CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 03/06/07

AGENDA ITEM 4

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Determination whether the Eastshore Energy Center proposed at 25101 Clawiter Road is consistent with the General Plan and Industrial Zoning District

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution, which indicates the proposed power plant is not consistent with the City's General Plan and Industrial Zoning District.

DISCUSSION:

The proposed 115 megawatt, gas-fired peaking power plant is to be utilized during periods of high demand, expected more frequently during the hotter, summer months. Fourteen approximately 70-foot tall engine stacks would be located by the generator systems adjacent to the main building. Two, 10,000-gallon aqueous ammonia tanks would be located to the rear of the building. The ammonia, a regulated hazardous material, would be trucked to the site and stored in tanks to be used in the gas-burning process to reduce noxious oxide emissions. Also proposed would be approximately 1.1 miles of 115 kV transmission lines along Clawiter Road that would cross State Highway 92 and connect to the PG&E Eastshore Substation. The power lines, including existing 12 kV power lines, would be supported by new, 90-foot tall transmission poles. A temporary construction laydown and parking area immediately across Clawiter Road on the northern portion of the Berkeley Farms site is also proposed.

The authority to license power plants in California that generate more then 50 megawatts of power rests with the California Energy Commission (CEC). The CEC is currently processing an application for this power plant, which has entailed and will entail future public information meetings, and is scheduled to make a final determination sometime this fall. As part of the review process, the CEC does an extensive environmental impact analysis, including assessing potential air quality and public health impacts. Final permitting by the Energy Commission requires conformance with rules and regulations of the Bay Area Air Quality Management District (BAAQMD), which is also required to issue a permit in order for the plant to be operated. The BAAQMD is continuing to assess air quality impacts, including cumulative air quality impacts, and is scheduled to release a "Preliminary Determination of Compliance" in late March. Such

determination will either recommend against the project, or propose mitigation measures to reduce air quality impacts to acceptable levels.

Additionally, as part of its review process, the CEC must determine that a project conforms to what are called LORS – Local Ordinances, Regulations and Standards. Because a power plant is not a listed use within the Hayward Industrial Zoning District, and the Zoning Ordinance indicates that when a use is not specifically listed, it shall be "assumed that such uses are prohibited unless it is determined ...that the use is similar to and not more objectionable or intensive than the uses listed," the Council is being requested to determine whether the proposed power plant would be in conformance with the Industrial Zoning District.

This area is classified as "Industrial Corridor" in the General Plan and the site is zoned Industrial. The purpose of the Industrial Zoning District is "to provide for and encourage the development of industrial uses in areas suitable for same, and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties." The proposed plant, due to use and storage of 20,000 gallons of a hazardous material, aqueous ammonia, would require a use permit were it processed through the local permitting process. As with other zoning districts, a variety of uses requiring different levels of review and processing are listed as being allowed in the Industrial Zoning District. Generally, more impacting uses require an administrative or conditional use permit, which allows discretion on the part of the City decision-makers in determining whether or not a use is appropriate. As reflected in the purpose of the district, location is a key consideration in that determination.

Exhibit A shows the proximity of the proposed plant to residential and educational facilities in the area, as well as nursing homes and childcare/preschool facilities. The nearest residence is approximately 1,100 feet to the northeast, with the 293 unit Waterford Apartment complex located some 1,800 feet away. The Life Chiropractic College is located directly across Clawiter Road from the plant site, and Ochoa Middle School and Eden Gardens Elementary located approximately roughly a half-mile away at 3,000 and 3,500 feet, respectively. It is staff's opinion that the proposed power plant is not consistent with the purpose of the Industrial (I) Zoning District in that it would result in a facility that would not "promote a desirable and attractive working environment with a minimum of detriment to surrounding properties," because it would have the potential to generate air quality impacts related to particulate matter, nitrogen oxides and ammonia emissions and would entail fourteen 70-foot tall venting stacks, which would not be compatible with the heights of other structures in the vicinity.

Additionally, staff would suggest that the facility would impair the character and integrity of the zoning district and surrounding area with the introduction of highly visible 70-foot tall venting stacks, which would be seen from residential areas to the east and would be incompatible with the heights of existing facilities in the area. An oblique aerial view visual simulation of the proposed plant and stacks is provided in an attachment to the attached Planning Commission agenda report.

Also, the proposed power plant could be detrimental to the public health, safety, or general welfare due to the potential for air quality and hazardous materials impacts related to the use and transport of aqueous ammonia and emission of particulate matter, ammonia and nitrogen oxides. Although air quality impact analysis is ongoing by both CEC and BAAQMD staff, CEC staff

have requested additional information from the applicant and have expressed concerns with air quality impacts associated with particulate matter and ammonia emissions and with the applicant's air quality modeling analysis.

It is staff's opinion that the proposed power plant would also not be in harmony with applicable General Plan policies that seek to "promote and protect the appearance of the Business and Technology Corridor to encourage quality development" in that the 6.2-acre site proposed for the power plant is near the eastern edge of the industrial area of the City abutting residential areas that would be more appropriately developed with businesses that have less potential for air quality impacts and that would be more compatible with the fringe of residential areas. Such businesses include those of emerging and higher technology industries that tend to cluster and generate higher paying jobs. Such jobs and businesses are strongly supported by the Economic Development Chapter of the General Plan, which encourages the City to establish policies and strategies that, "support economic growth...maintain a healthy balance between economic growth and environmental quality...encourage businesses that create permanent, higher wage jobs to locate and/or expand in Hayward..."

Also, such uses would have more employees than the expected 15-20 employees anticipated for operation of the plant. The proposed site would be more appropriately used for a business with a higher employee count that would be served by the direct connection along Clawiter Road to State Route 92, an intersection planned for upgrades as stated in the General Plan.

PLANNING COMMISSION ACTION:

As reflected in the attached draft meeting minutes, the Planning Commission voted 3-3-1 regarding consistency and therefore, did not make a recommendation to the City Council. Commissioners against the project acknowledged concerns expressed by area residents and opinned that the plant was proposed in an inappropriate location, given the proximity of the site to residents, schools and other sensitive receptors and given potential impacts of the plant, especially related to air quality and visual issues. Those three Commissioners also felt that the plant would not guarantee additional electrical power specifically for Hayward, that Hayward should not be burdened with an additional power plant and that other Bay Area cities should "do their fair share" and accommodate this plant. Acknowledging environmental issues needed to be carefully analyzed, the three Commissioners in support of the proposed plant sided with those in the business community who voiced support for the plant at the hearing, with Commissioners noting that the plant was a similar use to the Russell City Energy Center, a larger power plant that was determined in 2001 by the City to be consistent with the Industrial Zoning District.

APPLICANT'S SUBMITTAL:

Exhibit D is a submittal from the applicant's legal counsel, Jane Luckhardt of Downey Brand, LLP, which was distributed to the Planning Commissioners at the February 15 public hearing. Ms. Luckhardt states in her letter that the City previously determined that the Russell City Energy Center, another power plant, was a "manufacturing" use and determined to be consistent with the Industrial Zoning District and therefore, the Eastshore Energy Center, also proposed as a power plant, should also be determined to be consistent with the zoning classification. Also, the

attachment argues that analysis should be done regarding whether the proposed project is more objectionable or intensive than other uses listed as allowed, rather than of the project's location or individual environmental effects. Ms. Luckhardt indicates that there is no evaluation to support the implication that visual and hazardous materials impacts would make the project inconsistent with the Zoning Ordinance and General Plan. Finally, the letter argues that the proposed project would be consistent with General Plan policies in that it would attract desired businesses, such as those associated with the computer and electronics industries.

Staff would respond that location was a consideration when the Russell City Energy Center (RCEC) determination was made. In fact, the resolution adopted with such determination referenced the Rohm and Haas chemical plant, located in the western portion of the Industrial District, further away from residential areas. Also, although no specific analysis has been done, it is clear to staff that the 70-foot tall stacks would be visible from residential areas and inconsistent with the heights of structures in the area. Issues related to air quality impacts are still being analyzed and, given the amount of data requests from the CEC staff and the BAAQMD, concerns with potential impacts associated with proposed use of hazardous materials are worthy of consideration in the context of determining whether a use is "more objectionable or intensive" than other allowed uses. Therefore, for the reasons outlined in this report and in the attached resolution, staff cannot recommend that the project be determined to be consistent with the Industrial Zoning District.

PUBLIC NOTICE:

On February 23, nearly 650 notices of this hearing were sent to owners of properties not only within the required 300 feet radius to the subject site, but also to owners of properties within an expanded area that includes residential properties along Depot Road and to the tenants of the 293-unit Waterford Apartment complex along Depot Road. Notices were also sent to interested parties and the applicant. Also, notice was published in the local newspaper on February 24.

Prepared by:

David Rizk

David Rizk, AICP
Planning Manager

Recommended by:

Margot Bartlett for

Susan J. Daluddung, Ph.D.
Director of Community and Economic Development

DUE TO THE COLOR OF THE

ATTACHMENTS, THEY HAVE BEEN

INCLUDED AS SEPARATE LINKS

CITY OF HAYWARD
AGENDA REPORT

Meeting Date 02/15/07
Agenda 1

TO: Planning Commission

FROM: Planning Manager

SUBJECT: Request by Eastshore Energy, LLC, for the City of Hayward to make a determination that a proposed 115 megawatt power plant (Eastshore Energy Center) proposed at 25101 Clawiter Road is consistent with General Plan policies and the Industrial Zoning District

RECOMMENDATION:

It is recommended that the Planning Commission recommend to the City Council that the Eastshore Energy Center is not consistent with the General Plan or the Industrial Zoning District.

DISCUSSION:

Summary of Process

The authority to license power plants in California that generate more then 50 megawatts of power rests with the California Energy Commission (CEC). The CEC is currently processing an application for this power plant, which was submitted by Tierra Energy in September of 2006. The CEC is scheduled to make a final determination on licensing this plant in November of this year, and construction is expected to begin in early 2008 and last for approximately 18 months. The plant is scheduled to begin full operation in late spring of 2009. On January 29, CEC staff conducted an informational workshop, site visit and hearing, and is continuing to receive and respond to information submitted by the applicant and the public, and will continue to process the application request during the next several months. At this point in the review process, City staff is seeking direction as to whether the Eastshore Energy Center power plant at the proposed site is consistent with the Industrial District of the Zoning Ordinance and applicable General Plan policies.

As part of the licensing process, the CEC must determine that a project conforms to what are called LORS – Local Ordinances, Regulations and Standards. Because a power plant is not a listed use within the Hayward Industrial Zoning District, and the Zoning Ordinance indicates that when a use is not specifically listed, it shall be "assumed that such uses are prohibited unless it is determined …that the use is similar to and not more objectionable or intensive than the uses listed," the Commission is being requested to

make a recommendation to the City Council regarding the proposed project's conformance with the General Plan policies and Industrial Zoning District designation.

The CEC is also processing a request from Calpine to amend their license approved in September of 2002, for the 600 megawatt Russell City Energy Center (RCEC), proposed at the end of Enterprise Avenue in Hayward. The amendment essentially entails a relocation of the proposed site approximately 1,300 feet to the northwest, resulting in a project site partially on the City's wastewater treatment facility site and partially on private property off Depot Road. The City Council in 2001, upon a recommendation from the Planning Commission, determined that the RCEC at its proposed location was consistent with a "Manufacturing" use, which is a permitted primary use listed in the Industrial Zoning District. Such determination was based largely on a determination that the RCEC power plant at that location was "similar to other existing uses in the Industrial District, such as the production of chemicals at the Rohm & Hass, Inc., plant," which is located to the southeast of that previously proposed site.

Attachment A is a map that shows the location of the proposed Eastshore Energy Center, as well as the previously and currently proposed locations of the Russell City Energy Center, along with distances from the EEC to residential and educational facilities and areas.

Project Description

A summary of the proposed power plant is attached, which includes sections from the full application packet that describe the project and summarize environmental impacts issues. The gas-fired intermediate/peaking power plant is to be utilized during periods of high demand, expected more frequently during the hotter, summer months. The project would entail construction of a 36-foot tall main building measuring approximately 30,000 square feet that would house 14 generators. Fourteen approximately 70-foot tall engine stacks would be located by the generator systems adjacent to the main building. Two radiator banks/shelters, each approximately 185 feet long and 20 feet tall, would be located along the north side of the property by the plant stacks, and a 115 kV electrical switchyard and related facilities would be located in the front of the site. Two, 10,000-gallon aqueous ammonia tanks would be located to the rear of the building. The ammonia, a regulated hazardous material, would be trucked to the site and stored in tanks to be used in the gas-burning process to reduce noxious oxide emissions. Also proposed would be approximately 1.1 miles of 115 kV transmission lines along Clawiter Road that would cross State Highway 92 and connect to the PG&E Eastshore Substation. The power lines, including existing 12 kV power lines, would be supported by new, 90-foot tall transmission poles. A temporary construction laydown and parking area immediately across Clawiter Road on the northern portion of the Berkeley Farms site is also proposed.

The use of the power generated by the facility, equal to demand of 95,000 homes, would be for the San Francisco Bay area and determined by the State in coordination with PG&E through its Power Purchase Agreement with Tierra Energy.

Promoting Knowledge-Based Industries

Changes in development activity have had an impact on Hayward's Industrial Corridor with resulting new industries. This transition is reflected in the growth in employment in certain job sectors. A report issued in 2000 by the Bay Area Economic Forum, *Leading the Transition to a Knowledge-Based Economy,* focused on those industry clusters that drive innovation, economic growth, and job generation in the region. An industry cluster is a group of businesses that tend to locate and grow in close relation to one another. By examining these clusters, researchers can anticipate growth and contractions in a regional economy.

In the Bay Area, the knowledge-based industry clusters consist of the computer and electronics industry, telecommunications, multimedia, movie/TV production, biotechnology, environmental technology, and travel and tourism. The number of Bay Area jobs in these clusters is projected to grow by 59 percent between 1995 and 2020, as compared to 45 percent for all jobs in the region. In Hayward, high value jobs that are technology related are limited compared to neighboring cities.

Given the physical and operational characteristics of a power plant, staff is concerned with the proposed location of the Eastshore Energy Center, because it may represent a deterrent to future knowledge or technology-based industries locating in this area of Hayward. Associated with this concern, many of the biotechnology firms in Hayward are concentrated in the areas in the vicinity of the Clawiter Road and Industrial Boulevard corridors, particularly in areas in close proximity to Highway 92.

Relevant policies and objectives from the General Plan are found in the Economic Development Chapter, and are noted below:

2. **Create a sound local economy that attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues.**
   5. Ensure that an adequate supply of land is zoned for industrial and business park uses; limit uses that would erode the integrity of the Business and Technology Corridor.
   7. Promote and protect the appearance of the Business and Technology Corridor to encourage quality development.

Zoning and General Plan Consistency

This area is classified as "Industrial Corridor" in the General Plan and the site is zoned Industrial. The purpose of the Industrial Zoning District is "to provide for and encourage the development of industrial uses in areas suitable for same, and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties." As with other zoning districts, a variety of uses requiring different levels of review and processing are listed as being allowed in the Industrial Zoning District. Generally, more impacting uses require an administrative or conditional use permit, which allows discretion on the part of the City decision-makers in determining whether

or not a use is appropriate. As reflected in the purpose of the district, location is a key consideration in that determination.

A determination relative to conformity is being requested as to whether the proposed Eastshore Energy Center (EEC) at this location is consistent with the General Plan policies and the uses that would be allowed at this location in the Industrial Zoning District. The proposed plant, due to the presence and amount of on-site storage and use of aqueous ammonia, would require an administrative use permit were it processed through the local permitting process. Also, a project of this magnitude would typically be referred to the Planning Commission for consideration. Such process would allow City decision-makers to determine whether the plant would be desirable for the public convenience or welfare, whether it would impair the integrity and character of the surrounding area and whether the use would be in harmony with applicable City policies. Attachment A shows the proximity of the proposed plant to residential and educational facilities in the area. The nearest residence is approximately 1,100 feet to the northeast, with the 293 unit Waterford Apartment complex located some 1,800 feet away. The Life Chiropractic College is located directly across Clawiter Road from the plant site, and Ochoa Middle School and Eden Gardens Elementary located approximately roughly a half-mile away at 3,000 and 3,500 feet, respectively.

Staff would suggest that the facility at this location is not consistent with the City policies and would be more appropriately sited further west in the Industrial Corridor, where more traditional, greater-impacting industrial uses are more common.

Although there are no height limitations in the Industrial Zoning District, staff is also concerned with the visual impacts that the fourteen, 70-foot tall stacks would generate along this eastern section of the Industrial Corridor. The stacks would be visible from various locations throughout the area, including from the residential areas to the east.

Environmental Review

According to the State Law, power plant projects are not subject to the California Environmental Quality Act. Instead, they are subject to a similar process performed by the California Energy Commission (CEC). The CEC reviews every aspect of the project, conducts numerous hearings, and determines what the various potential impacts of the project may be. The review areas include, but are not limited to: Environmental Information, Air Quality, Biological Resources, Cultural Resources, Land Use, Noise, Public Health, Worker Health and Safety, Socioeconomics, Agriculture and Soils, Traffic and Transportation, Visual Resources, Hazardous Materials Handling, Waste Management, Water Resources, Geologic Hazards and Resources, Paleontological Resources and Alternative Sites Analyses. As part of the review process, which will continue for the next several months until the decision hearing before the California Energy Commission, there will be public hearings and community meetings to facilitate the public input.

As mentioned previously, a series of meetings was held recently, including a data response/issue resolution workshop, which was attended by City staff. Members of the

CEC staff summarized concerns and responses to various environmental topic areas, including those related to air quality. A member of the Bay Area Air Quality Management District staff was also present at the workshop. City staff will continue to closely monitor the process and provide input to CEC staff related to areas of concern.

As indicated in the attached letter to CEC staff, City staff has already relayed concerns associated with a variety of issues, including cumulative impact and alternative sites analyses, given another power plant is proposed in Hayward. Staff feels alternative site location criteria were identified in the application without setting a foundation or providing background information for such analysis. For example, no alternative sites were identified outside Hayward, including near the Fremont PG&E substation, nor was there included a detailed analysis why a minimum six-acre site is required. All six of the alternative sites identified in the application are located further from residential areas than is the proposed site. Those six sites are PG&E land adjacent to PG&E's Eastshore Substation, a private "pallet" yard property located west of the proposed site near the west end of Depot Road, the City's wastewater treatment facility site along Enterprise Avenue and three industrial/commercial buildings/storage yard sites (located along Depot Road, at 26599 Corporate Avenue and at 26460 Corporate Avenue).

Staff will continue to work with CEC staff to ensure concerns are addressed throughout the application review process.

PUBLIC NOTICE:

Notice of this hearing was sent to property owners within 300 feet of the subject site and to the applicant on February 5 and published in the local newspaper on February 7. Also, notices were sent to owners of residential properties along Depot Road, including to the tenants of the 293-unit Waterford Apartment complex.

CONCLUSION:

In staff's opinion, the use at the proposed location is not in conformity with the policies and purpose of the General Plan and the uses that would be allowed at this site in the Industrial Zoning District, for the reasons outlined in this report.

Prepared by:

David Rizk

David Rizk, AICP
Planning Manager

Attachments:

Attachment A:	Area map
Attachment B:	Excerpts from information packet from project proponent
Attachment C:	Letter from Hayward City Manager to CEC staff

DUE TO THE COLOR OF THE

ATTACHMENTS, THEY HAVE BEEN

INCLUDED AS SEPARATE LINKS

City of Hayward Application for a Development Permit

Eastshore Energy Center

Submitted by:

Eastshore Energy, LLC

November 1, 2006

CH2MHILL

155 Grand Avenue, Suite 1000
Oakland, California 94612

ATTACHMENT B

Contents

Section 1.0 Introduction

Eastshore Energy has had several meetings during the course of 2006 with the City Manager of Hayward to discuss aspects of the proposed power project at 25101 Clawiter Road. This document is being submitted as a request from the City Manager of the City of Hayward, California at a meeting held on July 12th, 2006. The document is being submitted to provide specific information responses to the requirements of the City of Hayward Development Permit Application.

The information is organized consistent with the order of the Development Application Instructions. As the City is aware, the Eastshore Energy Center is subject to the jurisdiction of the California Energy Commission (CEC). The CEC review process incorporates an evaluation of all applicable laws, ordinances, regulations and standards (LORS), including City of Hayward requirements. An Application for Certification (AFC) was submitted to the CEC on September 22, 2006. If a certification license is granted by the CEC, all other State and local requirements will be incorporated in the license as conditions of certification.

This document is intended to provide an overview of the Eastshore LLC's expected compliance with City of Hayward Development Application requirements by including narrative discussions or figures from the AFC to address the application requirements. All referenced figures from the Eastshore Energy AFC have been attached to this document. As part of this submittal, Eastshore Energy, LLC has also attached a copy of the Eastshore Energy Center AFC, Volumes 1 and 2. The AFC and associated appendices provide additional project information not included in this submittal. As part of the CEC licensing process, engineering design has been performed for a permit level of detail only, and it is expected that additional project details will be performed during final design. As additional details are developed, Eastshore Energy, LLC will supply the appropriate information to the City. It is expected that the final engineering design drawings and plans will be submitted for review to the Chief Building Official following issuance of the CEC license.

CITY OF HAYWARD
PLANNING DIVISION
APPLICATION FOR A DEVELOPMENT PERMIT

777 B STREET, HAYWARD, CA 94541-5007
(510) 583-4200 ♦ TDD (510) 247-3340 ♦ FAX (510) 583-3649

APPLICATION NUMBER	
TYPE	
TAKEN BY	
DATE	

INITIAL FEE	
ADDITIONAL TIME & MATERIAL CHARGES NOT TO EXCEED	
See Note 1	

APPLICANT(S) Trewitt (LAST NAME) Greg (FIRST NAME)

COMPANY NAME (IF APPLICABLE) Eastshore Energy, LLC

STREET 710 S. Pearl Street

CITY Denver STATE CO ZIP CODE 80209 PHONE NO. 303-722-0450

FAX NO 303-722-0103 E-MAIL Greg.Trewitt@Tierraenergy.com CELL PHONE 303-909-8408

APPLICANT'S INTEREST IN PROPERTY: ☒OWNER ☐LESSEE ☐OPTIONEE ☐OTHER

INVOICES TO BE DIRECTED TO: X☐OWNER ☐APPLICANT ☐OTHER
(Please provide address if other, see note 2)

PROPERTY OWNER(S) Trewitt (LAST NAME) Greg (FIRST NAME) PHONE NO. 303-722-0450

STREET 710 S. Pearl Street CITY Denver STATE CO ZIP CODE 80209

FAX NO. 303-722-0103 E-MAIL Greg.Trewitt@Tierraenergy.com CELL PHONE 303-909-8408

TYPE OF PERMIT(S): ☐SITE PLAN REVIEW ☐GENERAL PLAN AMEND. ☐PARCEL MAP ☐TRACT MAP ☐VARIANCE

☒USE PERMIT ☐ADMIN. USE PERMIT ☐ZONE CHANGE FROM ____ TO ____ ☐OTHER

PROJECT ADDRESS/LOCATION 25101 Clawiter Road, Hayward, CA 94545

ASSESSOR'S MAP NO. 439-075-180(plantsite) 439-080-010 (const. laydown area) **ZONING DISTRICT(s)** Indus

PROJECT DESCRIPTION (attach additional sheets if necessary)

construction and operation of a high efficiency, nominal115.5 MW intermediate/peaking natural gas-fired power generation facility.

I HEREBY CERTIFY THAT I AM THE OWNER OF RECORD OF THE PROPERTY DESCRIBED ABOVE AND, FURTHER THAT I APPROVE OF THE PROPOSED USE CONTAINED HEREIN. SEE NOTE 2.

OWNER SIGNATURE X [signature] See Note 2

I HEREBY STATE THAT THE FOREGOING STATEMENTS AND ANSWERS AND ALL DATA, INFORMATION AND EVIDENCE SUBMITTED HEREWITH ARE IN ALL RESPECTS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE AND CORRECT.

APPLICANT SIGNATURE X [signature]

STAFF REMARKS

THIS IS YOUR RECEIPT WHEN MACHINE VALIDATED

NOTE 1: FEES ARE NOT REFUNDABLE AND PAYMENT IN NO WAY GUARANTEES APPROVAL OF APPLICATION.
NOTE 2: THE OWNER IS RESPONSIBLE FOR PAYING ALL TIME AND MATERIAL CHARGES.

[redacted]

Pink – Applicant Goldenrod - Accounting

ATTACHMENT A

FIRE DEPARTMENT QUESTIONNAIRE

Business Name: Eastshore Energy, LLC Site Address: 25101 Clawiter Road

Please check the appropriate spaces below:

1. **Will any of the following processes occur in this facility?**

- ☒ Combustible fiber, generation or storage
- ☐ Dry cleaning
- ☐ Dry ovens
- ☐ Electroplating
- ☐ Laboratory facility
- ☐ Liquefied petroleum gas storage
- ☐ Semi-conductor fabrication
- ☐ Spray painting
- ☐ Tire recapping or storage
- ☐ Welding
- ☐ Wood-working shop
- ☐ Vehicle repair

- ☐ Rack or pallet storage over 12 feet in height
- ☒ Free standing storage over 15 feet in height
- ☐ Area of storage over 1000 square feet

2. **Will your business store, transport, or handle any of the following?**

- ☒ Acutely Hazardous Materials
- ☒ Carcinogens
- ☐ Combustible liquids
- ☒ Compressed gasses
- ☒ Corrosives
- ☐ Cryogens
- ☐ Explosives
- ☐ Fertilizer
- ☒ Flammable gases
- ☒ Flammable liquids
- ☐ Flammable solids
- ☒ Hazardous waste
- ☐ Highly toxic material
- ☐ Irritants
- ☐ Organic coating
- ☐ Organic peroxide
- ☐ Oxidizers
- ☐ Radioactive material
- ☐ Reactive materials
- ☐ Pesticides
- ☐ Poisonous gases/liquids
- ☐ Pyrophoric
- ☐ Sensitizers
- ☒ Solvents
- ☒ Toxic materials
- ☐ Unstable materials
- ☐ Water reactive
- ☒ Other health hazards
- ☐ Other regulated materials

3. **Is this project to be constructed on any of the following sites?**

- ☐ Site which is contaminated or possibly contaminated with a hazardous material
- ☐ Former service station site
- ☐ Site which is known to have had underground storage tanks
- ☐ Commercial nursery
- ☒ Former site known to have had a business which used or stored hazardous materials
- ☐ Former site use unknown

Completion of this form should be verified in the Fire Prevention Office. If any boxes in item number 2 are checked, you will need to complete a Chemical Inventory Worksheet Packet. If your business uses water for any purpose other than landscape irrigation and sanitary services (i.e., sinks, toilets, and showers), discharges cooling water of any type into the municipal sewer system, or discharges any wastes other than those from sanitary services into the municipal sewer system or stormwater system, then you are required to contact Wastewater Source Control at 293-8699, for approval.

I have read the above and certify that to the best of my ability, a designated representative of the owner/tenant, the information is true.

GREG TREWITT
Print Name

Signature

VICE President
Title

Oct 31st, 2006
Date

Section 2.0 Plans

A number of figures and plans were developed for the Eastshore Energy AFC. Figures from the AFC have been included in this application to address the requested information. Following each numbered Site Plan requirement, a narrative response is also included to address site plan requirements.

Readers Note: All figure references reflect the figure references in the Eastshore Energy Center AFC.

Section 2.1 Site Plan

1. The parcel(s), including all property lines, adjacent streets to centerline, and/or land uses within 20 feet of the property.

   Refer to Figure 1.2-1 for the project location and adjacent city streets.

   Refer to Figure 1.2-3 for the general site arrangement showing the parcel and property lines.

   Refer to Figures 8.4-1 and 8.4-2 for land use designations and zoning designations within 1-mile from the project site.

2. Location of proposed structure(s) and existing structures to remain. Show distance between buildings and from buildings to property lines (including setbacks for second story if different from ground floor.)

   Refer to Figures 1.2-2A and 1.2-2B for existing site conditions and an artists rendering of Eastshore Energy Center. These figures show the project area and surrounding uses.

   Refer to Figures 1.2-3, 1.2-4A, and 1.2-4B for the site general arrangement and site elevations.

3. Location of proposed and to be retained wall(s) and fences within the site.

   Refer to Figure 1.2-3 for the general site arrangement.

4. Existing and proposed easements, and above- and below-ground utilities (such as fire hydrants, power poles, electrical boxes, etc.) and tanks.

   Refer to Figure 1.2-3 for the general site arrangement.

5. Parking and Traffic Circulation:
   a. Existing and proposed streets on the frontage of and within the development. Include any sidewalks, curbs, curb cuts, striping and medians. Show existing off-site parking restrictions, existing and proposed driveways, bus stops, loading zones, and parking spaces on frontage streets. Show traffic circulation arrows and traffic control signs. Show radii of all curb returns.

      Refer to Figure 1.2-3 for the general site arrangement showing the internal traffic control, circulation, and parking areas. Additional details regarding internal site circulation and parking will be refined during the final design phase of the project.

      Refer to Figure 8.10-2 for local transportation facilities.

      Refer to Figure 8.10-3 and 8.10-4 for existing morning and afternoon peak-hour turning movements.

      No project improvements are planned for Clawiter Road and there will be no changes to the existing site access from Clawiter Road.

b. Dimensioned parking layout - angle of parking, dimensions of stalls, internal driveways and flares, and approaches from streets, aisles, designation of standard and compact car parking stalls, loading spaces, and walkways. (See attachments E and F.)

Refer to Figure 1.2-3 for the general site arrangement showing the parking areas. Additional details regarding internal site parking will be refined during the final design phase of the project.

c. Handicapped parking and access to building(s), if required.

Refer to Figure 1.2-3 for the general site arrangement showing the parking areas. The site arrangement does not identify ADA parking spaces. However, if required, the parking area could be revised to accommodate this requirement.

d. Identify all surface materials.

Site surface materials will be both paving and gravel for the plant site and some areas of limited gravel on the offsite construction laydown area.

6. Location and dimensions of trash/recycle enclosure(s), including identification of materials and/or equipment stored, if any.

Refer to Figure 1.2-3 for the general site arrangement. Additional details regarding trash/recycle enclosure(s) will be refined during the final design phase of the project.

Several hazardous materials, including one regulated substance (aqueous ammonia), will be stored in amounts above the threshold quantity at the generating site during operation. Non regulated hazardous materials include biocide, citric acid, cleaning chemicals/detergents, corrosion inhibitor, diesel no.2, hydraulic oil, lube oil, mineral insulating oil, and sulfuric acid.

Many of the hazardous materials that will be stored onsite are corrosive and are a threat to humans (particularly workers onsite) if inhaled, ingested, or contacted with the skin.

Eastshore will have 19 percent aqueous ammonia solution in two stationary above ground storage tanks. The capacity of each tank will be approximately 10,000 gallons.

The ammonia unloading area will be a bermed area approximately 26 feet by 10 feet by 6 inches.

7. Location and dimensions of group and private usable open space (residential only).

Not applicable.

8. Location and design of signs.

Additional details regarding signs at the entrance of the site along Clawiter Road as well as internal site signs will be refined during the final design phase of the project.

9. Location of existing trees and other natural site features, such as rock outcrops.

Refer to Figures 8.2-1 for regional biological resources, including regional parks, wildlife refuges, and creeks. Refer to Figures 8.4-1 and 8.4-2 for land use designations and

zoning designations within 1-mile from the project site. Refer to Figure 8.9-1 for surrounding soil designations.

10. Location of landscape areas.

    Refer to Figures 8.11-2a through 8.11-2g for landscape character photos surrounding the project site.

11. A "Planning Data Summary" that includes the following information:
    a. Total lot area and percent of lot covered by structures.

       The project will be located on a 6.22-acre industrial parcel, of which 1.59 acres will be covered by structures.

    b. Type of construction and occupancy use of proposed building (from the Uniform Building Code).

       Occupancy will include the following:

       - 14 nominal 8.4-MW (gross) Wartsila 20V34SG natural gas-fired, spark-ignited reciprocating engine-generator sets
       - 14 state-of-the-art air pollution control systems representing best available control technology (BACT), one system per engine, consisting of a selective catalytic reduction (SCR) unit for oxides of nitrogen (NO_x) control and an oxidation catalyst unit for carbon monoxide (CO) and precursor organic compounds (POC) control
       - 14 approximately 70-foot tall stacks, each with a separate continuous emissions monitoring system (CEMS)
       - An acoustically engineered main building enclosing the 14 engines, workshop and control room
       - Closed-loop cooling system consisting of multiple fan-cooled radiator assemblies outside the main engine building
       - Two 10,000-gallon aqueous (19 percent by weight) ammonia storage tanks and handling system serving the SCR units
       - One approximately 35,000-gallon raw water storage tank
       - One nominal 225-kW diesel-fired emergency black start generator
       - Miscellaneous ancillary equipment
       - Onsite water and wastewater service interconnections
       - Onsite 115-kV switchyard, including switchgear and step-up voltage transformers
       - Approximately 1.1 miles of 115-kV, single-circuit transmission line connecting to PG&E's Eastshore Substation

- Approximately 200-foot offsite natural gas line connection to PG&E Line 153
- Chain-link security fencing to enclose the facility, with a secured entrance on Clawiter Road
- A 4.65-acre temporary construction laydown and parking area immediately across Clawiter Road from the Eastshore site

c. Total gross floor area of each structure.

Building Gross Floor Area	Width, ft	Length, ft	SF
Control Room and Offices	88.5	35	3,098
Maintenance Store Room	69.33	34	2,357
Employee Changing Room	16.5	20.5	338
Compressor Room	53.5	22	1,177
Switchgear Room	88.6	34.8	3,083
Engine Hall A	160.9	68.9	11,086
Engine Hall B	164	68.9	11,300
Switchyard Control Building	15	25	375
TOTAL			32,814

The "floor area" does not apply to most of the items above (i.e., Compressor Room, Switchgear Room, Engine Hall A, Engine Hall B, and Switchyard Control Building). Floor area only applies to the those portions of engine hall considered "habitable", including the control room and associated office space on the second floor and the maintenance shop area on the first floor. The gross floor area is 5,793 square feet.

d. Minimum number of parking spaces required, and number and type proposed, both open and covered. (Contact a planner at 583-4200 for requirement.)

As discussed above, the total square footage for habitable space (i.e., Control Room, Office, Maintenance Store Room, and Employee Changing Room) is 5,793 square feet. Using this square footage, 12 parking spaces are required. Six stripped parking spots are currently shown on the general site arrangement (Figure 1.2-3) and are intended to cover shift workers. Additional parking can be accommodated between the radiators on the north side of the facility and this will be refined during the final design phase of the project.

e. For residential development only:

- Density is the square feet of lot area per dwelling unit. Show maximum allowed by ordinance and what is proposed;

  Not applicable.

- Total square feet of private and group usable open space required and proposed) for multi-family residential development.

  Not applicable.

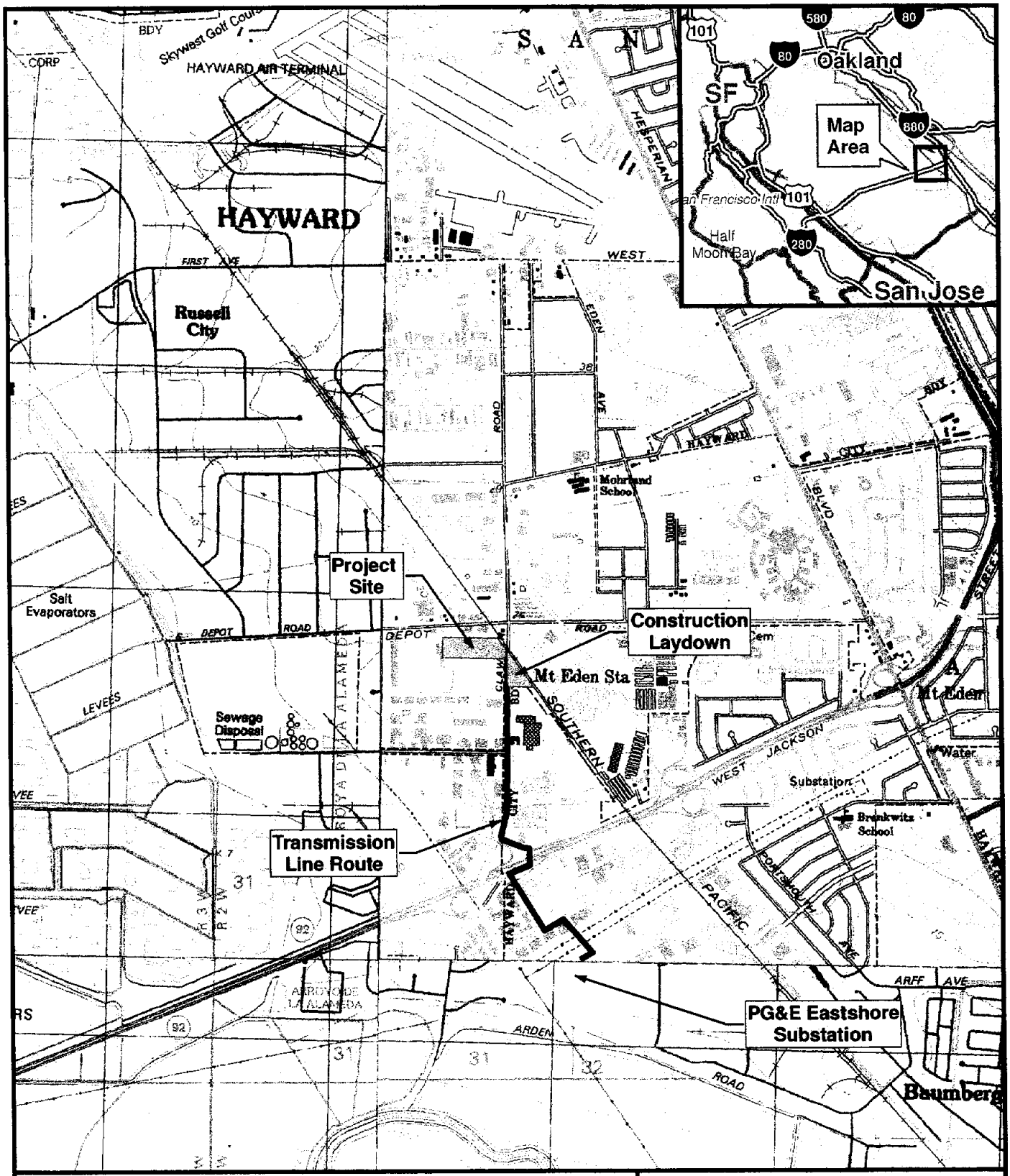


FIGURE 1.2-1
PROJECT LOCATION
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA

CH2MHILL

DUE TO THE COLOR OF THE

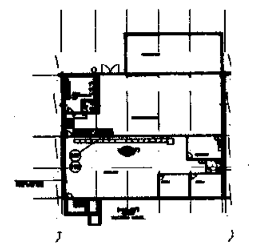
ATTACHMENTS, THEY HAVE BEEN

INCLUDED AS SEPARATE LINKS

ENGINE HALL & UTILITY BLOCK							
ITEM NO	PCS.	CODE (FIRST)	DESCRIPTION	WEIGHT INCL. LIQUIDS KG	LB	MOUNTING LEVEL MILLM.	(FLR LEVEL) INCH
1	14	[illegible]	ENGINE GENERATOR SET	134700	[illegible]	+0.000	0'-0"
4	14	[illegible]	AUXILIARY MODULE	4200	[illegible]	+0.000	0'-0"
17	14	[illegible]	GAS REGULATING UNIT	200	440	+0.000	0'-0"
60	2	[illegible]	STARTING AIR UNIT	670	1477	+0.000	0'-0"
62	2	[illegible]	STARTING AIR UNIT	710	[illegible]	+0.000	0'-0"
63	4	[illegible]	STARTING AIR BOTTLE [illegible] GAL	[illegible]	[illegible]	+0.000	0'-0"
70	2	[illegible]	MAINTENANCE WATER TANK [illegible] GAL	[illegible]	10890	+0.000	0'-0"
72	14	[illegible]	EXPANSION VESSEL [illegible]	775	[illegible]	[illegible]	[illegible]
80	14	[illegible]	CHARGE AIR FILTER	[illegible]	[illegible]	[illegible]	[illegible]
82	14	-	CHARGE AIR & EXHAUST GAS MODULE	3000	[illegible]	[illegible]	11'-7"
93	14	[illegible]	EXHAUST GAS VENTILATION UNIT	[illegible]	121	[illegible]	[illegible]
104	14	[illegible]	BOOSTER UNIT	-	-	+0.000	0'-0"
108	14	[illegible]	NOX CONTROLLER	-	-	+0.000	0'-0"
182	18	-	MV SWITCHGEAR	-	-	+0.000	0'-0"
183	14	[illegible]	NEUTRAL GROUNDING RESISTOR	-	-	+0.000	0'-0"
185	-	[illegible]	DC-SYSTEM	-	-	+0.000	0'-0"
186	-	[illegible]	LV SWITCHGEAR	-	-	+0.000	0'-0"
[illegible]	2	[illegible]	STATION SERVICE TRANSFORMER	-	-	+0.000	0'-0"
[illegible]	4	[illegible]	CONTROL PANEL, COMMON	-	-	+0.000	0'-0"
197	14	[illegible]	CONTROL PANEL, ENGINE WISE	-	-	+0.000	0'-0"
210	14	-	VENTILATION UNIT (ENGINEHALL)	2000	4409	-	-
215	14	-	FREQUENCY CONVERTER	-	-	-	-
230			225 KW BLACK START GENSET				

MECHANICAL UTILITY AREA							
ITEM NO	PCS.	CODE (FIRST)	DESCRIPTION	WEIGHT INCL. LIQUIDS KG	LBS	MOUNTING LEVEL MILLM.	INCH.
71	42	-	RADIATORS LOW-LOW NOISE RADIATORS	-	-	-	-
90	14	[illegible]	EXHAUST GAS SILENCER	5200	11464	+5.580	+22'-5"
94	34	[illegible]	RUPTURE DISC	-	-	-	-
103	14	-	DENOX (SCR)	14000	30864	+5.580	+22'-5"
170	1	-	RAW WATER TANK 35,000 GAL	-	-	-	-
172	1	-	FIRE FIGHTING CONTAINER	-	-	-	-
181	2	BET	STEP-UP TRANSFORMER	-	-	-	-
				-	-	-	-

DAY / STORAGE TANK / UNLOADING AREA							
ITEM NO	PCS.	CODE (FIRST)	DESCRIPTION	WEIGHT INCL. LIQUIDS KG	LBS	MOUNTING LEVEL MILLM.	INCH.
40	1	[illegible]	LO UNLOADING PUMP UNIT (CLEAN)	-	-	-	-
42	1	[illegible]	CLEAN LO TANK [illegible] GAL	-	-	-	-
43	2	[illegible]	USED/SERVICE LO TANK [illegible] GAL	-	-	-	-
44	2	[illegible]	LO TRANSFER PUMP UNIT	-	-	-	-
105	2	-	SCR REAGENT TANK 10,000 GAL	-	-	-	-
145	1	[illegible]	DIRTY WATER HOLDING TANK [illegible] GAL	-	-	-	-



BUILDING SECOND FLOOR PLAN

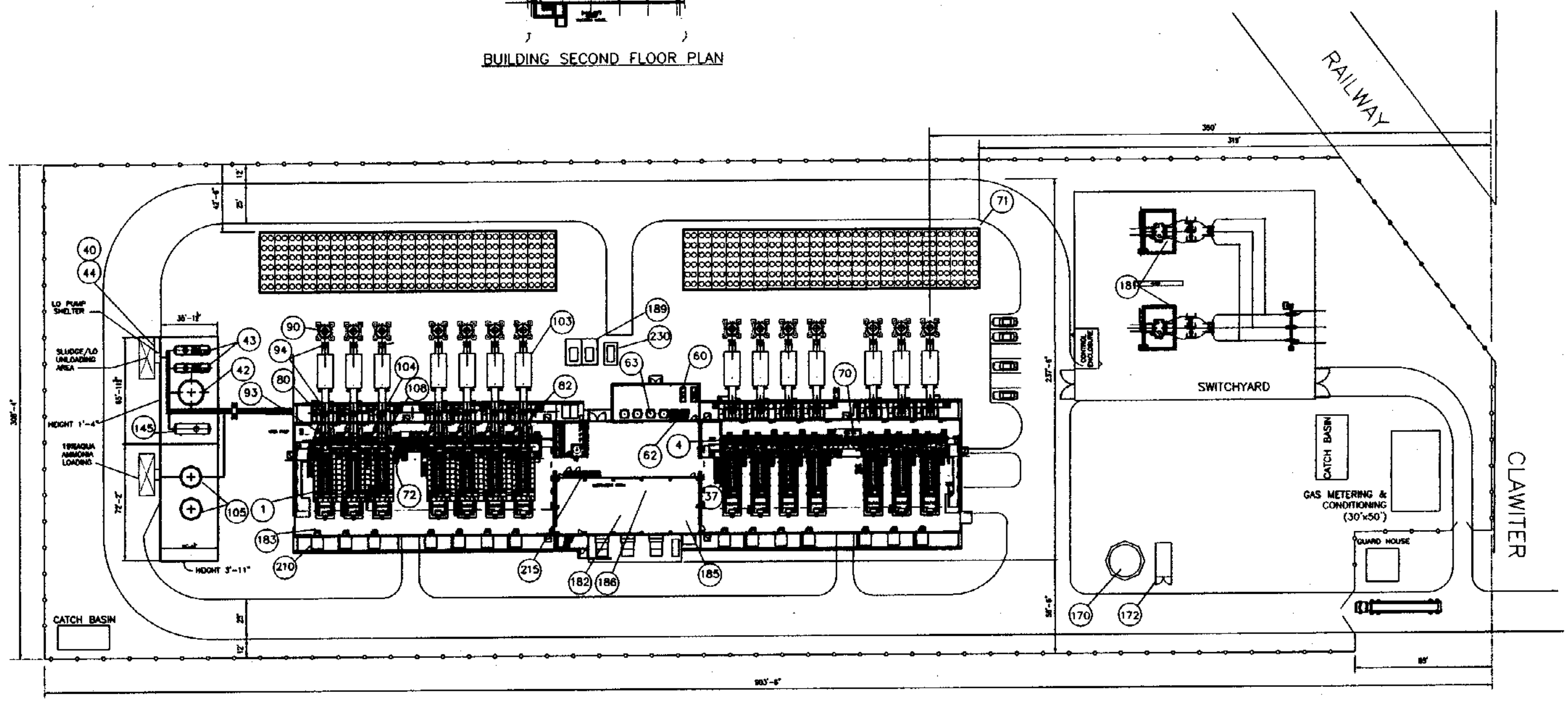
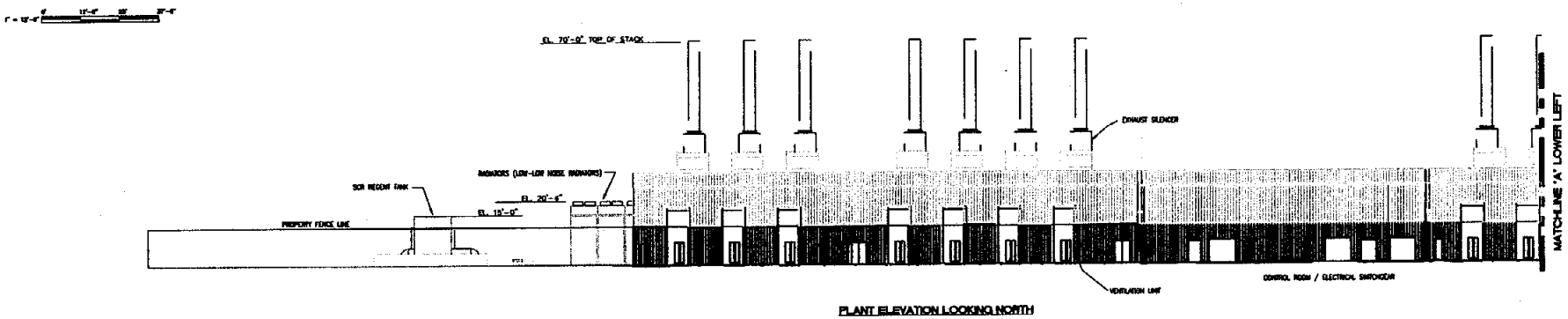


FIGURE 1.2-3
SITE GENERAL ARRANGEMENT
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA
ALAMEDA COUNTY

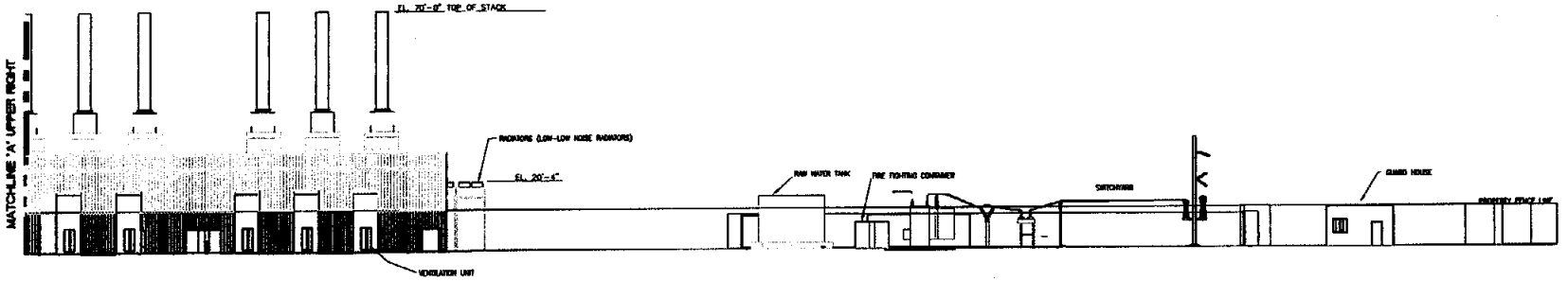
Stantec

CH2MHILL

ES072006008BAO Fig 1.2-3 Site General Arrangement 08-25-06 dash



PLANT ELEVATION LOOKING NORTH



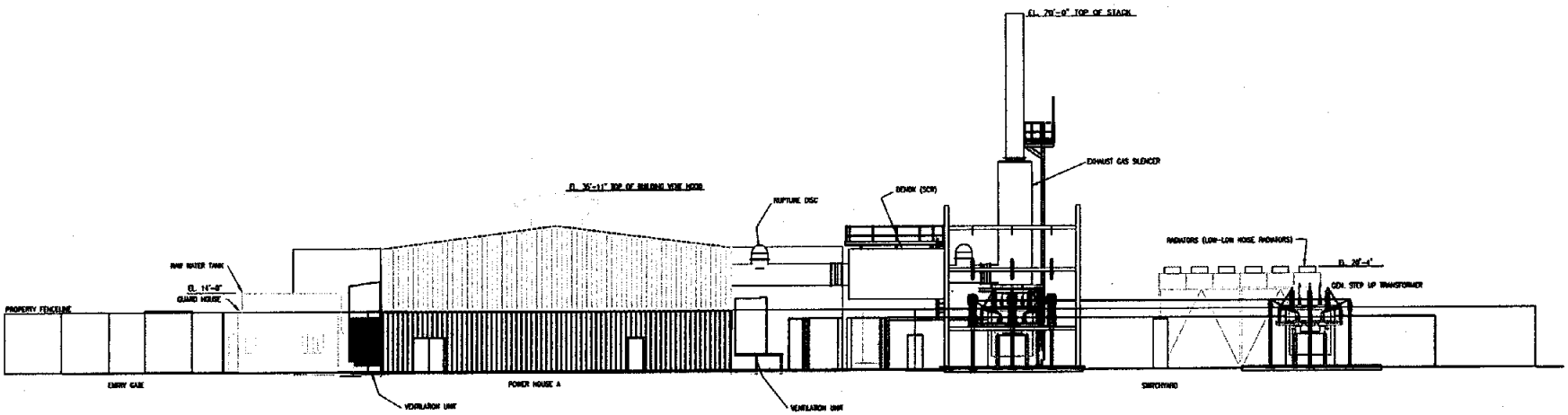
PLANT ELEVATION LOOKING NORTH - CONTINUE

FIGURE 1.2-4A
SITE ELEVATION DRAWING - VIEW LOOKING NORTH
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA
ALAMEDA COUNTY

Stantec

CH2MHILL

ES072006008BAO_Fig 1.2-4a Site Elevation Drawing 08-25-06 dash



PLANT ELEVATION LOOKING WEST

FIGURE 1.2-4B
SITE ELEVATION DRAWING - VIEW LOOKING WEST
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA
ALAMEDA COUNTY

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ES072006006BAO_Fig 1.2-4b Site Elevation Drawing West 08-25-06 dash

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ATTACHMENTS, THEY HAVE BEEN

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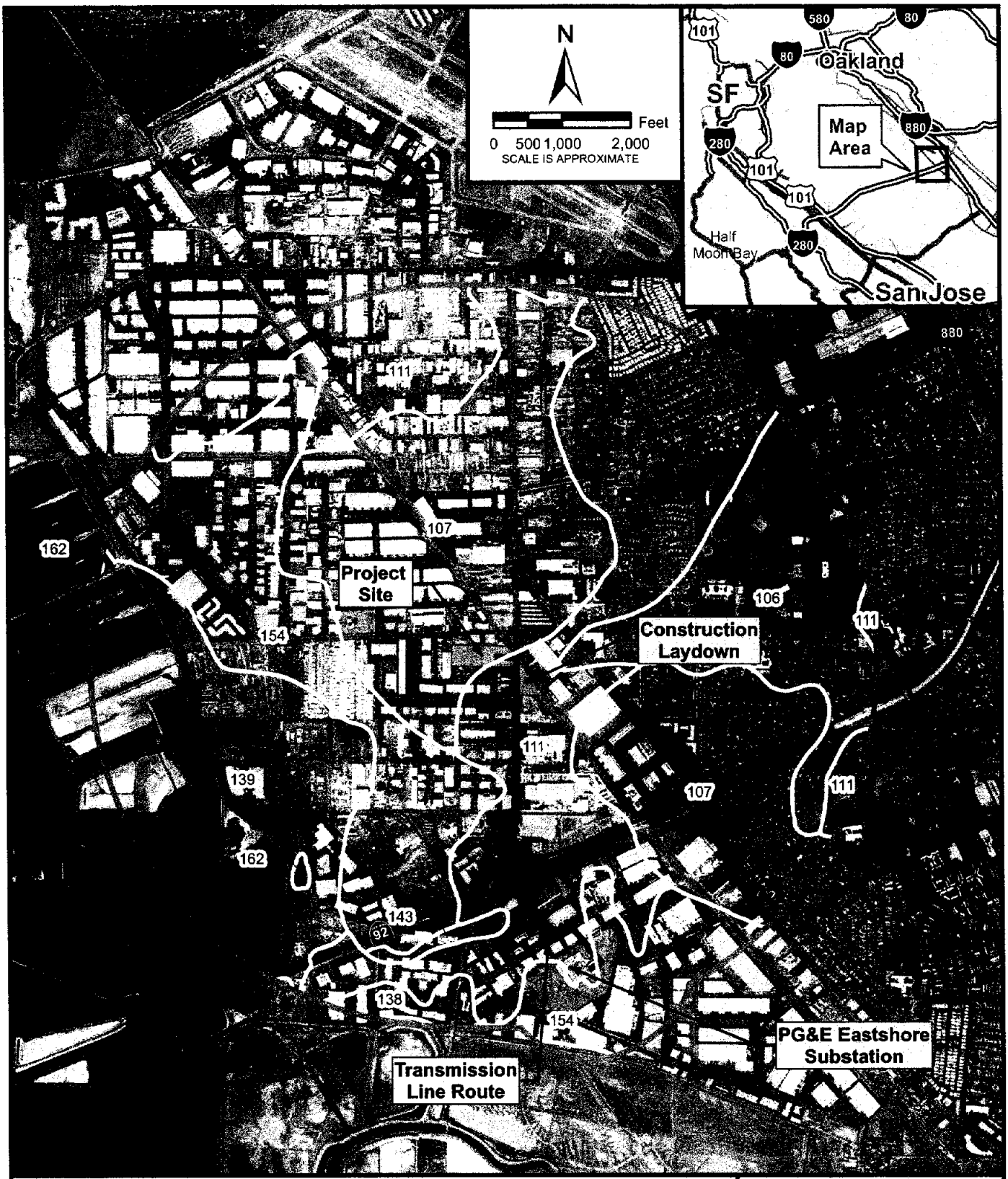

LEGEND

- Site Location
- 1 mile buffer from Project Site Includes 1/4 mile buffer from outlying Transmission Lines
- Soil Map Unit Boundary
- Transmission Line Route

Soil Map Unit Key

106 Botella loam, o to 2 percent slopes
107 Clear Lake clay, 0 to 2 percent slopes, drained
111 Danville silty clay loam, 0 to 2 percent slopes
138 Reyes clay, ponded
139 Reyes clay, drained
143 Sycamore silt loam, drained
154 Willows clay, drained
162 Water

FIGURE 8.9-1
SOILS MAP
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA

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INCLUDED AS SEPARATE LINKS

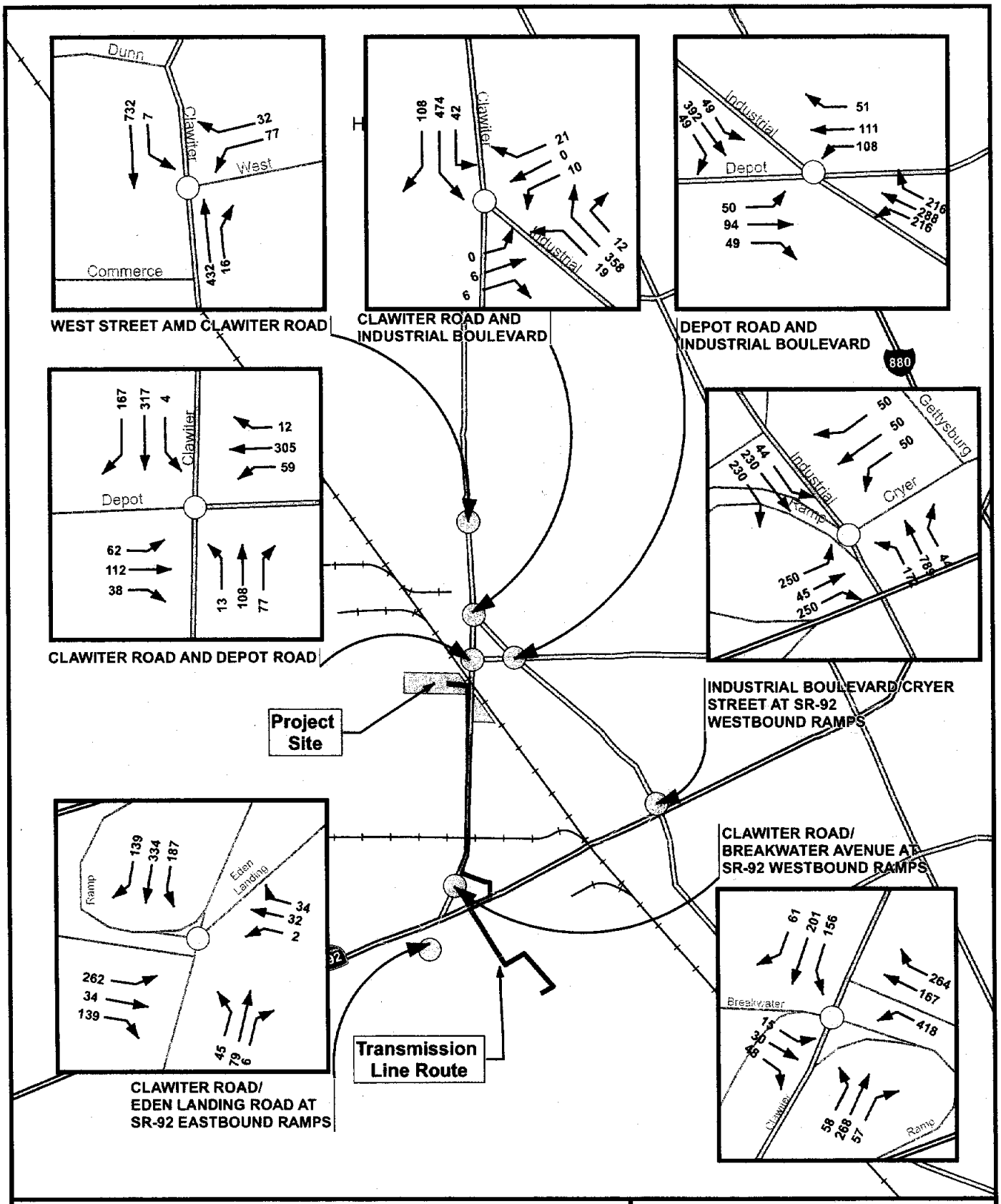


FIGURE 8.10-3
EXISTING
MORNING PEAK-HOUR
TURNING MOVEMENT
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA

CH2MHILL

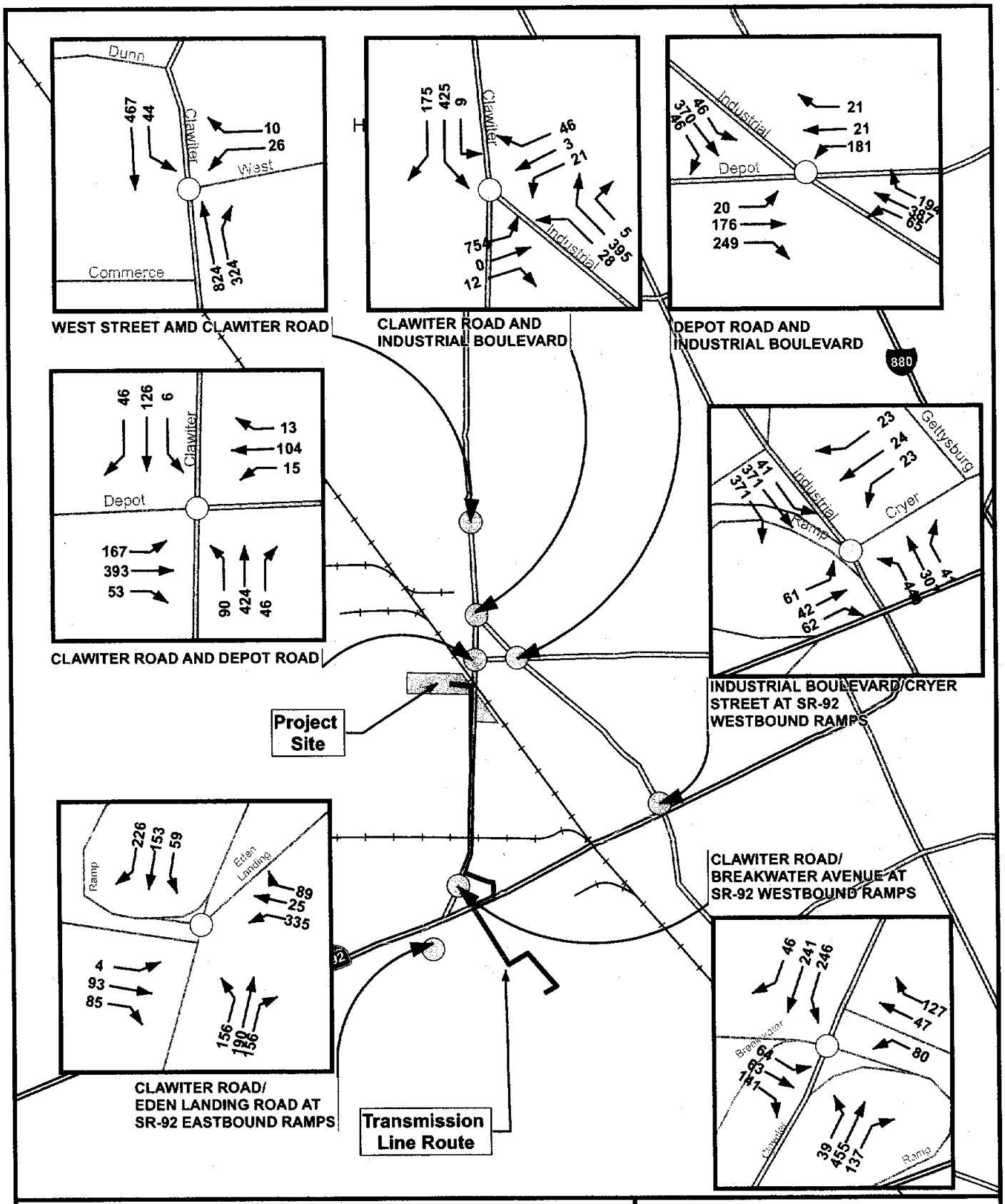


FIGURE 8.10-4
EXISTING AFTERNOON PEAK-HOUR TURNING MOVEMENT
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA

CH2MHILL

DUE TO THE COLOR OF THE

ATTACHMENTS, THEY HAVE BEEN

INCLUDED AS SEPARATE LINKS

Section 2.2 Grading, Utility and Drainage Plan

1. On sloping sites, show existing and proposed grades (i.e., topographical and spot elevations), including grades of abutting properties. Contours may be used. Contours for steep slope are to be drawn at a minimum of 2-foot intervals.

   Refer to Figure 916-C-101, Rev C for the Paving and Drainage Plan. Refer to Figure 916-C-102, Rev A for the Laydown Area - Drainage Plan.

   Refer to Volume 2, Appendix 8.14 of the AFC for Storm Drain Calculations and the SWPPP Overview.

2. Drainage - show by arrows the direction of storm drainage runoff and the existing drainage facility that will receive the runoff, e.g., channel, creek, storm drain, or gutter.

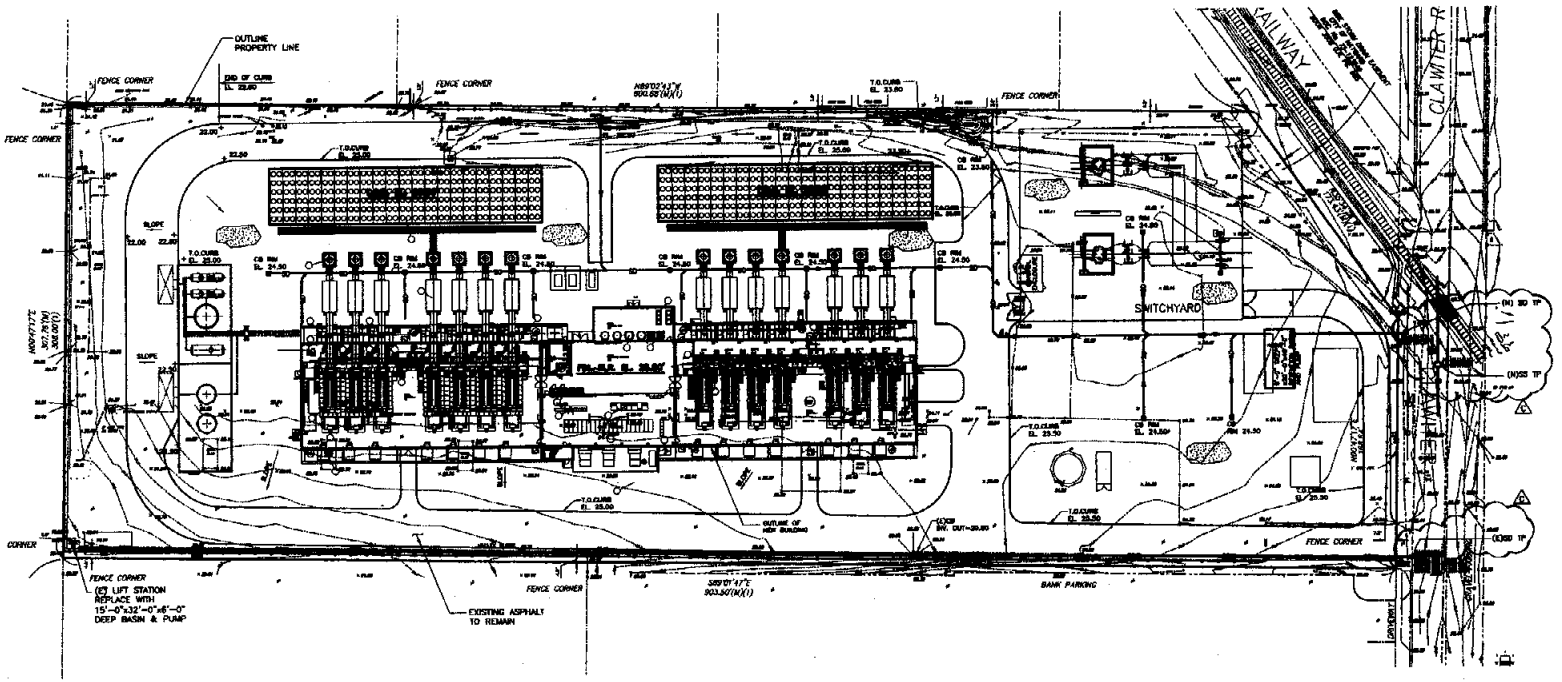
   Refer to Figure 916-C-101, Rev C for the Paving and Drainage Plan. Refer to Figure 916-C-102, Rev A for the Laydown Area - Drainage Plan.

   Refer to Volume 2, Appendix 8.14 of the AFC for Storm Drain Calculations and the SWPPP Overview.

3. Utilities - show the location of transformers, water connections, sanitary sewer, storm lines, telephone/cable television equipment room and service entrance locations, and street and parking lot lighting.

   Refer to Figure 916-C-101, Rev C for the Paving and Drainage Plan. Refer to Figure 916-C-102, Rev A for the Laydown Area - Drainage Plan.

   Refer to Volume 2, Appendix 8.14 of the AFC for Storm Drain Calculations and the SWPPP Overview.



REV	DATE	DESCRIPTION
C	10/25/06	ISSUED FOR PERMIT
B	09/06/06	ISSUED ADDENDUM
A	07/21/06	ISSUED FOR PERMIT

PREPARED BY: Stantec, WALNUT CREEK, CALIFORNIA (925) 941-1400

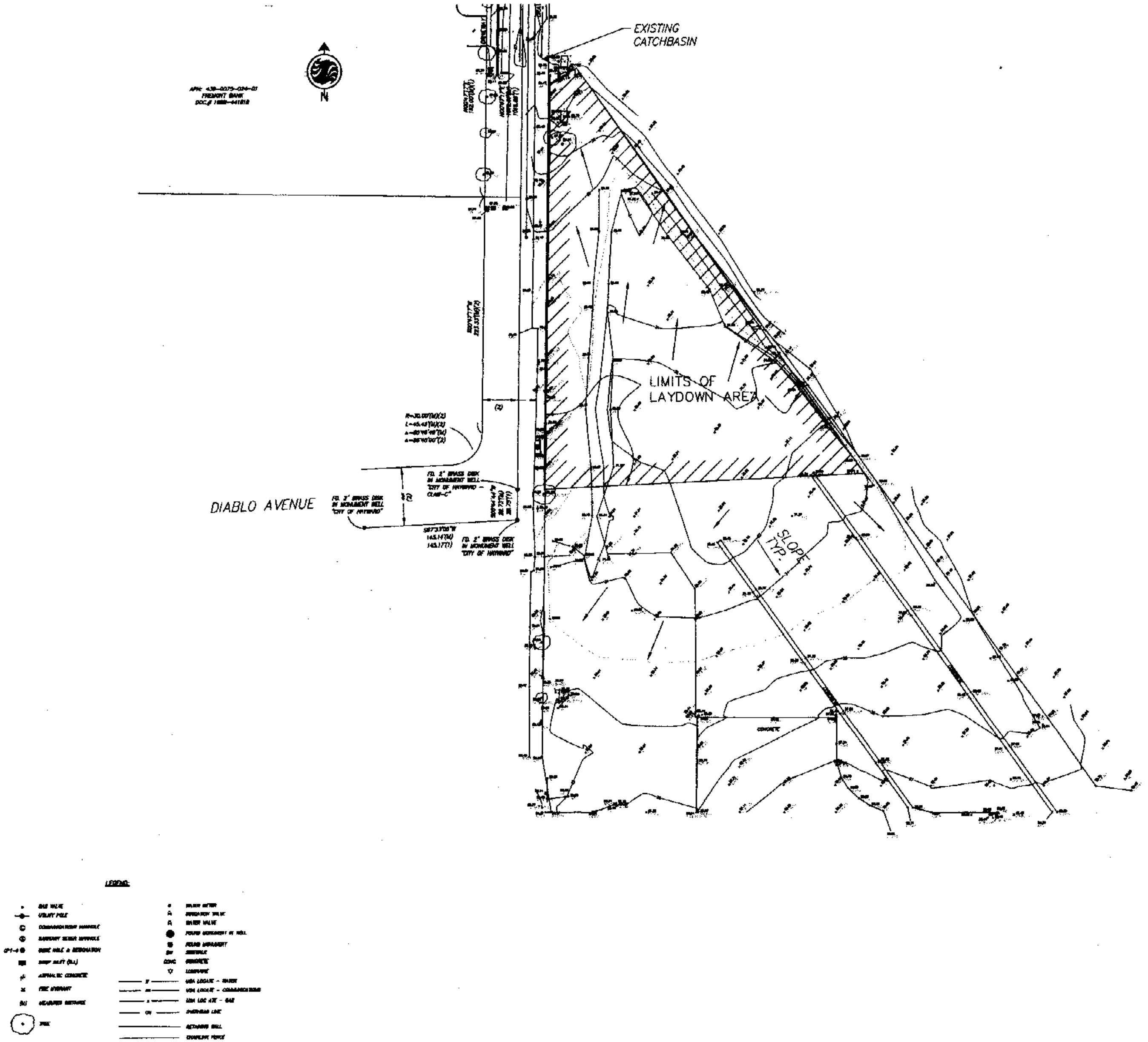
PREPARED FOR: TIERRA ENERGY

PROJECT:

TITLE: EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA
PAVING & DRAINAGE PLAN

SCALE	PROJECT NUMBER	DRAWING NUMBER	REV
1"=30'-0"	20100916	916-C-101	C

30 X 42 MFG



PREPARED BY: Stantec, WALNUT CREEK, CALIFORNIA (925) 941-1400	PREPARED FOR: TIERRA ENERGY	TITLE: EASTSHORE ENERGY CENTER HAYWARD, CALIFORNIA LAYDOWN AREA—DRAINAGE PLAN
DWN / DES / PROJ MGR	PROJECT:	SCALE: 1"=40'-0" · PROJECT NUMBER: 20100916 · DRAWING NUMBER: 916-C-102 · REV: A

REV	DATE	DESCRIPTION	DWN	DES	CHK	PE/PM	CLIENT APPV	REV	DATE	DESCRIPTION	DWN	DES	CHK	PE/PM	CLIENT APPV

Section 2.3 Floor Plans

Show all interior improvements and indicate use of each room (minimum scale 1' = 1/4").

Not applicable.

Section 2.4 Elevations

Show all exterior building elevations (all sides), fences, walls, trash enclosures, and signs. Show lighting, external building materials and colors, and building height dimensions (minimum scale = 1' = 1/8" except for ground level commercial elevations which must be 1' = 1/4").

Refer to Figures 1.2-3, 1.2-4A, and 1.2-4B for the site general arrangement and site elevations.

Section 3.0 Environmental Impact Analysis

Sixteen areas of possible environmental impact from the proposed project were investigated during preparation of the Eastshore AFC (attached to this application). Detailed descriptions and analyses of these areas are presented in Sections 8.1 through 8.16 of the AFC and summarized below. With the implementation of reasonable and feasible mitigation measures, it is expected that here will be no significant environmental effects.

Air Quality

The Eastshore site is located in an area designated as attainment for state and federal nitrogen dioxide (NO_2), CO, and sulfur dioxide (SO_2) ambient air quality standards. The area is currently designated as nonattainment for ozone and fine particulate matter (PM_{10} and $PM_{2.5}$).

An assessment of the impact to air quality was performed using detailed air dispersion modeling. Potential air quality impacts from Eastshore will be mitigated by the state-of-the-art combustion and post-combustion emission control technologies summarized in Table 3-1 that will comply with the Bay Area Air Quality Management District BACT requirements.

TABLE 3-1
Summary of Proposed Air Pollution Control Technology

Pollutant	Proposed BACT	Emission Concentration ppm by volume at 15% O_2
NO_x	Lean Burn Combustion, Selective Catalytic Reduction	5
POC	Lean Burn Combustion, Oxidation Catalyst	25
CO	Lean Burn Combustion, Oxidation Catalyst	13
SO_2	PUC-regulated Natural Gas	<0.153 grains per 100 scf sulfur in natural gas
$PM_{10}/PM_{2.5}$	Lean Burn Combustion	2.426 lb/hr

Emission reduction credits will be obtained to offset increases in emissions of nonattainment pollutants or their precursors, including POC and NO_2. Any SO_2 and $PM_{10}/PM_{2.5}$ emissions that could create a significant adverse impact will be mitigated consistent with CEC practice and CEQA requirements to reduce these impacts to less than significant levels. With the use of advanced lean-burn combustion control technology, post-combustion pollution control systems, and emission offsets, Eastshore will cause no significant adverse air quality impacts.

Refer to Section 8.1 of the Eastshore Energy Center AFC for additional air quality information.

Biological Resources

The Eastshore site is located in an industrial area of Alameda County. Preliminary surveys, habitat evaluations, and aerial photographs indicate that the site is not located in a sensitive area. Land uses within 1 mile of the Eastshore site are largely industrial, with some commercial and residential uses. The highly developed nature of the Eastshore site vicinity

would not support most special-status species except a few plant species, other transient uses by migratory birds, and mammals.

Because the area around the Eastshore site is highly developed, no direct impacts to sensitive biological resources are expected to occur from construction. Impacts during operation are expected to be less than significant. Therefore, no significant impacts to biological resources are expected to occur.

Refer to Section 8.2 of the Eastshore Energy Center AFC for additional biological resources information.

Cultural Resources

A survey of the proposed Eastshore site and appurtenant linear facilities was conducted. The surveyed area is located in a heavily industrial and commercial area. The Eastshore site was previously covered by asphalt, buildings and parking areas. The linear natural gas supply and 115-kV transmission line routes are contained entirely in existing disturbed city streets, asphalted parking areas, or previously disturbed areas. No undisturbed ground or vegetation was visible within the Eastshore site or transmission line route during the survey.

Given the amount of previous ground disturbance in the area for buildings, utilities, and other infrastructure, it is likely that resources in the area would have been disturbed or destroyed. The archaeological sensitivity of the Eastshore site and linear facility routes is considered low.

The gas, sanitary sewer, and potable water, and transmission lines will be constructed entirely in previously disturbed areas, and entirely in the existing disturbed city streets. Further, both the CHRIS literature search and CH2M HILL's survey failed to identify significant archaeological sites. There are no historic architectural resources within 0.5 mile of the Eastshore site and 0.25 mile of the linear features. No impacts on architectural resources are expected to occur from construction and operation of Eastshore.

Although significant archaeological and historic archeological sites were not found during the field survey, subsurface construction could encounter buried archaeological remains. For this reason, Eastshore Energy, LLC, proposes to implement measures to mitigate potential adverse impacts that could occur if there were an unexpected discovery of buried culturally or historically significant resources.

Refer to Section 8.3 of the Eastshore Energy Center AFC for additional cultural resources information.

Land Use

The Eastshore site and all linear project components are located in the City and are subject to policies stipulated in Hayward General Plan. Specifically, the land use element of the General Plan defines planning areas and establishes the descriptions, limits, and directions for growth. All Eastshore components are located in areas designated as Industrial Corridor

under the General Plan, and are zoned for industrial use. The Eastshore project will comply with the Zoning Ordinance land use designation and the General Plan policies for the City.

The Eastshore site is immediately west of the Union Pacific Railroad (UPRR) tracks at the western edge of Hayward Area Shoreline Planning Agency jurisdiction, and more than 1 mile from the lands considered to be San Francisco Bay shoreline. Eastshore is consistent with the relevant key Hayward Area Shoreline Planning Agency objective of promoting industrial infill development in designated industrial areas.

The proposed electric transmission line route from the switchyard to the PG&E Eastshore Substation is designated and zoned for industrial use. The areas covered by the natural gas, water, and sewer lines are all designated in the General Plan and Zoning Ordinance as industrial use.

Eastshore would be constructed in an existing industrial area and compatible with adjacent land uses. The transmission line would be installed in an industrial area in the City, and would be compatible with adjacent land uses. It is anticipated that Eastshore would not contribute to a significant impact to land use in the project vicinity. Therefore, Eastshore, as proposed, would not result in a significant cumulative land use impact.

Refer to Section 8.4 of the Eastshore Energy Center AFC for additional land use information.

Noise

The Eastshore project, as proposed, will produce noticeable noise during operations, but the noise levels will comply with City's requirements for industrial and residential uses. Noise will also be produced at the Eastshore site during construction.

The closest residential receptor to the Eastshore site is located at 2765 Depot Road, approximately 1,100 feet away. Adjacent parcels are industrial or commercial in nature.

Construction will occur during an 18-month period. General construction noise levels projected at 1,500 feet from the Eastshore site are estimated to be between 48 and 59 decibels, A-weighted (dBA). These results are conservative because the only attenuating mechanism considered was divergence of the sound waves in open air. Shielding effects of intervening structures were not included in the calculations. Construction noise might be audible at the nearest residences, but is not anticipated to exceed current exposure levels, and the noisiest construction activities will be confined to the daytime hours.

Ambient noise measurements determined that the noise level that is exceeded during 90 percent of the measurement period (L_{90}) nighttime noise level at the nearest residence (i.e., sensitive receptor) is 45 dBA. Noise modeling was used to determine the contribution to the nighttime ambient levels Eastshore would make during operation. Noise from operations is predicted not to exceed 50 dBA at the closest residential receptor. This is consistent with CEC's 5-dBA-over-background significance criterion and complies with the City criterion of 3 dBA above the existing L_{dn}. Ground and airborne vibration are not expected to be perceptible offsite.

No significant noise impacts are expected to occur from construction and operation of Eastshore Energy Center.

Refer to Section 8.5 of the Eastshore Energy Center AFC for additional noise information.

Public Health

Potential impacts associated with emissions of chemical substances of potential concern into the air from the Eastshore project were addressed in a health risk assessment. Health risks potentially associated with the estimated concentrations of chemical substances in ambient air were characterized in terms of excess lifetime cancer risks (for substances listed by the California Office of Environmental Health and Hazard Assessment [OEHHA] as cancer causing) or comparison with reference exposure levels for non-cancer health effects (for substances listed by the California Office of Environmental Health and Hazard Assessment as non-cancer causing).

The maximum exposed individual resident excess lifetime cancer risk was estimated to be 8.5 in 1 million, less than the 10 in 1 million significance threshold above which public health impacts require additional emission controls.

No significant public health impacts are expected to occur from the construction and operation of Eastshore.

Refer to Section 8.6 of the Eastshore Energy Center AFC for additional public health information.

Worker Health and Safety

During construction, workers will be exposed to construction hazards, and during plant operation, operators will be exposed to operation safety hazards. To evaluate these hazards and control measures, a hazard analysis was performed. The analysis identifies the hazards anticipated during construction and operation, and indicates which safety programs should be developed and implemented to mitigate and appropriately manage those hazards. Programs are overall plans that set forth the method or methods that will be followed to achieve particular health and safety objectives. For example, the Fire Protection and Prevention Program will describe procedures to protect against and prevent fires. Each program or plan will contain training requirements that are translated into detailed training courses. Upon completion of construction and commencement of operations at the Eastshore project, the construction health and safety program will transition into an operations-oriented program that reflects safety hazards and necessary controls during operation. As a consequence of the development and implementation of these plans and programs, workplace accidents would be minimized in both severity and frequency so that there would not be a significant impact to worker health and safety from the construction and operation of Eastshore.

Refer to Section 8.7 of the Eastshore Energy Center AFC for additional worker health information.

Socioeconomics

Total construction personnel requirements for the Eastshore project and the linear facilities will average 125 workers per month for 18 months, with a peak total work force of 235 during month 12. This translates into 2,246 person-months. The construction payroll is estimated at $33.8 million. The estimated indirect and induced employment within Alameda County would be 17 and 90 jobs, respectively. Indirect and induced income impacts are estimated at $733,300 and $3,828,200, respectively. The total local sales tax expected to be generated during construction is $166,250 (i.e., 8.75 percent of local sales). During construction, there would be no significant adverse impacts to population, housing, schools, or public services and utilities.

The Eastshore project will be operated by 13 full-time employees. Estimated indirect and induced employment in Alameda County would be 4 and 7 permanent jobs, respectively. The Eastshore project will bring $2,366,100 in operational payroll to the region. During operations, additional sales tax revenues of approximately $116,480 will be obtained by the City and Alameda County. During operation, there would be no significant adverse impacts to population, housing, schools, or public services and utilities. Therefore, the Eastshore project would benefit the local economy.

Potential environmental justice impacts were also analyzed in accordance with Executive Order (EO) 12898 (Appendix 8.8A). As reported in the series of environmental analyses prepared for Eastshore, and further confirmed through discussions with the environmental professionals who prepared those sections, no significant adverse impacts are expected after proposed mitigation measures are implemented. Consequently, none of the impacts of the Eastshore project can be described as high and adverse in the context of EO 12898. Because no high and adverse impacts are expected to result from the construction and operation of the Eastshore project, no high and adverse human health or environmental effects of the Eastshore project are expected to fall disproportionately on minority or low-income populations. The Eastshore project can, therefore, be considered consistent with the policy established in EO 12898.

Refer to Section 8.8 of the Eastshore Energy Center AFC for additional socioeconomic information.

Agriculture and Soils

Based on review of aerial photographs and documentation from a nearby project (Calpine/Bechtel, 2001), there are no commercial agricultural land uses in the area of the proposed Eastshore site (includes a 1-mile buffer of all facilities). There are no important farmlands (as defined for the Farmland Mapping and Monitoring Program) mapped in the same area (CDC, 2004). The proposed gas and electrical corridors will follow existing roadway or railroad ROW through urban areas. The potable water supply and sanitary sewer pipeline connection already exist on the Eastshore site.

The soils found in the Eastshore site, laydown area, and along the linear features are nearly level (or very slightly sloped). Construction activities could affect soil resources by increasing soil erosion and soil compaction. However, best management practices will be

used to minimize erosion at the site during construction. Therefore, Eastshore will not cause adverse impacts to agricultural production or soil loss.

Refer to Section 8.9 the Eastshore Energy Center AFC for additional soils and agriculture information.

Traffic and Transportation

During the peak construction period, approximately 212 daily construction worker round trips are expected. To analyze the worst-case scenario, a focused assessment of the impacts on the surrounding roadways—an Intersection Capacity Utilization analysis—was conducted for the seven intersections that would be most directly affected by Eastshore construction traffic. In general, the addition of the forecasted peak project traffic (424 daily vehicles) is not anticipated to result in a significant change to roadway operations throughout the day. Therefore, the construction of Eastshore is not expected to have significant impacts on roadway intersections.

Three segments are predicted to have unacceptable LOS E and LOS F operations during the peak hour: I-880 between Winton Avenue and SR-92, I-880 between SR-92 and Tennyson Road, and Clawiter Road between Industrial Boulevard and SR-92 westbound ramps. Because these roadways are over capacity, anything that adds a significant number of trips may be considered an impact. The assumed worst-case overlap of construction of the nearby Russell City Energy Center would further exacerbate this impact.

To mitigate the potential impacts, a traffic control plan will be prepared in accordance with the California Department of Transportation Manual on Uniform Traffic Control Devices and Work Area Traffic Control Handbook. After construction is complete, no permanent alterations to the area roadways are proposed. Implementation of a traffic control plan for the affected area for the short duration of construction in that area is adequate to minimize the traffic impacts to an acceptable level. Therefore, with the implementation of a traffic control plan, the construction of Eastshore is not expected to have significant impacts on roadway intersections.

The addition of traffic associated with Eastshore operations during the peak commuter morning and afternoon hours will not result in an Intersection Capacity Utilization value significantly higher than without Eastshore. Therefore, the operation of Eastshore will not have significant impacts on roadway intersections.

Refer to Section 8.10 the Eastshore Energy Center AFC for additional traffic and transportation information.

Visual Resources

The landscape surrounding the Eastshore site is composed almost exclusively of industrial and commercial facilities. The site is flat and open, and contains no features considered to be scenic resources. Several industrial and commercial facilities throughout the area are tall rectangular buildings that generally block views toward the Eastshore site. The Eastshore project features will include a power house (including control room) that will be approximately 417 feet long, 71 feet wide and 36 feet high. The engine stacks will be 70 feet

tall and 4 feet in diameter. There will be two radiator banks on the northern portion of the Eastshore site. Each bank will be approximately 185 feet long, 33 feet wide, and 20 feet high to the top of the fan shrouds. The exteriors of all major equipment will be the shades of off-white, beige, tan, and gray used on the adjacent buildings. This color treatment will optimize Eastshore's visual integration with the surrounding environment.

There are no residences in close proximity to the Eastshore site. The nearest residence is approximately 1,100 feet away on Depot Road. The nearest residential neighborhood is approximately 0.6 mile away, east of Industrial Boulevard. A key observation point (KOP1) toward the site was selected in consultation with CEC Visual Resources staff and evaluated. A computer simulation determined that the Eastshore project would not be visible from this view and, therefore, would have no impact on the overall quality of the view. In general, to the extent to which they would be visible, the elements of Eastshore would be consistent with the existing components of the view. They would have very little effect on the character of the views, and would not alter the view's existing low level of visual quality. The lighting associated with Eastshore would be limited, and would not pose a hazard or adversely affect day- or nighttime views toward the site. Eastshore is in general conformance with the LORS related to visual resources in the City plans and zoning ordinance provisions that pertain to this area. Therefore, the Eastshore project will not cause any significant impacts to visual resources.

Refer to Section 8.11 the Eastshore Energy Center AFC for additional visual information.

Hazardous Materials Handling

Hazardous materials to be used during construction and operation were evaluated for hazard characteristics. Hazardous materials to be used during construction of the Eastshore project (and its associated linear facilities) will include gasoline, diesel fuel, motor oil, hydraulic fluid, solvents, cleaners, sealants, welding flux, various lubricants, paint, and paint thinner. The quantities of hazardous materials that will be onsite during construction will be small, relative to the quantities used during operation. Several hazardous materials, including one regulated substance, will be stored at Eastshore during operation. Only aqueous ammonia will be stored in amounts above the threshold quantity during the operations phase, and a risk management plan will be prepared that is consistent with the California's Accidental Release Prevention Program requirements. Sufficient monitoring will be performed during construction and operation to ensure that the proposed mitigation measures are satisfied and effective in mitigating potential environmental effects.

An offsite consequence analysis will be performed to assess the impact to humans if a spill or rupture of the aqueous ammonia storage tank were to occur. The results of this analysis will be compiled and submitted during discovery. Based on prior experience with similar facilities, the general public is not expected to be exposed to ammonia concentrations above levels considered to represent a significant impact during a worst-case release scenario. Eastshore will confirm that the facility will not pose a significant risk to the public during discovery.

Refer to Section 8.12 of the Eastshore Energy Center AFC for additional hazardous materials and handling information.

Waste Management

During construction, the primary waste generated will be solid nonhazardous waste. However, some nonhazardous liquid waste and hazardous waste (solid and liquid) will also be generated. Most of the hazardous wastes will be generated at the Eastshore site, but a limited quantity of hazardous waste may be generated during construction of the Eastshore project linears. The types of waste and their estimated quantities are described in the waste management section of the AFC. The primary waste generated during operation will be nonhazardous wastewater. Other nonhazardous solid waste will also be generated, as well as varying quantities of liquid and solid hazardous waste. Handling and mitigation of these wastes is also described in the waste management section of the AFC.

The handling and management of waste generated by the Eastshore project will follow the hierarchical approach of source reduction, recycling, treatment, and disposal. The first priority will be to reduce the quantity of waste generated through pollution prevention methods (e.g., high-efficiency cleaning methods). The next level of waste management will involve the reuse or recycling of wastes (e.g., used oil recycling). For wastes that cannot be recycled, treatment will be used, if possible, to make the waste nonhazardous (e.g., neutralization). Residual wastes that cannot be reused, recycled, or treated will be disposed of offsite.

Refer to Section 8.13 of the Eastshore Energy Center AFC for additional waste management information.

Water Resources

The Eastshore project will use an extremely small quantity of water, approximately 1.6 acre-feet of potable water per year. This water consumption is comparable to only 2 - 3 single family households. Potable water will be supplied to the site by the City. Potable water uses at Eastshore will include maintenance (fire fighting systems and engine closed-loop cooling); service (turbo washing, power house and plant uses, and personnel uses); and miscellaneous uses, such as equipment washing and irrigation. Wastewater, also in very small quantities, will be collected and discharged to the City sanitary sewer.

Proposed mitigation measures are prescribed by stormwater and erosion control management programs mandated under the National Pollutant Discharge Elimination System (NPDES). These programs have been in place for a number of years and the prescribed measures have proven effective. Under the General NPDES Permit for Construction, for example, various specific measures are prescribed, and a program of monitoring is required. Compliance with these programs will ensure that all residual impacts associated with Eastshore are mitigated to a level of less than significant.

Refer to Section 8.14 of the Eastshore Energy Center AFC for additional water resources information.

Geologic Hazards and Resources

Five principal faults lie within a 25-mile radius of the Eastshore site. Ground shaking presents the most significant geologic hazard to Eastshore and its linear facilities. Liquefaction might also affect linear facilities as a result of ground shaking. The Eastshore site and the linear facilities will need to be designed and constructed to withstand strong earthquake shaking as specified in the 2001 California Building Code for Seismic Zone 4 in accordance with City requirements. Proposed mitigation measures will be implemented in the design of the facilities to reduce risk associated with these hazards.

Refer to Section 8.15 of the Eastshore Energy Center AFC for additional geological resources information.

Paleontological Resources

Paleontological resources (fossils) are the remains or traces of prehistoric animals and plants. The literature review, archival searches, and field survey conducted for this inventory documented only three previously recorded fossil sites within 3 to 5 miles of the Eastshore site. The occurrence of fossils near the Eastshore site in similar geologic environments indicates a potential for additional similar, scientifically important fossil remains to be encountered by earth-moving activities during construction. The Eastshore site lies on alluvial deposits that are at least in part equivalent to the Temescal Formation. The potential of encountering sediments of high paleontological sensitivity is likely when these activities extend to a depth sufficient to encounter undisturbed sediment of Rancholabrean age. Although excavation at the site will generally be shallow (less than 6 feet below ground surface), the possibility exists that disturbance would uncover resources of high paleontological sensitivity.

Mitigation measures have been proposed to reduce or mitigate potential project-related adverse impacts to significant paleontological resources. These mitigation measures are described in the paleontological resources section of the AFC. No impact to paleontological resources would occur as a consequence of operation, so no mitigation is proposed during operation of Eastshore.

Refer to Section 8.16 of the Eastshore Energy Center AFC for additional paleontological resources information.

Section 4.0 Additional Materials/Information

Consistent with the direction provided for the inclusion of additional materials/information in the Application, a color rendering has been included to address these requirements. The simulated color rendering of the Eastshore Energy Center is provided as Figure 1.2-2B included in Section 2.0 of this submittal.

CITY OF
HAYWARD
HEART OF THE BAY

January 12, 2007

Lorne Prescott
Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814

Re: Eastshore Energy Center – Items for Discussion with Hayward Staff

Dear Mr. Prescott:

As we discussed, below is a summary of the issues we would like to discuss with CEC staff related to the proposed Eastshore Energy Center in Hayward.

Traffic and Transportation

- The traffic study prepared for the project used a different methodology to determine impacts to levels of service (ICU versus Highway Capacity Manual that is used by Hayward), which makes it difficult to compare project impacts to existing or future impacts without the project, as anticipated by City
- Incorrect method (ICU) was applied to analyzing an unsignalized intersection significantly impacted by construction traffic when properly analyzed
- Lack of information regarding cumulative impacts both during construction of both the Eastshore Energy Center and the Russell City Energy Plant, particularly related to the impacts at nearby intersections, especially Clawiter/Depot and Clawiter/Route 92.

Utilities

- More detailed analysis and specific ways to monitor discharged effluent to City's wastewater treatment plant

Hazardous Materials

- Lack of analysis related to impacts of potential need for additional staffing for Hayward Fire Department related to the operation of the plant
- Phase I analysis does not have the professional's stamp and more importantly, doesn't identify local underground plumes of contamination in the area; concern that analysis is not specific to proposed project and area
- Local regulations do not allow above-ground storage of more than 600 gallons of flammable material (two 10,000-gallon aqueous ammonia tanks are proposed)

OFFICE OF THE CITY MANAGER
777 B STREET, HAYWARD, CA 94541-5007
TEL: 510/583-4300 • FAX: 510/583-3601 • TDD: 510/247-3340

ATTACHMENT C

- Lack of analysis of air quality impacts should accidental release of aqueous ammonia occur

Air Quality

- Analysis does not adequately identify number and proximity to sensitive receptors in the area (schools, day care centers, convalescent homes), nor adequately analyze potential air quality impacts to such residents/businesses associated with normal plant operations and accidental releases of hazardous materials
- Cumulative air quality impacts associated with operation of both the proposed plant and the Russell City Energy Center

Land Use

- More analysis should be included that addresses compatibility of proposed plant and associated hazardous materials to the area and the City's plans that envision more high-tech, business park-type uses along this portion of the City's Industrial Corridor

Aesthetics

- More analysis should be provided that addresses visual impacts and compatibility of fourteen, 70-foot tall stacks in an area that does not have such structures
- More analysis should be provided that addresses visual impacts and compatibility of 90-foot tall 115-kV distribution line towers along Clawiter Road and 200-foot high over-crossing over State Route 92
- Clarification of whether proposed 115-kVdistribution line towers will replace existing 40 to 50-foot tall 12-kV poles (one section says existing poles will be replaced - bottom of page 8.11-6), another section says they may be replaced – top of page 1-4)
- Generally, the rationale and justification for rejecting the alternatives is limited and not particularly meaningful. A more expansive discussion is in order

Alternative Sites Analysis

- Expanded discussion as to why other sites in the East Bay and general vicinity were not considered should be included (page 9-4, for instance, indicates the new plant would need to be in close proximity to PG&E's Eastshore substation, but no reasons for such requirement are given)
- More explanation why other sites in the area were not considered should be provided, especially in regards to minimum six-acre site size requirements

Cumulative Impacts Analysis

- Expanded analysis that incorporates impacts of proposed Russell City Energy Center should be included, since that plant is proposed to be in operation

Benefits to the Local Community

- A summary of the benefits to Hayward and its residents should be included (Note that page 9-1 indicates one of the project objectives is to "provide much-needed reliable local power supply...to the Eastshore substation to meet the area's

demand." Will the local community actually benefit from the proposed plant, in terms of energy availability and production?)

Please let me know if you have any questions or need further clarification. I can be reached at 510.583.4305 or at jesusa@hayward-ca.gov. I look forward to your response and the upcoming January 29 data response workshop.

Sincerely,

Jesús Armas
City Manager

cc: Larry Arftsten, Fire Chief
Robert Bauman, Public Works Director
Susan J. Daluddung, Community and Economic Development Director
Greg Trewitt, Tierra Energy

Exhibit C

MINUTES OF THE REGULAR MEETING OF T
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 15, 2007, 7:30 p.m.
777 B Street, Hayward, CA 94541

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair McKillop followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Lavelle, Sacks, Peixoto, Thnay, Mendall, Zermeño

CHAIRPERSON: McKillop

Absent: COMMISSIONER: None

Staff Members Present: Conneely, Rizk, Lens

General Public Present: Approximately 60

PUBLIC COMMENTS

Ms. Juanita Gutierrez spoke about the importance of parks for children and referred to Greenwood Park, located between Middle Lane and Eden Avenue; indicating that site behind the park is proposed for construction of condominiums. She urged the City to execute eminent domain on the property and expand the park.

PUBLIC HEARINGS

1. **Application No. PL-2007-0028 – Eastshore Energy, LLC (Applicant/Owner)** – Request for the City of Hayward to make a determination that a proposed 115 megawatt power plant (Eastshore Energy Center) proposed at 25101 Clawiter Road is consistent with the General Plan and the Industrial Zoning District

Staff report submitted by Planning Manager Rizk, dated February 15, 2007, was filed. Planning Manager Rizk presented the report, indicating that nine telephone calls were received from residents who voiced their opinions regarding the proposal, 10 copies of e-mails were sent to the Mayor, and a copy of a flyer was distributed in the area. Mr. Rizk introduced Mr. Lusher from the Bay Area Air Quality Management District (BAAQMD) who was assigned to the Eastshore Energy Center Project.

Commissioner Zermeño inquired about the number of neighborhood meetings held prior to the public hearing. Planning Manager Rizk responded that the California Energy Commission (CEC) held a couple of meetings with an information exchange workshop on January 29, followed by a bus tour of the site and informational hearing hosted by the CEC.

In response to Chair McKillop's inquiry for similarities and differences about the process to approve the Russell City Energy Center (CalPine) project and its status, Planning Manager Rizk

indicated that the process is similar in that the Planning Commission and City Council made the determination of consistency for the CalPine project and that the CEC is the permitting authority. He added that given conclusion of the CalPine project, the full operation is tentatively scheduled to start in 2009.

Commissioner Mendall inquired about the number of PG&E substations throughout the Bay Area. Planning Manager Rizk indicated that from a website source, there seemed to be several with one that might be in Fremont, and that staff had raised issues to CEC related to alternative sites analyses. He added that seven alternative sites analyzed were located in Hayward. There was no location data due to security constraints to answer Mr. Mendall's question about the number of substations in the Bay Area that have more than one power plant located in close proximity.

Commissioner Thnay, referring to the letter from City Manager Armas to Lorne Prescott from the CEC regarding additional air quality analysis and more sensitive receptor sites, inquired if the analysis had being conducted. Planning Manager Rizk indicated that the January 29 information exchange workshop addressed air quality issues and added that it would be an ongoing process in terms of analysis of impacts.

Commissioner Peixoto referred to page 2 of the July 1, 2001 Council report regarding the Russell City Energy Center (RCEC) power plant, indicating that the land use of that plant was determined to be consistent with a manufacturing use and the Industrial zone and, therefore, was determined to be in conformity with the Zoning Ordinance. In response to Commissioner Peixoto's inquiry whether the proposal was similar to the RCEC, Planning Manager Rizk indicated agreement with the manufacturing use determination, but the proposed location was different than the RCEC facility. Mr. Rizk clarified that there would be ample opportunity to provide public input about the environmental issues in the next several months and that there was information available on the CEC website.

Commission Zermeño referred to e-mails from concerned residents regarding the emission of 50-tons of ammonia into the air and inquired for the date when the precise air quality impacts information will be provided to neighbors in the area. Planning Manager Rizk indicated that the applicant or Mr. Lusher might have the information and added that CEC will conduct a process similar to the California Environmental Quality Act (CEQA) review.

Chair McKillop opened the public hearing at 7:56 p.m.

Mr. David Marks, President of Tierra Energy, mentioned that public meetings were held with City and local groups, indicated his intention to comply with standards and opinioned that the proposed project will set the standard for such projects in California. He introduced his professional team.

Mr. David Stein, representing the applicant's consultant, made a PowerPoint presentation about the land use compatibility through development of a state-of-the-art facility that will represent a visual improvement; reliability of electricity for Hayward that will only operate when needed; benefits to the City such as property/sales tax, local jobs and community support; visual improvement to the area with neutral color treatment that will blend with surroundings with small diameter stacks; and environmental features such as low noise and state-of-the-art air pollution control. Mr. Stein indicated that there will be an intensive environmental review and stated that the 18-month

construction is scheduled to commence at the end of 2007 and full operation to commence in the middle of 2009.

Commissioner Mendall inquired about the times of the day and the months of the year that the facility is expected to operate. Mr. Stein indicated that although the unforeseen cannot be predicted, the more common peaks are likely to be during summer time. In response to Commissioner Mendall, Mr. Stein stated that there is probability that it will operate from noon to 6:00 p.m., from April to September. Discussion ensued regarding the percentages of natural gas and renewable energy plants versus other types of power plants.

Commissioner Lavelle inquired about the choice of location for the facility and whether Tierra Energy had opportunity to propose other sites near other PG&E substations in the East Bay, such as in Fremont. Mr. Stein was not aware that Fremont was considered. He indicated that the Eastshore substation was selected for its capacity to receive additional power without having to do system upgrades. In response to Ms. Lavelle, Mr. Stein indicated he was not aware of Tierra's intent to build similar peaker plants in California.

In response to Commissioner Thnay, Mr. Stein indicated that the facility would generate temporary traffic impacts during construction. He added that the state-of-the-art facility would control noise levels and that the air quality analysis continued to be done and was expected to be completed with cooperation and input from CEC and BAAQMD staff. Mr. Stein indicated that the applicant had evaluated the impacts from the project and, utilizing conservative assumptions and standards, it was determined that the proposed power plant would not cause a new violation of any air quality standards. As far as sensitive receptors, he added that they had conducted a public health risk assessment that identified sensitive receptors within a six-mile radius from the facility, which concluded that there would not result any significant impacts. Mr. Stein indicated that the Eastshore substation was chosen for the known attributes of the site.

Commissioner Zermeño asked Mr. Stein to address concerns raised by the residents regarding the emission of 50 tons of ammonia, dust, diesel, and transportation of hazardous materials in residential zones. Mr. Stein indicated that the emission of 55 tons of ammonia per year was based on a worse case scenario and the levels of emission continued to be a subject of review. He added that the concentration of the ammonia handled will be safe and in a non-toxic form, that diesel emissions would be present during the construction period and indicated that BAAQMD management practices would be employed to minimize the amount of dust created. Furthermore, he stated that the delivery to the site of aqueous ammonia would occur approximately three times a month and scheduled during off-peak hours. He concluded that there was a City recommendation for the aqueous ammonia to be transported via Industrial Boulevard.

In response to Commissioner Lavelle's inquiry regarding the competitive bidding for the purchase agreement, Mr. Stein indicated that seven proposals were received out of 50 unique applications. He added that there is a project in the upper Sacramento Valley and four projects in San Joaquin Valley where additional power is needed.

Commissioner Sacks commented that she attended the CEC bus tour and public meeting.

Mr. Albert Jordan, Depot Road resident, located about 1,200 feet from the proposed plant, expressed concern about health risks, potential for environmental disaster due to toxic materials, noise generated, and ground water contamination. He stated the proposed project is not a compatible land use due to the proximity to residential neighborhoods and schools. He added that the proposal would negatively impact the potential of his property. Lastly, on behalf of the Mt. Eden Area residents, he urged the Commissioners to deny the application.

Mr. Charlie Cameron inquired about the 70-foot stacks. He added that during construction, traffic and public transportation would become a problem affecting quality of life. There was clarification that the stacks would each be 70 feet tall, as measured from the ground level.

Ms. Juanita Gutierrez, Occidental Road resident, expressed concern about the large number of senior citizen residents and the children in the area that might be impacted by the project. She kindly asked the Commissioners to protect the residents and deny the project.

Mr. Ed Mullins, Clearbrook Circle resident, indicated that the 300-acres in the area are in need of redevelopment for the Industrial Zoning District. He asked that the application be approved.

Mr. Michael Toth, Bradford Avenue resident in the Eden Gardens Neighborhood, expressed that the site location was selected without genuine dialogue with local residents. He added that it would negatively affect the health and quality of life of the residents and school children. He protested against the location of the project and suggested that a more suitable area be considered for the project.

Dr. Gerard Clum, President of Life Chiropractic College West, indicated that the proposed plant would be 200 feet from the college property. He expressed support for the application because of the availability of electrical backup to areas sensitive to electrical fluctuations. He acknowledged the cooperation of Tierra Energy in providing information upon request. He indicated that representatives of the college have scheduled a visitation to a sister facility in Sparks, Nevada, and that they would be glad to report any findings. He asked for approval of the project.

Ms. Rosana Simpkins, Dania Lane resident, expressed concern with the impacts to property values, air quality, neighborhoods and school children. She added that she was not aware of any informational workshop or bus tour that provided for public input.

Ms. Pamela Russo spoke on behalf of St. Rose Hospital, referring to the blackouts and power outages that affect the hospital. She indicated that when power outages are experienced, the hospital has emergency generators that are not designed to function in long term use situations and for the magnitude of critical care for which they have to respond. She spoke in support of Tierra Energy and in support of anything that will strengthen the quality of patient care.

Mr. Terrance Mullins spoke on behalf of his wife, Alicia Mullins, and strongly urged the disapproval of the energy center for the well-being of the community.

Mr. Scott Raty, speaking on behalf of the Chamber of Commerce, referred to the energy crises that affected California and the City about seven years ago. Mr. Raty indicated that the proposed plant would use state-of-the-art technology and that the BAAQMD board would determine quality of air. He added that the topic of discussion for this meeting should be compatibility and suitability of the power plant with the industrial area. He pointed out that biotech cluster facilities are in close proximity to the CalPine project. He concluded that the proposal would increase reliability to the electrical grid, which would benefit homes and businesses in Hayward.

Mr. Paul Haavik, Eden Avenue resident, concurred with staff that the site is the wrong location for the plant. Mr. Haavik expressed concern about the potential for noise that would be generated that could impact the elderly residents in the area. He expressed opposition to the application because of its proximity to the periphery of a residential area and schools. Lastly, he urged the Commissioners to support the staff recommendation.

Mr. Bob Williams, Depot Road resident and electrical contractor, expressed mixed feelings about the proposal and indicated concern about the effect on the neighborhood's property values and about the involvement of PG&E in the past years. He questioned if PG&E could do something to offset the negative perception the community has about power plants.

Mr. Chris Lam, business owner on Industrial Boulevard next to the Chiropractic College, expressed concern about the view of the 70-foot tall stacks and the health impacts. Mr. Lam agreed with the need for power, but questioned the proposed location.

Mr. John Neath, Longwood Avenue resident, expressed concerns about the accumulation of air pollutants. Mr. Neath questioned the need for two power plants in Hayward and strongly opposed the proposal.

Dr. Rachel Henderson, Bradford Avenue resident in the Eden Gardens Neighborhoods, concurred with comments against the application and expressed concerns about having two power plants in Hayward. Dr. Henderson indicated that the smog generated during summer should also be taken into account when reviewing the environmental impacts. She added that if the plant would reduce property values, then the associated property taxes would also be lowered. She strongly opposed the proposal.

Ms. Jane Luckhardt, outside project counsel for Tierra Energy, mentioned that the CEC does an extensive environmental evaluation for every project. Ms. Luckhardt mentioned that the issue to address is one of zone use consistency. She stated that the comments and considerations voiced will be taken before the CEC.

Mr. Tom Guarino, Manager of Government and Community Relations in Hayward for PG&E, indicated that Tierra Energy is working in partnership with PG&E. He commented that PG&E is reaching out to the community and is working to ensure that an energy efficient program is in place.

In response to Commissioner Mendall's inquiry about the percentage of power in California generated by renewable resources versus natural gas, Mr. Guarino confirmed Mr. Mendall's statement that half is from natural gas and approximately one to two percent from renewable resources. Mr. Guarino added that there are approximately 10 to 12 power plants located in the Bay Area with Pittsburg and Antioch being in close proximity. He did not have data about PG&E substations in the Bay Area.

In response to Commissioner Peixoto, Mr. Brian Lusher indicated that the BAAQMD prepares a preliminary determination of compliance which evaluates all applicable air quality requirements. Mr. Lusher stated that the applicant was more conservative in its analysis than the community impacts considered realistic by the BAAQMD. He indicated that upon completion of the evaluation, it will undergo a 30-day public comment period that will be available on the website and published in the newspaper, and that after all the input is gathered, the BAAQMD will prepare a final determination of compliance, which will be submitted to the CEC for further public hearings. He expressed that when the CEC gives approval on a project, the BAAQMD gives authority to construct a facility and, upon completion, a permit to operate is issued. He added that the applicant will monitor the emission of pollutants.

In response to Commissioner Sacks, Mr. Lusher indicated that the applicant considered a worst case scenario when making a risk assessment.

In response to Commissioner Mendall, Mr. Lusher indicated that there would be an impact estimator for CO_2. He stated that the applicant is doing a modeling of emissions of the proposed facility, Russell City and recently permitted facilities. He indicated that the district has a toxics-risk management policy and the applicant had demonstrated ability to meet the cancer risk assessment. He added that the BAAQMD had looked at acute and chronic health effect indices and that the data would be available in the risk assessment documentation.

Commissioner Zermeño inquired if the public would be notified about future meetings. Mr. Lusher indicated that the CEC will be holding additional meetings and added that the CEC website provides more information about Eastshore Energy.

Commissioner Thnay inquired about the date of completion of the study. Mr. Lusher indicated that the preliminary determination of compliance would be available in two months. In reference to a similar peaker plant, Mr. Lusher stated that there was a sister facility in Reno that had been in operation since December of 2005, and another proposed plant in Colorado.

Mr. Andy Wilson indicated that the need for energy is evident, but was concerned about lack of data for the size of engines proposed and for air quality credits that would be bought in order to meet requirements. Mr. Wilson spoke about the potential liability for the City should the project get approved by the CEC. He added that the proposed area is designated as non-attainment for ozone and fine particulate matter. Lastly, he strongly opposed the application.

Chair McKillop closed the public hearing at 9:51p.m., and asked for a five-minute recess.

The Commission reconvened at 9:57 p.m.

Commissioner Mendall asked Mr. Stein if Tierra Energy would be buying emission or pollution credits to offset the pollution or emissions from the proposed plant. Mr. Stein responded affirmatively. In addition, Mr. Mendall disagreed with St. Rose Hospital's statement that the peaker plant would help their existing back-up generator, because it was stated that it would take longer than 10 seconds for the plant to come on line.

In reference to the proximity of the contemplated Mt. Eden Annexation area to the proposed plant, Planning Manager Rizk indicated it to be about 1,000 feet or more to the north.

Commissioner Mendall expressed concurrence with the need for power and the quality of the proposal as related to other peaker plants in terms of emissions; however, he indicated that there are too many fuels, mostly natural gas, being burned and too little power coming from renewable sources. He indicated that the City had already approved a power plant and expressed that other communities need to do their share in approving other plants. Commissioner Mendall made a motion to accept the staff recommendation.

Commissioner Lavelle seconded the motion.

Commissioner Sacks indicated that there are benefits and downsides to the proposed project that involve attraction and deterrence to businesses and increases and decreases to property values. She could not find a basis for supporting the motion and thanked the audience for their input.

Chair McKillop indicated that the matter was not just a land use issue with which the Commissioners should be concerned. She indicated that one peaker plant will not address issues of energy management and reliability for the State. She added that if the applicant would guarantee that St. Rose Hospital would not experience blackouts, she would be more supportive of the application. She mentioned support of renewable energy as an alternative and expressed support for the motion.

Commissioner Lavelle indicated she supported the motion and appreciated the comments and concerns expressed. She indicated that the Eastshore Energy Center is different than the Russell City Energy Center in that it is a peaker plant and is in closer proximity to a residential area. She made reference to a letter from the CEC staff in response to an inquiry from City staff about the benefits the plant would provide to Hayward, and stated that the benefits were not clearly identified. She added that the 14 stacks would be unpleasant. She expressed concern should the proposed plant need to operate at a higher capacity than studied by the CEC. She referred to a section of the General Plan that refers to the image of Hayward and stated that as a Commissioner, she had the obligation to improve the image of Hayward.

Commissioner Zermeño indicated that although cleaner natural energy is needed, he concentrated on the task of determining if the proposed location is consistent with the manufacturing use for the Industrial Zoning District. He considered the position taken by the health and business

communities that voiced support for the application and expressed that he also took into account the residents of Hayward after considering the CEC safeguards for emission control. He expressed disagreement for the motion.

Commissioner Thnay indicated that is was difficult to separate land use compatibility with the potential health impacts. He stated that in order to make a compelling determination, he would need more scientific data about potential impacts. He added that the process did not allow him to make an informed decision.

Commissioner Peixoto indicated that energy plants are associated with compelling environmental issues that need to be extensively discussed in a public forum. He stated that there was lack of data to make an intelligent decision on this project. He added that the Commission's task was to determine the consistency of land use with the zoning plan and felt that the applicant deserved the same consideration given to the Russell City Energy Plant, because of similarities with land use and the Industrial Zoning District. He expressed disagreement for the motion.

Commissioner Mendall responded to Commissioner Peixoto, indicating understanding of Commissioner Peixoto's point of view, but expressed concern that other prospective power plant applicants might also consider Hayward as a site. He felt that Hayward needed to set a limit of one power plant.

Commissioner Mendall moved, seconded by Commissioner Lavelle, and failed, to recommend to the City Council that the Eastshore Energy Center is not consistent with the General Plan or the Industrial Zoning District with the following vote:

AYES:	COMMISSIONERS Lavelle, Mendall
	CHAIR McKillop
NOES:	COMMISSIONERS Sacks, Peixoto, Zermeño
ABSENT:	COMMISSIONER None
ABSTAIN:	COMMISSIONER Thnay

Assistant City Attorney Conneely stated that the motion failed for lack of a majority and indicated that the item would go to Council without a recommendation from the Planning Commission.

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters

Assistant City Attorney Conneely announced that tentatively scheduled for March 8 was a work session after the regular meeting about parliamentary procedures. Planning Manager Rizk announced a Joint City Council/Planning Commission Work Session scheduled for February 27.

3. Commissioners' Announcements, Referrals

Commissioner Sacks indicated the importance of informing the public and including the elderly community and their input in the decision-making process.

Commissioner Mendall suggested a Planning Commission meeting be held located near a project, such as the Eastshore Energy Center, as a solution for more public inclusion.

Chair McKillop inquired if Hayward had thought about the California Renewable Portfolio Standard Program in order to achieve renewable energy resources.

Planning Manager Rizk indicated that a work session on sustainable development, including "green" building practices, would be held in the future and added that Hayward had reduced the permit fees for solar panels and is looking to have additional information in the near future.

ADJOURNMENT

Chair McKillop adjourned the meeting at 10:39

APPROVED:

_____
Mary Lavelle, Secretary
Planning Commissioner

ATTEST:

_____
Miriam Lens
Commission Secretary

Exhibit D

DOWNEY | BRAND
ATTORNEYS LLP

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Jane E. Luckhardt
jluckhardt@downeybrand.com

February 15, 2007

City of Hayward
Planning Commission
777 B Street, 1st Floor
Hayward, CA 94541

Re: **Eastshore Energy Center**

Dear Planning Commissioners:

We are writing on behalf of our client, Eastshore Energy, LLC, regarding the proposed project known as the Eastshore Energy Center. We are specifically asking the Planning Commission to find that the Eastshore Energy Center is consistent with the City General Plan and Industrial Zoning District.

The Planning Department Agenda Report dated February 15, 2007 (Agenda Report) erroneously concludes that the Eastshore Energy Center is not consistent with the General Plan and Industrial Zoning District. There are multiple reasons why the Planning Commission should determine that the Eastshore Energy Center is consistent with the City General Plan and Zoning. In part, the City has already determined that a power plant is a type of manufacturing, a permitted use within the Industrial Zone. Even if the City had not already determined that a power plant was a use permitted as a matter of right, the City ordinance does not give the Planning Department the right to use factors such as location and environmental effects in determining whether a power plant would be consistent with the zoning. Rather, the Zoning Ordinance requires the Planning Director to compare the proposed use to the listed uses within the Zoning Ordinance and determine if the proposed use would be more intensive or objectionable. This is not a site-specific analysis. Although in this situation the Agenda Report objects to the proposed project based on potential environmental impacts associated with the proposed site, in a similar project proposal the Planning Department took the position that these impacts should be evaluated as part of the California Energy Commission ("CEC") environmental review process. Even if such an analysis was appropriate, the impacts associated with the proposed project are comparable, or less severe, than other projects in the area. Finally, the proposed project is not inconsistent with the City's General Plan policies.

1. The Planning Department, Planning Commission and City Council Previously Concluded that a Power Plant is a Type of Manufacturing, a Permitted Use in the Industrial Zone.

Section 10-1.140 of the City Ordinance states that:

> When a use is not specifically listed in the sections devoted to "Uses Permitted," it shall be assumed that such uses are prohibited unless it is determined by the Planning Director or on appeal to the Planning Commission that the use is similar to and not more objectionable or intensive than the uses listed.

In this situation the City Planning Department previously determined that a power plant was a type of manufacturing use, a use permitted as a matter of right within the Industrial Zone, and one that does not trigger Section 10-1.140. Specifically, the City previously determined that the Russell City Energy Center ("RCEC"), another power plant, was a permitted use under the City Zoning Ordinance. Specifically, the Planning Department determined that:

> The RCEC fits under the primary use classification in the Industrial Zone of "Manufacturing" in that conversion of natural gas by mechanical equipment into electrical power constitutes a form of manufacturing.

RCEC Agenda Report at 2 (emphasis added).

Thus, the City has already determined that electrical generation is a type of manufacturing, that it fits under the "primary use classification." In support of this conclusion the RCEC Agenda Report contains no analysis under Section 10-1.140. Specifically, there is no analysis comparing whether a power plant is "not more objectionable or intensive that the uses listed [under Industrial Zoning]. For example, the City did not compare whether the RCEC power plant was more objectionable or intensive than manufacturing or other permitted uses such as a newspaper printing facility. Rather the RCEC Agenda Report states unequivocally that power generation "constitutes a form of manufacturing."

Accordingly, based on its prior determination in the RCEC project, the Planning Commission should determine that the proposed project is consistent with the City's General Plan and Zoning Ordinance in that it is a type of manufacturing.

2. Even if Section 10-1.140 Applied, the Proper Analysis Has Nothing to Do with the Location of the Use or the Project's Individual Environmental Effects.

As set out above, we do not believe that Section 10-1.140 applies since the City has already determined that a power plant is a type of manufacturing. Even if it did apply the Planning Department did not properly evaluate the proposed project under Section 10-1.140. In particular,

this section of the Zoning Ordinance requires the Planning Director to compare the use, here a power plant, to other specifically listed uses and determine whether that use is "similar to and not more objectionable or intensive than the uses listed." Accordingly, this analysis does not encompass an analysis of the project's impacts relating to its site-specific location. Nor does it require a specific evaluation each time a similar project is proposed. Rather, the analysis only encompasses determining whether the use, a power plant, is more intensive or objectionable than other listed uses such as manufacturing.

Again, the City for the RCEC project already determined that a power plant was a type of manufacturing, a permitted use. However, in this situation the Planning Department's Agenda Report suggests that electrical generation is not a "primary use," but rather falls under Section 10-1.140, which gives the Planning Department the right to determine whether the use is comparable to other uses listed in the Industrial District.

In this situation, the City applied a fundamentally different analysis than that set out in Section 10-1.140. In particular, the Planning Department objected because the power plant will arguably have visual impacts and because the project will have two, 10,000-gallon aqueous ammonia tanks. The Agenda Report then notes that the nearest residential unit is located approximately 1,100 feet away, while schools are located approximately 3,000 and 3,500 feet away. Again, this is not the proper analysis. Section 10-1.140 calls for a comparison of the applied for use (power plant) to an already permitted use to see if the two are comparable in terms of impacts. It does not call for an analysis of the project's potential impacts on the surrounding area based on its location.

The RCEC Agenda Report treated that project in a fundamentally different way. For that project, the Planning Department took the position that any evaluation of the proposed project's specific environmental impacts, including visual and hazardous material impacts, should be deferred until after it was determined whether the RCEC project was consistent with the City's Zoning Ordinance and General Plan.

The RCEC Agenda Report which was drafted to support a determination that the Zoning Ordinance and General Plan were consistent with power plant projects could not be more clear. In particular, the RCEC Agenda Report states that:

> This report is not meant to review the merits of the project, nor any of its potential environmental impacts. There is a separate, distinct, and elaborate review process, with ample opportunity for public input under the auspices of the [CEC].

RCEC Agenda Report at 2.

Again:

> During the Planning Commission hearing on the matter, individuals expressed concerns about the potential environmental impacts associated with the power plant, which are issues that will be addressed by the California Energy Commission.

Id.

The RCEC Agenda report, as with this project's Agenda Report, noted concerns with potential visual impacts and hazardous materials. However, the RCEC Agenda Report noted that this analysis would be deferred and was not an element in determining whether the project was consistent with the General Plan and Zoning Ordinance. "It will be essential that serious consideration be given during the review process to the visual impacts of the RCEC and that these impacts be as minimal as possible." RCEC Agenda Report at 2.

For this project, the Planning Department is using the issue of potential impacts to make a determination that the project is inconsistent with the General Plan and the Zoning Ordinance. This approach is contrary to the approach set out at Section 10-1.140, which merely requires a comparison of the proposed use to other specified uses within the Industrial Zone, not an evaluation of the specific potential impacts associated with the use at the particular site. An evaluation of the project-level impacts should be deferred until the CEC environmental review process as described in the RCEC Agenda Report.

3. There is No Environmental Evaluation Supporting the Implication that Visual and Hazardous Materials Impacts Would Make the Project Inconsistent with the City Zoning and General Plan.

While on the one hand the Agenda Report concedes that environmental evaluation would be conducted by the CEC, it nevertheless cites to potential impacts in determining that the proposed project would be inconsistent with the Zoning Ordinance and General Plan. In particular the Agenda Report indicates a concern that the proposed project would contain two 10,000-gallon containers of aqueous ammonia and that the power plant would have 70-foot tall stacks. Agenda Report at 4. While not directly stated, the Agenda Report implies that this would be a concern because of the proximity of residential units, approximately 1,100 feet and 1,800 feet from the project site, and the proximity of schools, approximately 3,000 and 3,500 feet away.

However, other than noting the proximity of the schools and residential units, the Agenda Report does not make any determination as to why this would be a concern and why it would support the conclusion that the proposed project is inconsistent with the Zoning Ordinance and General Plan. For example, there is no information as to whether the proximity of aqueous ammonia would result in a hazard or whether the visual impacts associated with the stacks would be problematic.

Indeed, the Agenda Report does not discuss the fact that many of the environmental impacts associated with the proposed project were evaluated in the September 2006 Application for Certification provided by CH2MHILL. For example that document notes that each aqueous ammonia tank would be surrounded by secondary containment structures capable of holding the contents of the tanks plus any rainwater accumulated in a 24-hour period during a 25-year storm event. Application for Certification at 8.12-9, 10. The document also notes other mitigation measures such as providing berms around the unloading areas and providing drainage from the unloading areas to the containment facilities. Id. The document also notes that only three deliveries per month would be made to the site. Id. The offsite consequence analysis indicates that in the unlikely event of a worst-case spill, ammonia levels would not travel off the property and would not pose a significant threat to the public. Response to CEC Data Request 29, Attachment HM-29, (filed with the CEC on January 15, 2007). Finally, the document notes that other potential environmental effects would be evaluated and mitigated during the CEC certification process. Id.

Visual impacts and mitigation measures with regard to the proposed project are also described in the Application for Certification at Section 8.11. This section includes figures indicating the potential visual impacts associated with the project as compared with the existing visual impacts. Figure 8.11-4A to Figure 8.11-5. Eastshore Energy conducted a site reconnaissance with the CEC staff in July 2006 to identify locations with potential visual impacts. A key observation point was selected within the residential neighborhood just east of Industrial Boulevard and south of Depot Road. A computer simulation (Figure 8.11-5) was developed, which indicates that the plant and stacks would not be visible from this location. Other analysis does not indicate that a visual impact would be associated with the proposed project. Other than a few residents on Depot Road near the intersection of Industrial, the facility is not expected to be visible to residences in the area.

Ultimately, this project will replace an aging, unattractive warehouse with an attractive energy center that is approximately half the size of the existing building. Perimeter landscaping would improve the attractiveness of the street frontage. The project is also less than one third the size of the RCEC project previously determined to be a permitted use within the Industrial Zone.

4. The Proposed Project is Consistent with the General Plan.

The proposed project is consistent with the General Plan. The Application for Certification provides a detailed analysis of the plan policies in Table 8.4-4. This detailed analysis shows clear consistency of this proposed project with the General Plan. The City of Hayward made a similar determination with regard to the RCEC project and nothing in the cited General Plan policies have changed since that time.

In addition, the proposed project would make the area much more attractive to the types of industries listed in the Agenda Report and General Plan as attractive to the City, such as the

computer and electronics industry. These industries need highly reliable electrical power. As noted in the City's own 2005 Agenda Report for an agreement on the RCEC project, the "energy crisis has not gone away." October 11, 2005 Agenda Report at 3. Furthermore, a review conducted by the CEC identifies local as well as regional benefits to the electric grid would be provided by the Proposed Project. Letter to Davis Rizk, AICP, from Lorne Prescott dated February 14, 2007. While the current Agenda Report implies that energy would merely be sent-out to the Bay Area for general use, the proposed project would increase the electrical reliability for industries in the Hayward area, which might otherwise be subject to power interruptions due to the State's low electrical operating reserve margin. These electrical reserve margins are expected to become worse by 2008.[1]

Accordingly, the proposed project would attract the types of industries the City wishes to have in the area – knowledge and technology-based industries. These industries could ultimately reconfigure the present uses in the area, which consist of manufacturing, auto wrecking, waste/recycling and/or warehousing. The proposed project would add a substantial new tax base, create new jobs and generally positively contribute to the local economy.

In closing, the Planning Commission should find the Eastshore Energy Center consistent with the General Plan and Industrial Zoning District. The City has already made this determination in its analysis of the RCEC. Furthermore, a consistency analysis should evaluate commonality of uses not location and environmental effects. Nonetheless, looking at the alleged environmental effects, these impacts will be minor and fully evaluated in the CEC's environmental review process. Furthermore, the Agenda Report provides no environmental evaluation to support its implication that project impacts would make the Proposed Project inconsistent with the General Plan. And, a detailed analysis of the General Plan shows consistency.

We thank you for consideration of our comments.

Very truly yours,

DOWNEY BRAND LLP

Jane E Luckhardt

Jane E. Luckhardt

JEL:jw

[1] See May 2003 Bay Area Economic Forum Report titled *The Bay Area – California is Still Coming Up Short on Electricity.*

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 07/10/01
AGENDA ITEM 2
WORK SESSION ITEM

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Determination that the Proposed Power Plant (Russell City Energy Center) at 3636 Enterprise Avenue is consistent with the General Plan and the Industrial Zoning District Designation

RECOMMENDATION:

The Planning Commission (6:0) and staff recommend that the City Council find that the proposed Russell City Energy Center power plant use is consistent with the provisions of the General Plan and the Industrial District Designation.

DISCUSSION:

The authority to license power plants rests with the California Energy Commission. Local government, however, plays a significant role in providing input on local concerns and issues to the process. Consequently, the City has the opportunity to make some determinations as to its conformity with City regulations, which will be forwarded to the California Energy Commission. This public hearing affords this opportunity to the City Council.

The issue that requires a formal determination relative to conformity is whether the proposed Russell City Energy Center (RCEC) is consistent with the General Plan and the uses allowed in the Zoning Ordinance. The RCEC is proposed for a site on Enterprise Avenue, across the street from the City's Wastewater Treatment Plant. This area is classified as "Industrial Corridor" in the General Plan and the site is zoned Industrial. Recognizing the nature of the operation involving the manufacture of power, staff believes that the project is in conformity with the General Plan "Industrial Corridor" designation. As detailed plans for the facility are not available, the City cannot at this time evaluate the proposal in terms of meeting the City's "*Minimum Design and Performance Standards,*" particularly as they relate to the "Architectural Design Principles" and landscaping. The RCEC will be an entry statement to those entering Hayward from the Hayward-San Mateo Bridge, will be visible from those visiting the shoreline area, and will be extremely close to a major industrial arterial once Whitesell Street is widened and extended to State Route 92. It will be essential that serious consideration be given during the review process to the visual impacts of the RCEC and that those impacts be as minimal as possible. This approval is therefore a preliminary approval regarding land use approvals related to consistency with the General Plan and zoning designation.

Conformity of Use

With regard to conformity with the Zoning Ordinance, in staff's opinion and with the concurrence of the Planning Commission, the RCEC fits under the primary use classification in the Industrial District zone of "Manufacturing" in that the conversion of natural gas by mechanical equipment into electric power constitutes a form of manufacturing. The RCEC will be a 600-megawatt, natural gas-fired combined-cycle electrical generating facility, with a 230-kilovolt switchyard. A new 230 kV double-circuit transmission line will exit the RCEC switchyard eastward toward PG&E's existing transmission corridor, and then follow the existing transmission corridor. The City will supply water to the RCED site for domestic use and for fire fighting. Storm water collected on the RCEC site will be discharged into the Alameda County Flood Control District's drainage canal less than 100 feet south of the proposed site. Storm water collected on the new wastewater treatment plan will be discharged to the storm water system of the City water pollution control facility. Although a power plant is not specifically listed as a permitted use in the Industrial District, staff believes and the Planning Commission concurs that it is similar to other permitted manufacturing uses and consistent with the intent and purpose of the district.

At this point in the review process, the City is being asked to review and discuss whether the RCEC power plant use is consistent with the Industrial District of the Zoning Ordinance and the General Plan. This report is not meant to review the merits of the project, nor any of its potential environmental impacts. There is a separate, distinct, and elaborate review process, with ample opportunity for public input under the auspices of the California Energy Commission.

According to the State Law, power plant projects are not subject to the California Environmental Quality Act. Instead, they are subject to a similar process performed by the California Energy Commission (CEC). The CEC reviews every aspect of the project, conducts numerous hearings, and determines what the various potential impacts of the project may be. The review areas include, but are not limited to: Environmental Information, Air Quality, Water Supply, Gas Supply, Biological Resources, Cultural Resources, Geological Hazards and Resources, Hazardous Materials Handling, Land Use, Noise, Paleontological Resources, Public Health, Socio-economics, Soils and Agriculture, Traffic and Transportation, Visual resources, Waste Management, Water Resources, Engineering, Projects Alternatives, and Workers Health and Safety. As part of the review process, there will be public hearings and community meetings to receive public input.

Calpine/Bechtel Joint Enterprises has submitted an application to the California Energy Commission, and the California Energy Commission is in the process of reviewing it to make a finding on data adequacy.

During the Planning Commission hearing on the matter, individuals expressed concerns about the potential environmental impacts associated with the power plant, which are issues that will be addressed by the California Energy Commission. Representatives of the Hayward Chamber of Commerce, the Trades Council, the Electricians' Union appeared in support of the project.

Prepared by:

Dyana Anderly, AICP
Planning Manager

Recommended by:

Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:

Jesús Armas, City Manager

Attachments:
Draft Resolution(s)

7/10/01

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO._____

Introduced by Council Member_____

RESOLUTION FINDING THE RUSSELL CITY ENERGY CENTER POWER PLANT USE IS CONSISTENT WITH THE GENERAL PLAN AND ZONING ORDINANCE

WHEREAS, Calpine/Bechtel has made a request that the City of Hayward make a determination that a power plant (Russell City Energy Center) use at 366 Enterprise Avenue is consistent with the General Plan and is a use similar to a primary use permitted in the Industrial District; and

WHEREAS, the Russell City Energy Center (RCEC) is proposed for an area on Enterprise Avenue classified as "Industrial Corridor" in the General Plan and is zoned Industrial. Staff believes that the project is in conformity with the General Plan "Industrial Corridor" designation; and

WHEREAS, City Council finds that the RCEC fits under the primary use classification in the Industrial District zone of "Manufacturing", is consistent with the intent and purpose of the district, and conforms with the Zoning Ordinance.

WHEREAS, the power plant use is similar to other existing uses in the Industrial District, such as the production of chemicals at the Rohm & Haas, Inc., plant.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward hereby finds and determines that the Russell City Energy Center power plant use is consistent with the provisions of the General Plan and the use is similar to the primary use of Manufacturing in the Industrial District required by the Zoning Ordinance.

IN COUNCIL, HAYWARD, CALIFORNIA _____ , 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:_____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

worst-case scenario for a chemical release from fueling operations would be a vehicle accident involving a service or refueling truck. Procedures for handling hazardous materials during construction are presented in Section 8.12.8.1.

The quantities of hazardous materials that will be handled during construction are relatively small and best management practices (BMP) will be implemented by contractor personnel. Therefore, the potential for environmental effects is expected to be minimal.

8.12.4.2 Operations Phase

Several hazardous materials, including one regulated substance (aqueous ammonia), will be stored in amounts above the threshold quantity at the generating site during operation. An RMP will be prepared consistent with the CalARP program requirements. Many of the hazardous materials that will be stored onsite are corrosive and are a threat to humans (particularly workers onsite) if inhaled, ingested, or contacted with the skin. The hazardous characteristics of materials that would be used onsite are summarized in Table 8.12-5. Table 8.12-5 also contains information on incompatible chemicals (e.g., ammonia and strong oxidizers). Mixing incompatible chemicals can generate toxic gases. Measures to keep incompatible chemicals separated include separate storage and containment areas or berming (Section 8.12.8).

Potential environmental and human health effects could be caused by accidental releases, accidental mixing of incompatible chemicals, fires, and injury to facility personnel from contact with a hazardous material. The accidental release of aqueous ammonia could have adverse effects on the environment and human health.

Eastshore will have 19-percent aqueous ammonia solution in two stationary aboveground storage tanks. The capacity of each tank will be approximately 10,000 gallons. The tanks will be surrounded by secondary containment structures capable of holding the full contents of the tanks, plus rainwater accumulated for a 24-hour period from a 25-year storm event. The tanks will be provided with their own separate secondary containment area of approximately 2,520 square feet (72 feet by 35 feet).

Aqueous ammonia will be transported to the plant by truck. Two possible suppliers are AirGas in Dixon, California, and Hill Brothers in San Jose, California. The truck unloading area will be on an unloading apron adjacent to the storage tank. The floor of the unloading apron will be sloped to a drain that empties into the secondary containment area. The use of 19 percent aqueous ammonia will require an average of approximately 3 deliveries per month. The ammonia unloading area will be a bermed area approximately 26 feet by 10 feet and 6 inches.

Pure ammonia (NH_3) is a volatile chemical that is stored under pressure as a liquid and becomes a toxic gas if released. The odor threshold of ammonia is about 5 parts per million (ppm), and minor irritation of the nose and throat will occur at 30 to 50 ppm. Concentrations greater than 140 ppm will cause detectable effects on lung function, even for short-term exposures (0.5 to 2 hours).

At higher concentrations of 700 to 1,700 ppm, ammonia gas will cause severe effects; death occurs at concentrations of 2,500 to 7,000 ppm. The hazard to facility workers will be

TECHNICAL MEMORANDUM **CH2MHILL**

Off-Site Consequence Analysis Eastshore Energy Center

PREPARED FOR: Greg Trewitt/Tierra Energy

PREPARED BY: Ben Beattie/CH2M HILL, Jerry Salamy/CH2M HILL, Stephen O'Kane/CH2M HILL

DATE: January 3, 2006

Eastshore Energy, LCC, proposes to develop the Eastshore Energy Center (Eastshore), located at 25101 Clawiter Road in the City of Hayward, Alameda County, California. Eastshore will be a nominal 115.5-megawatt (MW) net intermediate/peaking load facility operating up to 4,000 hours per year using natural gas-fired reciprocating engine technology.

Eastshore will consist 14 nominal 8.4 MW Wartisila model 20V34SG natural gas-fired reciprocating engine-generator sets. Eastshore is required by both the Clean Air Act and the Bay Area Air Quality Management District (BAAQMD) to install Best Available Control Technology to control emissions of criteria air pollutants from the reciprocating engines. Nitrogen oxide (NOx) emissions from the engines will be controlled using selective catalytic reduction (SCR). The SCR control system proposed for Eastshore uses ammonia as the reduction reagent Aqueous ammonia (ammonium hydroxide at 19 percent nominal concentration by weight) will be vaporized and injected into the flue gas stream from the engines, then passed through a catalyst bed. In the presence of the catalyst, the ammonia (NH_3) and NO_X react to form nitrogen (N_2) and water vapor (H_2O) thereby reducing the NOx emissions.

The Eastshore facility will store 19-percent aqueous ammonia solution in a two stationary 10,000 gallon aboveground storage tanks. Each tank will be surrounded by a 60-foot by 23.5-foot by 3-foot secondary containment structure capable of holding the full contents of the tank, plus rainwater. The secondary structure is located 72 feet (22 meters) from the nearest property boundary.

Aqueous ammonia will be delivered to the plant by truck transport. The ammonia delivery truck unloading station will include a curbed and sloped pad surface. The truck unloading station will slope to a collection trough that will drain into the secondary containment structure of the ammonia tanks.

The ammonia tanks will be equipped with a pressure relief valve set at 50 pounds per square inch gage (psig), a vapor equalization system, and a vacuum breaker system. The storage tanks will be maintained at ambient temperature and atmospheric pressure.

The California Energy Commission requested an offsite consequence analysis (OCA) be conducted for the accidental release of aqueous ammonia at Eastshore. The accidental

release scenario involves the failure and complete discharge of the contents of the aqueous ammonia storage tanks.

Analysis

An analysis of a tank failure and subsequent release of aqueous ammonia was prepared using a numerical dispersion model. The analysis assumed the complete failure of a storage tank, the immediate release of the contents of the tank and the formation of an evaporating pool of aqueous ammonia within the secondary containment structure. Evaporative emissions of ammonia would be subsequently released into the atmosphere. Meteorological conditions at the time of the release would control the evaporation rate, dispersion and transport of ammonia released to the atmosphere. For purposes of this analysis, the following meteorological data were used:

- U.S. Environmental Protection Agency (USEPA) default (worst case) meteorological data, supplemented by daily temperature data as defined by 19 CCR 2750.2.

The maximum temperature recorded near Eastshore in the past 3 years was 99 °F or 310.4 Kelvin, measured at the Oakland Airport, California (http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?caokap+sfo). Maximum temperatures combined with low wind speeds and stable atmospheric conditions are expected to result in the highest predicted ammonia concentrations at the furthest distance downwind of the release site.

Table 1 displays the meteorological data values used in the modeling analysis.

TABLE 1
Meteorological Input Parameters

Parameter	Worst Case Meteorological Data
Wind Speed meters/second	1.5
Stability Class	F
Relative Humidity, Percent	50
Ambient Temperature, Kelvin (°F)	310.4 (99)

A numerical model analysis was conducted based on an evaporating pool release caused by the complete failure of a single tank, using the meteorological data presented in Table 1. Modeling was conducted using the SLAB numerical dispersion model. A complete description of the SLAB model is available in *User's Manual for SLAB: An Atmospheric Dispersion Model for Denser-Than-Air Releases, D. E. Ermak, Lawrence Livermore National Laboratory, June 1990.* The SLAB user manual contains a substance database, which includes chemical-specific data for ammonia. These data were used in modeling run without exception or modification.

Emissions of aqueous ammonia were calculated pursuant to the guidance given in *RMP Offsite Consequence Analysis Guidance, EPA, April 1999* and using the emission calculation tool for evaporating solutions provided in the Area locations of Hazardous

Atmospheres (ALOHA) model provided by the EPA (http://www.epa.gov/ceppo/cameo/index.htm).

Release rates for ammonia vapor from an evaporating 19-percent solution of aqueous ammonia were calculated assuming mass transfer of ammonia across the liquid surface occurs according to principles of heat transfer by natural convection. The ammonia release rate was calculated using ALOHA, meteorological data displayed in Table 1 and the dimensions of the secondary containment area. For the worst case condition, it was assumed that a complete failure of the storage tank occurred which resulted in an evaporating pool of aqueous ammonia within the secondary containment area.

An initial ammonia evaporation rate was calculated and assumed to occur for one hour after the initial release. This assumption results in a conservative estimate of the actual release rate. For concentrated solutions, the initial evaporation rate is substantially higher than the rate averaged over time periods of a few minutes or more since the concentration of the solution immediately begins to decrease as evaporation begins.

A release of the entire contents of one of the storage tanks (10,000 gallons of 19-percent aqueous ammonia) was assumed to be the worst case scenario. The failure of the tank would cause the aqueous ammonia to leak into the containment area and the release of ammonia gas would result from evaporation.

Although the edge of the tank containment area is raised above ground level, the release heights used in the model were set at 0 m above ground level (AGL) to maintain the conservative nature of the analysis. Downwind concentrations of ammonia were calculated at heights of 0, 1.6, and 5 meters above ground level. Reported distances to specified toxic endpoints are the maximum distances for concentrations at the specified distance above ground level. The California Office of Environmental Health Hazard Assessment (OEHHA) has designated 1.6 meters as the breathing zone height for individuals. A height of 5 meters represents the height of a two story building.

An alternative to the storage tank failure release scenario was also considered. The release of aqueous ammonia from a tank loading hose failure with a leak below the excess flow valves activation set-point and the subsequent impacts was considered. An alternative release analysis would normally be completed under typical or average meteorological conditions for the area. However, after review of the possible failure modes, it was determined that the impact of this leak would be captured by the complete tank failure as a worst-case for the hose failure since the tank loading hose failure would occur in the same location as the worst case scenario with less material potentially spilled.

Toxic Effects of Ammonia

With respect to the assessment of potential impacts associated with an accidental release of ammonia, four offsite "bench mark" exposure levels were evaluated, as follows: (1) the lowest concentration posing a risk of lethality, 2,000 ppm; (2) the Occupational Safety and Health Administration's (OSHA) Immediately Dangerous to Life and Health (IDLH) level of 300 ppm; (3) the Emergency Response Planning Guideline (ERPG) level of 150 ppm, which is the American Industrial Hygiene Association's (AIHA) updated ERPG-2 for ammonia; and (4) the level considered by the California Energy Commission (CEC) staff to be without

serious adverse effects on the public for a one-time exposure of 75 ppm (*Final Staff Assessment-Blythe Energy Project Phase II, 02-AFC-1, April 2005).*

The odor threshold of ammonia is approximately 5 ppm, and minor irritation of the nose and throat will occur at 30 to 50 ppm. Concentrations greater than 140 ppm will cause detectable effects on lung function even for short-term exposures (0.5 to 2 hours). At higher concentrations of 700 to 1,700 ppm, ammonia gas will cause severe effects; death occurs at concentrations of 2,500 to 7,000 ppm.

The ERPG-2 value is based on a one-hour exposure or averaging time; therefore, the modeled distance to ERPG-2 concentrations are presented in terms of one-hour (or 60 minute) averaging time. The ERPG-2 is the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing or developing irreversible or other serious health effects or symptoms that could impair an individual's ability to take protective action. OSHA's IDLH for ammonia is based on a 30-minute exposure or averaging time; therefore, the IDLH modeling concentrations at all offsite receptors will be given in terms of a 30-minute averaging time.

Modeling Results

Table 2 shows the modeled distance to the four benchmark criteria concentrations: lowest concentration posing a risk of lethality, (2,000 ppm), OSHA's IDLH (300 ppm), AIHA's ERPG-2 (150 ppm), and the CEC significance value (75 ppm).

TABLE 2
Distance to EPA/CalARP and CEC Toxic Endpoints

Scenario	Distance in Meters to 2,000 ppm	Distance in Meters to IDHL (300 ppm)	Distance in Meters to AIHA's ERPG-2 (150 ppm)	Distance in Meters to CEC Significance Value (75 ppm)
0 m AGL	11.06	11.79	11.92	11.98
1.6 m AGL	12.55	13.51	13.83	13.99
5 m AGL	18.26	19.82	20.08	20.21

The model input file and the output files are available upon request.

The results of the off-site consequence analysis for the worst case release scenario of ammonia at Eastshore indicate that the concentrations above the most stringent benchmark criteria (CEC's significance value of 75 ppm) does not extend off the project site (see Figure 1).

Assessment of the Methodology Used

Numerous conservative assumptions were used in the above analysis of the tank failure. These include the following:

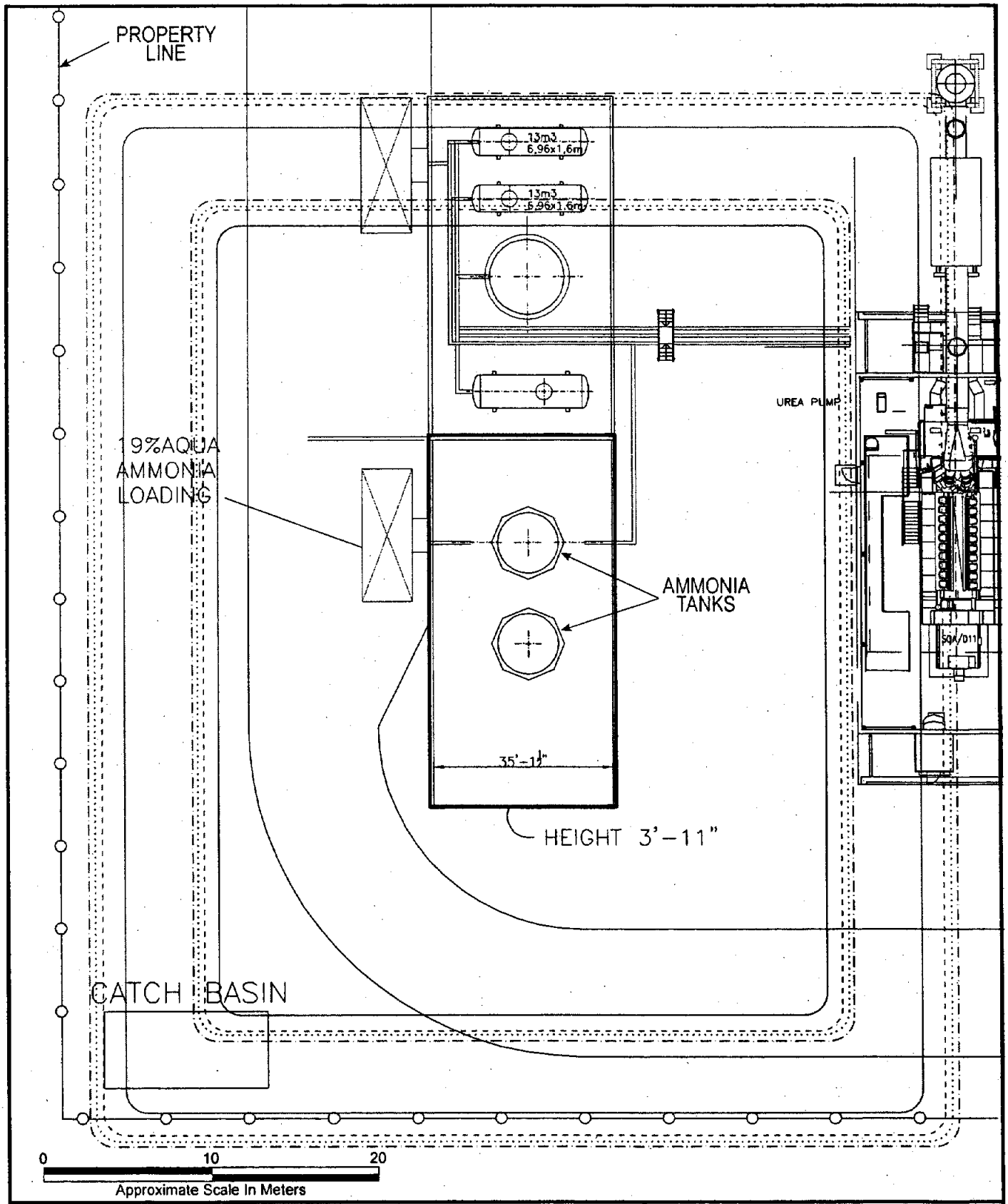
- Modeling & Meteorology

- Worst case of a constant mass flow, at the higest possible initial evaporation rate for the modeled wind speed and temperature was used, whereas in reality the evaporation rate would decrease with time as the concentration in the solution decreases.
- Worst case stability class was used, which almost exclusively occurs during nighttime hours, but the maximum ambient temperature of 99°F was used, which would occur during daylight hours.
- Again worst-case meteorology corresponds to nighttime hours, whereas the worst-case release of a tank failure would most likely occur during daytime activities at the power plant. At night, activity at a power plant is typically minimal.

Conclusions

Several factors need to be considered when determining the potential risk from the use and storage of hazardous materials. These factors include the probability of occurrence, population densities near the project site, meteorological conditions, and the process design. Considering the results of this analysis, the probability of a catastrophic storage tank failure occurring under low wind speeds, maximum potential air temperatures, and F class atmospheric stability, the risk posed to the public from the storage of aqueous ammonia at Eastshore site is insignificant.

As described above, numerous conservative assumptions have been made at each step in the analysis. This compounding of conservative assumptions has resulted in a significant overestimation of the potential impact of an ammonia release at Eastshore and the predicted distances to the benchmark criteria do not extend off the project site and pose no threat to public receptors. Therefore, it is concluded that the risk from exposure to aqueous ammonia due to Eastshore is less than significant.



1.6 m AGL	5 m AGL	
12.55 m	18.26 m	Distance in Meters to 2,000 ppm
13.51 m	19.82 m	Distance in Meters to IDHL (300 ppm)
13.83 m	20.08 m	Distance in Meters to AIHA's ERPG-2 (150 ppm)
13.99 m	20.21 m	Distance in Meters to CEC Significance Value (75 ppm)

N

FIGURE 1
AREA OF POTENTIAL IMPACT OF AMMONIA TANK FAILURE
EASTSHORE ENERGY CENTER
HAYWARD, CALIFORNIA
ALAMEDA COUNTY

CH2MHILL

EY082006001SAC figure_1.ai 01-12-07 ldaus

DUE TO THE COLOR OF THE

ATTACHMENTS, THEY HAVE BEEN

INCLUDED AS SEPARATE LINKS

TABLE 8.4-4
Consistency of the Eastshore Energy Center with applicable City of Hayward General Plan Policies

Policy	Description	Project Consistency
Chapter 3 Circulation Policies and Strategies		
Create improved and safer circulation facilities for pedestrians.	Encourage design of development that contributes to continuous pedestrian pathways and pedestrian connectivity.	Yes. As discussed in section 8.10 of the AFC, the Eastshore project will be subject to CEC standard conditions of certification that will require compliance with CEC standards for mitigating any potentially significant impacts associated with traffic and transportation from the project to insignificant levels. Therefore, as proposed, the Eastshore project is expected to comply with this policy.
Encourage land use patterns that promote transit usage	Continue to require large developments to provide bus turnouts and shelters, and convenient pedestrian access to transit stops.	Yes. Refer to previous consistency discussion above.
Provide for future parking demand in ways that optimize mode choice	Encourage developers/employers to offer transit passes or other transit enhancements to offset some parking requirements, pursuant to provisions of the parking ordinance. Consider park-and-ride lots for bus patrons and for carpooling centers.	Yes. Refer to previous consistency discussion above.
Seek to address traffic operations and safety concerns	Provide clear and consistent signage and roadway markings, and strengthen enforcement of traffic laws through increased patrols. Require trucks to use designated routes rather than local streets and prohibit overnight and other specified truck parking activities in residential areas.	Yes. Refer to previous consistency discussion above. Additionally because of the small number of employees on site at any time, as compared to the previous use of the existing site, the operational traffic from Eastshore will contribute lower vehicle traffic volumes to a particularly narrow section of Clawiter Road.
Chapter 4 Economic Development Policies and Strategies		
Use an economic strategy that balances the need for development with other city goals and objectives.	Undertake adaptive reuse of older commercial structures and create complimentary and compatible new development of high quality. Approve development opportunities that result in minimal adverse impacts on the city's environment.	Yes. As discussed in section 8.8 of the AFC, the Eastshore project will be subject to CEC standard conditions of certification that will require compliance with CEC standards for mitigating any potentially significant impacts associated with the project, including socioeconomic factors, to insignificant levels. Therefore, as proposed, the Eastshore project is expected to comply with this policy. Additionally Eastshore will generate property tax revenue for

TABLE 8.4-4
Consistency of the Eastshore Energy Center with applicable City of Hayward General Plan Policies

Policy	Description	Project Consistency
		the City without being a drain on the services supported by those tax dollars. By increasing electric reliability, Eastshore will help attract new business development and help retain existing business in the City.
Create a sound local economy that attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues.	Revitalize declining commercial and industrial areas and obsolete facilities through rezoning, redevelopment, rehabilitation, and other available means. Work cooperatively with local business and industrial associations to improve the general business climate and to stimulate new business investment. Ensure that there is adequate infrastructure (electricity, water, sewer) to support existing and new development. Identify sites for expansion of existing commercial, business park and industrial uses, and for new development.	Yes. Refer to previous consistency discussion above. Further, the Eastshore project will replace a presently unused warehouse/ manufacturing facility with a new allowable industrial use.
Facilitate the development of employment opportunities for residents.	Promote commercial and industrial development to create and maintain the maximum job opportunities for area residents.	Yes. The project will provide the opportunity for temporary construction and permanent operation jobs for qualified residents. Therefore, as proposed, the Eastshore project is expected to comply with this policy.
Chapter 6 Community Facilities and Amenities Policies and Strategies		
Seek to increase the amount, diversity, and quality of parks and recreational facilities and opportunities.	Establish park dedication in-lieu fees that reflect land costs. Consider adoption of an ordinance that would require new commercial and industrial development to either provide onsite recreational facilities or contribute in-lieu fees for park and recreational facilities that benefit employees.	Yes. The Eastshore project will comply with the requirements to pay the City of Hayward development fees for minimizing impacts on recreational facilities. Therefore, as proposed, the Eastshore project is expected to comply with this policy.

TABLE 8.4-4
Consistency of the Eastshore Energy Center with applicable City of Hayward General Plan Policies

Policy	Description	Project Consistency
Enhance the city's image through identification and preservation of historic resources.	Conduct a survey of potential historic structures and sites based on evaluation criteria that include their individual significance and their contribution to an historic setting.	Yes. As discussed in section 8.2, there are no significant historic resources located within the Eastshore project's area of potential effect (APE) for historic resources. Therefore, as proposed, the Eastshore project is expected to comply with this policy.
Chapter 7 Conservation and Environmental Protection Policies and Strategies		
Protect existing watercourses and enhance water quality in surface water and groundwater sources.	Concentrate development in those areas least susceptible to erosion, and minimize grading and the introduction of impervious ground surfaces; where appropriate, consider including retention basins onsite. Ensure that activities such as grading do not contribute to sedimentation of sloughs or marshes.	Yes. As discussed in sections 8.9 and 8.14, the Eastshore project will be subject to CEC standard conditions of certification that will require compliance with CEC standards for protecting watercourses and enhancing water quality in surface water and groundwater sources. Therefore, as proposed, the Eastshore project is expected to comply with this policy.
Seek to minimize risks from geologic and seismic hazards in the siting and design of development.	Continue enforcement of the seismic safety provisions of the Alquist-Priolo Act and the Building Code to minimize earthquake-related hazards in new development, particularly as they relate to high occupancy structures or buildings taller than 50 feet in height. Work with other agencies to ensure that electric transmission lines, water supply systems, wastewater collection systems, and gas mains crossing fault traces include provision for automated shutoff valves, switches, and equipment needed to restore service in the event of a major fault displacement. Assume that any site within 50 feet of any fault zone is underlain by an active fault trace until proven otherwise, and prohibit placement of structures for human occupancy across such trace.	Yes. The Eastshore project will be subject to CEC standard conditions of certification that will require compliance with CEC standards for mitigation of any potentially significant geologic or seismic hazards to insignificant levels. Therefore, as proposed, the Eastshore project is expected to comply with this policy.
Work with other agencies to minimize risks associated with the use, storage, and transport of hazardous materials.	Maintain a suitable buffer zone between industrial firms involved with hazardous materials and residential areas.	Yes. As discussed in section 8.12, the project will conform to hazardous materials planning requirements that will reduce risks to insignificant levels. Therefore, as proposed, the Eastshore project is expected to comply with this policy.

TABLE 8.4-4
Consistency of the Eastshore Energy Center with applicable City of Hayward General Plan Policies

Policy	Description	Project Consistency
Incorporate measures to improve air quality in the siting and design of new development.	Provide adequate buffers between sources of toxic air contaminants or odors and existing or potential sensitive receptors. Evaluate hazardous air pollutant emissions in review of proposed land uses that may handle, store, or transport hazardous materials.	Yes. As discussed in section 8.6, Eastshore has evaluated the potential impacts of hazardous air pollutants. Eastshore will not cause any significant public health impacts from the minimal levels of toxic air contaminants emitted from the project. No odors are expected from the Eastshore facility. Therefore, as proposed, the Eastshore project is expected to comply with this policy.
Support implementation of Transportation Control Measures adopted by the Bay Area Air Quality Management District.	Work with regional and local organizations to promote ridesharing opportunities.	Yes. Refer to consistency discussion above for Circulation Policies and Strategies.
Chapter 8 Public Utilities Policies and Strategies		
The city will seek to maintain an appropriate level of emergency response commensurate with the needs of residents and businesses.	Adopt and enforce building and fire codes utilizing fire suppression capabilities available to the city.	Yes. As discussed in sections 8.7, 8.8, and 10, the Eastshore project will be conform to applicable building and fire codes and appropriate standards and plans to ensure safety and adequate emergency response. Therefore, as proposed, the Eastshore project is expected to comply with this policy.

Source: City of Hayward (2002)

CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 10/11/05

AGENDA ITEM 6

WORK SESSION ITEM

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Cooperation and Option Agreement Regarding Russell City Energy Center

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution authorizing the City Manager to execute a cooperation and option agreement with RCEC-LLC in connection with the Russell City Energy Center.

DISCUSSION:

In 2001, the Calpine Corporation began the process to secure a license from the California Energy Commission (CEC) to construct the 600-megawatt Russell City Energy Center (RCEC). The RCEC was to be constructed on industrially-zoned property on Enterprise Avenue across the street from the City's wastewater treatment plant. This site was selected both because of the industrial character of the area, and because of the opportunity it presented to utilize effluent rather than potable water in the operation of the RCEC. Following an extensive review process, including public hearings held in Hayward, in September 2002 the CEC granted Calpine (technically, RCEC-LLC) a license to construct and operate the energy center. Owing to a change in economic circumstances, the RCEC has not been constructed, although the permit granted by the CEC remains valid.

Much has changed since 2002 with regard to how power plants are financed. At the start of the decade, it was possible to obtain needed financing in anticipation that a customer or customers for the energy would be identified subsequent to construction of the plant. Today, this is no longer the case. Now, power plant operators must demonstrate evidence that a long term power purchase contract is in place before financing will be provided. In this way, the contract serves as collateral to assure prospective investors there is sufficient revenue to meet debt service obligations.

Recently, Calpine has been participating in various bid processes initiated by business entities seeking the delivery of electricity on a long term basis. (Due to a confidentiality agreement, Calpine is not authorized to name the potential customer.) Calpine is proposing that the RCEC be the source of that power. For various reasons, the property on which Calpine planned to construct the RCEC is no longer available. As a result, Calpine has approached the City about utilizing a portion of City-owned property which houses the wastewater treatment plant to

construct the RCEC. In total, City-owned property represents about 12.2 acres. In exchange for this property, Calpine proposes to convey to the City approximately 10.2 acres of land abutting the plant to the north. Some of the less intense functions associated with the wastewater facility could be transferred to the new site without adversely impacting the overall operation of the treatment plant. Although the City property is slightly larger, the properties are comparable inasmuch as the City property is encumbered by a number of underground pipes and other utilities which effectively reduce the area in which structures can be constructed. (See exhibit A for delineation of the parcels in question.)

The actual exchange however would not occur until and if Calpine has secured both a contract to provide electricity to its prospective customer, and the necessary financing as well. For this reason, the transaction is structured as an option. The option would be valid through December 31, 2006. (If the option in not exercised the properties are not exchanged.) If the option is exercised, but construction of the RCEC does not commence within three years following conveyance of the property, the exchanged parcels will revert to each conveying party.

In order for the RCEC to be constructed at this new site, Calpine must process an amendment to its existing license with the CEC. A provision of the agreement calls for the City to express its support for such an amendment. The City supported the original application and staff believes it is appropriate to support the amendment as well. As can be seen in the exhibit, in substance the new location is virtually the same as the original site and arguably better in terms of some of the impacts discussed during the original application process. Because of its new location, Calpine requests that the architectural screen which was included in the original design no longer be required. Often referred to as the "wave", the screen was intended to soften the size and bulk of the plant. Staff supports Calpine's request for its deletion, particularly since the new location makes the RCEC less visible to motorists entering Hayward via Route 92, which was the main reason the screen was incorporated in the original design.

As the Council will recall, Calpine previously agreed to provide a number of community benefits, the most substantial of which was a contribution to the City of $15 million for a new library. Other, significantly smaller, contributions were also to be provided to the Hayward Area Recreation and Park District, and the Hayward Education Fund. Due to changed economic conditions and a more competitive pricing environment, Calpine reports it can no longer provide the same level of support and still compete effectively in the open market. Consequently, it is no longer able to provide the planned benefits to the HARD and HEF. With respect to the library, after extensive discussions, staff has been successful in obtaining Calpine's commitment to help fund the library initiative—albeit at a lesser amount. Accordingly, Calpine now proposes to contribute $10 million to the City, which amount is to be conveyed when concrete is poured for the foundation for the turbines that are integral to the plant. (Apparently, this typically occurs within the first six to nine months of project construction.)

In addition to the exchange of parcels and the other elements described above the recommended agreement includes the following important provisions:

- In siting the RCEC at its new location, nothing will be done which impairs the operation of the wastewater treatment plant.

- Each party will indemnify the other from responsibility for remediating toxic or hazardous material from the property to be conveyed, consistent with the standard applicable to reuse of the property in a commercial or industrial capacity. Said differently, each party bears the cost of cleaning up the site it is conveying to the other party.

- The City will provide, on a priority basis, 4.1 million gallons a day (MGD) of secondary treated effluent to the RCEC at no cost. The City is authorized to process as much as 16.5 MGD, so this represents only a small portion of the effluent generated by the plant.

With regard to next steps, it is expected that Calpine will know by next spring if it has been successful in entering into a long term power purchase agreement. Then, an amendment to the existing permit will be processed with the CEC. It is estimated that it will be about a year before a final decision is made on the amendment. Assuming a favorable outcome, construction could commence in the summer of 2007, with the RCEC operational two years later.

The energy crisis has not gone away, although it appears dormant and not in the public eye. Nonetheless, the long term viability of the California economy is dependent on addressing this critical issue. Construction and operation of the RCEC is helpful in this regard. Because of this and because of some of the benefits that will accrue to the Hayward community, staff recommends authorization to execute the agreement (a copy of which is on file with the City Clerk's office) with RCEC-LLC.

Jesús Armas, City Manager

Attachments: Exhibit A
Draft Resolution

DRAFT 7

HAYWARD CITY COUNCIL

RESOLUTION NO._____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE EXECUTION
A COOPERATION AND OPTION AGREEMENT
WITH THE RUSSELL CITY ENERGY CENTER, LLC

WHEREAS, the City and Russell City Energy Center, LLC ("RCEC") have previously entered into agreements for the development of RCEC in the City of Hayward; and

WHEREAS, the City Council has previously found that the development of a modern, clean source of reliable energy is a benefit to the public health, safety and welfare; and

WHEREAS, changing circumstances have necessitated consideration alternative sites for the location of the energy center; and

WHEREAS, RCEC has proposed to construct the energy center on parcels of land owned by the City in its propriety capacity and currently used in connection with the City's waste water treatment facility ("Treatment Facility Land"); and

WHEREAS, as part of its proposal, RCEC is offering to trade comparable parcels of land to the City in exchange for the Treatment Facility Land; and

WHEREAS, the City Council hereby finds that the land to be exchanged is contiguous to the Treatment Facility Land and has been determined to be of equal or greater value; and

WHEREAS, the Council further finds that the exchange of land will be beneficial to the public good and welfare in that it will enable the City to continue to efficiently operate its sewer treatment facility and also provide a site for the construction of an energy center that will provide much needed clean energy for use by the general public; and

WHEREAS, RCEC's proposals are contained in the Cooperation and Option Agreement ("Agreement") on file in the office of the City Clerk.

NOW THEREFORE, the City Council of the City of Hayward does hereby resolve and express its support for the development and construction of the Russell City Energy Center on the land described in the Agreement.

BE IT FURTHER resolved that the City Manager is hereby authorized and directed to execute the attached Agreement, and negotiate and execute any and all related agreements and documents necessary to carry out the purpose and intent of such Agreement in forms approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA_____, 2005

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:_____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

February 14, 2007

David Rizk, AICP
Planning Manager
City of Hayward
777 B Street
Hayward, CA 94541

Dear David:

Thank you for your Email requesting information about the Eastshore Energy Center.

In response to your inquiry "...pertaining to what benefit this plant would provide to Hayward, can it be assured that the energy produced by this plant would benefit Hayward businesses and residents?"

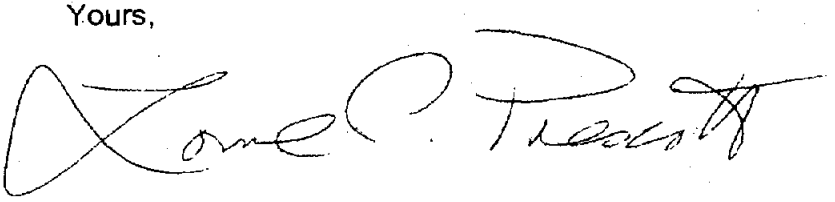
The Energy Commission's role in assessing a proposed power plant's Application for Certification (AFC) is to identify any adverse environmental impacts of the proposed facility and assure that the impacts are mitigated to a level of less than significant. Staff also examines the design, construction, operation, and closure of the proposed facility in relation to applicable laws, ordinances, regulations and standards (LORS). The Commission's licensing process ensures that proposed facilities are safe, reliable, environmentally sound, and that they comply with all LORS. Our California Environmental Quality Act (CEQA) functionally equivalent process does not assess the localized *benefits* of providing power to the area immediately around a proposed power plant, but we do assess the localized impacts of that power plant. Staff's analysis focuses on the project impacts and mitigation of any impacts. If there are unmitigated environmental impacts, we sometimes analyze project benefits, such as reducing electrical system losses or other benefits to maintaining the reliability of the electrical system in order to determine whether licensing the project is justified notwithstanding the identified impacts.

Because of its urban location in the East Bay area, the Eastshore facility would be suited to serve the local load centers of Hayward along with the greater San Francisco South Bay area. The electrical power generated by this facility would supplement the old local generating plants at Pittsburgh and on the peninsula, and therefore, would bring more reliability to the local electric grid. While special studies have not been conducted, staff believes that the Eastshore facility project would reduce system losses and provide voltage support to the system in the Hayward region and the South Bay area. System loss decreases would occur because the Eastshore facility will alleviate the local area load demands and decrease the line flows importing power to the area during periods of high demand. Such decreases will eventually have some economic and environmental benefits. The Eastshore facility would provide additional reactive power in the area and help to prevent

voltage collapse in the area during any system catastrophe by providing dynamic voltage support.

If I can provide any additional information please let me know.

Yours,



Lorne C. Prescott

Cc: Jesus Armas, Hayward City Manager

Exhibit E

-----Original Message-----
From: esther_ho [mailto:esther_ho@sbcglobal.net]
Sent: Sunday, February 11, 2007 3:31 PM
To: Michael Sweeney; Jesus Armas
Subject: new power plant

Yes, I am concerned by the prospective 55 tons of ammonia that Eastshore Energy proposes to release each year into the air less than a mile from my home, but I am even more alarmed that Hayward may contribute to more global climate change, which is threatening to engulf all of us. This is a time when we need to be dismantling power plants, introducing stringent conservation measures, and rapidly building up our renewable energy sources. Please show leadership in helping Hayward take a longer view. Our national administration has refused to institute the necessary measures. Therefore, it is the duty of state and local agencies to respond to the dire prospects for our future.

Esther Ho
2144 Thayer Ave.
Hayward, CA 94545

2/13/2007

-----Original Message-----
From: Remarka Kramer [mailto:remarkams@yahoo.com]
Sent: Sunday, February 11, 2007 5:20 PM
To: Michael Sweeney
Cc: lprescot@energy.state.ca.u.s
Subject: No to the electric power plant in my backyard

Honorable Mayor of Hayward
Dear Ladies and Gentlemen

With this project you put the health of our communityat risk.
We strongly reject that!

Chemicals from the Electric Power plant are linked to cancer, emphysema, birth defects, premature death, aggravated asthma, chronic bronchitis, and other health problems.

The proposed location is just in 1.5 block from our neighborhood, which includes our homes, schools, kinder gardens, nursing homes, recreation park. On behalf of the most vulnerable to these chemicals - elderly and children and people with existing health problems - we say NO to this project.

Stacey & Boris Kramer
25368 Ironwood Ct.
Hayward CA 94545

2/13/2007

-----Original Message-----
From: marco torres [mailto:nacotorres@yahoo.com]
Sent: Monday, February 12, 2007 3:49 PM
To: lprescot@energy.state.ca.u.s
Cc: micheal.sweeney@hayward-ca.gov
Subject: Tierra Energy Company in Hayward

Marco Torres
26025 Dodge Ave.
Hayward, Ca. 94545

February 12, 2007

To Whom It May Concern:

This letter is in reference to the proposed Tierra Energy Co. power plant near the intersection of Depot and Clawiter in Hayward. I live in the Eden Gardens neighborhood which is within 1 mile of the proposed power plant. I am firmly opposed to a power plant being so close to such a densely populated area. This same area includes an elementary, junior high school, and community college, which may be in risk of unknown health hazards from the plant. This not only poses a threat of health but also an economic threat towards home values. Have we not learned from the homes near the refineries in Richmond. I know power plants and refineries function different but they result in the same affect, a neighborhood declining in values, residents constantly wondering new ailments will be attributed to the released chemicals, and being on alert for an alarm system to advise residents of a chemical leak at the plant. If this plant comes to be, I know I will relocate to a city where they are really looked after by their governing elected officials. Something like this would not be happening in an affluent neighborhood in the Tri-Valley, so why here. If the city would like to bring in revenues, finding a better suited venue in the city where homes and residents will be free to pursue their goals of a better life in the city of Hayward.

Respectfully,

Marco Torres

-----Original Message-----
From: Tom.Deyoung@kp.org [mailto:Tom.Deyoung@kp.org]
Sent: Monday, February 12, 2007 4:21 PM
To: Michael Sweeney; Jesus Armas; Iprescot@energy.state.ca.us
Subject: Tierra Energy

Dear Gentlemen, I am a homeowner in the Eden Gardens nieghborhood at 2223 Thayer ave Hayward since 1988. I have just read that Hayward is entertaining the idea of a power plant less than a 1/4 mile from our nieghborhood .I am apalled but not surprised . Eden Gardens is still a desirable nieghborhood to buy a home for a family . It will no longer be if this is allowed to go thru . I implore you not to allow this to happen here. There are other sites more suitable for this. And if they say that there is no downside to such a project then I suggest putting it in the Haward hills and see how that is accepted .Hayward is on a Fault line ! . PLEASE RETHINK THIS! &nb! sp;

-----Original Message-----
From: Debby Youngs [mailto:debby@meyersound.com]
Sent: Tuesday, February 13, 2007 7:38 AM
To: Jesus Armas
Subject: FW: No to Tierra Energy Company Project

Dear Jesus,

As a long time (20+ years) resident of the Eden Gardens neighborhood, I am dismayed to learn of Tierra Energy Company's plans to build a power plant in such a sensitive area.

Not only would this project abut several residential neighborhoods with a high percentage of children in most households, but it would also be next door to the shoreline recreational area with wetlands and wildlife. I believe our children and eco system deserve to live, grow and thrive in an environment free from any more man made pollutants.

With more homes being built in our area, the strain on the streets, schools and basic infrastructure is already at capacity. A project such as this would require major construction equipment and leave behind a power plant with emissions which could substantially increase cancer and asthma rates. With current studies showing asthma an ever increasing concern for the young people of California, I have to ask, is it worth putting the health of our children and the wetlands of our shoreline in danger. I don't think so. There must be a better way.

I join with others in urging you to withhold approval of this ill-conceived, possibly dangerous project. When you do, you will be saying yes to a better quality of life and air for our neighborhoods!

Sincerely,

Deborah Youngs
2152 Thayer Avenue
Hayward, CA

2/13/2007

-----Original Message-----
From: Lynnel.Schexnayder@kp.org [mailto:Lynnel.Schexnayder@kp.org]
Sent: Tuesday, February 13, 2007 2:03 PM
To: Jesus Armas; Michael Sweeney; lprescot@energy.state.ca.u.s
Subject: Energy Plant

I am writing as I am very concerned that hayward is entertaining the idea of a power plant less than a quarter of a mile from where I live. I recently purchased a home at 1948 Depot Rd. My son has asthma, and I purposely purchased a home without carpets, his asthma could be affected adversely by the chemicals placed in the air surrounding the area. I plan to live in Hayward for many more years, but if this plant goes in as planned, my plans will have to change. I am a nurse, and can't help but think of the countless others whose health could be affected adversely. I really hope that you reconsider such a huge health impact decision. Revenue to the city might be acquired, but at what price, not mine,or my family's health PLEASE!

Thank You for your time ,
Lynnel M Schexnayder RN

2/13/2007

-----Original Message-----
From: jimtlau [mailto:jimtlau@yahoo.com]
Sent: Tuesday, February 13, 2007 9:06 PM
To: Jesus Armas
Subject: Tierra Energy Company power plant project

Dear Mr. Armas,

I am a resident of West Hayward and I just found out about the power plant project in my neigborhood. I was shocked that a project this size and magnitude was proposed near residential neighborhoods. The pollution, transport of hazardous materials, health and negative impact on property values are some of my immediate concerns. I am 100% against such an irresponsible project in such close proximity of residential neighborhood.

I hope the City will not approve the project since the negative impact is just too great.

Thank you

Sincerely,
Jim Lau

A West Hayward resident

-----Original Message-----
From: Loera, Maria [mailto:Maria.Loera@sanjoseca.gov]
Sent: Thursday, February 15, 2007 8:54 AM
To: 'lprescot@energy.state.ca.u.s'; Michael Sweeney; Jesus Armas
Subject: Power plant "Eastshore Energy"

The purpose of this message is to let you know that we are vehemently opposed to the building of a 115.5 magawatt electric power plant near the intersection of Depot Rd. and Clawiter Road. WE DO NOT WANT THIS PLANT IN OUR NEIGHBORHOOD!!!!

Our daughter already has asthma and this would mean reduced air quality. This would be devastating to us. Not just for our daughter, but for all of the residents of the neighborhood. The building of the power plant would mean emissions of dust and diesel exhaust and a real potential negative impact to local property values. We have worked very hard and very long to be able to buy our home. We want our voice to be heard. WE ABSOLUTELY DO NOT WANT THIS POWER PLANT BUILT IN WHAT IS A NEIGHBORHOOD WITH A FAMILY ENVIRONMENT!! There are two preschools, one elementary school, one middle school, and a college within a mile of where they plan to build the power plant. The plant would, without question, have a true detrimental impact on many levels on the entire are. PLEASE, DO NOT ALLOW THE BUILDING OF THE POWER PLANT for the sake of our neighborhood and our children!!! Please pass this on to those who would have a vote on this matter.

Maria G. Loera
Very concerned Mt. Eden resident

From: Lydia Espinoza [mailto:lydiaespinoza@sbcglobal.net]
Sent: Thursday, February 15, 2007 10:51 AM
To: Michael Sweeney
Subject: Eastshore Energy

Dear Mr. Sweeney,
I am writing to voice my concerns on the proposed plan to build the Tierra Energy Company power plant. I chose to live in the Hayward community to avoid living in Contra Costa near all the refineries that engulf those communities and for my family's quality of live. My concern, with the building this plant is all the hazard materials that will essentially change the air quality to our community and impact our children who attend the nearby schools and the families that live in the surrounding areas of the proposed plant. I highly doubt the energy plant will be reducing harmful pollutes in our air. We need to protect our land and stop hurting our environment.

I strongly recommend our City Council stand behind their constituents to vote against the approval of the Tierra Energy Company "Eastshore Energy".

KEEP POWER PLANTS OUT OF OUR COMMUNITY!

2/15/2007

-----Original Message-----
From: vivian hayden [mailto:vivhay@sbcglobal.net]
Sent: Thursday, February 15, 2007 4:40 PM
To: Michael Sweeney; Jesus Armas
Subject: public hearing on Tierra Energy Co. proposal

My apology at being so late with my response. I am unable to attend tonight's hearing, but I do want to register my objection to this proposal. As a resident of the Eden Gardens area I am greatly concerned with the proximity of the area not only to me, but to the multiple housing nearby , an elementary, junior high and community college within a short walking distance. It's difficult to imagine what 14 70' towers would look like. Maybe we need a side view of that from the ground looking up. At this point I see no great benefit to Hayward, so let's ask them to find another site.
Vivian Hayden 510 782 6608

Alerting Residents of West Hayward

Tierra Energy Company is planning to build a 115.5 megawatt electric power plant named "Eastshore Energy" near the intersection of Depot Rd. and Clawiter Road (across the street from the rear parking lot of Life Chiropractic College). That location puts this energy plant on the borders of our neighborhoods!

Tierra's building plans include 14 smokestacks 70 feet high releasing 55 tons of ammonia into the air annually!

Immediate areas of concern are:

- **Reduced air quality**
- **Emissions of dust and diesel exhaust**
- **Risk of increased cancer and asthma rates**
- **Transportation of hazardous materials**
- **Potential negative impact to local property values**

Tierra's plans are moving along rapidly. They are seeking final approval by November of this year!
The next public hearing is before the Hayward Planning Commission on February 15th at 7:30 p.m., Council Chambers, 2nd Floor, City Hall, 777 B. St. Hayward.

Please contact the following officials to express your concerns and questions:

California Energy Commission
Lorne Prescott, Project Manager **Phone: (916) 654-4640**
lprescot@energy.state.ca.u.s

Mayor of Hayward, Michael Sweeney **Phone: (510) 583-4340**
michael.sweeney@hayward-ca.gov

Hayward City Manager, Jesus Armas **Phone: (510) 583-4300**
JesusA@hayward-ca.gov

To be placed on a mailing list for future public hearings contact the Energy Commission at 1-800-822-6228 or send e-mail to PAO@energy.state.ca.us

Be informed, ask questions, let your voice be heard!

-----Original Message-----
From: albert jordan [mailto:jordanzo76@comcast.net]
Sent: Monday, February 12, 2007 10:15 AM
To: Jesus Armas
Subject: Eastshore Energy

Mr. Armas;
I am writing you to consider the close proximity that this plant is to our neighborhoods. We have 2 schools, subdivisions, a large apartment complex, and an older neighborhood nearby. Most of the folks I have spoken to are not aware that this is going on around them. Those that do know are very concerned. I have asked them to contact you. The plant is too close and the health risks too great.

Thank you,

Connie Liranzo-Jordan
2661 Depot Rd.
Hayward

2/13/2007

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO._____

Introduced by Council Member_____

mle
3/1/07

RESOLUTION FINDING THAT THE EASTSHORE ENERGY CENTER PROPOSED AT 25101 CLAWITER ROAD IS NOT CONSISTENT WITH THE GENERAL PLAN AND INDUSTRIAL ZONING DISTRICT

WHEREAS, Eastshore Energy, LLC has made a request for the City of Hayward to make a determination that a proposed 115 megawatt power plant, to be located at 25101 Clawiter Road, is consistent with General Plan policies and the Industrial Zoning District; and

WHEREAS, the authority to license power plants in California that generate more than 50 megawatts of power rests with the California Energy Commission (CEC); the CEC is currently processing an application for this power plant and is scheduled to make a final decision in the fall of 2007; and

WHEREAS, the CEC must determine that a project conforms to Local Ordinances Regulations and Standards (LORS). A power plant is not a listed use within the Hayward Industrial Zoning District, and the Zoning Ordinance indicates that when a use is not specifically listed, it shall be assumed that such uses are prohibited unless it is determined ...that the use is similar to and not more objectionable or intensive than the uses listed; and

WHEREAS, it is staff's opinion that the proposed power plant is not consistent with the purpose of the General Plan and Industrial Zoning District.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby finds and determines:

1. The proposed power plant is not consistent with the purpose of the Industrial (I) Zoning District in that it would result in a facility that would not promote a desirable and attractive working environment with a minimum of detriment to surrounding properties, because it would have the potential to generate air quality impacts related to particulate matter and nitrogen oxides emissions and would entail fourteen 70-foot tall venting stacks, which would not be compatible with the heights of other structures in the vicinity;

2. The proposed power plant would impair the character and integrity of the zoning district and surrounding area with the introduction of highly visible 70-foot tall

venting stacks, which would be seen from residential areas to the east and would be incompatible with the heights of existing facilities in the area;

3. The proposed power plant would be detrimental to the public health, safety, or general welfare due to the potential for air quality and hazardous materials impacts related to the use and transport of aqueous ammonia and emission of particulate matter and nitrogen oxides; and

4. The proposed power plant would not be in harmony with applicable General Plan policies that seek to "promote and protect the appearance of the Business and Technology Corridor to encourage quality development" in that the 6.2-acre site proposed for the power plant is near the eastern edge of the industrial area of the City abutting residential areas that would be more appropriately developed with emerging and higher technology businesses that tend to cluster and generate higher paying jobs. Also, such uses would have higher numbers of employees than the expected 15-20 employees anticipated for operation of the plant, which would be more appropriately served by the direct connection along Clawiter Road to State Route 92, an intersection planned for upgrades as stated in the General Plan.

BE IT FURTHER RESOLVED that based upon the forgoing findings, the City Council hereby determines that the proposed power plant is not consistent with the City's General Plan Policies and Industrial Zoning District provisions.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2007

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:_____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward