive, 2899, 3275 and 3433 of the California Civil Code, and any future judicial decisions or legislation or of any comparable provisions of the laws of any other jurisdiction.

(c) The Note is not intended to be secured by real property, but if the Note ever becomes or is deemed to be secured by real property, this subsection (c) shall be applicable. Guarantor has been made aware of the provisions of California Civil Code Section 2856, has read and understands the provisions of that statute, has been advised by its counsel as to the scope, purpose and effect of that statute, and based thereon, and without limiting the foregoing waivers, Guarantor agrees to waive to the maximum extent not prohibited by applicable law all suretyship rights and defenses described in California Civil Code Section 2856(a). Without limiting any other waivers herein, Guarantor hereby gives the following waivers pursuant to Sections 2856(c) and 2856(d) of the California Civil Code:

“The guarantor waives all rights and defenses that the guarantor may have because the debtor’s debt is secured by real property. This means, among other things:

(1) The creditor may collect from the guarantor without first foreclosing on any real or personal property collateral pledged by the debtor;

(2) If the creditor forecloses on any real property collateral pledged by the debtor:

(A) The amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(B) The creditor may collect from the guarantor even if the creditor, by foreclosing on the real property collateral, have destroyed any right the guarantor may have to collect from the debtor.

This is an unconditional and irrevocable waiver of any rights and defenses the guarantor may have because the debtor's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure."

(d) The Note is not intended to be secured by real property, but if the Note ever becomes or is deemed to be secured by real property, this subsection (d) shall be applicable. Guarantor waives to the maximum extent not prohibited by applicable law all rights and defenses arising out of an election of remedies by the City, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed Guarantor's rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

(e) Guarantor expressly waives to the maximum extent not prohibited by applicable law, for the benefit of the City, all set-offs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Guaranteed Obligations, and all notices of acceptance of this Guaranty or of the existence, creation, incurring or assumption of new or additional Guaranteed Obligations.

(f) Guarantor represents and warrants to the City that it has established adequate means of obtaining financial and other information pertaining to the business, operations and condition (financial and otherwise) of the Tribe and its properties on a continuing basis and that Guarantor is now and will in the future remain fully familiar with the business, operations and condition (financial and otherwise) of the Tribe and its properties. Guarantor further represents and warrants that it has reviewed and approved the Note. Guarantor hereby expressly waives and relinquishes any duty on the part of the City (should any such duty exist) to disclose to such or any other guarantor any matter of fact or other information related to the business, operations or condition (financial or otherwise) of the Tribe or its properties, whether now or in the future known by the City.

(g) Guarantor intends that its rights and obligations shall be those expressly set forth in this Guaranty and that its obligations shall not be affected, limited,

reduced, discharged or terminated by reason of any principles or provisions of law which conflict with the terms of this Guaranty.

2.03. Understanding With Respect to Waivers and Consents. Guarantor warrants and agrees that each of the waivers and consents set forth in this Guaranty is made voluntarily and unconditionally after consultation with outside legal counsel and with full knowledge of its significance and consequences, with the understanding that events giving rise to any defense or right waived may diminish, destroy or otherwise adversely affect rights which such or any other guarantor otherwise may have against the Tribe, the City, or any other person or against any collateral. If, notwithstanding the intent of the parties that the terms of this Guaranty shall control in any and all circumstances, any such waivers or consents are determined to be unenforceable under applicable law, such waivers and consents shall be effective to the maximum extent not prohibited by law.

2.04. Exercise of Guarantor's Rights. Upon an Event of Default by the Tribe under the Note or by Guarantor under this Guaranty, Guarantor hereby agrees that, until the payment and satisfaction in full of all of the Guaranteed Obligations, it shall not exercise any right, remedy, power or privilege, such as any right of subrogation, contribution or indemnity or related remedy, power or privilege, arising (whether by contract or operation of law, including under the Bankruptcy Code) against the Tribe or any other guarantor of all or any part of the Guaranteed Obligations or any collateral for all or any part of the Guaranteed Obligations by reason of any payment or other performance pursuant to the provisions of this Guaranty and, if any amount shall be paid to Guarantor, following written notice of the occurrence of and during the continuance of any Event of Default, on account of such rights, remedies, powers or privileges, it shall hold such amount in trust for the benefit of, and pay the same over to, the City on account of the Guaranteed Obligations. Guarantor understands that the exercise by the City of any right, remedy, power or privilege that it may have under the Note, any agreement, security document, guarantee or other instrument relative to all or any part of the Guaranteed Obligations or otherwise may affect or eliminate such or any other guarantor's right of subrogation or similar recovery against the Tribe, any other guarantors or any collateral and that Guarantor may therefore incur partially or totally nonreimbursable liability under this Guaranty. Nevertheless, and subject to Section 2.01, Guarantor hereby authorizes and empowers the City to exercise, in its sole discretion, any combination of such rights, remedies, powers and privileges.

2.05. Reinstatement. Upon an Event of Default by the Tribe under the Note or by Guarantor under this Guaranty, the obligations of Guarantor under this Guaranty shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Tribe, any other guarantor or any other Person or any other application of funds (including the proceeds of any collateral for all or any part of the Guaranteed Obligations) in respect of all or any part of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of such Guaranteed Obligations, whether as a result of any proceedings in bankruptcy, reorganization or otherwise and Guarantor agrees that it will indemnify the City on demand for all customary costs and

expenses (including fees and expenses of counsel) incurred by the City in connection with such rescission or restoration.

2.06. Remedies. Upon an Event of Default by the Tribe under the Note or by Guarantor under this Guaranty, Guarantor hereby agrees that, between it and the City, the then outstanding obligations of the Tribe under the Note may be declared to be forthwith (or may become automatically) due and payable for purposes of Section 2.01, notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations becoming due and payable as against the Tribe) and that, in the event of such declaration (or such then outstanding obligation being deemed due and payable), such obligations (whether or not due and payable by the Tribe) shall forthwith become due and payable for purposes of Section 2.01.

2.07. Separate Action. Upon an Event of Default by the Tribe under the Note or by Guarantor under this Guaranty, the City may bring and prosecute a separate action or actions against Guarantor whether or not the Tribe, any other guarantor or any other person is joined in any such action or a separate action or actions are brought against the Tribe, any other guarantor, any other person, or any collateral for all or any part of the Guaranteed Obligations. The obligations of Guarantor under, and the effectiveness of, this Guaranty are not conditioned upon the existence or continuation of any other guarantee (including any letter of credit) of all or any part of the Guaranteed Obligations.

2.08. Subordination of Indebtedness of the Tribe. Upon an Event of Default by the Tribe under the Note or by Guarantor under this Guaranty, Guarantor agrees that any indebtedness of the Tribe now or in the future owed to Guarantor is hereby subordinated to the Guaranteed Obligations (“Subordinated Indebtedness”). Guarantor is entitled to retain and apply for its own purposes each and every payment received by Guarantor from the Tribe on the Subordinated Indebtedness, provided that such payment is received before written notice to Guarantor that an Event of Default has occurred and is continuing. Upon receipt of a written request from the City, any Subordinated Indebtedness shall be collected, enforced and received by Guarantor as trustee for the City and shall be paid over to the City in kind on account of the Guaranteed Obligations.

2.09. Limitation on Guarantee. If under any applicable law (including without limitation state and Federal fraudulent transfer laws) the obligations of Guarantor under Section 2.01 would otherwise, taking into account the provisions of Section 2.10, be held or determined to be void, invalid or unenforceable or if the claims of the City in respect of such obligations would be subordinated to the claims of any other creditors on account of Guarantor’s liability under Section 2.01, then, notwithstanding any other provision of this Guaranty to the contrary, the amount of such liability shall, without any further action by Guarantor, the City or any other person, be automatically limited and reduced to the highest amount which is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

2.10. Revocation. Guarantor may not revoke this Guaranty but may provide an alternative guaranty as set forth herein. Without limiting the foregoing, to the fullest extent not prohibited by law, Guarantor hereby waives all right of revocation with respect to the Guaranteed Obligations.

2.11. Release of Guaranty. Guarantor shall be released from this Guaranty upon satisfaction in full of all Guaranteed Obligations or upon the occurrence of the following:

(a) (i) Guarantor and Tribe shall have given the City thirty (30) days advance written notice that a substitute guarantor with an Investment Grade Rating (the "Substitute Guarantor") shall assume Guarantor's obligations hereunder and (ii) Substitute Guarantor has executed and delivered to the City a guaranty of all Guaranteed Obligations in a form substantially identical to this Guaranty, together with such legal opinions and other supporting documentation as the City shall reasonably require; or

(b) Guarantor causes an unconditional irrevocable direct pay letter of credit in the amount of the Guaranteed Obligations from a bank that has an Investment Grade Rating to be posted in favor of the City, on terms approved by the City, which approval shall not be unreasonably withheld.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR. As of the date hereof, Guarantor represents to the City that:

(a) It has the power and authority and legal right to execute and deliver, and to perform its obligations under, this Guaranty and has taken all necessary action required by its form of organization to authorize such execution, delivery and performance.

(b) This Guaranty constitutes its legal, valid and binding obligation enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(c) The execution, delivery and performance of this Guaranty will not (i) violate any provision of any law, statute, rule or regulation or any order, writ, judgment, injunction, decree, determination or award of any court, governmental agency or arbitrator presently in effect having applicability to it, (ii) violate or contravene any provision of its organizational documents, or (iii) result in a breach of or constitute a default under any indenture, loan or credit agreement or any other agreement, lease or instrument to which it is a party or by which it or any of its properties may be bound or result in the creation of any lien thereunder taken as a whole. It is not in default under or in violation of any such law, statute, rule or regulation, order, writ, judgment, injunction, decree, determination or award or any such indenture, loan or credit agreement or other agreement, lease or instrument in any case in which the consequences of such default or

violation could have a material adverse effect on its business, operations, properties, assets or condition (financial or otherwise) taken as a whole.

(d) No order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by, any governmental or public body or authority is required on its part to authorize, or is required in connection with the execution, delivery and performance of, or the legality, validity, binding effect or enforceability of, this Guaranty.

(e) There are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it or any of its properties before any court or arbitrator, or any governmental department, board, agency or other instrumentality which, if determined adversely to it, would have a material adverse effect on its business, operations, property or condition (financial or otherwise) taken as a whole or on its ability to perform its obligations hereunder.

(f) Guarantor currently has an Investment Grade Rating, and shall maintain an Investment Grade Rating throughout the term of this Guaranty or obtain and maintain a valid letter of credit from an institution with an Investment Grade Rating sufficient to enable Guarantor to perform its obligations hereunder, as described in Section 2.11(b).

(g) It expects to derive benefits from the transactions resulting in the creation of the Guaranteed Obligations. The City may rely conclusively on the continuing warranty, hereby made, that the Guarantor continues to be benefited by the Guaranteed Obligations and the City has no duty to inquire into or confirm the receipt of any such benefits, and this Guaranty shall be effective and enforceable by the City without regard to the receipt, nature or value of any such benefits.

SECTION 4. FINANCIAL STATEMENTS. During the term of this Guaranty, the Guarantor shall provide to the City:

(a) *Annual Audit of Guarantor.* If specifically requested by the City and not otherwise available through the Guarantor's website (www.harrahs.com) or EDGAR online service, within one hundred twenty (120) days of the end of each annual period ending on December 31, copies of audited financial statements including detailed audited reports and management letters prepared by an independent certified public accountant in connection with each annual audit of the Guarantor prepared in conformity with generally accepted accounting principles and other applicable laws and regulations.

(b) *Rating Changes.* Within five days of receipt of notice to Guarantor of any change in Guarantor's credit rating, including but not limited to notice from any ratings agency of credit watch, downgrade, or other adjustment, Guarantor shall provide written notice to the City of same.

(c) *Other Information.* With reasonable promptness, from time to time, such other information regarding the operations, business, affairs and financial condition of the Guarantor with respect to the Tribe and/or the Project as the City may

reasonably request, and subject to the Guarantor's reasonable confidentiality requirements and any agreement with the Tribe to maintain its confidentiality with respect to the gaming operations of the Tribe.

SECTION 5. EVENTS OF DEFAULT. The occurrence of any of the following events or conditions, if uncured, shall constitute an Event of Default hereunder:

- (a) any Event of Default under the Note;
- (b) non-payment of any of the Guaranteed Obligations as and when due and payable to City;
- (c) any representation or warranty made by Guarantor hereunder or in connection with this Guaranty or any certificate or information delivered in connection with this Guaranty shall be incorrect in any material respect when made or reaffirmed;
- (d) Guarantor shall (i) have an order for relief entered with respect to it under the Federal bankruptcy laws as now or hereafter in effect, (ii) make an assignment for the benefit of creditors, (iii) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial portion of its property, (iv) institute any proceeding seeking an order for relief under the Federal bankruptcy laws as now or hereafter in effect or seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (v) take any corporate or partnership action to authorize or effect any of the foregoing actions set forth in this Section or (vi) fail to contest in good faith any appointment or proceeding in which any court, government or governmental agency condemns, seizes or otherwise appropriates, or takes custody or control of, a substantial portion of its property;
- (e) without the application, approval or consent of Guarantor, a receiver, trustee, examiner, liquidator or similar official shall be appointed for Guarantor and its assets or any of its affiliates or any substantial portion of the property of either, or a proceeding described in Section 5(d)(iv) shall be instituted against Guarantor and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of thirty (30) consecutive days;
- (f) failure to maintain an Investment Grade Rating or provide a letter of credit in lieu thereof as provided in Section 3(f), provided, however, that it shall not be an Event of Default if Guarantor secures a letter of credit in compliance with Section 3(f) within five (5) Business Days of notice of a downgrade in Guarantor's credit rating whereby Guarantor no longer has an Investment Grade Rating; or
- (g) failure by Guarantor to perform any of its other obligations under this Guaranty.

At any time after the occurrence and during the continuance of any Event of Default hereunder the City may declare all Guaranteed Obligations to be immediately due and payable without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived.

In addition to the foregoing remedies, upon the occurrence or existence of any Event of Default, the City may exercise any other right, power or remedy available to it under the Note or otherwise by law, either by suit in equity or by action at law, or both.

SECTION 6. MISCELLANEOUS PROVISIONS.

6.01. Waiver. No failure or delay by the City in exercising any remedy, right, power or privilege under this Guaranty shall operate as a waiver of such remedy, right, power or privilege, nor shall any single or partial exercise of such remedy, right, power or privilege preclude any other or further exercise of such remedy, right, power or privilege or the exercise of any other remedy, right, power or privilege. The remedies, rights, powers and privileges provided by this Guaranty are, to the extent not prohibited by law, cumulative and not exclusive of any remedies, rights, powers or privileges provided by the Note or by law.

6.02. Notices. All notices, requests, demands, consents, instructions and other communications to or upon the Guarantor or the City under this Guaranty shall be given as follows:

To Guarantor:

Harrah's Operating Company, Inc.
One Harrah's Court
Las Vegas, Nevada 89199
Telephone: (702) 407-6248
Facsimile: (702) 407-6284
Attn: Clayton K. Rice II, Esq.

With a copy to:

Dorsey & Whitney LLP
1001 Pennsylvania Avenue, NW
Suite 400 South
Washington, D.C. 20004
Telephone: (202) 442-3549
Facsimile: (202) 442-3199
Attn: Christopher Karns, Esq.

To the City:

City of Richmond
1401 Marina Way South
Richmond, California 94804
Facsimile: (510) 620-6542
Attn: City Manager

With copies to:

City Attorney's Office
1401 Marina Way South
Richmond, California 94804
Facsimile: (510) 620-6522
Attn: City Attorney

6.03. Expenses, Etc. Upon an Event of Default by the Tribe under the Note or by Guarantor under this Guaranty, Guarantor agrees to pay or to reimburse the City for all customary costs and expenses (including customary fees and expenses of counsel) that may be incurred by the City in any effort to enforce any of the obligations of Guarantor under this Guaranty, whether or not any lawsuit is filed, including all such costs and expenses (and customary attorneys' fees and expenses) incurred by the City in any bankruptcy, reorganization, workout or similar proceeding. All amounts due under this Guaranty (including under Section 2.01) and not paid when due shall bear interest until paid at a *per annum* rate equal to the prime rate of interest announced from time to time by *The Wall Street Journal* plus two percent (2.00%) per annum.

6.04. Amendments, Etc. Any provision of this Guaranty may be waived, altered or amended only by an instrument in writing signed by Guarantor and the City. Any waiver, alteration or amendment shall be for such period and subject to such conditions as shall be specified in the written instrument effecting the same and shall be binding upon the City, each holder of Guaranteed Obligations and Guarantor, and any such waiver shall be effective only in the specific instance and for the purpose for which given.

6.05. Successors and Assigns. This Guaranty shall be binding upon and inure to the benefit of Guarantor, the City and their respective successors and assigns. Guarantor may not assign or transfer its rights or obligations under this Guaranty without the prior written consent of the City. The City may not assign or transfer its rights or obligations under this Guaranty without the prior written consent of the Guarantor. Any attempted assignment or transfer in violation of this Section 6.05 shall be null and void.

6.06. Survival. All representations and warranties made in this Guaranty or in any certificate or other document delivered pursuant to or in connection with this Guaranty shall survive the execution and delivery of this Guaranty or such certificate or

other document (as the case may be) or any deemed repetition of any such representation or warranty.

6.07. ENTIRE AGREEMENT. THIS GUARANTY REPRESENTS THE FINAL AGREEMENT AMONG GUARANTOR AND THE CITY AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF SUCH PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN GUARANTOR AND THE CITY.

6.08. Partial Invalidity. If at any time any provision of this Guaranty is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Guaranty nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

6.09. Headings. The recitals, captions and section headings appearing in this Guaranty are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Guaranty.

6.10. Counterparts. This Guaranty may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties to this Guaranty may execute this Guaranty by signing any such counterpart. Transmission by telecopier of an executed counterpart of this Guaranty shall be deemed to constitute due and sufficient delivery of such counterpart.

6.11. Choice of Law. THIS GUARANTY SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LOCAL LAWS OF THE STATE OF CALIFORNIA WITHOUT REFERENCE TO THE CONFLICT OF LOCAL LAWS OR CHOICE OF LAW PRINCIPLES THEREOF.

6.12. Waiver of Right to Trial By Jury. GUARANTOR AND THE CITY HEREBY EXPRESSLY WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS GUARANTY, OR THE TRANSACTION CONTEMPLATED HEREBY IN ANY ACTION, PROCEEDING OR ANY OTHER LITIGATION OF ANY TYPE BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR PARTIES, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND GUARANTOR AND THE CITY HEREBY AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE TRIED BY A COURT WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR ANY OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS GUARANTY OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT

AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATION TO THIS GUARANTY. ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

IN WITNESS WHEREOF, the undersigned has executed this Guaranty as of the date first above written.

GUARANTOR

Harrah's Operating Company, Inc.,

BY: _____

NAME: Jonathan S. Halkyard

TITLE: Vice President, Treasurer

The City of Richmond acknowledges and agrees to the terms of this Guaranty.

BY: _____

NAME: _____

TITLE: _____

Exhibit E Services Agreement

This Services Agreement (the “Agreement”) is entered into this ____ day of August, 2004 by and between the Guidiville Band of Pomo Indians of the Guidiville Rancheria (listed in the Federal Register as the Guidiville Rancheria of California), a federally recognized Indian tribe (the “Tribe”), and the City of Richmond, a political subdivision of the State of California (the “City”).

WHEREAS, the Tribe is a federally recognized tribe as a result of the *Scotts Valley et. al v. United States of America* case of September 6, 1991 (NO. C-86-3660-VRW); and

WHEREAS, the Pomo Indians historic entitlement area includes the Point Molate region; and

WHEREAS, the Tribal Council of the Tribe (the “Tribal Council”) is the duly authorized governing body of the Tribe empowered to fully exercise governmental responsibilities, to make Tribal policy, pass Tribal codes and ordinances, approve contracts, and carry out Tribal business on behalf of the Tribe; and,

WHEREAS, pursuant to the Indian Gaming Regulatory Act, and a Compact with the State of California, the Tribe intends to develop the Project (defined in Section 1.2 below) pursuant to a Land Disposition Agreement dated November 9, 2004, which may be assigned in whole or in part to the Tribe (the “LDA”), between the City and Upstream Point Molate LLC, a California limited liability company (“Developer”).

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1. SCOPE AND APPLICABILITY OF AGREEMENT

1.1 This Agreement describes the payment for City services associated the construction and operation of the Project described in paragraph 1.2 of this section. Such services include law enforcement, fire protection, emergency response, transportation system management, water, wastewater treatment and other City services.

1.2 The Project consists of the construction and operation of a multipurpose destination resort facility, including Class II and Class III gaming and entertainment facilities, hotel, recreation and entertainment facilities, parking structures, access roads, park, open space and trail facilities for pedestrians and bicyclists and other non-gaming ancillary facilities located on approximately 415 acres more commonly known as the former Point Molate Naval Fuel Depot (collectively referred to herein as the “Project”).

1.3 Capitalized terms used but not otherwise defined herein have the meanings assigned thereto in the LDA.

ARTICLE 2. SERVICES

2.1 Law Enforcement Services, Purpose; Responsibilities of Parties. The Tribe will have primary responsibility for maintaining order and safety on lands and structures that make up the Project, through the Tribal police, in full cooperation with the City of Richmond Police Department and other law enforcement agencies exercising applicable jurisdiction over federal land held in trust for the Tribe. These agencies will be responsible for apprehension and arrest of persons engaged in suspected criminal activity pursuant to Public Law 83-280. The purpose of this section is to assure that these respective responsibilities are carried out effectively, cooperatively and efficiently. To this end, upon or before the start of the Project construction, the Tribe and the City Police Department shall develop a mutually agreeable written protocol for transferring detainees and for other operational matters related to the provision of law enforcement services pursuant to this Agreement. The City Police Department will provide all necessary equipment required to support the officers described hereunder and the Tribe will provide for the temporary use by these officers reasonable space within the security offices of the tribal casino for desks, files and other equipment needed to perform their duties.

2.2 Scope of Jurisdiction on Trust Lands. As a matter of federal law, Public Law 83-280, most state criminal laws continue to apply on Indian trust lands, and the City Police Department and other such law enforcement agencies with applicable jurisdiction over Indian trust lands shall retain jurisdiction over the enforcement of those laws. The parties recognize that the Project the Tribe intends to develop and operate on the Property will necessitate an increased presence by the City Police Department on the Property, and that there is a related need to clarify the scope of the City Police Department's jurisdiction with respect to State laws. The parties have agreed that, initially, based on the size of the Project and the projected number of patrons and employees, the addition of personnel and facilities will reasonably address this need as described in Schedule 2.2.

The City Police Department shall have authority for such areas of the Property designated in writing by the Tribe from time to time to the City to enforce all state criminal laws on Indian trust lands, including the Property, and shall enforce such laws in the same manner and to the same extent as the City Police Department has such jurisdiction elsewhere in the City; provided that prior to entering any gaming facility on the Property, for the purpose of investigating or enforcing state criminal laws, the City Police Department shall notify the Tribe's public safety or security director, if any, and shall coordinate with appropriate Tribal officers, if any, except when, in the good faith and reasonable judgment of the law enforcement officers involved, their safety, or the safety of patrons or employees of the facility, or the integrity of an investigation or enforcement action, would be materially compromised by doing so.

2.3 Fire Protection and Emergency Response Services. The Tribe recognizes that significant fire protection and emergency response services will be required by the Tribe's proposed development of the Property, and that the scope of said services will be detailed in the Tribal and Federal or State environmental documents (NEPA or CEQA), and the application to acquire the Property in trust status under the federal trust acquisition. The parties, however, have agreed to the general parameters of this mitigation for the Property as follows:

A. The Tribe shall provide a fire station meeting the City's reasonable requirements, including all of the necessary fire apparatus and equipment, of adequate size to reasonably address fire and emergency response needs on the Property, to be located on or near the existing fire station on the Property;

B. The Tribe shall contract with a private company for emergency ambulance services.

C. The City shall provide one (1) fire captain and three (3) firefighter position(s) per shift on a 24-hour per day basis to meet the additional burdens undertaken by the Fire Department to serve the Property. Any increase in City expenses for providing this service or other mutually agreed upon aid services in responding to an on Property fire or other emergency shall not be chargeable to the Tribe.

2.4 Sewer Services and Storm Drainage Fees. The Tribe shall provide for sewage disposal for the Property by connection to the City's existing sewage collection system. The Tribe will connect for sewer service and pay fees consistent with normal City connection and service fees, obtain required easements for sewer infrastructure, construct to City sewer infrastructure standards, and dedicate to the City such off-Property sewer infrastructure. No public use shall occur on the Property until sewer service is completed, inspected and approved pursuant to this Section. All approvals referred to in this Section shall be substantially identical to those applied to similarly situated users. The Tribe will pay storm water mitigation fees consistent with normal City fees to the extent that the City's storm water system is used.

2.5 Water Supply. The Tribe shall use its best efforts to obtain water supply for the Property through an agreement with the East Bay Municipal Utility District, and the Tribe shall conform to all standard requirements imposed by the water provider. The Tribe will connect for water service and pay fees consistent with normal water connection fees, obtain required easements for water infrastructure, construct to water supply infrastructure standards, and dedicate to the water provider, as applicable, such off-Property water infrastructure. No public use shall occur on the Property until water service is completed, inspected and approved pursuant to this Section. All approvals referred to in this Section shall be substantially identical to those applied to similarly situated users.

2.6 Electricity. The Tribe shall use its best efforts to obtain electric service for the Property and shall conform to all standard requirements imposed by any electricity

provider. The Tribe will connect for electricity and pay fees consistent with normal connection fees, obtain required easements for electricity infrastructure, and construct to electricity supply infrastructure standards. No public use shall occur on the Property until electricity service is completed, inspected and approved pursuant to this Section. All approvals referred to in this Section shall be substantially identical to those applied to similarly situated users. The City shall have no responsibility for providing electrical service.

2.7 Gas. To the extent necessary to develop or operate the Project, the Tribe shall use its best efforts to obtain gas for the Property through an agreement with the local provider and shall conform to all standard requirements imposed by the gas provider. The Tribe will connect for gas and pay fees consistent with normal connection fees, obtain required easements for gas infrastructure, and construct to gas supply infrastructure standards. No public use shall occur on the Property until gas service is completed, inspected and approved pursuant to this Section. All approvals referred to in this Section shall be substantially identical to those applied to similarly situated users.

2.8 Telephone. The Tribe shall use its best efforts to obtain telephone for the Property through an agreement with the local provider and shall conform to all standard requirements imposed by the telephone provider. The Tribe will connect for telephone and pay fees consistent with normal connection fees, obtain required easements for telephone infrastructure, and construct to telephone supply infrastructure standards. No public use shall occur on the Property until telephone service is completed, inspected and approved pursuant to this Section. All approvals referred to in this Section shall be substantially identical to those applied to similarly situated users.

2.9 Additional Services. At the request of the Tribe, the Police, Fire or other departments of the City may agree to provide additional law enforcement, safety, emergency response and security personnel for special events and functions occurring at the Project. Where such additional services are requested and provided, the City Department will bill the Tribe for the actual costs of providing such services on an open book basis and shall cooperate with the Tribe in verifying such costs; provided that, to the extent the City has standard fees charged for such extra services to other organizations or persons, the Tribe agrees to pay those standard fees for any such services. Notwithstanding any other provision hereof, the City shall not charge the Tribe for any additional services requested by the Tribe hereunder at a rate or cost in excess of the lowest rate or cost that is charged by the City to any other person or entity requesting similar services, whether within or outside the City limits. The Tribe will pay such bills within 30 days of receipt.

ARTICLE 3. TRAFFIC

3.1 Roads and Traffic Circulation. The Tribe will mitigate off reservation traffic and circulation issues in conformity to City requirements. The Tribe will have the right to fund and construct improvements to the street currently known as Western Drive from Highway 580 to and through the Property, subject to review and approval of such

improvement plans by the City. The City agrees to maintain Western Drive as a public road in accordance with normal City standards. The City will cooperate with the Tribe in developing agreements with CalTrans for any improvements to the Highway 580/Western Drive interchange that are required for the project. The parties agree that the Tribe will fund any local share of costs for those improvements attributable to the project. The City agrees to rename Western Drive as “Winehaven Drive” from the intersection of Highway 580 to the northern terminus of the road. The City agrees that a portion of the Service Fees paid to the City pursuant to Section 4.1 will be applied to the funding of a Roadway Maintenance and Enhancement Program, as described in Schedule 3.1.

ARTICLE 4. PAYMENTS AND FEES TO CITY

4.1 Service Fees. For the Services described in Article 2 and 3 herein, the Tribe agrees to pay to the City service fees of \$8,000,000 per year for the first 8 years beginning on the commencement of gaming operations (the “Commencement Date”) on the Property, and \$10,000,000 (Ten Million Dollars) per year thereafter (the “Service Fees”) during the term of this Agreement, as described in Section 13.2. The Service Fees shall be adjusted each year by changes in the Consumer Price Index beginning on the first anniversary of the Commencement Date. The Service Fees shall be payable on a take-or-pay basis without regard to the amount of services, if any, actually consumed by the Tribe; provided, however, that this Section shall not be construed to mean that the level of police and fire personnel that the City agrees to provide shall be less than that allowed in Sections 2.2 and 2.3. The Service Fees shall be payable in immediately available funds by wire transfer to an account specified in writing by the City not less than 10 days prior to the due date in equal semi-annual installments beginning on the date which is six months from the Commencement Date. The Tribe will separately pay monthly water, sewer, electricity, gas and telephone use fees to the agencies providing such services to the Property.

4.2 Community Benefit Payments. As an inducement for the City to enter into this Agreement, to help fund operations of local governments and for the mutual benefit of the parties’ respective communities, the Tribe shall also make annual payments to the City (the “Community Benefit Payments”) at the times and in the amounts specified below.

For portions of the Property within the area operated by the Tribe and/or casino manager, the following Community Benefit Payments shall be made:

- A. \$10 per constructed hotel room per day (provided that the City agrees that its transient occupancy taxes will not apply to such property);
- B. \$5.25 per square foot of retail sales area per year if and to the extent normal local sales taxes are not remitted to the Franchise Tax Board; and
- C. 0.285% of the construction costs of the facilities per year (exclusive of architectural, engineering, design and other non-construction consulting costs not incurred

by the general contractor or any subcontractors), such amount being increased by 2% per year.

For all other portions of the Property:

D. \$7 per constructed hotel room per day (provided that the City agrees that its transient occupancy taxes will not apply to such property);

E. \$7.50 per square foot of retail sales area per year if and to the extent normal local sales taxes are not remitted to the Franchise Tax Board; and

F. If and to the extent normal leasehold improvement taxes are not collected by the County, 0.285% of the construction costs of the facilities per year (exclusive of architectural, engineering, design and other non-construction consulting costs not incurred by the general contractor or any subcontractors), such amount being increased by 2% per year.

The Community Benefit Payments described in subparagraphs A, B, D and E above shall be adjusted as of July 1 each year following the Commencement Date to reflect changes during the preceding twelve-month period and to reflect changes in the Consumer Price Index. The Community Benefit Payments shall be payable on July 1 of each year (beginning with the first July 1 to occur after the Commencement Date). The Community Benefit Payments shall be payable in immediately available funds by wire transfer to an account specified in writing by the City, not less than 10 days prior to the due date. The Tribe also agrees to pay an amount equal to 10% of the cost of utilities (electric, gas, telephone and cable) that the Tribe uses each year, which is collected by utility providers, as billed by such private utilities and subsequently transferred to the City.

In lieu of the Community Benefit Payments described above, the Tribe and the City Manager may agree on an alternative payment formula that produces a substantially equivalent economic return for the City.

4.3 Reimbursement of Costs or Payments of Fees. In addition, the Tribe agrees to reimburse the City for actual costs or fees of certain City expenses (including reasonable legal and other professional consulting fees directly related to the Project) incurred during development of the Project (such as building inspections, building permits or other reasonable or normal costs) and such payments will be made to City on an as incurred basis or on a quarterly basis upon approval of actual cost documentation provided to Tribe. The Tribe further agrees to provide to the Police, Fire and Utilities providers drawings reasonably sufficient for their respective purposes after the Project has been completed; provided that such providers shall keep such documents confidential.

ARTICLE 5. PROJECT DEVELOPMENT AND EMPLOYMENT MATTERS

5.1 Development of Project.

(a) *Design Concept Documents.* The Tribe shall enact laws applicable to the Property and shall cause the Property to be used and developed in a manner consistent with the Design Concept Documents, and the Property shall at all times be used and developed in a manner consistent with the Design Concept Documents in all material respects. In the event that the Tribe desires to make any material changes to the Design Concept Documents, the Tribe shall adopt planning and design guidelines and processes, which will include public input and consultation with and approval by the City, for any material changes to the Design Concept Documents after the Closing. No material changes shall be made to the Design Concept Documents, nor shall any use of the Property materially inconsistent with the Design Concept Documents occur, without the prior approval of the City Council. A material change, modification, revision or alteration of the Design Concept Documents is one that would substantially alter the approved mix of uses and/or proportionate allocation of building area among such uses to be developed on the Property or the footprint of the developed portion of the Property or would alter or diminish any public access or Hillside Open Space or Bay Trail and Open Space Rights.

(b) *Building Standards and Enforcement.* The Tribe shall also adopt as tribal law building standards substantially equivalent to those set forth in the Uniform Building Codes, as adopted or supplemented by the City. Prior to the use of any structure on the Property, the City or an independent third party retained pursuant to this Section will provide written certification that said structures have been built in accordance with said standards. To ensure that tribal laws and building codes are adequately enforced, the Tribe shall contract with the City, at the City's actual cost, to provide services such as building, engineering and public works plan-checking and inspections with respect to all improvements on the Property; provided that such personnel shall perform their reviews and inspections in a timely and reasonable manner, shall not issue stop work notices arbitrarily; and provided further that the Tribe shall retain the sole authority to enforce such laws and codes. The City and the Tribe will develop schedules of fast-tracking for all such Project work and, in the event the City is unable to meet such schedules, the Tribe has the option to decline the services described in this Section 5.1; provided, that (i) the Tribe will provide the City with not less than five (5) business days prior notice that it is not satisfied with the City's provision of such services, and (ii) the Tribe contracts with an independent third party who normally provides the same or similar services and such third party agrees to certify to the City that such services are in compliance with the Tribal law adopted pursuant to this Section 5.1.

5.2 City Design Review Input. From time to time as building plans are formulated and proposed for the Property, the City and the Tribal Council will make such plans available to the public and will hold a public hearing to receive public comment. The Tribe will respond in writing to such comments and such responses will be made available to the public. The Tribe shall have final authority to approve all plans.

5.3 Equal Opportunity. The Tribe agrees that during the operation of the Project there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in the operation of the Project. The Tribe

may delegate to its project manager the ability to prepare and submit plans to interested parties to optimize employment opportunities for City residents, Tribal members, and other Native Americans with respect to the Project. The Tribe shall work in good faith with the City to employ qualified City residents, Tribal members, and other Native Americans at the Project. The Tribe shall offer training programs to assist City residents, Tribal members, and other Native Americans to become qualified for positions at the Project to the extent permitted by applicable law. Nothing in this Agreement, however, shall be interpreted to limit or modify in any way the Tribe's policy of Indian preference in employment.

5.4 Richmond Works and First Source Agreement. The Tribe will adopt a First Source Program substantially similar to the City's First Source Program and will require its contractors and gaming manager to enter into an agreement similar to Exhibit F of the LDA. Nothing in this Agreement shall preclude the Tribe and its and its contractors or gaming manager from entering into other agreements to use other employment agencies to employ persons to work on the Project. The Tribe hereby covenants and agrees that, for initial hires it will hire at least one third of its operational, non-management positions for the Casino and Casino Hotel from a pool of Richmond residents who otherwise meet all of the qualifications of employment established by the Tribe and who are referred to the Tribe by Richmond Works (a program operated by the City) subject to the availability of a sufficient pool of qualified applicants and in accordance with applicable federal and state law. Nothing herein shall require the Tribe to maintain a workforce with any specified number of Richmond residents or to fill any positions vacated by resignation, retirement or termination with Richmond residents.

5.5 Prevailing Construction Wages; Living Wages. The Tribe shall adopt policies relating to the wages to be paid to its contractors and subcontractors that are the functional equivalent of the wage portions of the federal Davis-Bacon Act, the California Labor Code, the City's Living Wage Ordinance (Richmond Municipal Code Chapter 2.60), the City's Business Opportunity Ordinance (Richmond Municipal Code Chapter 2.50), and the City's Local Employment Program Ordinance (Richmond Municipal Code Chapter 2.56). The Tribe shall, and shall cause its contractors and subcontractors to, keep and retain such records as are necessary to determine if such tribal policies have been complied with. . In addition, the Tribe shall adopt policies that are the functional equivalent of the wage portions of the City's Living Wage Ordinance (Richmond Municipal Code Chapter 2.60), which policies may include "tip" income in its calculation of wages, with respect to its operational employees at the casino and casino hotel.

5.6 Additional Tribal Laws. The Tribe shall adopt such additional tribal laws or policies as may be appropriate to ensure that the Project adheres to the spirit and intent of this Agreement, including without limitation as relates to historic preservation, Hillside Open Space and public access, in conformance with the Design Concept Documents, any conservation or public access easements or other mechanisms created pursuant to the LDA, and the provisions of the Shoreline Lease. With respect to historic preservation, enacted tribal laws shall provide that the Project follows the applicable guidelines and standards of the Secretary of the Interior. With respect to Hillside Open

Spaces, enacted tribal laws shall provide for protection of those areas for habitat. With respect to public access, enacted tribal laws shall provide for public access to the Shoreline Parcel, Hillside Open Space (except those minimal areas excluded due to security, maintenance, governmental or restricted traditional tribal purposes), and other public areas as designated in the Design Concept Documents; provided, that the Tribe may impose limitations on the hours of access and nature of activities (such as leash rules for pets, limits on alcoholic beverage use, outdoor fire and fireworks use etc.) in such areas substantially similar to those for public regional parks in Alameda and Contra Costa Counties. The Tribe shall further comply with all federal and/or state laws applicable to it at all times during this Agreement.

5.7 Maintenance of Shoreline Parcel and Hillside Open Space. The Tribe shall, at its own cost and expense, maintain the Hillside Open Space with its trail system and the Shoreline Parcel (including the Bay Trail, and shoreline rip rap for erosion control) and the Tribe shall adopt guidelines and standards for the operation and maintenance of the Hillside Open Space and Shoreline Parcel substantially similar to the guidelines and standards of the State of California Department of Parks and Recreation.

ARTICLE 6. REPRESENTATIONS & WARRANTIES OF TRIBE

The Tribe represents and warrants to the City that:

6.1 Existence and Standing. The Tribe is a federally recognized Indian tribe, as determined by its inclusion in a list of such federally recognized Indian tribes promulgated by the Assistant Secretary Indian Affairs, dated July 1, 2002, published in the Federal Register on July 12, 2002, Volume 67 Number 134. The Tribe is a non-taxable entity for purposes of federal income taxation under the Code.

6.2 Authority and Compliance with Other Documents. The execution, delivery and performance by the Tribe of this Agreement and the Note have been duly authorized by all necessary action of the Tribe and do not:

(a) require any consent or approval not yet obtained (including, but not limited to, the consent of any enrolled tribal member, any Tribal Council member, any General Council member, other tribal entity, security holder or creditor);

(b) violate or conflict with any law or other governing documents of the Tribe or any custom or tradition of the Tribe;

(c) violate any laws applicable to the Tribe;

(d) result in a breach of or default under, or would, with the giving of notice or the lapse of time or both, constitute a breach of or default under, or cause or permit the acceleration of any obligation owed under any agreement or other contractual obligations to which the Tribe is a party or by which the Tribe or any of its property is bound or affected; or

(e) require any notice to or consent or approval of any governmental authority agency not already obtained.

6.3 Litigation and Contingent Obligations. Except as has been previously disclosed in writing to the City, there is no litigation, arbitration, governmental investigation, proceeding or inquiry pending or, to the knowledge of any of their officers or Tribal Council members, threatened against or affecting the Tribe which could have a material adverse effect on the Tribe's ability to perform its obligations under this Agreement or the Note. Other than any liability incidental to any litigation, arbitration or proceeding which has been previously disclosed in writing to the City, the Tribe has no material contingent obligations not provided for or disclosed in writing to the City.

6.4 Accuracy of Information. No information furnished by the Tribe to the City or its attorneys, agents or representatives in connection with the negotiation of, or compliance with, this Agreement and the Note contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements contained therein not misleading.

6.5 No Management Contract. Upon its effectiveness, neither this Agreement nor the Note, taken individually or as a whole, constitutes a "management contract" or "management agreement" or "collateral agreement" within the meaning of IGRA, or deprives the Tribe of the sole proprietary interest and responsibility of the conduct of gaming activity.

6.6 Licensure Requirements. The Tribe has granted to the City, or exempted the City from, all licensing required under the applicable law.

6.7 No Contrary Tribal Law. No Tribal law exists, whether in writing or by custom or tradition, permitting any member of the Tribe to challenge by referendum or initiative any action of the Tribal Council taken in connection with the approval, authorization, execution and delivery of this Agreement or the Note.

6.8 No Usury Laws. No laws of the Tribe, including usury or other laws, directly or indirectly limit or otherwise adversely affect the City's ability to timely collect all amounts due under this Agreement or the Note.

ARTICLE 6A. REPRESENTATIONS & WARRANTIES OF CITY

The City represents and warrants to the Tribe that:

6A.1 Authority and Compliance with Other Documents. The execution, delivery and performance by the City of this Agreement and acceptance of the Note have been duly authorized by all necessary action of the City and does not:

(a) require any consent or approval not yet obtained (including, but not limited to, the consent of any official of the City, the State, or any political subdivision thereof, or any other entity, security holder or creditor);

(b) violate or conflict with any law or other governing documents of the City or State, or any political subdivision thereof;

(c) violate any laws applicable to the City;

(d) result in a breach of or default under, or would, with the giving of notice or the lapse of time or both, constitute a breach of or default under, or cause or permit the acceleration of any obligation owed under any agreement or other contractual obligations to which the City is a party or by which the City or any of its property is bound or affected; or

(e) require any notice to or consent or approval of any governmental authority agency not already obtained.

6A.2 Binding Obligations. This Agreement has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City.

6A.3 Ability to Provide Services. The City has the ability to provide police and fire services described in this Agreement.

6A.4 Exclusivity Agreement. During the term of this Agreement, the City covenants that it will not approve, cooperate, consent or otherwise take any action to permit or facilitate the location of any tribal gaming facility other than the facility on the Property, except to the extent the City is required to do so by applicable law.

ARTICLE 7. CONDITIONS PRECEDENT

The following shall be conditions precedent to the effectiveness of this Agreement:

7.1 Closing. All conditions precedent for the Closing under the LDA have been satisfied or waived.

7.2 Effect of Representations and Warranties. All of the representations and warranties of the Tribe and the City contained in Articles 6 and 6A shall be true as of the Effective Date.

7.3 Note and Guaranty. The City shall have received executed originals of the Note and the Guaranty, which shall be legal, valid and binding obligations, enforceable in accordance with their respective terms and in full force and effect.

7.4 Gaming Matters.

(a) The Tribe and the State of California shall have executed a binding compact for Class III gaming, which Compact shall be in full force and effect and

have an initial term of at least twenty (20) years, or a lesser term if approved by resolution of the City Council in its sole discretion;

(b) The Tribe shall have all requisite power and authority to conduct Class II and Class III gaming activities and be in compliance with the terms of the Compact, the gaming ordinance (as defined under IGRA), and with all laws and other legal requirements applicable to the Tribe's existence and the gaming operations; and

(c) The Tribe shall have obtained all authorizations, consents, approvals, orders, licenses and permits (the "Licenses") from, and has accomplished all filings, registrations and qualifications with, or obtained exemptions from any of the foregoing from, any governmental agency as necessary for the gaming operations. Each such License that is necessary for the gaming operations is validly issued and is, and will remain in full force and effect.

7.5 Litigation and Contingent Obligations. There shall be no litigation, arbitration, governmental investigation, proceeding or inquiry pending or, to the knowledge of any of their officers or Tribal Council members, threatened against or affecting the Tribe which could have a material adverse effect on the Tribe's ability to perform its obligations under this Agreement or the Note.

7.6 Legal Opinions. The City shall have received executed legal opinions from counsel to the Tribe. The opinion of counsel to the Tribe will not cover enforceability with regard to conferring jurisdiction to a state or federal court in the event such court determines that it lacks jurisdiction. The Tribe will not raise any such objection to the jurisdiction of any court specified in Article 11 of this Agreement. Such opinions shall be addressed to the City and shall be in form and substance reasonably acceptable to the City.

ARTICLE 8. COVENANTS

8.1 Maintenance of Existence and Compliance with Law. The Tribe shall do all things necessary to maintain its existence as a federally recognized Indian tribe. The Tribe will comply with all final laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject and which materially affect the Tribe's ability to perform under this Agreement.

8.2 Taxes. To the extent legally required, the Tribe shall timely file complete and correct tax returns required by law and pay when due all taxes, assessments and governmental charges and levies upon it or its income, profits or property, except those which are being contested in good faith by appropriate proceedings.

8.3 Insurance. The Tribe shall maintain throughout the term of this Agreement and the Note such insurance and bonds with respect to the Project against

such risks and in such amounts, with such deductible provisions, as are customary in the industry for similar facilities.

8.4 Maintenance of Properties. The Tribe shall notify the City in writing of the projected opening of Tribe's gaming facility at least three (3) months in advance of Commencement Date. The Tribe shall do all things necessary to maintain, preserve, protect and keep the resort facilities in good repair and in compliance with the Compact.

8.5 Compliance with Agreements. The Tribe shall promptly and fully comply with all contractual obligations under this Agreement, the Note, the Design Concept Documents and all material agreements, indentures, leases and instruments to which it is a party.

8.6 Impairment of Contracts; Access Fees. The Tribe shall not adopt or otherwise place into effect any Tribal law (including but not limited to any initiative, referendum, constitution, articles or other organizational document) which impairs or interferes, or could impair or interfere, in any manner with any right or remedy of the City under this Agreement or the Note (it being understood and agreed that any such Tribal law which is adopted or otherwise placed into effect without the consent of the City shall be of no effect as to the Tribe's obligations under this Agreement and the Note). Likewise, the Tribe shall not demand, impose or receive any tax, charge, assessment, fee or other imposition, or impose any regulatory or licensing requirement, against the City. Except for fees consistent with those charged for other public regional parks in the County of Contra Costa or the County of Alameda, the Tribe shall not impose any fee or charge on any member of the public for the privilege of accessing the Hillside Open Space and Shoreline Parcel areas open to the public.

8.7 Bankruptcy Matters. The Tribe agrees that upon any payment or distribution of assets upon any liquidation, dissolution, winding up, reorganization, assignment for the benefit of creditors, marshaling of assets or any bankruptcy, insolvency or similar proceedings of or with respect to the Tribe, the City shall be entitled to receive payment in full of all obligations owed hereunder or under the Note before any payment or distribution is made to any Tribal members.

8.8 Payments to City as Operating Expenses. Payments to the City required by this Agreement shall be treated as "operating expenses" and/or otherwise paid prior to debt service on any borrowings of the Tribe or any affiliate. The Tribe shall provide a copy of this Agreement to any parties providing financing prior to entering into such borrowings, and the indebtedness created thereby shall be consistent with the requirements of this Section. In no event shall payments to the City under this Agreement be subordinated to payments under such borrowing or other arrangements; *provided*, however, that payments to the City may be subordinated to payments required under the Compact or required under federal or state law.

8.9 Financial Information. At least 30 days prior to each date on which a Services Payment from the Tribe is due to the City, the Tribe will provide a letter to the City describing its general financial performance, and affirming its ability to make the upcoming scheduled payment. In addition, the Tribe will provide copies of all financial information that is provided to the State as and when such information is provided, and the City will keep such information confidential and not disclose it unless required by law.

8.10 Support for Compact. As provided in the LDA, the City agrees that it shall support the Tribe in obtaining its Compact.

ARTICLE 9. EVENTS OF DEFAULT

The occurrence of any one or more of the following events shall constitute a Default:

(a) Any representation or warranty made or deemed made by either party under or in connection with this Agreement or the Note, or any certificate or information delivered in connection with this Agreement or the Note shall be incorrect in any material respect when made or reaffirmed.

(b) The Tribe fails to make any payment required under this Agreement or the Note within five (5) days after the same becomes due.

(c) Breach by either party (other than a breach which constitutes a Default under another Section of this Article) of any of the terms or provisions of this Agreement or the Note which is not remedied within thirty (30) days after written notice from the other party.

(d) The Tribe shall (i) have an order for relief entered with respect to it under the Federal bankruptcy laws as now or hereafter in effect, (ii) make an assignment for the benefit of creditors, (iii) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial portion of its property, or (iv) institute any proceeding seeking an order for relief under the Federal bankruptcy laws as now or hereafter in effect or seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to timely file an answer or other pleading denying the material allegations of any such proceeding filed against it.

(e) Without the application, approval or consent of the Tribe, a receiver, trustee, examiner, liquidator or similar official shall be appointed for the Tribe and its assets or any substantial portion of its property, or a proceeding described in Section 9(e)(iv) above shall be instituted against the Tribe and such

appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of thirty (30) consecutive days.

(f) Any court, government or governmental agency shall condemn, seize or otherwise appropriate, or take custody or control of, all or a substantial portion of the Property.

(g) The Tribe at any time ceases to be a federally recognized Indian tribe.

(h) Any actual or purported revocation, replacement or change to the resolution(s) of General Council and/or Tribal Council authorizing the Note and this Agreement that is adverse to the City.

(i) The occurrence of any “event of default”, as defined in the Note, or the breach of any of the terms or provisions of the Note.

(j) The Tribe’s gaming agency or any other governmental agency shall limit, cancel, revoke, terminate, condition, modify, suspend or restrict the license or exemption granted to the City from the licensing requirements of the Compact or the Tribe’s gaming ordinance.

ARTICLE 10. REMEDIES

10.1 Remedies Upon Default.

(a) If any Default of the Tribe described in Article 9 occurs, the City may terminate or suspend its obligations to provide Services hereunder and/or bring an action against the Tribe as provided in Article 11, including but not limited to actions for money damages or specific performance, to enforce the Tribe’s obligations under this Agreement. Amounts due from the Tribe shall bear interest from the date of Default at a rate equal to the prime rate of interest announced from time to time by *The Wall Street Journal* plus two percent (2.00%) per annum.

(b) If any Default of the City described in Article 9 occurs, the Tribe’s sole recourse shall be a claim for specific performance against the City to provide the Services, and the Tribe shall not be entitled to withhold, suspend, place into escrow, offset, or reduce payments required by Article 4. In no event shall the City be liable to the Tribe for money damages as a result of a breach or default under this Agreement or the Note, and the Tribe hereby waives any and all such claims against the City.

10.2 Other Actions by City. Without limiting the City’s other rights and remedies under this Agreement or under the Note, after a Default the City may exercise

any rights or remedies available at law or in equity. All of the rights and remedies under this Agreement and the Note shall be cumulative and non-exclusive, to the extent permitted by law, and may be exercised successively, concurrently or in any order as the City shall elect.

10.3 Preservation of Rights. No delay or omission of either Party to exercise any right under this Agreement or the Note shall impair such right or be construed to be a waiver of any Default or an acquiescence therein. Any single or partial exercise of any such right shall not preclude other or further exercise thereof or the exercise of any other right, and no waiver, amendment or other variation of the terms, conditions or provisions of this Agreement or the Note shall be valid unless in writing signed by the Parties, and then only to the extent in such writing specifically set forth.

ARTICLE 11. DISPUTE RESOLUTION

11.1 Meet and Confer. Without limiting the following provisions of this Article 11, in the event the City or the Tribe believes that the other has committed a possible violation of this Agreement, it may request in writing that the parties meet and confer in good faith for the purpose of attempting to reach a mutually satisfactory resolution of the problem.

11.2 Waiver of Jury Trial. The Tribe hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action arising under this Agreement or in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to the this Agreement, or the transactions related thereto, in each case whether now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and the undersigned hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury, and that the City may file an original counterpart or a copy of this section with any court as written evidence of the Tribe's waiver of its right to trial by jury.

11.3 Waiver of Sovereign Immunity. The Tribe and the City each hereby expressly and irrevocably waives its sovereign immunity (and any defense based thereon) from any suit, claim, action or proceeding (including an arbitration proceeding) or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution, exercise of contempt powers, or otherwise) in any forum, with respect to this Agreement, the Note, and the transactions contemplated hereby and thereby.

11.4 Consent to Jurisdiction. The Tribe and the City hereby expressly submit and consent to the jurisdiction of the courts of the State of California (including all courts to which decisions of the courts of the State of California may be appealed), the courts of the United States, and the courts of any other state which may have jurisdiction over the subject matter, over any such action, and over the parties, with respect to any dispute or controversy arising out of the Note, this Agreement, including any amendment or

supplement which may be made hereto or to any transaction in connection herewith and enforcement of any arbitration award. While the parties do not purport to confer jurisdiction upon any court that does not have competent jurisdiction to enforce the Note or this Agreement, it is the intent of both parties to have any enforcement action occur in either federal or state court. Without in any way limiting the generality of the foregoing, the parties expressly authorize any government or other agency authorities who have the right and duty under applicable law to take any and all action authorized or ordered by any federal or state court, including without limitation, entering the Property in giving effect to any judgment entered. In the event a suit is commenced on this Agreement regarding the subject matter of this Agreement (including but not limited to a suit for the enforcement of an arbitration award), neither party will dispute the jurisdiction of the courts of the State of California (including all courts to which decisions of the courts of the State of California may be appealed), the courts of the United States, and the courts of any other state which may have jurisdiction over the subject matter, over any such action and over the parties.

11.5 Binding Arbitration. At the option of either party, claims or disputes arising under this Agreement may be resolved in Oakland, California by binding arbitration in accordance with the Voluntary Commercial Arbitration Rules of the American Arbitration Association (“AAA”) or any other rules mutually agreed upon by the parties. Both parties, in waiving immunity from suit or arbitration, recognized and agree that submitting to the rules of the AAA is deemed to be a consent that judgment upon any arbitration award may be entered in any court described in Section 11.4. In any arbitration proceeding, each party will select one arbitrator. An additional arbitrator will be selected by the two arbitrators chosen by the parties. If the additional arbitrator is not chosen in this manner within ten (10) days after the parties select their arbitrators, the additional arbitrator shall be chosen in accordance with the rules of the AAA. No person shall be eligible to serve as an arbitrator if the person is related to, affiliated with, or has represented in a legal capacity either party to this Agreement. The arbitrators shall be retired California state or federal judges or attorneys at law admitted to practice and in good standing in California. The parties hereto further agree that the arbitrators may award interim injunctive relief before the final arbitration award. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrators. A decision of the arbitrators shall be final, legally binding and enforceable.

11.6 Waiver of Exhaustion of Tribal Remedies. Except for entry of judgment on and enforcement of an arbitration award, the Tribe expressly waives jurisdiction of any Tribal court which may be created or become effective after the date of this Agreement with respect to any action commenced relating to this Agreement, including any amendment or supplement thereto or hereto, and the Tribe waives any requirement which may exist for exhaustion of any remedies available in any Tribal court or other Tribal forum prior to commencing any such action.

11.7 Judgment. Under no circumstance may any judgment be entered or enforced for an amount greater than the amounts due under the terms of this Agreement and the Note.

11.8 Benefit and Irrevocability. The waivers and consents described in this Agreement shall inure to the benefit only of the parties themselves, which parties shall have and be entitled to all available legal and equitable remedies, including the right to specific performance, money damages and injunctive or declaratory relief. The waivers of sovereign immunity and consents to jurisdiction contained in this Agreement are irrevocable.

ARTICLE 12. TRIBAL CITY ADVISORY COMMITTEE

The City and the Tribe agree to establish a Tribal City Advisory Committee (the “Committee”) in accordance with the following:

12.1 Composition of Committee. The Committee shall be composed of two members of the City Council (or their designees), the Police Chief (or his or her designee), the City Manager (or his or her designee), and four representatives of the Tribe.

12.2 Open Meetings. Committee meetings shall be open to the public, and Committee members may invite staff and associates as they deem appropriate to participate.

12.3 Meeting Times. The Committee shall meet on a quarterly basis, or more frequently, according to procedures established by the Committee.

12.4 Authority of Committee. The Committee shall consider issues related to implementation of this Agreement, proposals for amendments to this Agreement, and concerns over any matter within the scope of this Agreement. The Committee may make recommendations to the Tribe and City, including amendments to this Agreement, which both parties may consider before implementing any actions concerning the subject matter of this Agreement.

ARTICLE 13. MISCELLANEOUS PROVISIONS

13.1 Governing Law. This Agreement shall be governed by and construed in accordance with applicable federal and California law (without regard to conflict of law provisions).

13.2 Effective Date, Term, and Termination. This Agreement shall become effective when the following have occurred: (i) satisfaction of the conditions precedent described in Article 7, and (ii) approval of this Agreement by the Bureau of Indian Affairs (or receipt of written notice from the Bureau of Indian Affairs that no approval is required) (the “Effective Date”). The initial term of this Agreement shall be coextensive with the initial term of the Compact, and this Agreement shall automatically renew on the same terms upon any renewal or extension of the Compact. If the Compact is not renewed or extended beyond its initial term, this Agreement shall terminate upon expiration of the initial term. Following the initial term, if the Compact is renewed or

extended on terms that are less economically favorable to the Tribe, the parties shall negotiate in good faith to reduce the Service Payments and Community Benefit Payments commensurately. Prior to the Effective Date, neither party shall have any obligation or liability whatsoever to the other party. This Agreement shall automatically terminate if the LDA is terminated prior to the Closing.

13.3 Tribe's Payment Obligations Absolute and Unconditional. The Tribe acknowledges that the Service Fees and Community Benefit Payments described in Article 4 are an essential part of the exchange contemplated by this Agreement, the Note, and the LDA. Accordingly, the Tribe waives any and all defenses relating to, or right to challenge or contest, the amounts payable under this Agreement. NOTWITHSTANDING ANYTHING EXPRESS OR IMPLIED IN THIS AGREEMENT OR ANY OTHER DOCUMENT TO THE CONTRARY, THE TRIBE'S OBLIGATIONS TO MAKE THE PAYMENTS PROVIDED FOR IN THIS AGREEMENT, AT THE TIMES AND IN THE AMOUNTS REQUIRED, ARE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY WITHHOLDING, SETOFF, COUNTERCLAIM, OR REDUCTION OF ANY KIND.

13.4 Indemnification by Tribe. The Tribe agrees to indemnify, hold harmless and defend the City, its agents, representatives, and employees, against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, all expenses of litigation or preparation therefor whether or not the City is a party thereto) which the City may pay or incur arising out of or relating to this Agreement or the transactions contemplated hereby, except to the extent determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the City. The obligations of Tribe under this Section shall survive the termination of this Agreement.

13.5 Successors in Interest. If local jurisdiction over the area in which any of the Property is located is transferred from the City to a local government other than City, that local government shall have the right to succeed to the rights and obligations of City under this Agreement by providing written notice to the Tribe of its intent to do so. Before such transfer, the City, the Tribe and the other local jurisdiction shall meet to discuss and resolve by amendment to this Agreement all issues of remaining impacts on City services or payments due from the Tribe to the City as set out in this Agreement that will or reasonably can be expected to continue after the transfer of responsibility.

13.6 Attorneys Fees. In any judicial action or arbitration brought pursuant to the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs as are determined by the court or arbitrator.

13.7 Third Party Beneficiaries. This Agreement is not intended to, and shall not be construed to, create any right on the part of a third party (other than the indemnified parties and successors in interest described in Sections 13.4 and 13.5 above) to bring an action to enforce any of its terms.

13.8 Entire Agreement. This Agreement, the Note, and the LDA constitute the entire Agreement between the parties and supersede all prior written and oral Agreements, if any, with respect to the subject matter hereof and thereof.

13.9 Amendment. This Agreement may be amended only by mutual written agreement of the parties.

13.10 Severability. The invalidity of any provision or portion of this Agreement shall not affect the validity of any other provisions of this Agreement or the remaining portions of the applicable provisions. If any provision of this Agreement is determined invalid which results in the diminution of any payments or financial obligations of the Tribe to the City, then the parties shall use their best efforts to renegotiate the terms of the invalid provisions; in the event that the parties are unable to successfully renegotiate the invalid terms, they shall resolve the matters at issue through the disputed resolution provisions of this Agreement.

13.11. Duty to Exercise Good Faith. Throughout the term of this Agreement, the parties agree to exercise good faith and to observe the covenants contained herein.

WHEREFORE, IN WITNESS WHEREOF, the parties hereby execute and enter into this Agreement with the intent to be bound thereby through their authorized representatives whose signatures are affixed below.

GUIDIVILLE BAND OF POMO INDIANS
OF THE GUIDIVILLE RANCHERIA

By:_____

CITY OF RICHMOND, CALIFORNIA

By:_____

APPROVED

United States Secretary of the Interior, or her designee

By:_____

SCHEDULE 2.2 POLICE SERVICES

Significant impacts on police services and resources would include: 1) on-site issues; 2) byproducts associated with gambling that would be spread across the entire community; 3) traffic related issues to include accident prevention and on-going enforcement; vice-crimes; and eventual later investigation of all of the above issues.

Additional police staff and associated equipment needed:

- 1 Police Lieutenant (Police Liaison/Manager)
- 5 Police Officers (Uniformed Patrol Beat 24/7)
- 2 Police Officers (Investigations)
- 1 Secretary (Clerical/Permits)
- 1 Marked Patrol Car
- 2 Unmarked Patrol Car

The associated cost to provide the above service is \$1,500,000.00.

SCHEDULE 3.1
ROADWAY MAINTENANCE AND ENHANCEMENT PROGRAM

Maintain Western Drive to the westerly end and all major streets leading to the Project site. The annual cost will be \$ 4,400,000.00

Exhibit F First Source Agreement

THIS AGREEMENT is entered into this ___day of _____, 200_, by and between the Guidiville Band of Pomo Indians of the Guidiville Rancheria, a federally recognized Indian Tribe (hereinafter referred to as “Tribe”), and _____ (hereinafter referred to as “Contractor”).

W I T N E S S E T H:

WHEREAS, the Contractor has been awarded a contract by the Tribe (the “Contract”) to perform certain construction work, consulting services, gaming operations management or other services as described as follows:

WHEREAS, the Contractor desires to enter into this First Source Agreement with the Tribe;

NOW, THEREFORE, the parties hereto mutually agree as follows:

The Contractor and the Tribe agree that, during the term of the Contract (including any extensions approved by the Tribe) the Contractor shall seek qualified employees to fill entry-level and new employment positions. These positions may include but shall not be limited to positions involving construction, operations, maintenance and management of the hotel(s)/convention center/casino/retail facilities. The positions may be either full-time, part-time, or seasonal. In order to find qualified employees the Contractor shall follow the following procedures:

- A. Upon learning of the availability of an employment position created by vacancy of an existing position or of a new employment position, the Contractor shall provide written notice of such position to: (i) the local union, with a copy to the Tribe and City of Richmond’s Employment and Training Department (“ETD”), for union classifications, and (ii) the Tribe and ETD for non-union classifications, of any open employment positions qualified to be filled as a part of this Agreement. The notice shall include a general description of the position and the Contractor’s minimum requirements for qualified applicants. The Contractor shall request the Tribe, the union or ETD, as applicable, to refer qualified applicants for such position to the Contractor’s appropriate human resources representative (this process is hereafter referred to as the “Multiple Notification Process”). The Contractor shall, at the same time, forward a copy of the notification to the manager of the relevant project or his designee with a request to approve the use of temporary workers during the hiring period. In the Multiple Notification Process, the Contractor shall utilize the “namecall,” “rehires” or

“sponsorship” options in maximizing the participation of members of the Tribe, Native Americans and residents of the City of Richmond (the “City”).

- B. After initiating the Multiple Notification Process, the Contractor should, in normal circumstances, refrain from any general announcement or advertisement of the availability of such position for a period of five (5) business days. A general announcement shall not include any internal postings or postings with affiliates of the Contractor seeking an employee for an open position which would otherwise be subject to this Agreement. Such five-day period is hereinafter referred to as the “Advance Notice Period.” During such Advance Notice Period, the Tribe, the union and/or ETD shall then submit a list of candidates qualified for the position to the Contractor. The Contractor shall review the qualifications of the candidate submitted and consent to grant interviews to those candidates it deems that in its reasonable business judgment to be qualified for the position advertised. The Contractor shall use its reasonable business judgment in selecting employees. After the Advance Notice Period, the Contractor may post, advertise or otherwise publicize the job opening.
- C. Upon receipt from the Contractor of a notice of an employment position, the Tribe, the union or ETD may each refer to the Contractor a minimum of one (1) and up to a maximum of five (5) candidates for employment believed by the Tribe, the union or ETD to be qualified for each position and who meet the Contractor’s minimum requirements for such position, and may make arrangements for the person or persons referred to be interviewed by the Contractor within the Advance Notice Period. In the event that the Tribe, the union or ETD believes that it is unable to refer qualified candidates for such position within the Advance Notice Period, it shall so inform the Contractor as soon as possible, and if any of the Tribe, the union or ETD fails to do so, each thereby waives the obligation of the Contractor to refrain from further announcement or advertisement to fill such position during the balance of the Advance Notice Period.
- D. In the event that any persons seek employment with the Contractor at the job site at any time, the Contractor shall have the person complete a Job Site Application consisting of name, address, telephone number, social security number and trade. The Contractor will then submit this information to the Tribe, the appropriate union and/or ETD, as provided for under the Multiple Notification Process.
- E. The Contractor shall use reasonable efforts in conjunction with the Tribe, the union and ETD to employ a workforce reflecting reasonable parity with the Bay Area adult demographic population. In addition, the Contractor shall use reasonable efforts to employ persons who reside in or near the Tribal property and to benefit both the Tribe and City communities. To benefit both parties, the Contractor will use reasonable efforts to, where practical:

1. Employ a construction workforce reflecting reasonable parity with the West Contra Costa County adult demographic population, based on the 2000 census.
 2. Hire 50% of its new-hire operational workforce from bona fide members of the Tribe, Native Americans or residents of the City, including hiring a minimum of 20% of its new-hire operational workforce from residents of the City.
 3. With respect to construction workers, hire 50% of new union apprentices or new workers from bona fide members of the Tribe, Native Americans or residents of the City, including hiring a minimum of 40% of new hires or new union apprentices from residents of the City until a minimum of 20% of its new hires are residents of the City.
- F. Nothing contained herein shall prevent the Contractor from filling job vacancies or newly created positions without compliance with the foregoing procedures by transfer or promotion from its existing staff of the Contractor or its affiliates, if any, or from a file of qualified applicants maintained by the Contractor, provided, however, that the Contractor shall give appropriate consideration to those applicants in such file or qualified applicants previously referred by the Tribe, the union or ETD. Further, nothing contained herein shall be construed to require Contractor or any construction, operations, maintenance or management agent or independent subcontractor engaged by the Contractor to hire any candidate referred by the Tribe, the union or ETD.
- G. The Contractor shall incorporate the provisions of this First Source Agreement in all sub-contracts, consulting agreements, and other agreements for labor that it uses to perform the services contemplated in the Contract between the Tribe and the Contractor whose personnel will be assigned to perform for the Contractor under the Contract and shall obligate such agent or subcontractor to comply with the procedures set forth in Paragraphs A through C above. Nothing contained herein shall be construed to require the Contractor or its agents or subcontractors to terminate or replace any employee solely to comply with the provisions of this First Source Agreement.
- H. The Contractor shall be responsible for monitoring compliance with this Agreement. The Contractor shall, on a quarterly basis, furnish appropriate employment records to the Tribe and any additional information required by the Tribe to ascertain the status of members of the Tribe, Native Americans or residents of the City hired pursuant to this Agreement. Failure by the Contractor to provide the Tribe with proper documentation may result in delay of progress payments for that portion which is deemed not in compliance with the provisions of this Agreement.
- I. Nothing contained in the Agreement shall preclude the Tribe and its contractors from entering into other agreements to use other employment agencies to employ

persons to work on the project. Subject to certain preferences available to members of the Tribe and Native Americans under federal Indian preference statutes and other than as to those persons, the Tribe and Contractor agree that during the construction and operation of the project there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in the operation of the facilities.

- J. The Contractor should seek to offer training programs to assist members of the Tribe, Native Americans and residents of the City to become qualified for positions at the project to the extent permitted by applicable law.

Executed this ___ day of _____, 200_.

Guidiville Band of Pomo Indians of the Guidiville Rancheria:

By: _____
Chairperson

Contractor:

By: _____
Title: _____

**Exhibit G
Preliminary Site Plan**



**Point Molate
Resort Hotel/Casino**

prepared for
Upstream Point

May 25, 2004

Exhibit H Scope of Development

Overview

The project will reflect the goals and objectives of the Point Molate Base Reuse Plan by including a range of hospitality, retail, entertainment and recreation uses, while providing job and revenue generation for the City. The project will include a balance of development and open space on the property.

The project will feature first class destination resort and gaming facilities, together with approximately 150,000 square feet of indoor related entertainment and conference space, 1,100 hotel rooms and approximately 300,000 square feet of retail space, together with public-serving uses, park and open space and pedestrian, bicycle and vehicular access and circulation. Retail uses will be organized into a pedestrian village inland from and parallel to the shoreline, leaving a generous park and Bay Trail alignment on the Bay's edge. In concert with the Bay Trail, the plan provides for a ferry terminal at the Point Molate pier, with clustered public facilities and amenities to provide the necessary shoreside facilities and enhance the waterfront experience. Development along the shoreline will be clustered in designated areas, leaving the majority of the shoreline in a natural state.

Historic Preservation

The project will reuse and redevelop the Winehaven Historic District in a way that will preserve its unique historic character, at the same time providing an economic reuse option that will provide the funds necessary to preserve and restore the Winehaven building, cottages and ancillary structures. Winehaven will be developed into an integrated gaming and entertainment complex, with a range of restaurants and small retail shops. The cottages will be restored and used as guest suites and related facilities for one of the luxury hotels.

Public Access

While public access may be limited in those minimal portions of the hillsides necessary to maintain security, the proposed project will allow maximum public access to the development area as well as to shoreline and designated park and open space areas. The Bay Trail and public access plan will be designed in consultation with members of the Trails for Richmond Action Committee and the Point San Pablo Peninsula Open Space Committee. The circulation plan will encourage public access to the shoreline, park areas, Winehaven and restaurant and retail sites for recreation and entertainment.

Environmental Considerations

The proposed project will enhance the environment in several ways. The Developer will mitigate the usual environmental impacts (traffic, etc.) associated with new development through project features and both on- and off-site improvements. As part of the project, the Developer will accelerate the remaining cleanup of petroleum compounds left on the site by historic United States Navy operations. The cleanup will be performed in collaboration both with the US Navy and with the site's community-based Restoration Advisory Board (RAB). The Developer, together with the Navy and the RAB, will review and prioritize Navy cleanup efforts to support site reuse, while increasing environmental protection.

The project will include approximately 33 acres of shoreline park running continuously along the shoreline for the entire length of the shoreline, and approximately 150 acres of Hillside Open Space. The public will, for the most part, be allowed access to those areas, although some minimal portions of the Hillside Open Space will be off-limits to the public for security, maintenance, governmental and traditional tribal purposes. Access to the Hillside Open Space will be required to operate and maintain the systems designed for long-term ground-water remediation in the area of former petroleum tanks. Trails through the Hillside Open Space will provide a unique park-like experience, one of the few areas where hillside and valley terrain are proximate to the SF Bay shoreline. A specific trail and open space plan will be developed in consultation with a variety of stakeholders, including members of the Trails for Richmond Action Committee and the Point San Pablo Peninsula Open Space Committee.

The project will incorporate several design features to accommodate the expected large numbers of visitors to the site. These include:

- ❑ Development of a ferry terminal with related shoreside facilities to encourage ferry use between the site and San Francisco and other Bay Ferry Terminals. The inclusion of park-and-ferry service to facilitate Richmond commuters access to the ferry service is being considered but may require satellite parking to be feasible;
- ❑ Inclusion of a shuttle service interior to the site to minimize car traffic within the project. The shuttle will carry people between the parking areas, ferry terminal, retail, hotel and entertainment centers;
- ❑ Use of satellite parking areas (exact locations to be determined) and shuttling of visitors and employees to the site;
- ❑ Expected improvements to the Western Drive/Hwy 580 intersection to increase traffic capacity and direct traffic to the satellite and on-site parking areas. (The scope of these improvements is still under study).

Hotels

The project anticipates luxury hotels on the site accommodating approximately 1,100 hotel rooms. The hotels may be linked with and adjacent to the Winehaven gaming and entertainment center. Additional hotel rooms, near the shoreline park and ferry terminal,

will provide a unique waterfront experience overlooking the park, the Bay Trail and the Bay. Significant facilities will be provided on site to house moderate sized conferences, small trade shows and amenities for business and community groups. Other lodging and related facilities will be located on the hill above the hotel nearest the Pier and within the historic Winehaven District, where the existing cottages will be restored and adaptively reused as suite type guest facilities. The traditional cottage streetscape will be restored and a centrally located house will be converted to a central common facility overlooking new recreational facilities.

Retail

Approximately 300,000 square-feet of retail will be configured in a traditional streetscape pattern as generally shown in the Preliminary Site Plan and as finally determined in the final Design Concept Documents and will link the waterfront hotel near the pier to the Winehaven entertainment center and the casino hotel. The retail complex will provide a pedestrian-only walking, shopping and dining experience that will rival Pier 39's sense of attraction but exceed it in both quality and character.

Future Development Parcel

The site includes a parcel at the southern entrance to Point Molate designated for Future Development. The Navy used this approximately 35-acre site for storage of petroleum and chemical drums and the site is not yet remediated. This site will be used as for parking pending construction of parking structures. Continued development plans for this parcel will be formulated in the future and will comply with the overall goals of this Scope of Development.