CITY OF PITTSBURG
AGENDA

September 17, 2018

CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA

CLOSED SESSION
6:00 P.M.

REGULAR MEETINGS
7:00 P.M.

CITY COUNCIL
HOUSING AUTHORITY
PITTSBURG ARTS AND COMMUNITY FOUNDATION
PITTSBURG POWER COMPANY

PRESIDING

Dwaine "Pete" Longmire, Mayor/Chair
Sal Evola, Vice-Mayor/Chair
Juan Antonio Banales, Council Member/Board Member
Jelani Killings, Council Member/Board Member
Marilyn "Merl" Craft, Council Member/Board Member

FOR HOUSING AUTHORITY:
SL Floyd, Housing Authority Member
Annie Hill Herring, Housing Authority Member

Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.ci.pittsburg.ca.us. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

NOTICE TO PUBLIC (Attached)

COUNCIL COMMITTEES LIST (Attached)

COMMISSIONS/COMMITTEES MEETING SCHEDULE (Attached)

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.

6:00 P.M.

CONVENE IN CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG; Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9:

   Two (2) cases

2. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG; Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:

   One (1) case

7:00 P.M.

CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

CITIZENS REMARKS

Members of the audience who wish to address the City Council or Agency Boards on issues that are not scheduled for the agenda and on any items listed as part of the Consent Calendar should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. (No Action Required)

HOUSING AUTHORITY

CONSENT CALENDAR

3. Minutes

   Minutes of August 20, 2018

4. Adoption of a Housing Authority Resolution Approving the Pittsburg Chamber of Commerce 2018-2019 Lease and Common Area Maintenance Offset

   The Pittsburg Chamber of Commerce (Chamber) entered into a sublease agreement (Sublease) for its operations located at 985 Railroad Avenue (Premises). Pursuant to Sections 3.2 (a) and 5.4 of the Sublease, the Chamber may provide services to the community in lieu of rent and common area maintenance (CAM) charges to be paid by the Chamber. The Chamber prepared its scope of services (Lease and CAM Offset 2018-2019) that lists the services to be provided by the Chamber to the City in lieu of paying lease and CAM charges.

ADJOURNMENT OF THE HOUSING AUTHORITY to October 15, 2018

CITY COUNCIL MEETING

PUBLIC HEARING

5. Introduction and Waive First Reading of an Ordinance Amending Section 3.26.030 of the Pittsburg Municipal Code Relating to Fiscal Sustainability and Reserve Funds

   The Proposed Fiscal Sustainability Ordinance ("Ordinance") amendment will clarify the definition of the purpose of the existing General Fund Reserve that make up the established minimum unappropriated reserve balances at 30% of operating expenses for City's General Fund.

6. Introduction and Waive First Reading of an Ordinance and Adoption of a Resolution Approving the Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)

   This is a public hearing on a request for: 1) adoption of an amendment to the existing 'Empire Business Park' Overlay Zoning District (Ord. Nos. 07-1284 and 04-1214) to allow a "Major Utility" use subject to a use permit; 2) approval of a use permit for a Major Utility; and 3) design review approval of plans to install an energy storage project in three 60,000 sq. ft. buildings with related accessory equipment and tie-line to an existing PG&E substation. The project site covers a 12-acre portion of the 35-acre Empire Business Park parcel (APN: 085-280-010) located at 701 Willow Pass Road in the IP-O (Industrial Park Overlay) District. On August 14, 2018, the Planning Commission adopted Resolution No. 10095, recommending approval of the proposal in its entirety.

7. Adoption of a City Council Resolution Approving the 2017-2018 Community Development Block Grant Consolidated Annual Performance and Evaluation Report

   The Housing and Community Development Act of 1974, as amended, requires all

Community Development Block Grant (CDBG) entitlement jurisdictions to prepare and submit a Consolidated Annual Performance and Evaluation Report (CAPER) to the U.S. Department of Housing and Urban Development (HUD) by September 30th of each year. The CAPER is a "report card" that documents how well the City met its goals during the period of July 1, 2017 through June 30, 2018 (Program Year) in helping lower income residents of Pittsburg with a variety of services and improvements utilizing Federal CDBG funds.

CONSIDERATION

8. By Minute Order Appoint Two Committee Members to an Ad Hoc Committee on Commissions and Council Procedures

In accordance with the City of Pittsburg "Policies and Procedures for the City Council" adopted by the City Council on September 4, 2001 by Resolution No. 01-9475, the Mayor and Vice-Mayor shall appoint individual Council Members to standing and ad hoc committees. A need currently exists to create an ad hoc committee to review the policies and procedures for the City Council and Commissions.

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, AND PITTSBURG POWER COMPANY CONSENT CALENDAR

9. Minutes

Minutes of September 4, 2018

10. Adoption of a City Council Resolution Amending City's Conflict of Interest Code

Pursuant to the Political Reform Act, every local government is required to conduct a biennial review of its Conflict of Interest Code to determine its accuracy. As part of this year's biennial review, City staff determined that the City's Conflict of Interest Code must be amended to reflect new, reclassified and eliminated employee positions. Adoption of the resolution updating the City's Conflict of Interest Code will ensure that the Code accurately reflects all of the designated positions within the City which are required, by state law, to disclose financial interests.

11. Adoption of a City Council Resolution Approving Revisions to the City's Investment Policy

On July 6, 2015, the City Council adopted the most recent Investment Policy for the City of Pittsburg that provides guidelines for the prudent investment of the City's idle funds and outlines the policies for maximizing the efficiency of the City's cash management system. The goal of the City's Investment Policy is to enhance the economic status of the City while protecting its funds. There are no structural changes to the current Council approved policy, however, there are clarifications and additional specific investment percentage restrictions in the proposed new policy.

12. Adoption of a City Council Resolution to Create a Master Pay Schedule as Required by California Public Employees' Retirement System

To comply with CalPERS' interpretation of the requirements of Code of Regulations section 570.5 by affirming the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule. The single master salary schedule will be submitted to Council for approval each time any single MOU or compensation plan is brought to the City Council for approval.

13. Adoption of an Ordinance Amending Title 18 of the Pittsburg Municipal Code Related to Permitting Small Recycling Facilities and Mail Order or Direct Selling Establishments in the M District AP-17-1235 (RZ)

On September 4, 2018, the City Council held a duly noticed public hearing to consider a zoning text amendment to add "small recycling facility" and "mail order or direct selling establishment," as conditionally permitted uses in the M (Mixed Use) District.

14. Adoption of a City Council Resolution to Award FY 2018/19 Purchase Contract for Bulk Renewable Diesel

The City has various departments that require large quantities of diesel fuel to carry out their responsibilities and to maintain operations. Staff solicited cost proposals from vendors that provide Renewable Diesel and after reviewing the proposal received, recommends award of the contract to provide Renewable Diesel for FY 2018/19 to Western States Oil/Spartan Tank Lines of San Jose, California.

15. Adoption of a Resolution Authorizing the Executive Director to Execute a Sublease Agreement Between the Pittsburg Arts and Community Foundation, Inc. and David Doyal for 51 Marina Boulevard, Suite C

Pittsburg Arts and Community Foundation (Foundation) and David Doyal, doing business as Bottle & Barrel Tap & Wine Bar (Sublessee), propose to enter into a sublease agreement (Sublease Agreement). The Foundation desires to lease One Thousand Six Hundred Sixty-Two (1,662) square feet of interior space within the Plaza Marina Building and Seven Hundred Sixty-Four (764) square feet of outdoor dining terrace, known as 51 Marina Boulevard, Suite C ("Premises") to Sublessee and Sublessee desires to lease the Premises from the Foundation. The term for the Sublease commences on November 1, 2018 and expires on January 31, 2021.

COUNCIL MEMBER REPORTS/REMARKS

Council Members may make brief announcements or informal comments at this time. Council members may ask questions for clarification from City staff, and make a report on their activities, including reports on committee assignments (see attached list of ad hoc committees and other public agencies in which Council members participate). (No Action Required)

ADJOURNMENT to October 1, 2018

NOTICE TO PUBLIC

GENERAL INFORMATION

Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). The full packets are also located on the City's website at www.ci.pittsburg.ca.us. If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action take by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.ci.pittsburg.ca.us on the Streaming Media page. Past meetings are also archived on that webpage. City Council meetings are also broadcast live on CCTV, Channel 24 also re-run at a later date. For more information, please contact the City Clerk's office at 252-4850.

City Council Outside Agency / Liaison / Sub-Committees Assignments - 2018

Updated June 4, 2018

OUTSIDE AGENCY BOARDS	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
ABAG	Merl Craft / Pete Longmire Alternate	Standing	Annual	J. Sbranti
SF Bay Regional Water Quality Board	Merl Craft / Pete Longmire Alternate	Standing	As needed	J. Sbranti
Contra Costa County Fire Dist.	Pete Longmire / Jelani Killings Alternate	Standing	2nd Monday	J. Sbranti
Delta Diablo**	Pete Longmire / Juan Banales Alternate	Standing	2nd Wednesday	F. McKinley
East Co.Co.County Habitat Conservancy	Sal Evola / Juan Banales Alternate	Standing	Monthly	K. Pollot
East County Water Management	Merl Craft / Pete Longmire Alternate	Standing	Annual	F. McKinley
MCE Clean Energy Board	Juan Banales / Pete Longmire Alternate	Standing	4 Per Year	G. Evans
TRANSPLAN / ECCRFFA	Sal Evola / Juan Banales Alternate	Standing	2nd Thursday	J. Hecht
Tri-Delta Transit (2 reps)***	Pete Longmire& Merl Craft / Jelani Killings Alt.	Standing	Last Wednesday	J. Hecht

LIAISON TO	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
East Bay League of Calif. Cities	Sal Evola / Merl Craft Alternate	Standing	3rd Thursday	*Rotational
Mayor's Conference	Pete Longmire / Sal Evola Alternate	Standing	1st Thursday	J. Sbranti/G. Evans
School Districts Committee	Merl Craft &Jelani Killings / Juan Banales Alt.	Standing	4th Thursday even months	J. Sbranti

SUBCOMMITTEES	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
CAC/CDBG	Juan Banales & Jelani Killings / Pete Longmire Alt.	Standing	As needed	M. Aliotti
CIP	Juan Banales & Jelani Killings	Ad Hoc	As needed	F. McKinley/J.Hecht
Concord Hills Working Group	Sal Evola & Juan Banales / Merl Craft Alt.	Ad Hoc	As needed	J. Sbranti
Pittsburg Recognition Committee	Merl Craft / Pete Longmire Alt.	Ad Hoc	As needed	J. Hecht
Economic Develop/Waterfront Subcommittee	Pete Longmire &Juan Banales / Sal Evola Alt.	Standing	Quarterly	G. Evans
Finance Subcommittee	Sal Evola & Pete Longmire / Merl Craft Alt.	Standing	As needed	B. Farmer
Land Use Subcommittee	Sal Evola &Juan Banales / Merl Craft Alt.	Ad Hoc	As needed	K. Pollot
Local Contracting & Preference Policy	Merl Craft & Sal Evola	Ad Hoc	As needed	J. Sbranti
Pittsburg Arts & Community Foundation	Merl Craft& Jelani Killings / Pete Longmire Alt.	Standing	As needed	J. Sbranti
Pittsburg Police Activities League (PAL)	Juan Banales & Pete Longmire / Killings Alt.	Standing	Monthly	B. Addington
Power Company Advisory	Pete Longmire & Juan Banales / Merl Craft Alt.	Standing	As needed	G. Evans
Public Outreach	Juan Banales & Jelani Killings	Ad Hoc	As needed	K. Simonton
Sister City Committee	Sal Evola&Merl Craft/ Pete Longmire Alt.	Ad Hoc	As needed	G. Evans
Successor Agency Subcommittee	Merl Craft &Jelani Killings / Pete Longmire Alt.	Standing	As needed	M. Aliotti

*Rotational Staff as assigned by City Manager
**Stipend of $209 per month
***Stipend of $100 per month

COMMISSION/SUBCOMMITTEE MEETING SCHEDULE

Following is a tentative list of currently scheduled Commission meetings for the upcoming month. For further information, please visit our website at www.ci.pittsburg.ca.us and click on the CALENDAR link for meetings, dates, times and locations.

Commission	Tentative Meeting Dates
Planning Commission	2nd and 4th Tuesdays
Community Advisory Commission	1st Wednesday

Planning Commission meetings are regularly held the second and fourth Tuesdays of the month in the Pittsburg City Hall Council Chambers.

Community Advisory Commission meetings are regularly held the first Wednesday of the monthin the Pittsburg City Hall Council Chambers.

In addition to the Commission Meetings listed above, there are several Council Member Subcommittees that meet on an “as needed basis”.For a list of subcommittees that Council Members and staff are assigned to, please see the “Council Committee List” attached to the agenda.

Subcommittee Meetings that are anticipated to occur in the coming month vary. The meeting dates, times and locations for these meetings are yet to be determined. This information will be posted on the City’s website, www.ci.pittsburg.ca.us, as soon as it is determined. Please check the Calendar on the City’s website for information.

For further information, contact the City staff member assigned to that Commission or Subcommittee.

CITY OF PITTSBURG
HOUSING AUTHORITY MEETING MINUTES

DATE: August 20, 2018

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL/AGENCY MEMBERS

Dwaine "Pete" Longmire, Mayor/Chair Member
Sal Evola, Vice-Mayor/Chair
Member Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
Marilyn Craft, Council/Agency Member
VACANT, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS

Joe Sbranti, City Manager/Executive Director
Ruthann Ziegler, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

CALL TO ORDER

Vice Chair Evola called the meeting of the Housing Authority to order at 7:18 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, California.

ROLL CALL

Chair Longmire was absent and excused.

CONSENT CALENDAR

On motion by Member Banales, seconded by Member Craft to adopt and carried by the following vote:

AYES: Banales, Craft, Evola, Herring, Killings
ABSENT: Longmire

5. Minutes of July 16, 2018

6. Disbursement List of July 31, 2018

7. Adoption of a City Council Resolution Approving the Section 8 Management Assessment Program Certification for Fiscal Year End June 30, 2018

ADJOURNMENT

The Housing Authority was adjourned at 7:19 P.M. to September 17, 2018.

Respectfully submitted,

Alice E. Evenson, Secretary

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 8/20/2018

TO: Chair and Agency Members

FROM: Joe Sbranti, Executive Director

SUBJECT: Adoption of a Housing Authority Resolution Approving the Pittsburg Chamber of Commerce 2018-2019 Lease and Common Area Maintenance Offset

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

The Pittsburg Chamber of Commerce (Chamber) entered into a sublease agreement (Sublease) for its operations located at 985 Railroad Avenue (Premises). Pursuant to Sections 3.2 (a) and 5.4 of the Sublease, the Chamber may provide services to the community in lieu of rent and common area maintenance (CAM) charges to be paid by the Chamber. The Chamber prepared its scope of services (Lease and CAM Offset 2018-2019) that lists the services to be provided by the Chamber to the City in lieu of paying lease and CAM charges.

FISCAL IMPACT

The 2018-2019 lease for the Premises is $1.84 per square foot for 2,879 square feet of space; $5,297.36 monthly or $63,568.32 annually. The 2018-2019 CAM is $15,836.28. The 2018-2019 lease and CAM combined for the Premises is $79,404.60; accounted for in Fund 248. The proposed Lease and CAM Offset 2018-2019 is attached as Exhibit A to this staff report and is not to exceed $79,404.60. Neither the City nor Housing Authority of the City of Pittsburg (Housing Authority) will be required to make payments for services rendered above the Lease and CAM Offset 2018-2019.

RECOMMENDATION

Housing Authority adopt the Resolution and approve the Lease and CAM Offset 2018-2019.

BACKGROUND

The former Redevelopment Agency of the City of Pittsburg (Agency) and Domus Development LLC (Domus) executed a disposition and development agreement (DDA)

dated November 21, 2005, pursuant to which the Agency leased the property to Domus under a ground lease, a memorandum of which is recorded as Document No. 2006-0094848-00 in the official records of the Contra Costa County. Pursuant to the DDA and the ground lease, Domus was required to construct an affordable housing project on the property identified in the ground lease consisting of 28 affordable housing units and 8,000 square feet of commercial space (Gateway Project later known as Entrata).

The Agency and a limited partnership formed by Domus known as Gateway Mixed Use Development entered into a master lease agreement dated October 1, 2007, whereby the Agency has a leasehold interest in the 8,000 square feet of commercial space. The Agency entered into sublease agreements with various tenants for portions of the commercial space.

The Sublease between the Agency and the Chamber was approved and executed on March 16, 2009 by Agency Resolution 09-1350 and City Council Resolution 09-11179.

On June 2011, the California Legislature adopted, the Governor signed, and the California Supreme Court, in California Redevelopment Association, et al. v. Ana Matosantos, et al. upheld ABx1 26 (AB 26), legislation that amended the California Redevelopment Law and dissolved the Agency on February 1, 2012. AB 26 provides that the City may elect to assume the assets and responsibilities for the housing functions previously performed by the Agency or by default the housing function would be transferred to the local housing authority. On January 17, 2012, by City Council Resolution 12-11753 and Housing Authority Resolution 12-261, the City transferred and the Housing Authority accepted all rights, responsibilities, and function related to housing previously performed by the Agency to the Housing Authority.

The Chamber was notified by a letter dated June 4, 2012 that the Sublease was transferred from the Agency to the Housing Authority

SUBCOMMITTEE FINDINGS

Not Applicable.

STAFF ANALYSIS

The Housing Authority calculates the lease and CAM annually using the Consumer Price Index rate in December 2017 and the total CAM charges for calendar year 2017 to determine the Lease and CAM Offset 2018-2019.

The scope of services provided in the Lease and CAM Offset 2018-2019 include: 1) publication and distribution of newsletters, eBlasts, brochures, and flyers; 2) presentations to City Council; 3) Think Pittsburg Campaign and Mugshot Mondays; 4) business retention visits; 5) career fair at Pittsburg High School; 6) mock interviews with Pittsburg High School students; and 7) Small Business Saturday – Keep it Local Campaign.

The Lease and CAM Offset 2018-2019 is effective July 1, 2018 and will expire on June 30, 2019 (Term). During the Term, the Chamber will submit on a regular basis, reports that show progress in achieving the tasks listed in the Lease and CAM Offset 2018-2019. Included in the reports will be documentation necessary to support the efforts completed.

ATTACHMENTS: Resolution

Lease and CAM Offset 2018-2019

Report Prepared By: Melaine Venenciano, Senior Administrative Analyst

BEFORE THE HOUSING AUTHORITY OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a Housing Authority of the City of Pittsburg Resolution Approving the Pittsburg Chamber of Commerce 2018-2019 Lease and Common Area Maintenance Offset	))))	RESOLUTION NO. 18-

The Pittsburg Housing Authority DOES RESOLVE as follows:

WHEREAS, the former Redevelopment Agency of the City of Pittsburg (Agency) and Domus Development LLC (Domus) executed a disposition and development agreement (DDA) dated November 21, 2005, pursuant to which the Agency leased the property to Domus under a ground lease; and

WHEREAS, pursuant to the DDA and the ground lease, Domus was required to construct an affordable housing project on the property identified in the ground lease consisting of 28 affordable housing units and 8,000 square feet of commercial space (Gateway Project later known as Entrata); and

WHEREAS, the Agency and a limited partnership formed by Domus known as Gateway Mixed Use Development entered into a master lease agreement dated October 1, 2007, whereby the Agency has leasehold interest in the 8,000 square feet of commercial space. The Agency entered into sublease agreements with various tenants for portions of the commercial space; and

WHEREAS, the Agency and the Pittsburg Chamber of Commerce (Chamber) entered into a sublease agreement (Sublease) for a portion of the commercial space for its operations located at 985 Railroad Avenue (Premises). The Sublease was approved and executed on March 16, 2009 by Agency Resolution 09-1350 and City Council Resolution 09-11179; and

WHEREAS, pursuant to Sections 3.2 (a) and 5.4 of the Sublease, the Chamber may provide services to the community in lieu of rent and common area maintenance (CAM) charges to be paid by the Chamber; and

WHEREAS, on June 2011, the California Legislature adopted, the Governor signed, and the California Supreme Court, in California Redevelopment Association, et al. v. Ana Matosantos, et al. upheld ABx1 26 (AB 26), legislation that amended the California Redevelopment Law and dissolved the Agency on February 1, 2012; and

WHEREAS, AB 26 provides that the City may elect to assume the assets and responsibilities for the housing functions previously performed by the Agency or by default the housing function would be transferred to the local housing authority. On January 17, 2012, by City Council Resolution 12-11753 and Housing Authority Resolution 12-261, the City of Pittsburg (City) transferred and the Housing Authority of the City of Pittsburg (Housing Authority) accepted all rights, responsibilities, and function related to housing previously

performed by the Agency; and

WHEREAS, the Chamber was notified by a letter dated June 4, 2012 that the Sublease was transferred from the Agency to the Housing Authority.

NOW, THEREFORE, the Pittsburg Housing Authority finds and determines as follows:

Section 1.
All the recitals above are true and correct and incorporated herein.

Section 2.
The Housing Authority hereby approves the Pittsburg Chamber of Commerce Lease and Common Area Maintenance (CAM) Offset 2018-2019 (Lease and CAM Offset 2018-2019) attached as Exhibit A to the accompanying staff report.

Section 3.
The 2018-2019 lease for the Premises is $1.84 per square foot for 2,879 square feet of space; $5,297.36 monthly or $63,568.32 annually. The 2018-2019 CAM is $15,836.28. The 2018-2019 lease and CAM combined for the Premises is $79,404.60 (Fund 248). The proposed Lease and CAM Offset 2018-2019 is attached as Exhibit A to this staff report and is not to exceed $79,404.60. Neither the City nor Housing Authority will be required to make payments for services rendered above the Lease and CAM Offset.

Section 4.
The Lease and CAM Offset 2018-2019 is effective July 1, 2018 and will expire on June 30, 2019 (Term). During the Term, the Chamber will submit on a regular basis, reports that show progress in achieving the tasks listed in the Lease and CAM Offset 2018-2019.

Section 5.
The Agency Secretary shall certify to the adoption of this Resolution.

Section 6.
This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Pittsburg Housing Authority at a regular meeting on the 17th day of September 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine “Pete” Longmire, Chair

ATTEST:

_____
Alice E. Evenson, Agency Secretary

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/4/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of an Ordinance Amending Section 3.26.030 of the Pittsburg Municipal Code Relating to Fiscal Sustainability and Reserve Funds

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

The Proposed Fiscal Sustainability Ordinance ("Ordinance") amendment will clarify the definition of the purpose of the existing General Fund Reserve that make up the established minimum unappropriated reserve balances at 30% of operating expenses for City's General Fund.

FISCAL IMPACT

There is no direct fiscal impact from adopting the proposed Ordinance Amendment. However, through adoption of the Amendment, the City is helping to ensure there will be sufficient funds available in the event of an emergency and to ensure one-time revenues are available to help balance future budgets.

RECOMMENDATION

City Council open the public hearing, take public comment, close the public hearing and introduce, waive further reading, and pass to second reading, the Fiscal Sustainability Ordinance amending the designation of General Fund Reserves for Economic Uncertainty Reserves at 20% and Emergency Reserves at 10%.

BACKGROUND

Through Resolution 05-10414 the City Council created a Budget Stabilization Fund for the City's General Fund in FY 2004-05 with one-time savings to be used in the future as "rainy day" funds to help offset negative financial impacts caused by economic downturns. This resolution established a minimum General Fund reserve of 15% of the annual General Fund operating budget. The Government Finance Officers Association (GFOA) recommends reserves equal to at least 15% of operating expenses.

Beginning with the FY 2010-11 budget process, staff developed a multi-year General Fund balancing plan (currently called the 7-year General Fund Balancing Plan) that projected General Fund expenditures and revenues using somewhat conservative assumptions and programmed the amount of Budget Stabilization Funds the City could annually draw down to balance future General Fund budgets. During the FY 2011-12 budget process, the City Council established that the City could not use more than $2 million from the Budget Stabilization Fund to balance the General Fund budget in any given fiscal year. The goal of the multi-year General Fund balancing plan has been to gradually balance the City's General Fund budget.

In June of 2017, Council adopted language clarification language to Section 3.26.030 by adding paragraphs C, D and E. The proposed amendment to Section 3.26.030 paragraph C further defines the purpose for the reserves as follows:

CURRENT PMC PROVISIONS: Section 3.26.030 General Fund Reserves

C. The thirty percent (30%) minimum funding level within the General Fund Reserve of the City's General Fund Operating Expenses shall consist of the following:
1. A minimum of two-thirds of the 30% (i.e., 20%) shall be held in cash and liquid investments consistent with the City's Investment Policy; and
2. An amount not to exceed one-third of the 30% (i.e., up to 10%) may be held in real property owned and designated by the City, where such real property has an appraised value of at least 125% of the dollar amount which the real property constitutes within the City's General Fund Reserve.

PROPOSED AMENDMENT (changes noted in red):

C. The thirty percent (30%) minimum funding level within the General Fund Reserve of the City's General Fund Operating Expenses shall consist of the following and be restricted as per the City's policy:

- A Reserve for Economic Uncertainty (20% of the 30% minimum funding level within the General Fund Reserve) – funds designated to mitigate periodic revenue shortfalls due to downturn in economic cycles, thereby avoiding the need for service-level reductions within the fiscal year, and

- An Emergency Reserve (10% of the 30% minimum funding level within the General Fund Reserve) – funds designated to mitigate costs of unforeseeable emergencies and natural disasters.

The composure of the reserves shall consist of:

1. A minimum of two-thirds of the 30% (i.e., 20%) shall be held in cash and liquid investments consistent with the City's Investment Policy; and
2. An amount not to exceed one-third of the 30% (i.e., up to 10%) may be held in real property owned and designated by the City, where such real property has an appraised value of at least 125% of the dollar amount which the real property constitutes within the City's General Fund Reserve.

SUBCOMMITTEE FINDINGS

The Finance Committee reviewed the proposed Ordinance change at its meetings on both October 18, 2017 and August 30, 2018 and recommended that staff bring it to the City Council for review and adoption.

STAFF ANALYSIS

The existing Fiscal Sustainability Ordinance established the minimum unappropriated reserves at 30% of operating expenses for the General Fund Balance and further restricted the reserve amount to be held from money as per paragraph B above, “money from the General Fund shall be unappropriated, and shall be deposited into the General Fund Reserve”.

The proposed Fiscal Sustainability Ordinance amendment will clarify the purpose of the reserves, while maintaining the restrictions previously imposed upon by the ordinance.

This proposed Ordinance Amendment requires adoption of a City Council resolution by a 4/5 vote from the City Council to vary the policies established within the established ordinance.

ATTACHMENTS: Amended Fiscal Sustainability Ordinance

Report Prepared By: Brad Farmer, Director of Finance

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

An Ordinance of the City of Pittsburg	)	
Amending Chapter 3.26.030 of the Pittsburg	)	ORDINANCE NO. 18-
Municipal Code Relating to Fiscal	)	
Sustainability and Reserve Funds	)	

The City Council of the City of Pittsburg DOES ORDAIN as follows:

SECTION 1. Recitals.

A. In order to ensure the fiscal sustainability of the City, the City desires to protect its revenues and ensure proper fiscal responsibility; and
B. The City desires to maintain a reserve funds in case of an emergency; and
C. The City desires to maintain a minimum balance in the City's Budget Stabilization Fund; and
D. By ensuring minimum funding levels for reserve funds, the City desires to minimize the need to rely on one-time measures and funding sources to balance its budget, while protecting the City from major deficits and over spending.

SECTION 2. Adding Chapter 3.26 "Fiscal Sustainability and Reserve Funds" to Title 3 "Revenue and Finance" of the Pittsburg Municipal Code

Title 3 "Revenue and Finance" of the Pittsburg Municipal Code is hereby amended to include Chapter 3.26 "Fiscal Sustainability and Reserve Funds," which shall read as follows:

Section 3.26.010 Purpose and Definitions.

A. The purpose of this chapter is to establish policies and procedures to ensure the City maintains unappropriated fund balances, "Reserves" in the City's funds.

B. For purposes of this Ordinance, the following terms shall have the following meanings:

1. "City's Operating Expenses" shall mean the City's General Fund operating expenses of the City as set forth in the City's annual budget which generally includes staff costs and operating expenses of the City and excludes the capital project appropriations.

2. "One-time Revenues" shall mean those revenues that the City receives on a one-time or non-regular basis. For example, such revenues may include, but are not limited to, proceeds from the sale of surplus land, one-time unexpected sales tax allocations associated with capital improvements from local retailers, grants, lump sum payments of project fees, non-reoccurring sales tax of fee revenue, etc.

3. "Unappropriated Reserves" shall mean unappropriated operating revenues excluding capital project and program appropriations which originate from funding sources that are restricted to projects or programs.

Section 3.26.020 General Fund Account

There is established a “General Fund” into which all sums of money collected by the City for any purpose whatsoever shall be deposited, unless otherwise provided by ordinance or resolution directing the deposit into a specific fund other than the General Fund.

Section 3.26.030 General Fund Reserves

A. There is established within the General Fund, a “General Fund Reserve”, which shall be used for emergencies, including for example, natural disasters and costs associated with such natural disasters.
B. At each and every budget cycle, commencing with FY 2013-14, and every year thereafter, money from the General Fund shall be unappropriated, and shall be deposited into the General Fund Reserve. The minimum funding level within the General Fund Reserve shall be thirty percent (30%) of the City’s General Fund Operating Expenses. However, the City Council shall, on a best efforts basis, take such steps as necessary to achieve the minimum General Fund Reserve level during the budget process each year through fiscal year 2017/18. Afterward, the minimum funding levels will become mandatory as defined by this ordinance.
C. The thirty percent (30%) minimum funding level within the General Fund Reserve of the City’s General Fund Operating Expenses shall consist of the following and be restricted as per the City’s policy:

    - A Reserve for Economic Uncertainty (20% of the 30% minimum funding level within the General Fund Reserve) – funds designated to mitigate periodic revenue shortfalls due to downturn in economic cycles, thereby avoiding the need for service-level reductions within the fiscal year, and

    - An Emergency Reserve (10% of the 30% minimum funding level within the General Fund Reserve) – funds designated to mitigate costs of unforeseeable emergencies and natural disasters.

    The composure of the reserves shall consist of:

    1. A minimum of two-thirds of the 30% (i.e., 20%) shall be held in cash and liquid investments consistent with the City’s Investment Policy; and
    2. An amount not to exceed one-third of the 30% (i.e., up to 10%) may be held in real property owned and designated by the City, where such real property has an appraised value of at least 125% of the dollar amount which the real property constitutes within the City’s General Fund Reserve.
D. Before the City sells, or otherwise encumbers in such a manner as to significantly impair the value of, any real property referenced in Section C.2 above, the City shall comply with Section E hereof and:
    1. Identify replacement real property prior to the sale or encumbrance of the current designated property, provided that the City Council approves such replacement;

2. Direct proceeds from the sale or encumbrance of the current designated property into the General Fund Reserve to maintain the minimum required funding;
3. Increase the amount held in cash or liquid investments to maintain the minimum required funding; or
4. Take any combination of the above actions, such that the City maintains the minimum required funding.
5. Should the sale of any property result in the General Fund Reserve balance being greater than the 30% minimum funding level, the proceeds in excess of the 30% minimum funding level will be deposited into the Budget Stabilization Fund or handled in accordance with the requirements of the Ordinance.

E. To designate real property as being held to satisfy the City's minimum General Fund Reserve requirement under Section C.2 above, the City shall identify the property by APN and/or address by a resolution adopted at a public hearing at a duly noticed regular City Council meeting. The City may remove the real property from this designation only by a subsequent resolution adopted at a public hearing at a duly noticed regular City Council meeting.

Section 3.26.040 Budget Stabilization Fund

A. There is established a "Budget Stabilization Fund" which shall provide the City a cushion to help absorb costs during economic downturns and/or budget shortfalls.
B. The target minimum funding level within the Budget Stabilization Fund shall be no less than $2.0 million dollars or five percent (5%) of the City's General Fund Operating Expenses, whichever is greater. The City Council shall, on a best efforts basis, take such steps as necessary to meet the minimum funding level during the budget process each year.
C. The target maximum funding level for the Budget Stabilization Fund shall be no more than $7.5 million dollars or twenty-five percent (25%) of the annual City's General Fund Operating Expenses, whichever is greater.
D. Additional Deposits into the Budget Stabilization Fund shall include:
    1. One-time General Fund Revenues and/or projected recurring revenues that exceed ten percent (10%) or more from the previous fiscal year shall be deposited into the Budget Stabilization Fund.
    2. Fiscal year-end General Fund surpluses shall also be deposited into the Budget Stabilization Fund.
E. Appropriations from the Budget Stabilization Fund require a majority vote of the City Council and may be made in order to balance the General Fund budget.

Section 3.26.050 Infrastructure Repair and Replacement Fund

A. There is established an "Infrastructure Repair and Replacement Fund" which shall provide funding for additional repairs and capital improvements projects related to the City's infrastructure including streets, roads, parking lots, and storm drains.
B. Once the Budget Stabilization Fund reaches the maximum funding level, seventy five percent (75%) of the available, excess revenues that would normally be placed into the Budget Stabilization Fund shall be deposited into the Infrastructure Repair and Replacement Fund.

C. Appropriations from the Infrastructure Repair and Replacement Fund shall require a majority vote of the City Council.

Section 3.26.060 Other Post-employment Benefits (OPEB) Fund

A. There is established an "Other Post-employment Benefits ("OPEB") Fund" which shall be available to provide funding to reduce the City's General Fund's portion of unfunded OPEB liabilities, including for example, retiree health benefits.
B. Once the Budget Stabilization Fund reaches the maximum funding level, twenty five percent (25%) of the available, excess revenues that would normally be placed into the Budget Stabilization Fund shall be deposited into the OPEB Fund.
C. Appropriations from the OPEB Fund shall require a majority vote of the City Council.

Section 3.26.070 Internal Service Fund Reserves

A. The City maintains the following Internal Service Funds which provides funding to allocate costs for services provided to all City departments:
    1. Information and Communication Systems
    2. Fleet Maintenance
    3. Building Maintenance
    4. Fringe Benefits
    5. Liability Insurance

B. It is established within each of these Internal Services Funds an Unappropriated Reserve which shall be used for emergencies, including for example, natural disasters and costs associated with such natural disasters. At each and every budget cycle, commencing with FY 2013-14, and every year thereafter, the unappropriated reserve level within Internal Services Funds shall be thirty percent (30%) of the Internal Services Funds' annual budget excluding capital project and equipment appropriations. However, the City Council shall, on a best efforts basis, take such steps as necessary to achieve the minimum Internal Services Funds' Reserve levels during the budget process each year through fiscal year 2017/18. Afterward, the minimum funding levels will become mandatory as defined by this ordinance. The thirty percent (30%) reserve level may be exceeded.

Section 3.26.080 Enterprise Fund Reserves

A. The City maintains the following enterprise funds for enterprise operations:
    1. Water
    2. Sewer
    3. Waterfront Operations
    4. Marina

B. It is established within each of these Enterprise Funds an Unappropriated Reserve which shall be used for emergencies, including for example, natural disasters and costs associated with such natural disasters. At each and every budget cycle, commencing with FY 2013-14, and every year thereafter, the target unappropriated reserve level within each Enterprise Fund Reserves shall be thirty percent (30%) of each Enterprise Fund's fiscal year operating expenses, excluding capital project

appropriations. However, the City Council shall, on a best efforts basis, take such steps as necessary to achieve the minimum Enterprise Funds' Reserve levels during the budget process each year through fiscal year 2017/18. Afterward, the minimum funding levels will become mandatory as defined by this ordinance. The thirty percent (30%) reserve level may be exceeded.

Section 3.26.090 Council Action Required

Except as otherwise stated in this Chapter, any variance from the policies established within this Ordinance, shall require adoption of a City Council resolution by a 4/5 vote of the City Council. The Council resolution shall set forth the following:

A. A statement of findings supporting the appropriation of reserves or temporary modification of funding levels required by this ordinance; and
B. A plan for replenishing the reserves within a reasonable time period when the appropriation causes a reserve to fall below minimum funding levels; and
C. A description of the circumstances or event constituting an emergency.

SECTION 3. Effective Date

This ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 4. Publication

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on September 17, 2018 and was adopted and ordered published at a meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine "Pete" Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/5/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Introduction and Waive First Reading of an Ordinance and Adoption of a Resolution Approving the Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

This is a public hearing on a request for: 1) adoption of an amendment to the existing 'Empire Business Park' Overlay Zoning District (Ord. Nos. 07-1284 and 04-1214) to allow a "Major Utility" use subject to a use permit; 2) approval of a use permit for a Major Utility; and 3) design review approval of plans to install an energy storage project in three 60,000 sq. ft. buildings with related accessory equipment and tie-line to an existing PG&E substation. The project site covers a 12-acre portion of the 35-acre Empire Business Park parcel (APN: 085-280-010) located at 701 Willow Pass Road in the IP-O (Industrial Park Overlay) District. On August 14, 2018, the Planning Commission adopted Resolution No. 10095, recommending approval of the proposal in its entirety.

FISCAL IMPACT

One-time revenues related to construction permits and other development fees and exactions are anticipated with this project. The applicant would also be required to pay a property tax (an estimated total of five million dollars) and sales tax (an estimated total of eight hundred thousand dollars).

RECOMMENDATION

City Council open the public hearing; take public comment; close the public hearing; then: 1) introduce, waive further reading, and pass to second reading, the attached ordinance approving a mitigated negative declaration and an amendment to the existing Empire Business Park IP-O District for the Diablo Energy Storage project; and 2) adopt the attached resolution approving a use permit and design review for the project, which would be contingent upon City Council adoption of the ordinance approving the rezoning of the site.

BACKGROUND

On January 20, 2004, the City Council adopted Ordinance No. 04-1214, which established the existing IP-O District, commonly referred to as the 'Empire Business Park Overlay,' applicable to the property, in order to specify permitted, conditionally permitted, and limited uses for the property, as well as development regulations related to maximum building height, maximum lot coverage, front yard setback, and maximum floor area ratio.

On May 21, 2007, the City Council adopted Ordinance No. 07-1284, in conjunction with a comprehensive zoning code update in order to add "religious assembly," as a conditionally permitted use in multiple overlay districts, including the Empire Business Park Overlay.

On July 10, 2018 the Planning Commission held a public hearing to consider this new application for the site by Diablo Energy Storage, LLC. At that meeting the Commission raised questions related to public safety, specifically regarding the use of lithium ion batteries and an overhead electric tie-line in proximity to residential uses and voted unanimously to continue the public hearing to the July 24, 2018, meeting. On July 24, 2018, the Commission once again continued the public hearing to August 14, 2018, in order to allow staff and the applicant additional time to address questions and concerns raised by the Commission and conduct additional public outreach. On August 14, 2018, the Planning Commission voted 6-1 to adopt Resolution No. 10095, recommending approval of the proposal in its entirety.

Existing Conditions: The project site consists of a 12-acre portion of the 35-acre site designated as the Empire Business Park. The site fronts Willow Pass Road to the north and is currently vacant. A dilapidated chain-link fence with a barbed wire top currently runs along the northern and eastern site boundaries. A stormwater detention and treatment basin also runs along the northern property boundary parallel to Willow Pass Road within the City right-of-way; however, this area has been illegally filled by unpermitted dumping, and thus is not adequately retaining or treating stormwater. Lastly, overhead power lines run along the northern property boundary, and are the only remaining overhead lines along this stretch of Willow Pass Road/West 10th Street.

The project site is surrounded by a mix of light industrial, utility and low-density residential land uses. Adjacent lands north of Willow Pass Road are industrial in use. The portion of the subject parcel to the south of the project site is developed as an approximately 400,000 square foot commercial warehouse-style structure with associated parking and truck loading docks. Adjacent lands to the east of the site consist of a paved commercial entrance road between the project site and a residential subdivision. Adjacent lands to the west of the site include a paved entrance to the industrial development to the south, a graded undeveloped area, and a high voltage electric transmission line corridor, approximately 900 feet wide, which runs north-south through the City, crossing Willow Pass Road.

Proposed Project: The purpose of the project is to receive, store, and discharge electric energy from the California Independent System Operator (CAISO) controlled electric grid, including renewable energy produced by existing solar and wind resources in the region. The preliminary layout and conceptual design details of the project are shown on Attachment 1. The facility would receive energy from the existing grid, including energy from renewable resources and store it onsite within batteries. The energy would then be delivered back to the grid as requested by the CAISO including during peak electric demand, increasing the efficiency of the grid and reducing the need for power generation plants during these times. Energy discharged from the project would go directly into PG&E

infrastructure and be distributed as needed. In accordance with the Large Generator Interconnection Agreement between Diablo Energy Storage, PG&E, and CAISO, the project is authorized to interconnect up to 200 megawatts of storage capacity to the PG&E Pittsburg Substation. It should be noted that the proposed project is not a power plant, as it does not produce electric energy as a solar, wind, or fossil-fuel plant would.

The project consists of three, approximately 60,000 square foot, unmanned buildings which would house advanced energy storage technology (e.g. lithium ion batteries) which, together with related control equipment including inverters, transformers, and an onsite electric substation, would be connected via a new electric tie-in line to the existing PG&E substation located approximately 0.6 miles north of the project site (see project plans attached). The facility would be unoccupied, as it is designed for full remote operation. The entire project site would be secured with new seven-foot-tall fencing consisting of six-foot high chain link with a one-foot high security wire top. A controlled access gate would be located at the project site entrance and a second gate would be located near the northwest corner of the site where an existing road would provide for emergency access.

Several approvals are requested for this project.

1. An amendment to the Empire Business Park Industrial Overlay District (IP-O) to allow a “Major Utility” use subject to a use permit.

2. Approval of a use permit for a Major Utility.

3. Design review of architectural and landscape plans.

For more details on the design of the buildings and site layout, please refer to the project plans and the August 14, 2018, Planning Commission staff report (attached).

The project also includes the construction of an electric tie-line to connect to the existing PG&E substation. The area between the project site and the Pittsburg Substation is extensively developed with industrial and utility infrastructure which influences the choice of feasible routes for the tie-line. Three preliminary tie-line routes (as shown in the project plans) have been identified: a) west of the fuel oil tank farm (a total line distance of 6,700 feet); b) along an existing NRG access road through the fuel oil tank farm (a total line distance of 3,800 feet); and c) east of the fuel oil tank farm (a total line distance of 5,800 feet). The above ground portion of the final tie-line route chosen (which is to be determined) would include an overhead power line atop poles approximately 77 to 95 feet tall; however, a condition of approval would require the line be placed underground from the project site, as well as north of the Willow Pass Road right-of-way to a point no less than 25 feet north of the Willow Pass Road right-of-way.

Sidewalk, curb, and gutter improvements exist at the site frontage. However, the developer has agreed to conditions of approval that would provide significant frontage improvements along Willow Pass Road, including: 1) a row of street trees placed every 40 feet on center along to help screen the project; 2) removal of sediment and re-landscaping of the existing bioretention basin within the City right-of-way; 3) replacement of the existing chain-link fence with a new vinyl-clad fence; 4) undergrounding of existing PG&E overhead power lines along the project frontage and undergrounding as described in the preceding paragraph; 5) repair or replacement of all damaged sidewalk and storm drains; and 6) pavement repair on Willow Pass Road adjacent to the project frontage.

GENERAL PLAN/CODE COMPLIANCE:

General Plan: The project site is located in the 'West Central Subarea' of the Pittsburg General Plan and would conform to the General Plan policies adopted for this subarea. The project site is designated on the General Plan Land Use Map as Business Commercial. This designation is intended to provide sites for a variety of uses including custom manufacturing, limited assembly and light manufacturing. The proposed use, an energy storage project, would be consistent with this intent.

General Plan Policy 2-P-77 addresses the project site specifically to, "allow and encourage development of a Business Commercial complex between Willow Pass Road and the BNSF Railroad track, east of the PG&E transmission corridor." The proposed project would implement the intent of this policy. The project would also provide fiscal benefits to the City of Pittsburg, consistent with the goals of the General Plan Economic Development Element and would add to the energy infrastructure within the City of Pittsburg.

Zoning: The project site's base zone is IP-O (Industrial Park Overlay as specified in Ordinance No. 04-1214, and later amended by Ordinance No. 07-1284) District. The intent of this existing overlay district is to ensure that compatible uses are allowed as appropriate according to proximity to residential uses. The overlay district is also intended to assist in the redevelopment of vacant and underutilized parcels along Willow Pass Road with business and commercial service uses, and to provide sites for service oriented commercial and light industrial uses in a landscaped setting.

The proposed use (battery storage, plus a substation) fits under the zoning ordinance use classification of "major utility" which is defined, in part, to include major power facilities as well as electrical substations. The applicant is requesting an amendment to the existing IP-O District to allow a "Major Utility" subject to approval of a use permit. The proposed tie lines (i.e. overhead power lines) that would connect the project to the existing PG&E Substation are permitted within the IP-O and IG (General Industrial) districts.

Design Guidelines: The proposed project is subject to the City's Development Review Design Guidelines (DRDG), adopted by the Planning Commission through Resolution No. 9864. The DRDGs provide a framework for the design review of residential, commercial, and industrial projects. The project as proposed complies with the DRDGs (see attached 'Design Guidelines Consistency Table' for more details).

Required Findings - Limited Overlay District: In order to approve an amendment to the existing limited overlay, the City Council must find (in accordance with PMC section18.74.060) that the proposed amendment:

A. is necessary because there are special or unique characteristics of the site or improvements that require land use and development regulations that cannot be adequately accommodated or controlled by the base zoning district;

B. conforms to the General Plan; and

C. generally, complies with the land use and development regulations of the base zoning district.

Required Findings - Use Permit: In order to approve a use permit, the City Council must make findings (PMC section 18.16.040) that the proposed use:

A. is in accord with the objective of this title, the purposes of the land use district in which it is located and is appropriate to the specific location;

B. is not detrimental to the health, safety, and general welfare of the City;

C. will not adversely affect the orderly development of property within the City;

D. will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City;

E. is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;

F. will not create a nuisance or enforcement problem within the neighborhood;

G. will not encourage marginal development within the neighborhood;

H. will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints imposed by law; and

I. is consistent with the City's approved funding priorities.

Required Findings - Design Review: In order to approve a design review application, the City Council must determine (in accordance with PMC section 18.36.220.B) that:

A. the structures conform with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;

B. the structures will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;

C. the exterior design and appearance of the structures are not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;

D. the structures are in harmony with proposed developments on land in the general area; and

E. the application conforms with the criteria set forth in any applicable City adopted Design Guidelines.

Environmental Review: The proposed project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for the project. Based on the analysis in the study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a draft Mitigated Negative Declaration (MND) was prepared. On February 9, 2018, a Notice of Intent to Adopt a Mitigated Negative Declaration was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). The comment period was extended to March 23, 2018 to accommodate additional public review. Public distribution of the NOI consisted of delivery to the County

Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the Project, in accordance with CEQA Guidelines section 15072.

During the public review period one comment letter was received from Delta Diablo. No deficiencies with the environmental analysis were identified by Delta Diablo, so no changes to the Initial Study were made in response to the letter, however a condition of approval has been added to the project to address their general concerns about potential construction impacts to existing wastewater pipeline infrastructure.

Public Notice: On or before Friday, September 7, 2017, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B and D, a "Notice of Public Hearing," for the September 17, 2018, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice.

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

Staff believes that the City Council can make the required findings to approve the project as proposed.

Zoning Amendment: The proposed use would require a zoning text amendment to amend the IP-O (Industrial Park Limited Overlay, Ord. No. 04-1214) District such that a "major utility" land use classification would be permitted with a use permit. Staff believes the proposed amendment to the IP-O District is needed to allow further expansion of sustainable energy sources in Pittsburg. The City's Zoning Ordinance does not currently specify where battery storage facilities are permitted because this is a new technology. The storage of renewable energy on the site would help meet a community and statewide need to reduce greenhouse gas emissions, consistent with Assembly Bill (AB) 32 targets.

The existing Empire Business Park Overlay sets forth two subdistricts, the IP-O-1 and IP-O-2. It is important to note that the proposed amendment would apply to the IP-O-2 subdistrict only.

Use Permit: The development of the energy storage project is consistent with the General Plan goal of encouraging development of the business park at this specific site.

The relationship of the proposed project to the adjacent residential development was evaluated in terms of: a) visual quality; b) operational characteristics; and c) sound. In terms of the visual character, the design of the proposed project faces inward. The sound wall at the perimeter of the adjacent residential development provides both a visual and sound barrier between the uses, while the layout of the site plan further screens external equipment with the buildings. The existing landscaping along the east property line would

remain in place. The low key character of the proposed development would be in keeping with the intent of the Industrial Park zoning designation.

In terms of operational characteristics, the project would be unmanned and would be capable of operating 24 hours a day, seven days a week. The only external effect would be a slight change in the sound levels in the vicinity of the project when in operation. As part of the environmental review process, a Noise and Vibration Analysis was prepared to determine the potential change in sound levels both during construction and operation. During construction there would be a substantial change in sound levels; however, this would be regulated by City Ordinance and would last (at the most) for the twelve-month construction period only. During regular facility operation there would be a very slight (0.5 dBA) increase in the sound level at the residences just east of the project site, which is not noticeable to the human ear. At the northern property line of the project site the sound level would be 68 dBA, an increase of 3.8 dBA.

Given the above characteristics of the project in terms of appearance, operational characteristics, and sound level, the project would be considered a compatible use to the adjacent residential uses. It should also be noted that the impacts of this use are estimated to be less than potential impacts of many of the uses that are permitted by the underlying Empire Business Park IP-O District.

The proposed use would not cause any detrimental effects to the City, nor would it cause any public nuisance/enforcement problems, as long as all applicable building and fire regulations are adhered to during the construction/installation phase, and applicable provisions of the PMC are adhered to throughout the life of the use. The proposed project would not create a demand for public services within the City beyond that of the ability of the City to meet because the use is private and would not require any additional public services. The design of the proposed facility encloses and/or screens the proposed use so that it would not have a negative impact on the adjacent residential uses to the east of the project site. The existing landscaping would be retained at the eastern edge of the property and the blank face of the buildings would be screened from view by this landscaping.

Design Review: With regards to design review, staff believes the project has been designed to respect its setting in relationship to existing industrial uses and the adjacent residential uses, and the facility would be substantially screened from public view by landscaping.

The architectural design theme is intended to complement and be compatible with the existing character of neighboring industrial buildings. The established buildings in the area are low profile, industrial buildings using cementitious and metallic exterior materials. The color palette for the large footprint buildings is in the warm beige range and the proposed architectural design shown in Sheets A-1 through A-4 of the project plans, uses tilt-up concrete construction for exterior walls to complement the architectural character of the neighboring buildings, with colors complementary to these buildings. To give a visual and textural interest to the building elevations facing the street, application of a darker beige metal cladding is proposed, complementing the use of metal in the adjacent buildings. The application of exposed roof drainage systems and reveals along the exterior walls provide visual relief and break up the wall surface to smaller modules.

Lastly, the landscape concept includes small canopy trees in combination with groups of low to medium height flowering shrubs and ground cover in arrangement to blend with the existing adjacent driveway and to shield views of the outdoor electrical equipment and provide a water efficient aesthetic frontage on Willow Pass Road. The suggested plant

palate is comprised of drought tolerant species with evergreen foliage. The existing row of trees and driveway edge landscaping at the east side of the site would be left in place. On the west driveway edge trees and ground over are proposed to mirror the landscaping plan on the opposite side of the driveway offsite. Clustered trees and ground cover are proposed for Willow Pass Road.

ATTACHMENTS: 1. Proposed Ordinance
1.a. Exhibit A – Overlay Zoning Map, Land Use & Development Regulations
1.b. Exhibit B – Mitigated Negative Declaration/Initial Study
1.c. Exhibit C – Mitigation Monitoring and Reporting Program
2. Proposed Resolution
3. Project Plans, dated January 12, 2018
4. Adopted Planning Commission Resolution No. 10095
5. Planning Commission Staff Report, dated August 18, 2018
6. Design Guidelines Consistency Table
7. Project Location Map and Surrounding Uses
8. Adopted City Council Ordinance No. 04-1214
9. Adopted City Council Ordinance No. 07-1284
10. Public Hearing Notice

Report Prepared By: Joan Lamphier, Consulting Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Approving a Mitigated Negative Declaration and an Amendment to the Existing 'Empire Business Park' Overlay Zoning District to Conditionally Allow a 'Major Utility' Use, for "Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)."	)	ORDINANCE NO. 18-___

The City Council of the City of Pittsburg DOES ORDAIN as follows:

SECTION 1. Recitals.

A. On September 1, 2017, Diablo Energy Storage LLC, filed Planning Application No. 17-1270, requesting approval of: 1) an amendment to the existing 'Empire Business Park' Overlay Zoning District (Ord. Nos. 07-1284 and 04-1214) to allow a "Major Utility" use subject to a use permit; 2) a use permit for a Major Utility; and 3) design review approval of plans to install an energy storage project in three 60,000 sq. ft. buildings with related accessory equipment and tie-line to an existing PG&E substation.The project site covers a 12-acre portion of the 35-acre Empire Business Park parcel located at 701 Willow Pass Road in the IP-O (Industrial Park Overlay) District. Assessor's Parcel No. 085-280-010.

B. The proposed Diablo Energy Storage is governed by the applicable goals and policies of the Pittsburg General Plan,and the Pittsburg Municipal Code (PMC).

C. The project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for theproject. Based on the analysis in that study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a draft Mitigated Negative Declaration (MND) was prepared.

D. On February 9, 2018, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). The review period was extended to March 23, 2018 to accommodate additional public review. Public distribution of the NOI consisted of delivery to the State Clearinghouse, County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of properties directly contiguous with the project, in accordance with CEQA Guidelines section 15072.

E. On August 14, 2018, after conducting a duly noticed public hearing the Planning Commission adopted Resolution No. 10095, recommending approval of the requested mitigated negative declaration, an amendment to the 'Empire Business Park' Overlay Zoning District, use permit, and design review.

F. Before adoption of an ordinance, the City Council shall make findings that the proposed amendment is consistent with the policies of the General Plan and the notice and hearing provisions of PMC Title 18, in accordance with PMC section 18.74.070, Chapter 18.48.

G. On or prior to Friday, September 7, 2018, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B and D, a "Notice of Public Hearing," for the September 17, 2018, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice.

H. On September 17, 2018, the City Council held a duly-noticed public hearing to: 1) introduce and waive further reading of this ordinance approving a mitigated negative declaration and proposed amendment to the Empire Business Park Limited Overlay District; and 2) adopt resolution approving the use permit and design review, at which time oral and/or written testimony was considered.

SECTION 2. Findings.

A. Based on the City CouncilStaff Report entitled, "Introduction and Waive First Reading of an Ordinance and Adoption of a Resolution Approving the Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)," dated September 17, 2018, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. The Mitigated Negative Declaration for the project was prepared in compliance with Public Resources Code section 21000 et seq. and the City Council has independently reviewed and considered the information contained therein.

3. The proposed overlay amendment is necessary because there are special or unique characteristics of the site or improvements that require land use and development regulations that cannot be adequately accommodated or controlled by the base zoning district, in that the Zoning Ordinance currently does not have a land use classification for "Battery Storage" projects. This is a new technology which is important in promoting sustainable energy goals by providing a means of storing energy in non-daylight hours.

4. The proposed amendment is consistent with the General Plan, specifically policy 2-P-77, in that it will facilitate the continued development of a business commercial complex between Willow Pass Road and the BNSF Railroad track, east of the PG&E transmission corridor.

5. The proposed amendment generally complies with the land use and development regulations of the base IP (Industrial Park) zoning district, in that itwill permit a light industrial use with limited customer presence and no industrial activities.

6. The proposed amendment will allow development of an energy storage project which will support California's renewable energy goals by providing a means of storing electrical energy including renewable energy produced by existing solar and wind resources in the region. The project will help meet a community and statewide need to reduce greenhouse gas emissions, consistent with Assembly Bill (AB) 32 targets. The proposed overlay amendment will allow development of a battery storage facility that will improve the efficiency of the electric grid and help reduce energy costs and greenhouse gas emissions. This project will be in keeping with measures other jurisdictions have taken to promote sustainable energy production in their communities.

SECTION 3. Decision.

Based on the findings and the authority set forth above, the City Council hereby:

A. Approves the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program contained in Exhibits B and C of this ordinance; and

B. Amends the land use regulations of the Empire Business Park IP-O (Industrial Park Overlay, Ordinance No. 04-1214, as amended by Ordinance No. 07-1284) District by adding the "Major Utility" classification to the land use table, subject to a use permit as described in the attached Exhibit A. The overlay map, land use and development regulations tables from Ordinance No. 04-1214, as amended by Ordinance No. 07-1284, shall be replaced in its entirety by the new map and tables depicted in the attached Exhibit A.

SECTION 4. Effective Date

This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 5. Publication.

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on September 17, 2018, and was adopted and ordered published at a meeting of the City Council held on October 1, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

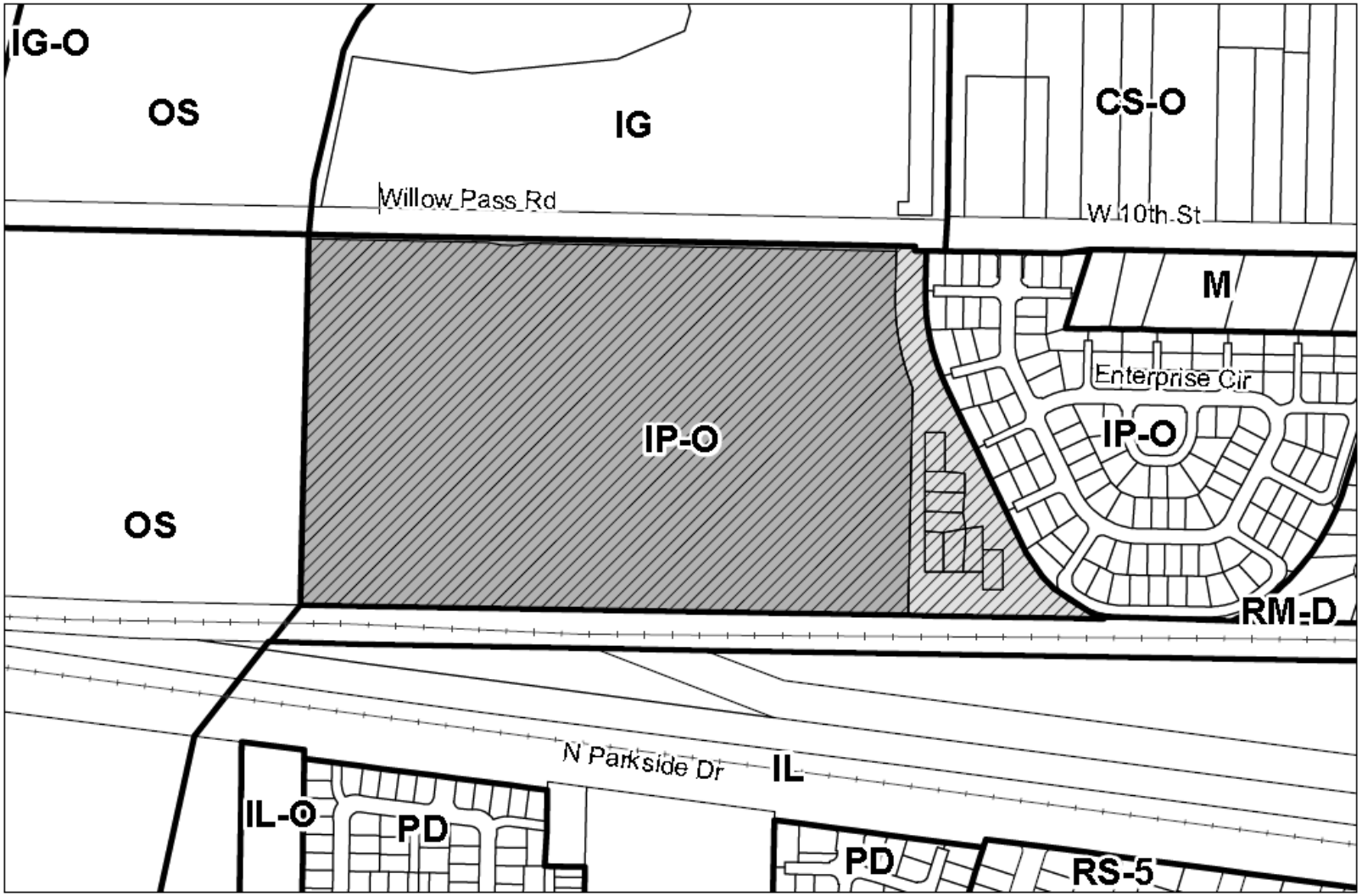
ABSENT:

_____
Dwaine "Pete" Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Exhibit A of Ordinance No. 18-_____
Empire Business Park IP-O (Industrial Park Overlay) District
OVERLAY ZONING MAP



Legend

Parcels | Affected Parcels | Zoning Districts | IP-O-1 | IP-O-2

0 265 530 1,060 Feet

Land Use Regulations

In the following schedule, the letter "P" designates permitted use classifications. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use and Development Regulations" that follow after the schedule. The letter "U" designates use classifications permitted on approval of a use permit (Chapter 18.28 PMC). The letter "T" designates temporary use classifications permitted on approval of a temporary activity permit. The letter "Z" designates accessory use classifications permitted on approval of the zoning administrator. Any use classifications not specifically listed on this table are considered not allowed in the district.

Land Use Regulations Schedule

P = Permitted
U = Use Permit, Planning Commission
Z = Use Permit, Zoning Administrator
T = Temporary Activity Permit
L = Limited (See Additional Use Regulations)

	IP-O-1	**IP-O-2**
Governmental and Quasipublic		
Club and lodge	U	U
College, public or private	L-32	L-32
Day care, general	L-31	L-31
Government office	U	U
Hazardous waste facility:		
On-site facility	U	U
Single-user off-site facility	U	U
Transfer facility	U	U
Maintenance and service facility	U	U
Park and recreation facility	U	U
Public parking facility	U	U
Public safety facility	U	U

	IP-O-1	IP-O-2
Public transit terminal	U	U
Religious assembly	U	U
Telecommunication facility	P	P
Utility, major	–	U
Utility, minor	P	P
Commercial		
Ambulance service	U	P
Animal sales and service:		
Animal boarding	U	U
Animal Grooming	U	P
Animal Hospital	U	U
Animal Retail Sales	U	P
Artists' studio	P	P
Bakery, commercial	--	–
Bank and savings and loan:		
ATM	P	P
Commercial filming and communications	U	U
Commercial recreation and entertainment within building	L-5	L-5
Eating and drinking establishment:		
Restaurant, full-service	L-16	L-16
Restaurant, self-service	L-16	L-16
Food and beverage sales:		
Grocery	--	U
Specialty food market	--	L-17
Food Shop	--	P
Catering service	P	P

	IP-O-1	**IP-O-2**
Funeral and interment services	--	L-18
Horticulture limited	--	U
Laboratory limited	P	P
Maintenance and repair service	P	P
Marine sales and services	--	U
Office, business and administrative	P	P
Personal Improvement Service	P	--
Printing and publishing services:		
Commercial	P	P
Limited	--	P
Recycling collection facility:		
Reverse vending machine	P	P
Recycling facility, small	Z	P
Recycling facility, large	U	U
Research and development services	P	P
Retail and wholesale sales	P	P
Lumber and building material yard	U	L-22
School, commercial	U	U
Vehicle sales and service:		
Automobile rental	--	P
Automobile and recreational vehicle repair, major	U	U
Automobile repair, limited	--	P
Automobile washing	--	L-20
Recreational vehicle and mobile home sales	U	–
Service station	--	L-21
Vehicle storage	U	U

	IP-O-1	IP-O-2
Warehousing and storage limited	U	L-35
Industrial		
Food and drug processing	U	P
Industrial services:		
Contractor	P	P
Contractor yard	U	U
Laboratory	U	P
Laundry	U	U
Repair/jobbing service	U	U
Manufacturing:		
Limited	U	L-22
Custom	P	P
Research and development production	U	P
Transportation/distribution:		
Commercial/personal transport services	U	U
Truck terminal	L37	L37
Wholesaling and storage:		
Interior operation	L-23	P
With exterior storage	U	U
Accessory Uses		
Accessory uses	P	P
Primary Live-work Residence	L-36	--
Accessory structures:		
Nonresidential accessory structure	P	P
Caretaker's quarters	L-36	P
Temporary Uses		
Animal show	T	T

	IP-O-1	**IP-O-2**
Christmas tree sales	T	T
Circus and carnival	T	T
Commercial filming limited	P	P
Real property sales	P	P
Religious assembly	T	T
Retail sales, outdoor	T	T
Storage, outdoor	T	T
Trade fair	T	T

ADDITIONAL USE AND DEVELOPMENT REGULATIONS

L-5	Limited to tennis/racquetball courts or health/fitness clubs/gyms, subject to a use permit
L-15	Use permit and heliport permit from California Department of Transportation, Division of Aeronautics, are required. No heliport may be located within 1,000 feet or an R district, except for ancillary helipads of a public or quasipublic use.
L-16	Permitted as a secondary use within a building for employee dining.
L-17	Permitted as an ancillary use to wholesale operations.
L-18	Limited to crematories, columbariums or mausoleums.
L-19	Businesses are not permitted that typically provide on-site customer or patient services, such as medical-dental, counseling, real estate or insurance brokerage offices.
L-20	Limited to truck, tractor or construction equipment washing.
L-21	Limited to stations offering specific services to individual uses within the base zoning district, subject to a use permit.
L-22	Use permit required for exterior activities.
L-23	Use permit required for more than two truck docks.
L-28	Limited to an accessory use only, subject to a use permit.

L-30	Permitted as an ancillary use for employees.
L-32	Use permit required for private institution; public schools permitted.
L-35	Storage related to commercial and business operations is permitted. Person/self-storage ("Mini-storage") requires a use permit.
L-36	Use limited to businesses occupying a minimum of 4,000 sq. ft. of interior ground floor area. Living space must be located above ground floor.
L-37	Use permit required for truck storage. Use permit not requires for distribution of goods.

Development Regulations

	IP-O-1	**IP-O-2**
PRIMARY BUILDING HEIGHT (max feet)	35	40
MAXIMUM LOT COVERAGE (percent)	40	60
FRONT YARD SETBACK (feet)	25	20 min., 25 or more average
SIDEYARD SETBACK (feet)	10	10
SIDEYARD SETBACK (facing street, feet)	25	25
REAR YARD (feet)	10	10
MAXIMUM FLOOR AREA RATIO (FAR)	0.5	1.0
MINIMUM LOT AREA (square feet)	15,000	15,000
MINIMUM LOT WIDTH (feet)	80	80
MINIMUM SITE LANDSCAPING (percent)	10	10

Review of Plans:
All projects require design review (chapter 18.36)

CITY OF PITTSBURG
MITIGATED NEGATIVE DECLARATION

Diablo Energy Storage, AP-17-1270 (RZ, UP, DR)

Adopted by the Pittsburg City Council on: _____

Notice is hereby given that the City of Pittsburg finds that no significant effect on the environment, as prescribed by the California Environmental Quality Act of 1970 (CEQA), as amended, will occur for the following proposed project:

Project Proponent: Kevin Johnson, Diablo Energy Storage LLC, 5000 Hopyard Road, Suite #480, Pleasanton, CA 94588

Project Description: This is a request for approval of: 1) an amendment to the existing 'Empire Business Park Overlay' zoning district (Ordinance Nos. 07-1284 and 04-1214; 2) a use permit; and 3) design review of plans to establish a battery storage project on a currently vacant site. The purpose of the proposed development is to reliably receive, store and discharge electric energy from the California Independent System Operator-controlled electric grid, including renewable energy produced by existing solar and wind resources in the region. The project would consist of up to three buildings (each 60,000 square feet) constructed on a graded and vacant approximately 12 acre site, representing a portion of the property designated as the 35 acre Empire Business park. The buildings would house advanced energy storage equipment including inverters, transformers and a small onsite electric substation. The facility would be connected via a new electric tie-in line to the existing Pacific Gas & Electric Company (PG&E) Pittsburg Substation located approximately 0.6 mile north of the site. Three alternative routes are under consideration for the tie-in line to the PG&E Substation. The facility would be unoccupied and is designed for full remote operation.

Project Location: 701 Willow Pass Road, Pittsburg, CA. 94565 (Assessor's Parcel No. 085-280-010)

Finding: The project described above will not have a significant effect on the environment for the reasons stated below.

Statement of Reasons to Support the Finding:

Potentially Significant Impacts: The Initial Study prepared for the project identified potentially significant impacts if the West Tie-in alignment is selected in the following categories: Biological Resources, and Tribal Cultural Resources. However, no significant effects upon the environment would occur as a result of this project because mitigation measures identified in the Initial Study would be incorporated as conditions of approval of the project, if approved, in order to reduce the potentially significant impacts of the project to a less than significant level.

Other: All other impacts in the categories of Aesthetics, Agriculture and Forest Resources, Air Quality, Biological Resources, Geology/Soils, Greenhouse Gas

Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, and Land Use/Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Transportation/Traffic, Utilities/Service Systems, and Mandatory Findings of Significance were found to be less than significant. Based on the Initial Study, the Planning Manager has determined that preparation of a Mitigated Negative Declaration is appropriate for the project described above.

Attachments: Initial Study

California Environmental Quality Act
Initial Study
Diablo Energy Storage Project

February 2018

Prepared For:
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Prepared By:
TRC
17911 Von Karman Avenue, Suite 400
Irvine, CA 92614

California Environmental Quality Act
Initial Study
Diablo Energy Storage Project

February 2018

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APPENDICES

Appendix A	Detailed Project Description
Appendix B	CalEEMod Input and Output Summary
Appendix C	Sensitive Species Occurrences within Three Miles
Appendix D	Noise Technical Report
Appendix E	NAHC Correspondence

List of Acronyms and Abbreviations

Acronym	Name
ABAG	Association of Bay Area Governments
AC	Alternating Current
Applicant	Diablo Energy Storage, LLC
BAAQMD	Bay Area Air Quality Management District
BC	Business Commercial
BCC	USFWS Bird of Conservation Concern
BMPs	Best Management Practices
CaA	Capay Clay
CalEEMod	California Emission Estimator Model
CAISO	California Independent System Operator
CASQA	California Stormwater Quality Association
Cc	Clear Lake Clay
CCCFPD	Contra Costa County Fire Protection District
CEQA	California Environmental Quality Act
CDFW	California Department of Fish and Wildlife
CHRIS	California Historical Resources Information System
CNDDB	California Natural Diversity Data Base
CO2	Carbon Dioxide
CWA	Clean Water Act
dB	Decibel
DC	Direct Current
DOT	Department of Transportation
DTSC	Department of Toxic Substances Control
ESA	Endangered Species Act
FE	Federal Endangered
FEMA	Federal Emergency Management Agency
FT	Federal Threatened
FC	Candidate for Federal Listing
GhG	Greenhouse Gas
GQ	Governmental and Quasipublic
HCP/NCCP	Habitat Conservation Plan/Natural Community Conservation Plan
HVAC	Heating, Ventilation and Air Conditioning
IG	General Industrial
IPaC	Information for Planning and Consultation (USFWS website)
IP-O	Industrial Park-Limited Overlay
Ja	Joice muck
kV	Kilovolts
LUC	land use covenant
mg/L	Milligrams per liter
MRZ	Mineral Resource Zone
NAHC	Native American Heritage Commission
NAVD 88	North American Vertical Datum of 1988
NOx	Oxides of Nitrogen
NPDES	National Pollutant Discharge Elimination System
Ob	Omni silty Clay
PG&E	Pacific Gas & Electric Company
PM	Particulate Matter
POI	point of interconnection
QSP	Qualified SWPPP Practitioner

ROGs	Reactive Organic Gasses
RWQCB	Regional Water Quality Control Board
SE	State Endangered
SFP	State-Fully Protected
So	Sycamore silty clay loam
SR	State Route
SSC	Species of Special Concern
ST	State Threatened
SWPPP	Storm Water Pollution Prevention Plan
TCE	tricholorethylene
VHHSZ	Very High Fire Hazard Severity Zone
WL	Watch List Species
Zone AE	100-year flood zone

1.0 INTRODUCTION

1.1 Project Overview

Diablo Energy Storage, LLC (Applicant) has submitted to the City of Pittsburg (City) a request for approvals necessary for development of an approximately 12-acre project site (Site) within an approximately 35 acre parcel (APN 085-280-010) located at 701 Willow Pass Road, Pittsburg, California. One hundred percent of the Site has previously been graded and is currently occupied by paved access routes, maintained bare soil, and non-native grassland. The site is within the Empire Business Park Overlay District and would be leased by the Applicant.

The Applicant proposes to construct one to three single story buildings and associated electrical equipment onsite. The buildings would house advanced energy storage technology (e.g., lithium ion batteries) which, together with related control equipment including inverters, transformers, and a small onsite electric substation, would be connected via a new electric tie-line to the existing Pacific Gas & Electric Company (PG&E) Pittsburg substation located approximately 0.6 mile north of the Site. The facility would be unoccupied and is designed for full remote operation.

The Site is within the East Contra Costa Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) area. Two alternate routes being considered for a tie-line to the PG&E Pittsburg substation are also within the HCP/NCCP area and a third alternate route being considered extends out of the HCP/NCCP area.

The parcel is designated Business Commercial (BC) in the General Plan and zoned Industrial Park-Limited Overlay (IP-O). Approvals from the City that would be necessary for the proposed development include: a zoning text amendment to amend the IP-O (Industrial Park With a Limited Overlay, Ord. No. 07-1284) District, or the “empire business park overlay district”, such that a “major utility” would be permitted with a use permit. In addition to the zoning text amendment, Diablo Energy Storage, LLC is applying for a conditional use permit, design review and development agreement. A minor subdivision (lot line adjustment or parcel map waiver), or filing of a final map following a current tentative parcel map may also be pursued that would divide the Site from the existing 35 acre parcel.

1.2 California Environmental Quality Act

The Diablo Energy Storage project approvals being considered constitute a “project” as defined by the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000 et seq.) and the “CEQA Guidelines” (California Code of Regulations, Title 14, Section 15000 et seq), and is thereby subject to the requirements of CEQA. For purposes of CEQA, the term “project” refers to the whole of an action which has the potential to result in a direct physical change or a reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15378). As the principal public agency responsible for approval the Diablo Energy Storage project, the City is the “lead agency” overseeing and administering the CEQA environmental review process.

As set forth in various provisions of the CEQA Statute (e.g., Section 21080), before deciding whether to approve a project, public agencies must consider the potential significant environmental impacts of the project and must identify feasible measures to minimize these impacts. Pursuant to CEQA Guideline Section 15064, if any aspect of the proposed project,

either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, an Environmental Impact Report (EIR) must be prepared.

This Initial Study is a factual document, prepared in conformance with CEQA, and written for the purpose of making the public and decision-makers aware of the potential environmental consequences of the project. For any project impact that is considered potentially "significant," the Initial Study identifies mitigation measures, where feasible, to reduce or avoid the significant effect. Before any action can be taken to approve the Diablo Energy Storage Project, the City must certify that it has reviewed and considered the information in the Initial Study/Proposed Negative Declaration and that this document has been completed in conformity with the requirements of CEQA. Approval of a Negative Declaration does not approve or deny the proposed project.

1.3 Environmental Review

Consistent with CEQA, this Initial Study is a public information document for use by governmental agencies and the public to identify and evaluate potential environmental consequences of the proposed project and to recommend mitigation measures and/or standard conditions of approval to lessen or eliminate adverse impacts.

This Initial Study/Proposed Negative Declaration is available for public review for thirty days, during which time written comments on the Initial Study may be submitted to:

Kristin Pollot, AICP
Planning Manager
City of Pittsburg
Planning Division
65 Civic Avenue
Pittsburg, CA 94565
kpollot@ci.pittsburg.ca.us

2.0 PROJECT DESCRIPTION

The Site location is shown in Figure 1. The Site constitutes Parcel B of the existing Tentative Parcel Map for APN 085-280-010 as shown in Figure 2. The Site has previously been graded and is mostly covered with several feet of fill dirt. Figure 3 provides representative photographs of the Site and surroundings.

The facility would not generate electricity. Rather, it would provide a service by receiving energy (charging) from the point of interconnection (POI) with the PG&E electric transmission system, storing energy, and then later delivering energy (discharging) back to the POI. Following construction, the proposed use would not create emissions to air, would not require sanitary facilities, and would not require water except to maintain water efficient landscape to meet City requirements.

2.1 Purpose

The purpose of the proposed development is to reliably and economically receive, store and discharge electric energy from the California Independent System Operator (CAISO)-controlled electric grid, including renewable energy produced by existing solar and wind resources in the region. The project would interconnect to the CAISO-controlled grid at the nearby PG&E's Pittsburg Substation. Construction of the project would:

- Provide a new economic and reliable means of capturing and managing renewable energy;
- Provide economic benefit to the City of Pittsburg, Contra Costa County, the region, and the State, through construction jobs, property and sales taxes, and increased energy efficiency and reliability;
- Help stabilize the electric grid and increase the effectiveness of both conventional and renewable energy generation projects;
- Support the achievement of local, state and federal renewable energy goals; and
- Support State goals for energy storage.

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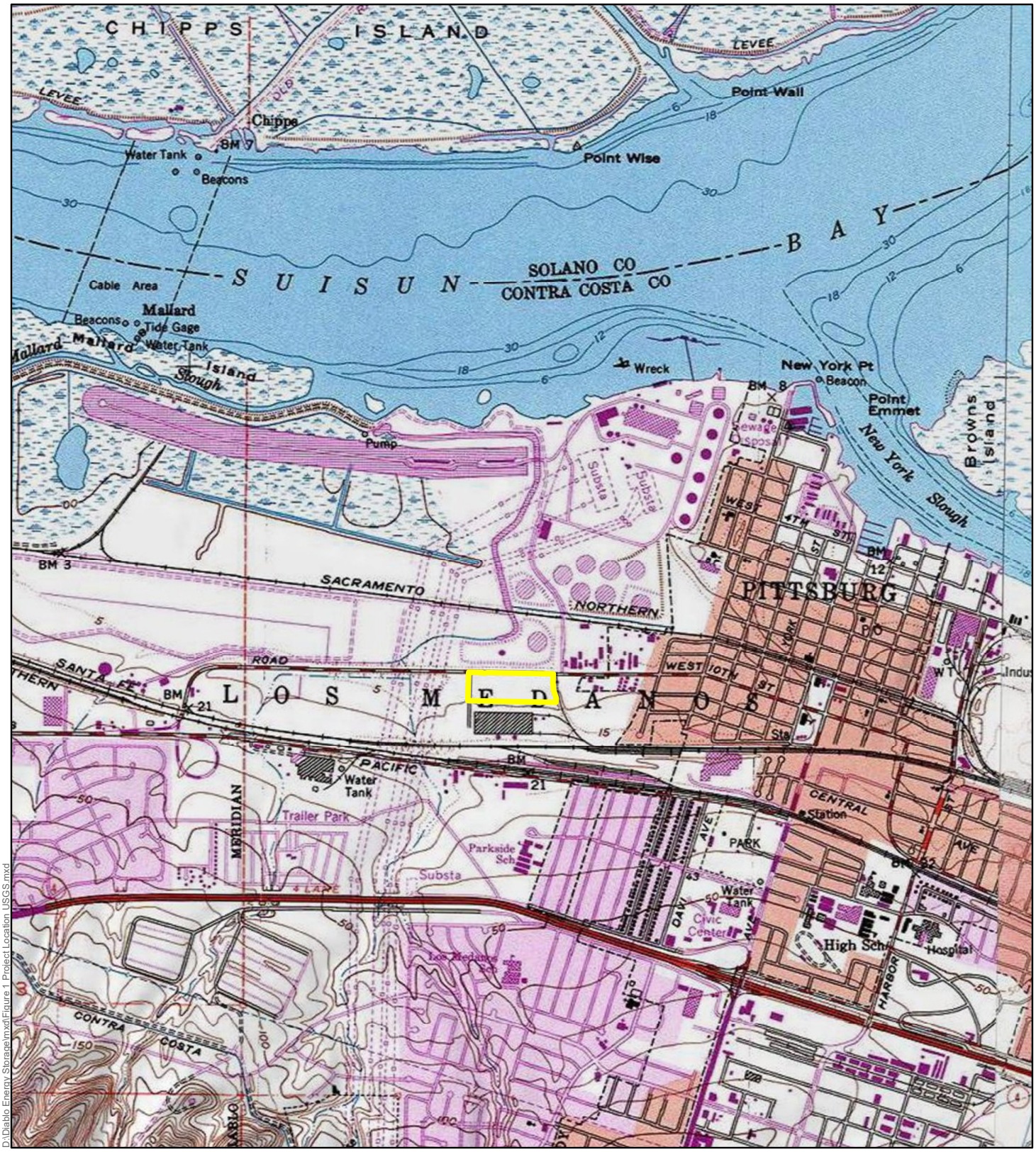

D:\Diablo Energy Storage\mxd\Figure 1 Project Location USGS.mxd

Legend

Project Site

Figure 1: Site Location

Diablo Energy Storage, LLC

N

0 0.5 1 Miles

1:24,000

10/13/2017

TRC Results you can rely on

Figure 2

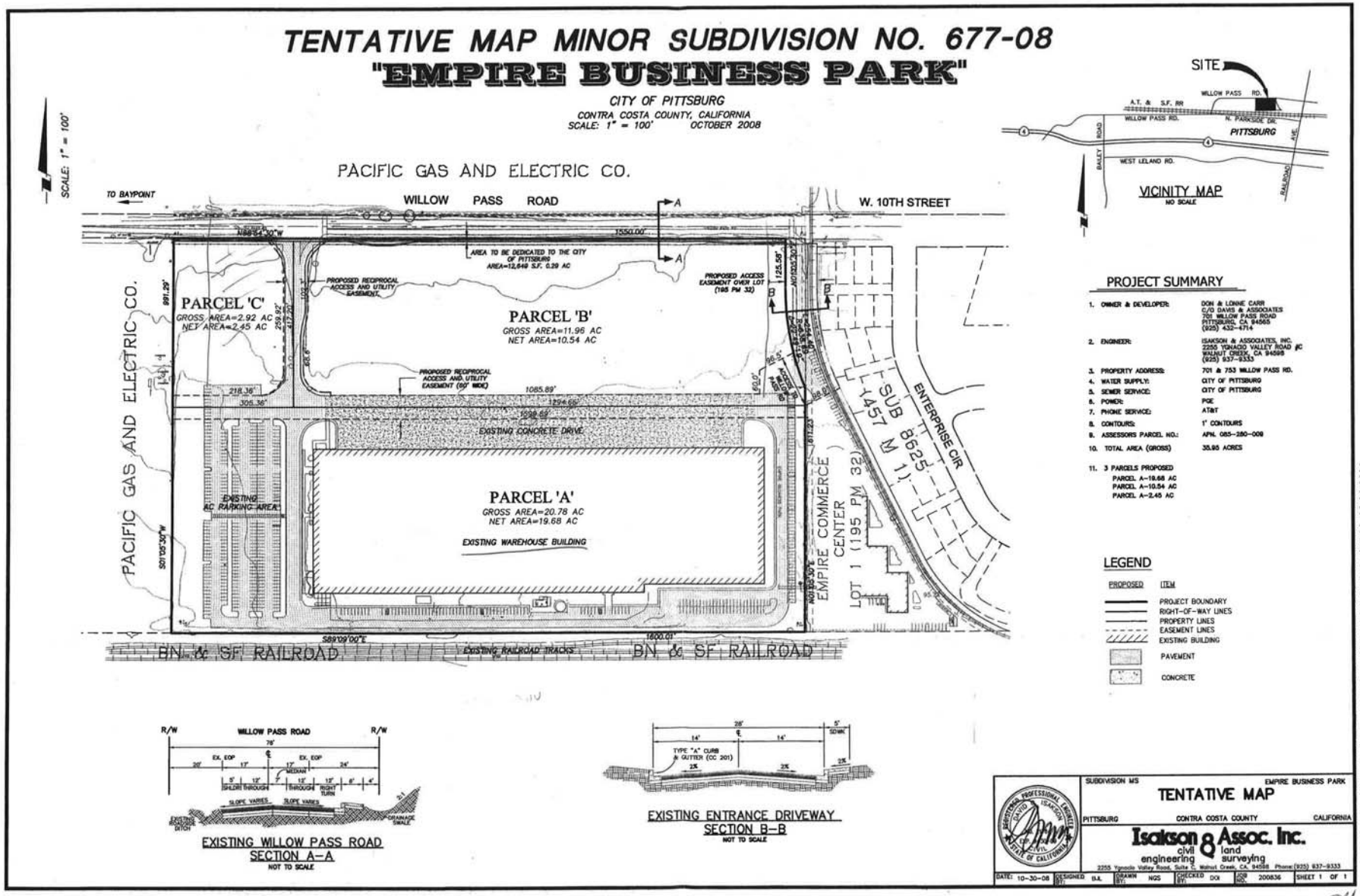
TENTATIVE MAP MINOR SUBDIVISION NO. 677-08
"EMPIRE BUSINESS PARK"
CITY OF PITTSBURG
CONTRA COSTA COUNTY, CALIFORNIA
SCALE: 1" = 100'
OCTOBER 2008
SCALE: 1" = 100'
PACIFIC GAS AND ELECTRIC CO.
TO BAYPOINT
WILLOW PASS ROAD
W. 10TH STREET
PARCEL 'C'
GROSS AREA=2.92 AC
NET AREA=2.45 AC
PARCEL 'B'
GROSS AREA=11.96 AC
NET AREA=10.54 AC
PARCEL 'A'
GROSS AREA=20.78 AC
NET AREA=19.68 AC
EXISTING WAREHOUSE BUILDING
EXISTING CONCRETE DRIVE
EXISTING AC PARKING AREA
PROPOSED RECIPROCAL ACCESS AND UTILITY EASEMENT
PROPOSED ACCESS EASEMENT OVER LOT (195 PM 32)
AREA TO BE DEDICATED TO THE CITY OF PITTSBURG AREA=12,649 S.F. 0.29 AC
EMPIRE COMMERCE CENTER
LOT 1 (195 PM 32)
SUB 8625
(457 M 1)
ENTERPRISE CIR
BN & SF RAILROAD
EXISTING RAILROAD TRACKS
SITE
WILLOW PASS RD.
A.T. & S.F. RR
N. PARKSIDE DR.
PITTSBURG
WEST LELAND RD.
BAILEY ROAD
RAILROAD AVE.
VICINITY MAP
NO SCALE
PROJECT SUMMARY
1. OWNER & DEVELOPER: DON & LONNE CARR C/O DAVIS & ASSOCIATES 701 WILLOW PASS ROAD PITTSBURG, CA 94565 (925) 432-4714
2. ENGINEER: ISAKSON & ASSOCIATES, INC. 2255 YGNACIO VALLEY ROAD #C WALNUT CREEK, CA 94598 (925) 937-9333
3. PROPERTY ADDRESS: 701 & 753 WILLOW PASS RD.
4. WATER SUPPLY: CITY OF PITTSBURG
5. SEWER SERVICE: CITY OF PITTSBURG
6. POWER: PGE
7. PHONE SERVICE: AT&T
8. CONTOURS: 1' CONTOURS
9. ASSESSORS PARCEL NO.: APN. 085-280-009
10. TOTAL AREA (GROSS) 35.95 ACRES
11. 3 PARCELS PROPOSED
PARCEL A-19.68 AC
PARCEL A-10.54 AC
PARCEL A-2.45 AC
LEGEND
PROPOSED ITEM
PROJECT BOUNDARY
RIGHT-OF-WAY LINES
PROPERTY LINES
EASEMENT LINES
EXISTING BUILDING
PAVEMENT
CONCRETE
EXISTING WILLOW PASS ROAD SECTION A-A
NOT TO SCALE
EXISTING ENTRANCE DRIVEWAY SECTION B-B
NOT TO SCALE
SUBDIVISION MS
EMPIRE BUSINESS PARK
TENTATIVE MAP
PITTSBURG
CONTRA COSTA COUNTY
CALIFORNIA
Isakson & Assoc. Inc.
civil engineering
land surveying
2255 Ygnacio Valley Road, Suite C, Walnut Creek, CA 94598 Phone: (925) 937-9333
DATE: 10-30-08
DESIGNED BY: B.L.
DRAWN BY: NGS
CHECKED BY: DGI
JOB NO. 200836
SHEET 1 OF 1
200836 EMPIRE - TENTATIVE MAP MINOR SUBDIVISION NO. 677-08 10-30-2008

Figure 3: Site Photographs

1) Looking east from west end of the Site.

2) Looking north along the driveway east of the Site. Existing trees shield views from closest houses.

3) Looking east on the northern end of the Site.

4) Looking west from the east side of the Site.

5) Looking south along the driveway landscape just offsite, on the west side of existing driveway to be used for project access. West boundary of the site is generally along the driveway centerline. The onsite non-native grassland visible on the left site of the driveway would be developed with landscape to generally mirror that shown in the photo for aesthetics.

6) Looking north along the existing driveway to be used for project access. West boundary of the site is generally along the driveway centerline. The onsite non-native grassland visible on the right side of the driveway would be developed with landscape to generally mirror that shown on the left side of the driveway. Either the tie-line Middle or East Alignment routes, if used, would cut through the existing Tank farm visible in right-background.

7) Looking east down Willow Pass Road along the site frontage. Existing 12kV distribution lines occur adjacent to Willow Pass Road. Existing site fencing is visible at right. Project would install landscaping including trees and groundcover along the site frontage in place of non-native grass.

8) Looking west down willow pass road from west side of the site. The existing PG&E high voltage corridor is visible in the background. The tie-line West Alignment, if used, would extend along Willow Pass Road and beneath the existing transmission lines before turning north to parallel the existing lines to the PG&E Pittsburg Substation.

2.2 Project Design

The Project would develop up to three single-story 60,000 square foot industrial-type buildings for a total of 180,000 square feet of development. Battery systems would be housed inside buildings designed for aesthetic compatibility with the surrounding area. The buildings would have battery storage racks separated by aisles, with relay and communications systems for automated monitoring and managing of the batteries to ensure design performance and system life. Batteries operate with direct current (DC) electricity that must be converted to alternating current (AC) for compatibility with the existing electric grid. Power inverters to convert between AC and DC would be located outside the buildings along with transformers that would step up the voltage. A small onsite substation (Figure 5) with switchgear and an additional transformer would further step-up the voltage to the 230 Kilovolts (kV) needed for compatibility with the voltage of the point of interconnection to the electric grid.

The substation area would be fenced in accordance with high voltage electric code requirements and would include an approximately 24-foot wide x 50-foot high H-frame structure with switches, lightning arrestors and metering equipment. The onsite substation would be connected to the existing PG&E Pittsburg Substation to the north via an overhead 230 kV electric tie-line. A photograph example of poles that would be used to support the 230 kV tie-line are shown in Figure 4, along with photograph example for lattice tower structures that may be needed for a portion of one alignment. The area between the Site and the Pittsburg Substation is extensively developed with industrial and utility infrastructure that prevents a direct tie-line route and limits feasible routes. The Applicant is requesting approval to use any of the following three alignments shown in Figure 5, designed following tight geometric and space constraints through existing infrastructure areas:

- The **West Alignment** would leave the Site westbound on the south side of Willow Pass Road and extend under an existing PG&E high voltage transmission corridor just west of the Site, and then turn north to follow the existing transmission corridor to the Pittsburg substation. This alignment is approximately 6,700 feet long and would require approximately eight support structures. Three of these structure locations may require lattice towers (Figures 4 and 5) where the alignment is alongside the existing PG&E high voltage corridor. The remaining structures would be approximately 77-95 foot high poles similar to the example pole in Figure 4. This alignment is located mostly on highly disturbed land, except for structures near the north end located in habitat that could be wetlands requiring permits from other jurisdictional agencies.
- The **Middle Alignment** heads north from the Site through an existing oil tank farm. This alignment is approximately 3,800 feet long and would require approximately twelve 77-95 foot high support poles located entirely on highly disturbed land.
- The **East Alignment** is the same as the Middle Alignment near the Site but extends around the east side of the existing oil tank farm. The length of this route is approximately 5,800 feet and would require approximately sixteen 77-95 foot high support poles, entirely located on highly disturbed land.

Figure 4: Example Tie-Line Structures

1) This 230 kV pole line is an example of what the project's approximately 77- to 95-foot high tie-line pole structures could look like.

2) If the West Alignment is used, approximately three lattice tower structures similar to that shown here could be required where the tie-line crosses possible wetlands.

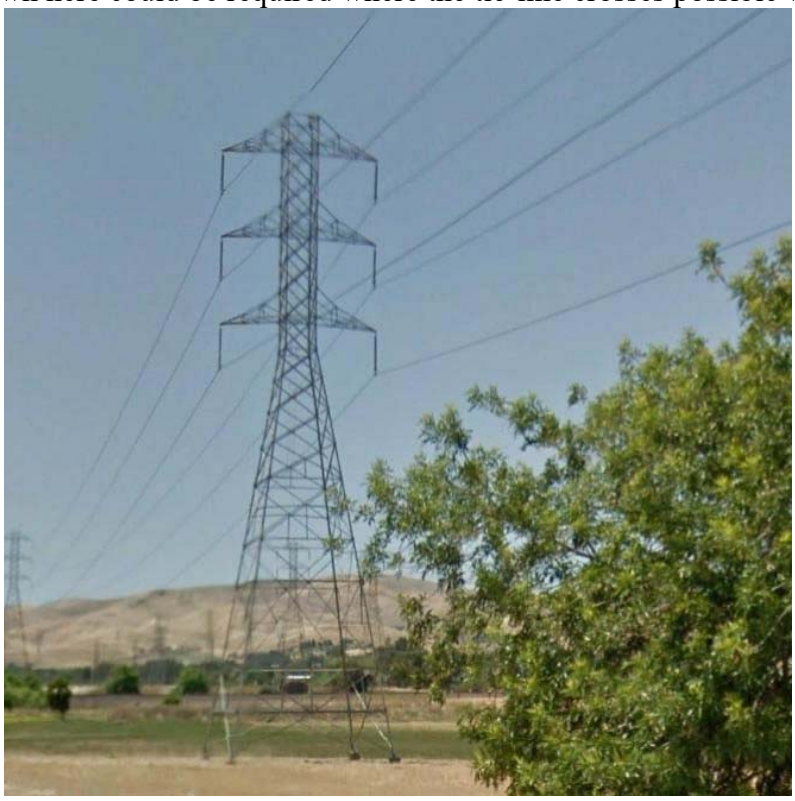

Figure 5: Tie-Line Alternatives
Diablo Energy Storage, LLC

Legend

- Tie-Line Structure (Pole)
- Tie-Line Structure (Pole or Tower)
- West Alignment
- Middle Alignment
- East Alignment
- Project Site
- Proposed Onsite Substation

TRC
Results you can rely on

N

0 400 800 1,200 Feet

1:9,600

2/5/2018

2.3 Construction

Construction and equipment installation is expected to take 6 to 12 months including the buildings, outdoor electrical equipment, and site preparation including stormwater controls and landscaping. Construction staging would occur onsite. Construction may be phased in response to market demands. Final grading and building plans would be subject to approval by the City Engineering Division.

It is estimated that Site grading and preparation would require the following equipment:

TYPE	QUANTITY
Bulldozer (e.g., CAT D7)	1
Grader (e.g., CAT D7)	1
Scraper (15-30 CY)	2
Water Truck (3,000- 5,000 gal)	1
Self-Propelled Compactor	1
Dump Truck	1
Tractor/Loader/Backhoe (e.g., Case 590)	1
Bobcat	1

Sanitary facilities during construction would be provided by portable self-contained units maintained by a licensed contractor.

Project construction would implement the following measures to control dust emissions during construction in accordance with Bay Area Air Quality Management District guidance:

- Water or another non-toxic dust palliative would be used during construction to control dust.
- Exposed soil areas would be watered two times per day when needed to control dust emissions;
- Haul trucks transporting soil, sand or other loose material offsite would be covered;
- Best Management Practices (BMPs) would be implemented to minimize track-out onto adjacent public streets;
- A 15 mile per hour speed limit would be used for roadways until stabilized with gravel or other treatment to minimize dust; and
- Disturbed surfaces would be stabilized as soon as practical.

Construction is expected to generate up to an estimated 75 construction jobs during peak construction periods. Deliveries of equipment and materials would generate an estimated 5 round trips per day during peak construction periods that would occur throughout the day.

2.4 Operations

The facility would operate year-round and would be available to receive or deliver energy 24 hours a day, 365 days a year. The Site would be secured with chain link fencing and equipped with security

cameras, alarms and other security and operational monitoring systems. Landscaping would include water-efficient trees, shrubs and groundcover that would provide aesthetics for views from Willow Pass Road. Existing trees and landscaping along the driveway east of the Site (See Figure 3) would provide visual screening between the project and residences to the east. At the west edge of the site, proposed landscaping along the edge of the existing driveway would include trees and ground cover to mirror the existing landscaping on the opposite (offsite) edge of the driveway. The electrical equipment, heating, ventilation, air conditioning, fire protection systems, and security would be automated and monitored remotely. The Site would be unoccupied but visited periodically through the year for equipment inspections, monitoring and testing, and maintenance as needed. Periodically, batteries and various components would be replaced or renewed to ensure optimal operation.

Storm water treatment in accordance with City requirements would be provided by gravel yard surfacing and bioretention swales as shown in the Preliminary Design Drawings. Outdoor equipment would be sealed or enclosed and would not affect storm water quality.

Outdoor electrical equipment, cooling fans, and HVAC systems would generate low levels of noise during routine operations. The closest sensitive noise receptors are residences located east of the Site. The project is designed with a building at the eastern side that would block electrical equipment noise to these residential receptors. The facility would be designed comply with the noise standards at Section 12 of the General Plan.

At the end of battery life, battery modules would be removed from the battery racks and returned to the manufacturer or their approved recycling partner(s) for dismantling, material processing and recovery. Other waste from Site maintenance would be removed from the Site as part of maintenance work and managed in accordance with applicable regulations. Oil filled equipment is operated closed and sealed.

2.5 Schedule

Construction would be scheduled to begin after receipt of requisite permits and is expected to take approximately 6 -12 months. The full project could be constructed initially or portions of the site could be constructed in phases. The building space at the east end of the Site would be built first to block noise to residences. The Preliminary Site Plans in the detailed project description in Appendix A provide a conceptual phasing plan.

3.0 CEQA INITIAL STUDY CHECKLIST

1. **Project title:** Diablo Energy Storage, LLC

2. **Contact person and phone number:**
   Kristin Pollot
   Planning Manager
   City of Pittsburg
   (925) 252-4941
   kpollot@ci.pittsburg.ca.us

3. **Project location:** 701 Willow Pass Road, Pittsburg, CA 94565

4. **Project sponsor's name and address:**
   Diablo Energy Storage, LLC
   c/o Kevin R. Johnson
   5000 Hopyard Road, Suite 480
   Pleasanton, CA 94588

5. **General plan designation:**
   Business/Commercial

6. **Zoning:** Industrial Park-Limited Overlay (IP-O) ("*Empire Business Park Overlay District" Ord. No. 07-1284)*

7. **Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)**
   A comprehensive Project Description including maps and Preliminary Site Plans is attached to this initial Study as Appendix A.

8. **Surrounding land uses and setting (briefly describe the project's surroundings):**
   Willow Pass Road is adjacent to the north of the Site and lands north of Willow Pass Road are industrial. The adjacent land to the south of the Project Site is developed as an approximately 400,000 square foot commercial warehouse-style structure and associated parking and truck loading docks. Adjacent lands to the east of the Site consist of a paved commercial entrance road between the Project Site and a residential housing tract. Adjacent lands to the west of the Site are comprised of a paved entrance to the commercial development to the south, a graded but undeveloped area, and a high voltage electric transmission line corridor.

   If the Middle or East Alignment of the tie-line were to be constructed, adjacent lands are industrial except that an approximately 1,200 foot long segment of the East tie-line that has adjacent uses including residential and recreational at distances of approximately 100 to 300 feet. If the West Alignment is used for the tie-line, it would be located within and adjacent to an existing high voltage transmission corridor that traverses open space.

10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)**
    The proposed Project would be required to obtain coverage under the State General NPDES Permit for discharges of stormwater from construction projects. This permit is administered by the Regional Water Quality Control Board and is in place for use by applicants upon filing of a satisfactory Permit Registration Documents.

    If the West Alignment is used for the tie-line, impacts to wetlands may occur that would require

a Fish and Game Code Section 1600 permit from California Department of Fish and Wildlife. In addition, if the West Alignment impacts federally jurisdictional wetlands, then a Clean Water Act (CWA) Section 404 Permit (Nationwide Permit No. 12 for Utilities) would be needed from U.S. Army Corps of Engineers as well as a CWA Section 401 Water Quality Certification from the Regional Water Quality Control Board.

3.1 Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this project. Check marks are indicated by the following symbol: ☑

☑	Aesthetics	☐	Agriculture and Forest Resources	☑	Air Quality
☑	Biological Resources	☑	Cultural Resources	☑	Geology/Soils
☑	Greenhouse Gas Emissions	☑	Hazards and Hazardous Materials	☑	Hydrology and Water Quality
☑	Land Use/Planning	☐	Mineral Resources	☑	Noise
☐	Population/Housing	☑	Public Services	☐	Recreation
☑	Transportation/Traffic	☑	Utilities/Service Systems	☑	Mandatory Findings of Significance

3.2 Determination

(To be completed by the Lead Agency) On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☑ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Prepared By: Joan Lamphier, Project Planner
Reviewed By: Kristin Pollot, Planning Manager

Signature _____ Date 2/7/18.

3.3 Evaluation of Impacts

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
No Impact: *The proposed Project is not located within any scenic vista or scenic resources area designated in the City or County General Plans. Furthermore, neither the proposed Site facilities nor the electric line would be visible from any State- or County-designated Scenic Highway or Scenic Route. Existing uses surrounding the proposed Project include industrial and commercial developments to the north and south, a high voltage electric transmission line corridor to the west, and residential development to the east. Considering these factors, the Project would not impact any scenic vista.*				
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☑
No Impact: *No designated or eligible State scenic highways occur in the vicinity. The nearest State scenic highway is State Route (SR) -24, located approximately 24 miles south of the proposed Project location. The Project area is not visible from SR 24. Therefore, the Project would not affect scenic resources within a State scenic highway corridor. The Site is relatively flat and has been previously graded. There are no rock outcroppings, historic buildings, scenic tree stands or other scenic resources on the Site or electric line route. Considering these factors, there would be no impact to scenic resources.*				
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☑	☐
Less than Significant Impact: *The Site is relatively flat and has been previously graded. Existing uses surrounding the proposed Project include industrial and commercial developments to the north and south, a high voltage electric transmission line corridor to the west, and residential development to the east. Considering these factors, the Project would not impact any scenic vista. The proposed Project features would not be out of scale or out of character with surrounding uses. An existing driveway bordering the east side of the Site is landscaped with non-native trees that would provide visual screening between the Site and the residential development to the east (refer to Figure 2 in the Project Description). Considering these factors, the proposed Project would not degrade the existing visual character or quality of the site and its surroundings. Therefore, the impact would be less than significant. Landscaping that would be completed consistent with City standards in conjunction with the Project would enhance existing visual characteristics of the Site.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☑	☐
Less than Significant Impact: *The Project would normally be unoccupied and the design does include new permanent night lighting. Motion-activated lighting may be used where needed for safety or security such as at access gates and doorways to buildings. If used, lighting would be directed downward and shielded to minimize visibility from offsite. As shown in the architectural renderings in Preliminary Site Plans, buildings would be single-story warehouse-type architecture that would not be a substantial source of glare. The electric tie-line would not have night lighting or large planar surfaces that could be a source of glare. Considering these factors, the Project would not create a new source of substantial light or glare that could affect day or nighttime views. Therefore, the impact would be less than significant.*				
II. AGRICULTURE AND FOREST RESOURCES -- In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-	☐	☐	☐	☑

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
agricultural use?				
No Impact: *No farmlands occur in the vicinity of the proposed Project so no farmlands would be affected by the Project.*				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☑
No Impact: *No lands zoned for agriculture occur in the vicinity of the proposed Project so no lands zoned for agriculture or under a Williamson Act contract would be affected by the Project.*				
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined in Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☑
No Impact: *No lands zoned forest land, timberland or timberland production occur in the vicinity of the proposed Project so no lands zoned forest land, timberland or timberland production would be affected by the Project.*				
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☑
No Impact: *No forest lands occur in the vicinity of the proposed Project so no forest lands would be affected by the Project.*				
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☑
No Impact: *The proposed Project comprises infill development in an urbanized area. The site has been previously graded. Access is via the existing paved Willow Pass Road. There are no farmlands or forest lands in the vicinity of the proposed Project that could be affected. The proposed Project does not include any action that would result in rezoning or conversion of agricultural or forest land. Therefore, there would be no impact.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☑	☐

Less than Significant Impact: *The proposed Project would be located within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The Project would not conflict with or obstruct implementation of any applicable air quality plan. The Project would not add dwelling units or structures that would generate operational emissions, or add full-time employees that would commute to and from the Projects on a daily basis. The Site would be unoccupied but visited periodically through the year for equipment inspections, monitoring and testing, and maintenance as needed. Operations would not result in emissions to air other than exhaust emissions from vehicle use for these periodic visits. These emissions would be minor considering the small and infrequent level of activity. Therefore, operations emissions would be less than significant.*

Project construction would result in dust and fuel-burning emissions. The BAAQMD significance thresholds for construction activities are provided in the following table along with maximum daily Project construction emissions as estimated by CalEEMod (Appendix B).

Criteria Pollutant	***Average Daily Threshold (pounds)***	***Project Emissions (max pounds/day)***	***Significant?***
Oxides of Nitrogen (NOx)	*54*	*45.9*	*No*
Reactive Organic Gasses (ROGs)	*54*	*5.4*	*No*
Exhaust Particulate Matter (PM10)	*82*	*2.3*	*No*
Exhaust Particulate Matter (PM2.5)	*54*	*2.1*	*No*

Source: BAAQMD CEQA Air Quality Guidelines, Updated May 2017.

The design for Project construction includes applying water to disturbed surfaces as needed to control dust (see Section 3.4 in Appendix A), and this control measure is reflected in the CalEEMod results in the table above. Consistent with BAAQMD guidelines (BAAQMD, 2012), unstabilized surfaces would be watered two times per day if needed. A nontoxic dust palliative may also be used. Furthermore, pursuant to the City Grading Ordinance (Section 15.88.060) during grading, all graded surfaces and materials are required to be wetted, protected or otherwise contained in such a manner as to prevent any nuisance from dust or spillage upon adjoining streets, and equipment and material on the site must be used in such a manner as to avoid excessive dust. Additional measures that would be implemented during construction to conform with grading ordinance requirements for dust control include: stabilizing disturbed surfaces as soon as practical; covering haul trucks transporting soil,

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

sand or other loose materials offsite; use of BMPs to minimize track-out; and implementing a 15 mile per hour speed limit for unstabilized roadways.

Crushed rock would be used to stabilize road surfaces as needed for to meet CCCFPD requirements, and areas that are not graveled or occupied by foundations would be stabilized by re-vegetation, application of a non-toxic soil binder, or other means of stabilization (see Section 3.2 and Preliminary Design Drawings in Appendix A). The design for Project construction includes applying water to disturbed surfaces as needed to control dust. The following requirements as set forth in Title 13 of the California Code of Regulations for diesel-fueled construction equipment would additionally help to ensure that emission levels during construction do not conflict with or obstruct implementation of BAAQMD's air quality plans:

- *Individual diesel truck idling in excess of five consecutive minutes would be prohibited consistent with Title 13 of the California Code of Regulations §2485.*
- *Diesel-power construction equipment would use low-sulfur diesel fuel pursuant to requirements of Title 13 of the California Code of Regulations §2281.*

Construction emissions are temporary and significance thresholds are based on peak daily emissions. Peak daily emissions for the proposed Project would occur during grading when diesel fuel-burning heavy earthmoving equipment is being used. It is estimated that Site grading and preparation would require the following equipment:

TYPE	*QUANTITY*
Bulldozer (e.g., CAT D7)	*1*
Grader (e.g., CAT D7)	*1*
Scraper (15-30 CY)	*2*
Water Truck (3,000- 5,000 gal)	*1*
Self-Propelled Compactor	*1*
Dump Truck	*1*
Tractor/Loader/Backhoe (e.g., Case 590)	*1*
Bobcat	*1*

The Project site has been previously graded and is nearly flat. Estimated grading quantities are provided on Sheet C-1 in the Preliminary Site Plans. The estimated construction emissions are below significance thresholds. Therefore, it is concluded that construction emissions from the proposed project would be below significance thresholds. A summary of the CalEEMod input and output is provided in Appendix B.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☑	☐

Less than Significant Impact: *As described in Response IIIa, construction emissions would be temporary and would not exceed construction-related significance thresholds. Further, the Project would not add residential units or be growth-inducing. The Project would not diminish an existing air quality rule or future compliance requirement. As a result, the Project would*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
not violate any applicable federal or state air quality standard or contribute substantially to an existing or projected air quality violation. Therefore, the impact would be less than significant.				
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors*)?*	☐	☐	☑	☐
Less than Significant Impact: *BAAQMD is state and/or federal nonattainment for ozone and fine particulate matter (PM-2.5) and state nonattainment for coarse particulate matter (PM-10). Operation of the proposed Project would not generate notable particulate emissions. The particulate emissions from periodic Site visits would be too negligible to result in a cumulative net increase in PM-10 or PM-2.5 concentrations. Construction emissions would not exceed construction-related significance thresholds. These thresholds were designed to establish the level at which the BAAQMD believes emissions could cause significant environmental impacts under CEQA when considered in conjunction with other sources. The proposed Project would not conflict with any air quality plan or regulation. Considering these factors, the proposed Project would not result in a cumulatively considerable net increase of any non-attainment criteria pollutant. Therefore, the impact would be less than significant.*				
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☑	☐
Less than Significant Impact: *Sensitive receptors are land uses that include members of the population that are particularly sensitive to the effects of air pollution such as children and the elderly and people with illnesses. Examples include residences, hospitals, schools, or convalescent homes. The nearest sensitive receptor is a residential community located east of the Site. The proposed Project would operate without pollutant emissions. Construction emissions would be less than significant as described in Response IIIa above. Considering these factors, the proposed Project would not expose sensitive receptors to substantial pollutant concentrations. Therefore, the impact would be less than significant.*				
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☑	☐
Less than Significant Impact: *Project operations would not be a source of odors. Diesel engine emissions during construction may be a potential source of odor, primarily during grading. However, emissions from grading and other construction emissions would be short-term and separation between offsite receptors and diesel fuel burning equipment on the site would result in dissipation of exhaust emissions so that, if odors are detectable offsite, they would not be substantial. Operation of the proposed Project would not be a source of odor emissions. Considering these factors, if odor is detectable offsite, any impact would be less than significant.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☑	☐	☐

Less than Significant With Mitigation Incorporated: *Except for a portion of the tie-line West Alignment, if used, the Project would be located on lands that are 100 percent disturbed and comprised primarily of non-native grassland and urban features that do not provide important habitat for any sensitive species. The Applicant completed a planning survey report to support the Application for coverage under the HCP/NCCP and proposes to comply with the HCP/NCCP for Project features within the HCP/NCCP area including mitigation fees for non-native grassland, and pre-construction surveys for burrowing owl, Swainson's hawk, Golden Eagle and other nesting birds. The portion of the tie-line West Alignment that is outside of the HCP/NCCP area is north of Willow Pass Road (Figure 5) where the ground surface is low and comprised of grassland and wetlands.*

A search of the CNDDB and IPaC databases was conducted to evaluate the potential for occurrence of protected species for the West Alignment as well as the grassland and urbanized areas of the Project footprint. Together, the CNDDB and IPaC databases indicated that 14 special status plant and 24 special status wildlife species have been recorded within a three-mile radius (Appendix C). Based on evaluation of habitat needs and habitats present at or adjacent to Project features, it was determined that none of these species are likely to occur within or adjacent to the Project footprint, except for where the West Alignment is located north of Willow Pass Road. Disturbance along this alignment could include up to 0.38 acre of long-term disturbance and an additional 1.09 acres of short-term (construction) disturbance in possible wetlands, all outside of the HCP/NCCP boundaries. In short term disturbance areas the surface would be stabilized by returning the disturbance to approximate pre-construction conditions. In the low lying portion of the West Alignment, six special status plant species and three special status wildlife species were determined to have at least a moderate potential to occur, as shown in following tables. Pittsburg and surrounding areas are broadly mapped as critical habitat for the Delta smelt. No aspect of the Project is expected to directly or indirectly impact waters providing Delta smelt habitat. Best Management Practices (BMP) measures required during construction under the State General Permit would protect water quality and prevent indirect impacts to this species.

SPECIAL STATUS PLANT SPECIES WITH MODERATE OR GREATER POTENTIAL FOR OCCURRENCE ON OR ADJACENT TO THE WEST ALIGNMENT

Scientific Name **Common Name**	**Status**		**Habitat Requirements**	**Potential for Occurrence**
Chloropyron molle ssp. *molle* Soft salty bird's-beak	Fed: CA: CNPS/CRPR:	FE SR 1B.2	Hemiparasitic annual herb. Habitat includes coastal salt marshes and swamps. Blooms June-November. Elevation 0-3 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.
Cicuta maculata var. *bolanderi* Bolander's water hemlock	Fed: CA: CNPS/CRPR:	None None 2B.1	Perennial herb. Habitat includes marshes and swamps with coastal, fresh, or brackish water. Blooms July-September. Elevation 0-200 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat of within the typical elevation range of this species.
Lathyrus jepsonii var. *jepsonii* Delta tule pea	Fed: CA: CNPS/CRPR:	None None 1B.2	Perennial herb. Habitat includes marshes and swamps with fresh or brackish water. Blooms May-July (August-September). Elevation 0-5 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.
Limosella australis Delta mudwort	Fed: CA: CNPS/CRPR:	None None 2B.1	Perennial stoloniferous herb. Habitat usually mud banks. Also found in riparian scrub, and marshes and swamps with fresh or brackish waters. Blooms May-August. Elevation 0-3 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.
Lilaeopsis masonii Mason's lilaeopsis	Fed: CA: CNPS/CRPR:	None SR 1B.1	Perennial rhizomatous herb. Habitat is marshes and swamps with fresh or brackish water, and riparian scrub. Blooms April-November. Elevation 0-10 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.
Symphyotrichum lentum Suisun marsh aster	Fed: CA: CNPS/CRPR:	None None 1B.2	Perennial rhizomatous herb. Habitat is marshes and swamps with fresh or brackish water. Blooms (April) May-November. Elevation 0-3 meters.	**Moderate Potential**: The project area may be within marsh or wetland habitat of within the typical elevation range of this species.
Federal Designations: FE = Federal Endangered FT=Federal Threatened FC=Candidate for Federal Listing BCC = USFWS Bird of Conservation Concern			**California Rare Plant Ranks (CRPR):** **1A:** Presumed extirpated in California and rare or extinct elsewhere **1B:** Rare, threatened, or endangered in California and elsewhere **2A:** Presumed extirpated in California, but more common elsewhere **2B:** Rare, threatened, or endangered in California, but more common elsewhere **3:** Review list of plants requiring more study **4:** Watch list of plants of limited distribution	
CA State Designations: SE=State Endangered ST= State Threatened SR = State Rare SFP = State-Fully Protected SSC= Species of Special Concern WL = Watch List Species			**California Native Plant Society (CNPS) Threat Code:** **.1:** Seriously threatened in California **.2:** Moderately threatened in California **.3:** Not very threatened in California	

SPECIAL STATUS WILDLIFE SPECIES WITH MODERATE OR GREATER POTENTIAL FOR OCCURRENCE ON OR ADJACENT TO THE WEST ALIGNMENT

Scientific Name Common Name	Status		Habitat Requirements	Potential for Occurrence
Actinemys marmorata Western pond turtle	Fed: CA:	None SSC	Found in slow moving streams, lakes, ponds, and wetlands.	**Moderate Potential**: The project area may include marsh or wetland habitat suitable for this species.
Melospiza melodia maxillaris Suisun song sparrow	Fed: CA:	BCC SSC	Found in the brackish-marsh waters of Suisun Bay. Utilize a matrix of emergent vegetation including bulrush and cattails.	**Moderate Potential**: The project area may include marsh or wetland habitat similar to locations of known occurrences in the vicinity.
Reithrodontomys raviventris Salt-marsh harvest mouse	Fed: CA:	E E; SFP	Found in saline emergent wetlands of San Francisco Bay. Require salt marsh vegetation, primarily pickleweed. Nest in grasses, or utilize abandoned bird nests. Known population adjacent to project area.	**Moderate Potential**: The project area may include marsh or wetland habitat similar to a nearby area with a known SMHM population.
Federal Designations FE = Federal Endangered FT=Federal Threatened FC=Candidate for Federal Listing BCC = USFWS Bird of Conservation Concern				**State Designations:** SE=State Endangered ST= State Threatened SFP = State-Fully Protected SSC= Species of Special Concern WL = Watch List Species

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Of the six special status plant species determined to have a moderate potential to occur, the soft salty bird's beak is the only federally protected species. This plant's habitat includes coastal salt marshes and swamps at elevations of 0 to 3 meters and there are known occurrences within three miles of the Project. The soft salty bird's beak and Mason's lilaeopsis both have State Rare status. Bowlander's water hemlock, Delta tule pea, Delta mudwort and Suisun marsh aster are not protected under the federal or State Endangered Species Acts but are ranked by CNPS as shown. Any of these species are estimated to have a moderate probability to occur in the vicinity of the West Alignment since these species can occur in similar swampy areas and conditions. If the West Alignment is used, the Project could impact these species, if present, through direct disturbance for construction of tie-line structures, access and stringing. If these species are present, the impact of direct disturbance could be significant. However, Mitigation Measure BIO-1 would limit the potential for impact to these species to a less than significant level. The tie-line, by the nature of its design, can have support structure locations modified if needed and, therefore, it is expected that sensitive plants could be avoided or mitigated to a level that is less than significant by				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

implementation of BIO-1.

Of the three special status animal species determined to have a moderate potential to occur, the salt-marsh harvest mouse is the only federally protected species and is Endangered under the federal ESA. This species habitat includes wetlands and marsh vegetation and there are known occurrences within three miles of the Project in terrain similar to that which would be traversed by the West Alignment, if used. The salt-marsh harvest mouse also is Endangered under the State ESA and is designated as a State Fully Protected Species meaning that the State cannot issue a Take permit or otherwise authorize a development project to Take any individual. If the West Alignment is used, the Project could impact this species, if present, through direct disturbance for construction of tie-line structures, access and stringing, and through potential direct impacts from infrequent maintenance vehicle traffic. If this species is present, the impacts of direct disturbance and Project maintenance traffic could result in Take of individuals, which would be significant. However, Mitigation Measure BIO-2 would limit the potential for impact to this species to a less than significant level. The tie-line, by the nature of its design, can have support structure locations modified if needed and, therefore, it is expected that this species could be avoided or mitigated to a level that is less than significant by implementation of BIO-2.

The Suisun song sparrow is a USFWS Bird of Conservation Concern and a State Species of Special Concern. The Project could have the potential to impact this species if the West Alignment is used. The primary impact would be the potential for nest disruption during nesting season. The Project Description commits to pre-construction nesting bird surveys completed by a qualified biologist within 14 days prior to ground disturbance if construction would start during the nesting season (February 1-August 31), and avoidance of active nests with implementation of a buffer zone (see Section 3.4 in Appendix A). Work would not occur in the buffer zone until the biologist determines that the nest is inactive. The extent of the buffers would be based on consideration of the anticipated levels of noise or disturbance, ambient level of noise and other disturbance, if the species is present, and topographic or other barriers. These measures for avoiding impacts to active nests would limit the potential for impact to the Suisun song sparrow to a less than significant level.

The Western pond turtle is not federally protected. It is a State Species of Special Concern. If the West Alignment is used, the Project could impact this species, if present, through direct disturbance for construction of tie-line structures, access and stringing, and through potential direct impacts from infrequent maintenance vehicle traffic. If this species is present, the impacts of direct disturbance and Project maintenance traffic could result in loss of individuals, which could be significant. However, Mitigation Measure BIO-3 would limit the potential for impact to this species to a less than significant level. It is expected that this species could be avoided or mitigated to a level that is less than significant by implementation of BIO-3.

Mitigation Measure BIO-1:
If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Applicant shall provide biological, wetlands and jurisdictional waters survey reports accompanying the final tie-line design demonstrating that facilities and access are

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
designed to minimize disturbance to sensitive plants to the extent practical for safe and efficient construction. Reports provided by the Applicant shall be prepared by qualified professionals and shall address federal and state jurisdictional waters and potential for occurrence of Soft salty bird's-beak, Bolander's water hemlock, Delta tule pea, Delta mudwort, Mason's lilaeopsis, Suisun marsh aster based on pedestrian transect surveys for the portion of the West Alignment north of Willow Pass Road including final access routes. The project shall be designed to avoid direct impact to soft salty bird's beak and Mason's lilaeopsis, as well as Bolander's water hemlock, Delta tule pea, Delta mudwort, and Suisun marsh aster. If direct impact to soft salty bird's beak and Mason's lilaeopsis cannot be practically avoided, then the applicant shall consult with USFWS and CDFW to develop a plan for transplanting affected individuals to an appropriate adjacent location. The plan shall be subject to review by USFWS and CDFW and approval by the City prior to issuance of grading or building permits for the tie-line. If direct impact to Bolander's water hemlock, Delta tule pea, Delta mudwort, or Suisun marsh aster cannot be practically avoided, then the applicant shall submit a plan to the City for transplanting, restoring, or preserving these species including success criteria to offset individuals lost at a ratio of no less than 1:1, and shall obtain approval of the plan from the City prior to issuance of grading or building permits for the tie-line. Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to federal or state jurisdictional waters or wetlands, or locations with State or federally listed plants or State Rare plants. Material revisions to the selected final tie-line alignment routing and structure locations shown and described in the Applicant's Project Description shall be subject to approval by the Planning Manager. ***Mitigation Measure BIO-2:*** *If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Applicant shall provide a biological survey report prepared by a qualified professional accompanying the final tie-line design addressing potential for occurrence of salt-marsh harvest mouse. The project shall be designed to avoid any Take of salt-marsh harvest mouse under the State ESA. If impact to salt-marsh harvest mouse habitat cannot be practically avoided, then the applicant shall develop a plan for construction to ensure no State ESA Take during construction, and for restoring or preserving habitat for this species at an area ratio of no less than 3 to 1. The plan shall be subject to review by USFWS and CDFW and approval by the City prior to issuance of grading or building permits for the tie-line.* ***Mitigation Measure BIO-3:*** *If the tie-line West Alignment is used, a qualified biologist shall conduct a pre-construction survey for western pond turtles no more than 30 days prior to construction in suitable aquatic habitats in and adjacent to the West Alignment work area. A combination of visual and trapping surveys may be performed with authorization from the California Department of Fish and Wildlife. If the species is found near any proposed construction areas, impacts on individuals and their habitat shall be avoided to the extent feasible. If occupied habitat can be avoided, an exclusion zone shall be established around the habitat and clearly marked with temporary fencing for avoidance during construction. If avoidance is not possible and the species is determined to be present in work areas, the biologist with approval from CDFW may capture turtles prior to construction activities and relocate them to nearby, suitable habitat a minimum of 300 feet from the work area. Exclusion fencing should then be installed*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
if feasible to prevent turtles from reentering the work area. Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to occupied western pond turtle habitat. *Considering the above factors, with implementation of Mitigation Measures BIO-1, -2, and -3, the Project would not have a substantial adverse effect on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. Therefore, the impact would be less than significant with mitigation.*				
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☑	☐	☐
Less than Significant With Mitigation Incorporated: *Except for a portion of tie-line West Alignment, if used, the Project would be located on lands that are 100 percent disturbed and comprised primarily of non-native grassland and urban features without riparian or other sensitive habitat. The exception is the portion of the tie-line West Alignment that is north of Willow Pass Road (see Figure 5), which is low lying and includes wetland areas. Terrain in this area has been assessed from biology and wetland delineation reports covering portions of the West Alignment and nearby lands and from aerial imagery, with visual confirmation from public rights-of-way due to access limitations. The final design for the West Alignment, if used, including structure locations, pull-site locations, and access, would be developed with a wetland delineation report to delineate wetland presence, minimize impacts on wetlands to the extent practical for safe and efficient construction, and precisely calculate the area of disturbed wetland and riparian habitat. Based on preliminary engineering and evaluations, the Project Description estimates up to 0.38 acre of long-term wetland disturbance and an additional approximately 1.09 acres of short-term wetland disturbance for construction. The Applicant's Project Description commits to temporary tie-line construction disturbances being returned to approximate pre-construction conditions (See Section 3.5 in Appendix A). Direct disturbance to wetlands or riparian vegetation would be significant if not mitigated. Because estimated areas of wetland disturbance are based on preliminary engineering and evaluations, it is possible that marginally higher disturbance area could be found necessary once final designs and evaluations are completed. Mitigation Measure BIO-4 would limit impacts to wetlands and riparian vegetation to a less than significant level.* ***<u>Mitigation Measure BIO-4:</u>*** *If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Applicant shall provide a wetlands and jurisdictional waters survey report accompanying the final tie-line design to demonstrate that facilities and access are designed to minimize disturbance to waters and wetlands to the extent practical for safe and efficient construction, and to precisely calculate the area of disturbed wetland and riparian habitat. Reports provided by the Applicant shall be prepared by a qualified professional and shall*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
delineate federal and state jurisdictional waters and wetlands, including verification by USACE for federal wetlands, if present. If disturbance to waters of the US and the state including wetlands cannot be avoided, then such disturbance shall not exceed 0.5 acre long term plus 1.3 acres of short term disturbance, and the Applicant shall obtain required authorizations from USACE and CDFW prior to construction. Disturbances to wetlands or riparian vegetation shall be mitigated at a ratio of no less than 3:1 for long term impacts. *With the 3:1 mitigation of long term impacts to wetlands or riparian vegetation pursuant to Mitigation Measure BIO-4, the Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service. Therefore, the impact would be less than significant with mitigation.*				
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☑	☐	☐
Less than Significant With Mitigation Incorporated: *Except for a portion of tie-line West Alignment, if used, the Project would be located on lands that are 100 percent disturbed and comprised primarily of non-native grassland and urban features without wetlands or other sensitive habitat. The exception is the portion of the tie-line West Alignment that is north of Willow Pass Road, which is low lying and includes wetland areas. Terrain in this area has been assessed from biology and wetland delineation reports covering portions of the West Alignment and nearby lands and from aerial imagery, with visual confirmation from public rights-of-way due to access limitations. The final design for the West Alignment, if used, including structure locations, pull-site locations and access, would be developed with a wetland delineation report to confirm wetland presence, minimize impacts on wetlands to the extent practical for safe and efficient construction, and precisely calculate the area of disturbed wetland. The Project Description estimates up to 0.38 acre of long-term wetland disturbance and an additional approximately 1.09 acres of short-term wetland disturbance for construction. The Applicant's Project Description commits to temporary tie-line construction disturbances being returned to approximate pre-construction conditions (See Section 3.5 in Appendix A). Direct disturbance to wetlands would be significant if not mitigated. Because estimated areas of wetland disturbance are based on preliminary engineering and evaluations, it is possible that marginally higher disturbance area could be found necessary once final designs and evaluations are completed. Mitigation Measure BIO-4, if implemented, would limit impacts to wetlands vegetation to a less than significant level.* *With the 3:1 mitigation of long term impacts to wetlands pursuant to Mitigation Measure BIO-4, the Project would not have a substantial adverse effect on any* federally protected wetlands as defined by Section 404 of the Clean Water Act. Therefore, the impact would be less than significant with mitigation.				
d) Interfere substantially with the				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☑	☐
Less Than Significant Impact: *The Project is an infill building project located in an urbanized area, with the exception of the tie-line West Alternative if used. No aspect of the Project would interfere with movement of native resident or migratory fish or wildlife species or with native or migratory wildlife corridors or impede the use of native wildlife nursery sites. The tie-line West Alternative is the only possible Project feature that could occur in an area potentially providing a wildlife migratory corridor or native wildlife nursery site. Construction of the tie-line West Alternative could disrupt wildlife migration due to noise and human presence but such disruption would be short-term in any given area and not expected to substantially interfere with wildlife movement. Preconstruction nesting bird surveys and avoidance of active nests are measures included in the Applicant's Project Description (see Section 3.4 in Appendix B) and would ensure that active nests are not adversely affected. The tie-line West Alternative, if used, would be collocated with an existing major high-voltage transmission corridor and would not have any material effect on wildlife movement compared to existing conditions.* *Considering these factors, the Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Therefore, the impact would be less than significant.*				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☑
The Project does not propose removal of any tree protected by ordinance or policy. The Project would not conflict with any local policy or ordinance protecting biological resources.				
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☑	☐	☐
The Applicant has submitted an application for coverage under HCP/NCCP and proposes to comply with the HCP/NCCP for Project features within the HCP/NCCP area including mitigation fees for non-native grassland, and pre-construction surveys for burrowing owl, Swainson's hawk, Golden Eagle and other nesting birds (See Section 3.4 in Appendix A). Mitigation Measure BIO-5 would ensure that mitigation fees are paid consistent with HCP/NCCP requirements. ***<u>Mitigation Measure BIO-5:</u>*** *The Applicant shall pay HCP/NCCP mitigation fees consistent with HCP/NCCP requirements. If development is phased, such fees shall be paid prior to issuance of a grading permit for*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
acreage to be disturbed in such phase.				
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?	☐	☑	☐	☐
Less than Significant Impact With Mitigation Incorporated: *A cultural resource records search was conducted through the CHRIS Northwest Information Center. The record search indicated that portions of the Project area were included in cultural resource surveys in 1988, 1995, 1996 and 2001. The first three of these were for water conveyance structures and projects. The last was of the Montezuma Enhancement Site, associated with the Pittsburg and Contra Costa County Power Plants. In addition, there were 18 other surveys that may have included portions of the Project area. These, however, either had little or no fieldwork or were missing maps. The record search additionally revealed that there are no known historic sites within the proposed Project Site or electric tie-line routes. The Project Site is currently vacant with no structures and the majority of the Site is covered by several feet or more of fill dirt. Review of historic aerial photographs from Google Earth imagery shows that the Site was undeveloped prior to placement of fill. Therefore, no historical resources are known to be present and the presence of potential unknown resources is unlikely. Considering these factors, Site development would not change the significance of any historical resource. The electric tie-line routes each are located within and adjacent to an existing power plant site and oil tank farm site and an existing high voltage transmission corridor. The tie-line alignments were not surveyed for potential historic resources for this analysis. However, by its nature, the overhead electric tie line would result in little ground disturbance and, if historic structures or resources were to be present, pole locations could be adjusted to avoid such resources. Furthermore, given the existing industrial setting of the tie-line corridor, if historic structures or resources were to be present on or adjacent to the tie-line corridor, the presence of the tie-line would not result in a substantial adverse change in their significance. Considering these factors, Mitigation Measure CUL-1, if adopted, would ensure that the electric tie-line would not cause a substantial adverse change in the significance of any historical resource.* ***Mitigation Measure CUL-1:*** *Prior to issuance of a grading permit, the Applicant shall provide the City with a historical resources survey report prepared by a professional meeting the Secretary of the Interior's Professional Qualification Standards (36 CFR 61) for the electric tie-line easement. If the survey identifies potentially significant cultural resources within the electric tie-line easement, then a tie-line design shall be provided to the City for approval prior to issuance of a grading permit that demonstrates either: (1) no significant resource would be disturbed by tie-line construction; or (2) any significant resource that cannot be practically avoided would be mitigated through photo-documentation and archival research by a qualified historic archaeologist or architectural historian.*				
b) Cause a substantial adverse change in the significance of an archaeological	☐	☑	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
resource pursuant to section 15064.5?				

Less than Significant Impact With Mitigation Incorporated: *A cultural resource records search was conducted through the California Historical Resources Information System (CHRIS) Northwest Information Center. The record search indicated that portions of the Project area were included in cultural resource surveys in 1988, 1995, 1996 and 2001. The first three of these were for water conveyance structures and projects. The last was of the Montezuma Enhancement Site, associated with the Pittsburg and Contra Costa County Power Plants. In addition, there were 18 other surveys that may have included portions of the Project area. These, however, either had little or no fieldwork or were missing maps. The record search additionally revealed that there are no known archaeological sites within the proposed Project Site or electric tie-line route and that there are no known prehistoric archaeological sites within a one-half mile radius of the Project. A search of the Native American Heritage Commission (NAHC) Sacred Lands File failed to indicate the presence of Native American cultural resources in the Project area. Considering the results of the records search, previous surveys of portions of the Project Area, and NAHC response, there are no known archaeological resources on the Project Site or the potential electric tie-line alignments. The Site is currently vacant with no structures and most of the Site is covered by several feet or more of fill dirt. The West, Middle and East tie-line alignments have been graded by past development including that associated with the existing tank farms, a rail spur, access roads, the existing PG&E switchyard that the tie-line would extend to, and Willow Pass Road that the tie-line would cross. Considering the high degree of disturbance and grading that has occurred at these locations, the ground has been modified such that little or no evidence of preindustrial human cultural activities and/or occupation is likely to remain. Therefore, a ground survey was not conducted for this analysis and would be unlikely to be of any value. Based on aerial imagery analysis, disturbances for the West Alignment if used, could have some areas with more limited disturbance. Mitigation Measure CUL-2, if adopted, would ensure impacts are mitigated to a less than significant level in the event that unknown cultural resources are encountered during construction. Section XVIII of this Initial Study further discusses potential Native American Cultural Resources and the City's outreach to Tribes for input to the environmental review process.*

Mitigation Measure CUL-2: *Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Applicant or its contractor to be observant for the potential occurrence of archaeological resources in the geologic materials encountered, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Applicant's representative if such resources are discovered. In the event of a discovery, the Applicant or Applicant's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified cultural resource specialist. If evaluation by a qualified cultural resource specialist indicates that the discovery may be significant, then excavation in the area shall be continued only as directed by a qualified cultural resource specialist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project, including development of a Research Design and Data Recovery Program if needed to mitigate impacts. If cultural artifacts are collected they shall be cataloged and curated with an*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
appropriate institution. A final monitoring report shall be prepared and submitted to the City if significant cultural resources are discovered.				
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☑	☐	☐
Less than Significant Impact With Mitigation Incorporated: *The Project area is relatively flat terrain with no unique geologic features. The native geological materials beneath the Site are mapped as late Pleistocene alluvium (Helley and Lajoie, 1979). These deposits are about 11,500 years old and older and contain late Pleistocene vertebrate and invertebrate fossil faunas. This geologic unit is widespread at low elevations in the San Francisco Bay region and in places can contain localized accumulations of freshwater gastropod (snail) and pelecypods (bivalve mollusc) fossils, and terrestrial vertebrate fossils including camel, bison, horse, sloth and mammoth. While fossils of this age could potentially occur in the native geologic unit that underlies the Site and could potentially be important for their uniqueness and scientific value, it is unlikely that any such fossils would be disturbed by the Project because the Site is almost entirely covered with several feet or more of fill dirt. Construction of Site facilities would include grading, over-excavation and trenching primarily within fill and not substantially penetrate the native geologic material underlying the fill. If excavations do penetrate the natural geologic materials beneath the Site, Mitigation Measure CUL-3, would ensure that unique or scientific values of important fossils are recovered, limiting the potential for impact to a less than significant level.* *The electric tie-line routes occur on engineered soils and lands mapped as Holocene bay mud deposits (Helley and Lajoie, 1979). The oldest deposits of this unit have been dated at about 9,600 years. These materials are known to include locations with fossils of fresh and brackish water gastropods and pelecypods, including molluscian species introduced by humans since the 1800s. These materials are too geologically young to contain unique or important fossils. Therefore, the tie-line would not have the potential to destroy unique paleontological resource.* ***Mitigation Measure CUL-3:*** *Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Applicant or its contractor to be observant for the potential occurrence of paleontological resources when excavating on the Site beneath the depth of existing fill, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Applicant's representative if vertebrate fossils are discovered. In the event of a discovery, the Applicant or Applicant's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified paleontologist. If evaluation by a qualified paleontologist indicates that the discovery may be significant, then excavation in the area shall be continued only as directed by a qualified paleontologist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project. If significant fossils are collected they shall be cataloged and curated with an appropriate institution. A final monitoring report shall be prepared and submitted to the City if significant fossils are discovered.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☑	☐	☐
Less than Significant Impact With Mitigation Incorporated: *A cultural resource records search was conducted through the CHRIS Northwest Information Center and did not indicate any known burials within one-half mile of the Project area. A search of the NAHC Sacred Lands File failed to indicate the presence of Native American sacred lands in the area. The Site and most of the tie-line alignments are 100 % disturbed and the Site is almost entirely covered with several feet or more of fill dirt. Given that there are no records of Native American sacred lands in the area, no evidence of human remains at the Site, and the area is so heavily disturbed, no impact to human remains is anticipated. Mitigation Measure CUL-4 would ensure that impacts are mitigated to a less than significant level in the event that human remains are encountered unexpectedly during construction.* ***Mitigation Measure CUL-4:*** *Construction shift foremen, excavation equipment operators and other construction workers shall be trained and instructed by a representative of the Applicant or its contractor to halt work immediately if human remains are observed in the geologic materials encountered. In the event of a discovery, the County coroner shall be notified immediately and work in the area shall cease until the discovery is evaluated and removed in accordance with applicable laws and requirements.*				
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	☐	☐	☐	☑
No Impact: *The Project location does not occur in any Alquist-Priolo earthquake fault zone nor does it occur on or cross any known active fault (California Department of Conservation, 2017). Therefore, the Project would have no impact associated with fault rupture. The closest active fault is the Clayton segment of the Clayton-Marsh Creek-Greenville Fault, located approximately four miles southwest of the Site (Jennings and Bryant, 2010).*				
ii) Strong seismic ground shaking?	☐	☐	☑	☐
Less than Significant Impact: *The Coast Ranges mountains that occur southwest of the Site are dissected by a number of regional fault zones associated with the overall San Andreas fault system demarking the intersection of the North American and Pacific tectonic plates. As described in Response (a)(i) above, the closest active fault is the Clayton segment*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of Clayton-Marsh Creek-Greenville Fault, located approximately four miles southwest of the Site. Other major faults in the region include the Green Valley/Concord Fault (approximately eight miles west), Calaveras Fault (approximately15 miles west), Rogers Creek Fault Zone (approximately 25 miles west), Hayward Fault Zone (approximately 20 miles southwest), and the San Andreas Fault Zone (approximately 40 miles southwest) (Jennings and Bryant, 2010). Deeply buried low angle thrust faults such as the Mount Diablo Thrust Fault also can cause earthquakes in the region. Strong ground motions could occur in the vicinity of the proposed Project from an earthquake on any of these or other regional faults. Strong seismic ground shaking would be a potentially substantial seismic hazard if structures are not appropriately designed. The potential for seismic ground motions to damage structures is typically mitigated through proper design and construction to withstand predicted ground motions. The California Building Code seismic standards are designed to mitigate the potential for people or structures to be exposed to substantial risks from seismically-induced ground motions. Conformance with this code would be assured through the Building Permit process of the City of Pittsburg. Adherence to California Building Code requirements would limit the risk of damage or injury from seismic ground shaking to level that is less than significant.				
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☑	☐
Less than Significant Impact: *Liquefaction can occur when there is a loss of shear strength in saturated granular soils cause by seismically-induced pore water pressures. The loss of shear strength in soils can reduce the ability of the soil to support overlying loads, such as equipment foundations. If liquefaction occurs, the surface structures may settle into the ground or tilt. The liquefaction potential of a site is dependent on characteristics of ground shaking, soil type, soil density, and depth-to- groundwater. The Site is situated in the lowland zone of Pittsburg where shallow geology consists of geologically young unconsolidated sediments and groundwater is relatively shallow. Portions off the potential electric tie-line routes are located within the High Liquefaction Potential hazard area identified in the General Plan. The Site is located outside of the High Liquefaction Potential hazard area identified in the General Plan. The High Liquefaction Potential hazard area identified in the General Plan is based on a regional study performed by the Bay Area Association of Governments published in 1980. A more recent preliminary regional study by the U.S. Geological Survey has identified the potential for liquefaction in the Project area to be high to very high (Knudsen, et al., 2000). This regional study is not based on site-specific information. California Building Code Section 1803.2 would require that a geotechnical investigation be prepared and provided to the City Engineering Division for the proposed Project that would be required to address the potential for liquefaction and identify measures such as appropriate foundation design, structural systems and ground stabilization measures to limit potential liquefaction impacts on Project structures. The California Building Code would require that recommendations of the geotechnical report be incorporated into the final Project design to limit potential liquefaction impacts. The California Building Code is written and administered to preserve and protect public health and safety consistent with State and nationally recognized standards (24 CCR 18941). Compliance with these established requirements would limit the potential for impact to a less than significant level.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
The Project does not propose any structure for human occupancy. Therefore, there would not be a significant risk to people in the event of seismically induced liquefaction. Considering that the proposed facilities would typically be unattended and include no occupied structures, and considering that Project structures would be designed in accordance with recommendations of a geotechnical investigation to limit impacts of liquefaction, the risk of liquefaction to expose people or structures to substantial adverse effects does not pose a significant risk to human health or the environment. Therefore, the risk of liquefaction exposing people or structures to potential substantial adverse effects is less than significant.				
iv) Landslides?	☐	☐	☐	☑
No Impact: *The Project area is nearly flat-lying. There are no substantial slopes in the Project area that could result in a landslide hazard.*				
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☑	☐
Less Than Significant Impact: *The Project Site and most of the tie-line potential alignments have been previously graded and covered with fill. In addition, the Project area is nearly flat-lying limiting the potential for soil erosion. Construction would occur under the State General Permit with a SWPPP implementing BMPs for erosion control. The General Permit would require that a construction SWPPP be prepared by a Qualified SWPPP Developer and implemented by a Qualified SWPPP Practitioner (QSP). Standard BMPs from the California Stormwater Quality Association (CASQA, 2015) or their equivalents would be required such as scheduling to minimize the term of disturbances (Standard BMP EC-1), Preservation of Existing Vegetation (Standard BMP EC-2), stabilization of disturbed surfaces (Standard BMPs EC-3 through -7), and use of silt fences (Standard BMP SE-1). The SWPPP would be required to address erosion control until it is demonstrated to the Regional Water Quality Control Board that disturbed surfaces are stabilized and a Notice of Termination is accepted. With construction occurring in compliance with the State General Permit, the proposed Project would not result in substantial soil erosion. Considering that the Site is disturbed and covered with fill and that erosion would be controlled in accordance with requirements of the State General Permit, the proposed Project would not result in substantial erosion or loss of topsoil. Therefore, erosion and loss of topsoil impacts would be less than significant.*				
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☑	☐
Less than Significant Impact: *The potential for liquefaction is addressed in Response (a)(iii), above. The proposed Project would not affect or be affected by any other aspect of geologic unit instability including the potential for landslides, lateral spreading, subsidence or collapse. The Project area is relatively flat and proposed grading would not result in any substantial slopes (refer to Conceptual Grading Plan in Sheet C-1 of Attachment 2).*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Therefore, the Project does not have the potential to result in landslides. Lateral spreading is a phenomenon that can occur from seismic shaking or other lateral loading when the ground surface is not laterally supported on one or more sides, for example, on ridge tops or near edges of terraces or cliff faces. The Project area does not have slopes or other laterally unsupported conditions susceptible to lateral spreading. Soil collapse occurs when loosely compacted soils are disturbed by seismic shaking, rewetting, or other activities. California Building Code Section 1803.2 would require that a geotechnical investigation be prepared and provided to the City Engineering Division for the proposed Project that would be required to address potential geologic hazards, including potential for soil collapse, and identify measures such as appropriate foundation design, structural systems and ground stabilization measures to limit potential for impacts on Project structures. The California Building Code would require that recommendations of the geotechnical report be incorporated into the final Project design to limit potential liquefaction impacts. Implementation of recommendations from the geotechnical report for potential soil collapse, if needed, are required to be implemented into the Project final design. Subsidence can occur when pore pressures are reduced in unconsolidated geologic materials below a valley floor due to substantial fluid withdrawal. The Project does not involve substantial extraction of fluids from unconsolidated geologic deposits. Therefore, the Project does not have potential to create subsidence. Considering these factors, and excepting the potential for liquefaction as described in Response (a)(iii), above, the Project would not be located on an unstable geologic unit or cause a unit to become unstable. Therefore, the impact would be less than significant.				
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☑	☐
Less than Significant Impact: *Soils in the Project area include Capay Clay (CaA), Clear Lake Clay (Cc) Omni silty Clay (Ob), Sycamore silty clay loam (So), and Joice muck (Ja)(U.S. Department of Agriculture, 2017). Based on average characteristics published by U.S. Department of Agriculture, some of these soils including Omni silty clay and Clear Lake clay may have expansive properties. California Building Code Section 1803.2 would require that a geotechnical investigation be prepared and provided to the City Engineering Division for the proposed Project that would be required to address potential geologic hazards, including potential expansive soil characteristics, and identify measures to limit potential for impacts on Project structures. The California Building Code would require that recommendations of the geotechnical report be incorporated into the final Project design. Implementation of recommendations from the geotechnical report in accordance with the California Building Code would effectively limit impacts of expansive soils to a level that would not pose a substantial hazard. Therefore, considering California Building Code requirements, the potential for adverse impacts from expansive soils is less then significant.*				
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☑

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
No Impact: *The Project does not propose use of a septic tank or other wastewater disposal.*				
VII. GREENHOUSE GAS EMISSIONS -- Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☑	☐
Less than Significant Impact: *The proposed project would not generate GhG emissions, with the primary exception being CO2 that would be generated from vehicle and equipment emissions for construction and maintenance activities. Once constructed, the Project would provide a new and reliable means of capturing and managing energy from renewable energy projects such as solar generation and wind generation projects increasing the effectiveness of renewable energy technologies, thereby reducing the dependency on fossil fuel-produced electric energy, providing a long-term GhG benefit. Considering that construction emissions would be short-term and that the proposed Project would operate as an unoccupied facility with only occasional maintenance vehicle trips, GhG emissions would be less than significant both individually and cumulatively.*				
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☑
Less than Significant Impact: *The proposed project would not conflict with any applicable plan, policy, or regulation adopted to reduce GHG emissions. Once constructed, the Project would operate without GhG emissions with the exception of minor emissions from occasional maintenance vehicle trips. The Project could be used to store energy from renewable energy projects such as solar generation and wind generation projects, reducing the dependency on fossil fuel-produced electric energy and supporting the achievement of local, state and federal renewable energy goals directed at GhG reduction. The availability of the Project for this use may provide a long-term GhG benefit.*				
VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☑	☐
Less than Significant Impact: *Construction would require the short-term transport, use and/or disposal of hazardous materials such as fuels, lubricants, adhesives, solvents and paints. Storage and use of hazardous materials onsite during construction could create a significant hazard to construction workers, the public or the environment if such materials are not properly contained. Construction would be required to occur under a comprehensive hazard communication program in accordance with 29 CFR 1910 to ensure that construction workers are knowledgeable in the identification and proper handling of hazardous materials to*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
prevent unsafe exposure and to avoid spills. Stormwater BMPs would be required under the State General Permit to prevent contact of hazardous materials with stormwater. Furthermore, the Site would not be open to the public. With these measures, the routine use of hazardous materials for construction would not create a significant hazard to the public or the environment. *Deliveries of bulk fuels, lubricants, batteries, and other hazardous materials to the Site would be subject to Department of Transportation (DOT) regulations at 49 CFR 172 and 173 for hazardous materials transport. These regulations include requirements for hazardous material transport licensing, packaging and containment standards, labeling, and other protection measures to prevent hazardous materials incidents during transport and to facilitate response in the event of a hazardous material accident. Hazardous wastes produced would be minimal and would be required to be transported away from the Site in accordance with these same DOT regulations as well as being managed at all times under requirements of California Code of Regulations Title 22 Division 4.5 for worker training, and storage, shipping and disposal of hazardous waste. With these existing regulations in place, and considering the short term of construction activities, the transport, production, and disposal of hazardous materials associated with facility construction would not create a significant hazard to the public or the environment.* *Operation of the proposed Project would not typically involve handling of hazardous materials. At the end of battery life, battery modules would be removed from the battery racks and returned to the manufacturer or their approved and permitted recycling partner(s) for dismantling, material processing and recovery. Oil that would be present in oil-filled transformers is not routinely handled. The transformers are operated normally closed and sealed. On infrequent occasions, oil in oil-filled transformers may require filtering or replacement if it becomes contaminated. If transformer oil needs to be replaced, the used oil would be recycled at a licensed offsite recycler. Management and transport of replacement batteries and oil, used batteries, and used oil would be subject to the same management and transportation regulations and requirements as described for construction above for safe handling, transport and recycling. With these existing regulations in place, the transport, production, and disposal of hazardous materials associated with facility operations would not create a significant hazard to the public or the environment.*				
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☑	☐
Less than Significant Impact: *Construction would require the short-term use and transport of hazardous materials as described in Response (a), above. Construction would be required to occur under a comprehensive hazard communication program in accordance with 29 CFR 1910 to ensure that construction workers are knowledgeable in the identification and proper handling of hazardous materials to avoid spills or other upset conditions that could otherwise result in unsafe exposure. The general public would be excluded from the*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
construction Site. Transport of bulk fuels, lubricants, batteries, and other hazardous materials to the Site would be subject to Department of Transportation (DOT) regulations at 49 CFR 172 and 173 including requirements for hazardous material transport licensing, packaging and containment standards, labeling, and other protection measures to prevent hazardous materials incidents during transport and to facilitate response in the event of a hazardous material accident. Considering these factors, construction would not create a significant hazard to the public or the environment due to reasonably foreseeable upset or accident conditions. *Operation of the proposed Project would be subject to 19 CCR Division 2, Chapter 4 requirements to submit and maintain a Hazardous Materials Business Plan and would be subject to periodic inspections by the Certified Unified Program Agency (Contra Costa County Fire Prevention District) for safe operations related to hazardous materials. These regulations require reporting of hazardous materials present in quantities exceeding threshold quantities, worker training, emergency planning preparations to minimize potential hazards of a hazardous material upset, and immediate reporting to 911 and the California Office of Emergency Services of any release or threatened release of hazardous materials that presents a significant present or potential hazard to human health and safety, property or the environment. Oil-filled electrical equipment would be subject to 40 CFR 112 regulations that include comprehensive requirements for preventing releases of oil and for oil spill response preparedness. These regulations include safety measures such as secondary containment for oil-filled equipment, requirements for routine inspections and proper equipment maintenance, personnel training to prevent discharges, site security, oil transfer safety precautions, and oil spill response planning. Batteries would contain integrated safety systems to actively monitor electrical current, voltage and temperature to optimize performance, mitigate potential failures, and prevent upset. Batteries performing out of specification would be immediately taken off line by the automated monitoring system. The facility would be designed and constructed to comply with applicable building, electrical and fire codes. Battery buildings would be outfitted with fire suppression equipment to meet or exceed fire safety codes and standards. As described in the Applicant's Project Description (See Section 3.2 in Appendix A), Fire protection would include prevention, suppression, and isolation methods and materials including: smoke/fire detection sensors; ground fault detection, alarms, and systems for automatic shutdown of cooling fans and opening of electrical contacts in the battery system; and systems for automatic activation of fire suppression systems. Operation of the facility would be remotely monitored on a continuous basis. In addition, the facility would be routinely visited to perform visual inspections. Security would be provided including perimeter fencing and remote video monitoring with pan, tilt and zoom capabilities. These design measures are included to minimize the potential for upset and to immediately respond in the event of an unforeseen upset. Considering these safety systems incorporated into the Project design, and existing regulatory requirements and standards applicable to the Project that are designed to minimize hazardous material upset risks to human health and the environment, the risk of a reasonably foreseeable upset or accident scenario creating a hazard to the public or the environment during operations is less than significant.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☑	☐
Less than Significant Impact: *There are no existing or proposed schools located within one-quarter mile of the Site. The closest school is the Parkside Elementary School located approximately 0.4 mile south of the Site. The East Alignment passes within 0.1 mile of St Peter Martyr School but there would be no emissions from the project other than de minimis short-term emissions from construction and maintenance that would be less than significant.*				
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☑	☐
Less than Significant Impact: *The 35-acre parcel on which the Site occurs is included in both the Regional Water Quality Control Board's (RWQCB's) GeoTracker online database (Case No. T0601300095) and the Department of Toxic Substances Control (DTSC) Envirostor online database (Case no. 07260001), which both stem from Government Code Section 65962.5. The GeoTracker shows the RWQCB case being closed in October 1997. The Environstor case is open. The parcel is listed due to a past release of trichloroethylene (TCE) solvent, a volatile organic compound, in a portion of the parcel located south of the Site. Approximately 40 tons of impacted soil was excavated and removed from the parcel in 2002 under the direction of DTSC. Confirmation soil samples collected after soil removal indicate that soil was removed to the DTSC-approved site-specific removal action goal of 1.7 milligrams per kilogram. Groundwater beneath the Site has been impacted by TCE and its breakdown products as a result of the past release of TCE. Groundwater monitoring is ongoing and the parcel is subject to a land use covenant (Covenant) to restrict use of the property due to the presence of volatile organic compounds in the groundwater under portions of the property, including portions of the Site (DOC-2007-0217233-00). Ongoing groundwater remedial action includes continued monitoring of the natural attenuation process through biennial sampling of an existing groundwater monitoring well network. The possible volatilization and upward movement of volatile organic compounds from groundwater into existing or future buildings is identified in the Covenant as a potential human exposure pathway but for a commercial land use scenario has been determined to have an estimated total excess lifetime cancer risk of less than DTSC's significance threshold of 1 x 10^{-6}. At the time the Covenant was prepared in 2007 the TCE concentration in groundwater was determined to be up to 2.8 milligrams per liter (mg/L). The most recent groundwater monitoring data reviewed for the Site (June 2013) indicates a maximum TCE concentration of 1.7 mg/Kg beneath the Site and a depth to groundwater beneath the Site ranging from approximately 9 to 19 feet below the ground surface. The Covenant prohibits use of the property for any of the following: a residence for human habitation; a hospital for humans; a school for persons under 21 years of age; or a day care center for children. Furthermore, the Covenant prohibits any of the following on the property: raising of food including cattle and*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
food crops; drilling for drinking water without permission from DTSC; extraction of groundwater for purposes other than site remediation or construction dewatering. The proposed use of the Site is consistent with the Covenant and would not create a significant hazard to the public or the environment. Groundwater is not expected to be encountered by construction excavations. Existing monitoring wells onsite would be preserved in place and access would be provided for continued monitoring unless removal of the wells or other arrangements are approved in writing by DTSC in accordance with requirements of the Covenant. Considering these factors, the impact would be less than significant.				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
No Impact: *The Project area is not within an airport land use plan or within two miles of a public or public use airport. The closest airport is in Concord more than seven miles to the southwest.*				
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
No Impact: *There is no private airstrip in the vicinity of the Project area. The closest airport is in Concord more than seven miles to the southwest.*				
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☑	☐
Less than Significant Impact: *The proposed Project would not alter any existing public or private through-way. A short term lane closure may be needed to install a water line across Willow Pass Road. If the water line installation is needed, work in the ROW would be under an Encroachment Permit requiring traffic control plan for any lane closures. Because road closure is not anticipated and traffic controls would be implemented, the short potential lane closure would not impair emergency response or otherwise affect any adopted emergency response plan or emergency evacuation plan.*				
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑
No Impact: *The proposed Project area is within urbanized lands in the City, and nearby lands are identified by Cal Fire (2017) as a non-Very High Fire Hazard Severity Zone (non-*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VHHSZ). Pursuant to California Fire Code Section 304.1.2, the Applicant would be required to maintain the Site free of vegetation capable of being ignited or endangering property. In addition, the facility would be designed for fire prevention and provided with a fire water supply as described in the Applicant's Project Description (see Section 3.2 in Appendix A). Considering these factors, the risk of wildland fire from the Project would be less than significant.				
IX. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☑
No Impact: *Construction would occur under the State General Permit with a SWPPP implementing BMPs for protection of water quality. The State General Permit would require that a construction SWPPP be prepared by a Qualified SWPPP Developer and implemented by a Qualified SWPPP Practitioner (QSP). Standard BMPs from the California Stormwater Quality Association (CASQA, 2015) or their equivalents would be required for sediment and other potential pollutants. Under the State General Permit, the SWPPP would need to address water quality BMPs and the permit would require that those BMPs be implemented until it is demonstrated to the Regional Water Quality Control Board that disturbed surfaces are stabilized and a Notice of Termination is accepted. The General Permit requires construction discharges to not violate water quality standards. With adherence to the State General permit and BMPs, no violation of any water quality standard or waste discharge requirement would be expected.* *Discharges from the Project during operations would be required to comply with NPDES Permit CAS612008 (RWQCB, 2015). In conjunction with consideration of the Conditional Use Permit and Design Review, the City would require that the Project include all measures needed to comply with NPDES Permit CAS612008. This permit would require that there is no discharge from the Project other than stormwater and exempted non-stormwater discharges such as air conditioning condensate that do not contain pollutants. Consistent with Low Impact Development standards, the Project design (refer to the Preliminary Design Drawings in Attachment 2) minimizes impermeable surfaces by gravel surfacing of roads and other areas not covered by buildings or equipment foundations. The design incorporates a system of onsite bioretention swales to provide water quality treatment to meet the City's municipal stormwater discharge requirements under NPDES Permit CAS612008. Project facilities would be unattended except for periodic inspections or maintenance and would be secured to preclude public access so there typically would be no generation of trash or debris that could impact stormwater runoff. Other project design features to minimize impacts on water quality consistent with NPDES Permit CAA612008 requirements include:* • *No outdoor storage or work areas are proposed;* • *No outdoor trash collection areas are proposed;* • *No floor drains or interior or exterior wash-down areas are proposed;*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
• *No repair/maintenance bays or fueling areas are proposed;* • *Landscaping irrigation would be designed for efficiency and to promote infiltration and minimize runoff;* • *Landscaping maintenance would minimize use of pesticides and fertilizers;* • *Site storm drain inlets would be stenciled;* • *Avoidance of disturbance to natural water bodies and drainage systems; and* • *Ongoing maintenance of water quality controls and periodic inspections to ensure proper performance.* *The City has an inspection and enforcement program to ensure compliance with requirements of NPDES Permit CAA612008 and would require the Applicant to allow inspections by trained City staff.* *Considering existing requirements of the State General Permit for construction and NPDES Permit CAA612008, BMP's and other measures incorporated in the Project design, and inspection and enforcement measures available to the City, it is not expected that the Project would violate any water quality standards or waste discharge requirements. Therefore, there is no foreseeable impact.*				
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☑	☐
Less than Significant Impact: *Operation of the Project would not typically use water. The Site would be unoccupied. Project construction would require water for dust control and compaction. Water would be supplied from the City water supply. This use would be short-term and would not represent a significant water demand that could substantially deplete groundwater supplies. The Project is designed consistent with Low Impact Development standard such as minimizing impermeable surfaces, and use of gravel surfacing and landscaping where possible instead of hardscape surfaces. Impermeable surfaces are broken into individual areas that would drain through gravel that would help maximize infiltration and to disburse flows, and through bioretention swales that would further slow runoff and facilitate infiltration. No material impact on recharge would be expected.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☑	☐
Less than Significant Impact: *The Project is designed consistent with Low Impact Development standard such as minimizing impermeable surfaces, and use of gravel surfacing and landscaping where possible instead of hardscape surfaces. Impermeable surfaces are broken into individual areas that would drain through gravel that would help maximize infiltration and to disburse flows, and through bioretention swales that would further slow runoff and facilitate infiltration.*				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	☐	☐	☑	☐
Less than Significant Impact: *The Project is designed consistent with Low Impact Development standard such as minimizing impermeable surfaces, and use of gravel surfacing and landscaping where possible instead of hardscape surfaces. Impermeable surfaces are broken into individual areas that would drain through gravel that would help maximize infiltration and to disburse flows, and through bioretention swales that would further slow runoff and facilitate infiltration. The project drainage is designed to drain to bioretention swales overflowing to the existing City stormwater network that currently receive runoff from the Site area. The Site would drain toward the northeast through an existing culvert under Willow Pass Road to a City pump station that discharges to a tidally influenced area.*				
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☑	☐
Less than Significant Impact: *The project drainage is designed to maximize infiltration and slow runoff and to drain to the same City stormwater system as current conditions. The Project would be subject to NPDES General Permit conditions including implementation of a SWPPP and BMPs for water quality during construction. The General Permit conditions and limitations are designed to be protective to water quality. Following the General Permit requirements, Project construction would not provide a substantial additional source of polluted runoff. Operations would not result in any substantial sources of polluted runoff due to the enclosure of equipment and facilities. Considering the enclosed nature of Project facilities and other Project factors, and the bioretention swales and other Project design features in accordance with the Stormwater C.3 Compliance Guidebook, operations would not result in a substantial additional source of polluted runoff. Based on these factors, the*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
impact would be less than significant.				
f) Otherwise substantially degrade water quality?	☐	☐	☑	☐
Less than Significant Impact: *The potential to degrade water quality is addressed in Responses 9a, above. As described in that response, the proposed Project would be required to comply with the State General Permit for construction and NPDES Permit CAA612008 during operations, including implementation of BMPs and other design measures to prevent violation of any water quality standard. With BMPs and Project design measures to prevent violation of water quality standards, impacts to water quality would be less than significant.*				
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☑
No Impact: *The proposed Project does not involve placement of housing. Therefore, no impact would occur.*				
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☑	☐
Less Than Significant Impact: *The 100 year flood zone marginally infringes on the west, north and east edges of the Site (FEMA, 2015). Structures on the Site would be outside of the 100 year flood zone boundaries. Structures for portions of the electric tie-line would be located within the 100-year flood zone (Zone AE). FEMA has mapped the base flood elevation as 11 feet above mean sea level as measured using the standard North American Vertical Datum of 1988 (NAVD 88). Considering the relatively flat terrain where the electric tie-line would be located, anticipated low flood velocities would be very low. The negligible cross-sectional area of the electric tie-line structures would not measurably impede, redirect, or otherwise modify flood flows or elevations.*				
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☑	☐
No Impact: *Flooding is not a significant hazard for construction because the Site is almost exclusively outside of the mapped 100-year flood plain and because the short duration of construction results in a very low probability of flooding during construction (e.g., a one year construction schedule would have only a one percent chance of experiencing a 100-year flood). Furthermore, while the tie-line would traverse the 100-year flood plain, the relatively flat surrounding terrain would have low flood flow velocities that would provide warning of impending conditions in the unlikely event flooding were to occur during the construction period. Normal flooding also is not a significant hazard for Project operations because Site structures would be located outside the 100-year flood zone and because the proposed*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
facilities are not occupied. Considering these factors, the risk to people or structures from normal flooding would be less than significant. *The Project would not be reliant on any levee for protection from the 100-year flood. Therefore, the risk of flooding due to failure of a levee is less than significant.* *There are no large dams in the immediate vicinity. The Pittsburg General Plan does not include a map of dam inundation hazard areas. The Bay Area Association of Governments published dam inundation hazard map does not show the Project area to be within any dam inundation hazard zone (Bay Area Association of Governments, 2017). Considering this, structures at the Site would not be within the dam inundation hazard zone. Furthermore, the Project does not propose any structure for human occupancy. Considering these factors, the risk to people or structures from dam failure would be less than significant.*				
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☑	☐
No Impact: *The majority of the Project Site including the areas where structures would be built ranges in elevation from approximately 14 to 20 feet above mean sea level (amsl). The Site is located approximately 0.7 mile south of the shoreline of the Sacramento/San Joaquin River delta. It is too high and far from the delta shoreline to be affected by seiche or tsunami. The electric tie-line would extend within approximately 0.25 mile from the shoreline and to near sea-level elevations. The delta water is relatively shallow making it incapable of generating a large seiche. Any foreseeable seiche would be low energy due to the relatively flat terrain and would be unlikely to approach the 100-year annual flood height that the structures would be designed for. Tsunami also is not a material risk. Modeling performed further to the west closer to San Francisco Bay shows that tsunami inundation at this distance from the ocean is not significant (CEMA et al., 2009; ABAG, 2017). For these reasons, seiche or tsunami are not a significant risk for the Project. The Project area is relatively flat and not in any concentrated drainage path from steep sloped areas where mudflows could originate. Therefore, the area not susceptible to mudflows. Based on mapping published by the Association of Bay Area Governments, the Project area is not within any mapped historic landslide, debris flow or earth flow (ABAG, 2017). Considering these factors, the proposed Project would not result in a significant risk due to sieche, tsunami or mudflow.*				
X. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community?	☐	☐	☐	☑
No Impact: *The Project Site occurs on a portion of an existing privately owned parcel that does not provide any throughway or other public access way. The proposed Project would not result in any physical barrier or feature that could divide an established community.*				
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general	☐	☐	☑	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				

Less than Significant Impact: *The Project area and adjacent lands are in the City of Pittsburg jurisdiction. Existing uses surrounding the proposed Project include industrial and commercial developments to the north and south, a high voltage electric transmission line corridor to the west, and residential development to the east.*

The City of Pittsburg General Plan designates the Project Site as Business Commercial and the Site is zoned Industrial Park Limited Overlay (IP-O). The propose use fits under the zoning code use classification of "major utility" which is defined, in part, to include power generation plants, substations, or similar facilities. The proposed use would require a zoning text amendment to amend the IP-O (Industrial Park with a Limited Overlay, Ord. No. 07-1284) District, or the "Empire Business Park Overlay District" such that a "major utility" would be a permitted with a use permit. In addition to the zoning text amendment, the Applicant is applying for a conditional use permit, design review and development agreement. A minor subdivision (lot line adjustment or parcel map waiver), or filing of a final map following the current Tentative Parcel Map in Attachment 1, may also be pursued that would subdivide the 35 acre parcel.

The zoning text amendment would be consistent with the zoning code provided that the following findings can be made:

- *It is necessary because there are special or unique characteristics of the site or improvements that require land use and development regulations that cannot be adequately accommodated or controlled by the base zoning district;*
- *It conforms to the general plan; and*
- *It generally complies with the land use and development regulations of the base zoning district.*

The zoning text amendment is necessary because the proposed use does not fall within any of the uses contemplated in the zoning code, since the proposed utility scale application of this technology has only recently become feasible due to substantial developments in battery technology, progress in the availability of renewable energy to power the electric grid, and state mandates for energy storage. The proposed project and others like it are designed, in part, to support achievement of State and federal renewable energy goals by providing a means to store excess energy generated at times of the day when wind and solar energy are generated at peak levels. The proposed use would:

- *Provide a new economic and reliable means of capturing and managing renewable energy;*
- *Provide economic benefit to the City, the County, the region, and the State through construction jobs, property and sales taxes and increased energy efficiency and reliability;*
- *Help stabilize the electric grid and increase the effectiveness of both conventional and*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
renewable energy projects; • *Support the achievement of local, State and federal renewable energy goals; and* • *Support the achievement of State goals for energy storage.* *The zoning text amendment would conform to the General Plan. The zoning text amendment would allow for the Project to be permitted consistent with design standards, and if approved the Project would be infill development within the City limits consistent with the General Plan guiding principles. The General Plan establishes that the Business Commercial designation is intended "to provide sites for administrative, financial, business, professional, medical, research and development, and public offices, as well as custom manufacturing, limited assembly, light manufacturing, warehousing and distribution, and support commercial uses." The Project would be consistent with a warehouse type use.* *The purpose of the IP base zoning district is to provide sites in landscaped settings for service-oriented commercial and light industrial uses with limited customer presence and turnover, including industrial office centers, research and development facilities, limited industrial activities (including production and assembly but no raw materials processing or bulk handling), limited and warehouse type retail and commercial activities, and small scale warehouse distribution (Zoning Code Section 18.54.005). The proposed Project would be consistent with this purpose. The zoning text amendment would apply to the "Empire Business Park Overlay District" (Ord. No. 07-1284) and would require a use permit. Site Plan review that would be required for the Project would ensure that the project is compliant with the base zoning of Ord. No. 07-1284.* *The West Alignment of the tie-line would be located on lands designated as Business Commercial and Industrial, and also would follow an existing high voltage transmission corridor through an area designated as Open Space. A short segment where the tie-line would cross an abandoned rail spur is designated Utility/ROW. The West Alignment is zoned Industrial Park Limited Overlay (IP-O), and Open Space, and General Industrial (IG). A short segment crossing the abandoned rail spur is zoned Governmental and Quasipublic (GQ).* *The Middle Alignment of the tie-line would be located on lands designated as Industrial. A short segment where the tie-line would cross an abandoned rail spur is designated Utility/ROW. The Middle Alignment is zoned General Industrial (IG), except a short segment crossing the abandoned rail spur is zoned Governmental and Quasipublic (GQ).* *The East Alignment of the tie-line would be located on lands designated as Industrial and Service Commercial Limited Overlay (CS-O), except a short segment crossing the abandoned rail spur is zoned Governmental and Quasipublic (GQ).* *The electric tie-line fits under the zoning code use of "minor utility" which is defined, in part, to include utilities necessary to support legally established uses and involves only minor facilities or structures such as aboveground distribution or transmission lines. Minor utility use is an allowable use for each of the zoning designations that would be traversed by any of the three potential alignments (Zoning Code section 18.54.010). Therefore, the proposed electric tie-line would be consistent with existing land use zoning.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Pursuant to Pittsburg Municipal Code (PMC) Section 18.74.040, the development regulations applicable to the existing IP-O zoning district encompassing the Site would be adjusted to accommodate the Project as set forth in the Project Description, which shall be deemed to constitute an "overlay plan" as contemplated by PMC Section 18.74.030 and 18.74.050. The Project encompassed by this Initial Study includes the overlay zone text amendment specifying major utility as an allowable use on the Project Site as described above, with Design Review, in the Empire Business Park Overlay District. Setback, lot coverage, landscaping and other requirements specified for this district would remain unchanged, and would accommodate the Project layout as designed. *With adoption of the proposed overlay zone text amendment, the Project would be consistent with the City zoning code. The Project site also is governed by a restrictive land use covenant (LUC) between UPI and DTSC. The proposed Project would be consistent with the LUC as previously described in Response 8.d of this Initial Study.*				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑
***No Impact**: The Applicant proposes to comply with the East Contra Costa County HCP/NCCP requirements for areas of the Project in the HCP/NCCP area. Planning level surveys have been conducted and the Applicant has submitted an application to the City for coverage under the HCP/NCCP. No other HCP or NCCP is applicable to the Project area. Because the Applicant proposes to comply with the HCP/NCCP requirements, there would be no conflict.*				
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
***No Impact:** The proposed Project would be located in an area classified by the California Department of Conservation as Mineral Resource Zone (MRZ)-1. This designation means that the State has determined adequate information exists to indicate "that no significant mineral deposits are present" or to judge that "little likelihood exists for their presence" (California Department of Conservation, 1996). Therefore, the proposed Project would not result in the loss of availability of a known mineral resource that would be of value to the region or the residents of the State.*				
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☑
***No Impact:** No locally-important mineral resource is known to occur in the Project area or delineated to occur in the City's General Plan. Therefore, no impact would occur.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. NOISE - Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☑	☐	☐

Less Than Significant Impact With Mitigation Incorporated: *According to the City of Pittsburg General Plan Noise Element, substantial existing noise sources in the Project area include trains and street traffic. The General Plan identifies Willow Pass Road as a substantial noise source in the area, with buildout traffic projected to result in noise at up to 79 dB 100 feet from the road, which includes the north edge of the Project Site.*

The City's Noise Ordinance (Section 9.44.010) does not establish numerical noise level limits related to fixed noise sources or construction noise but makes it unlawful for any person to make, continue or cause to be made, or continue any noise which either unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the City. The City's Building and Construction Ordinance (Section 15.88.060.A.5) prohibits grading noise, including warming up equipment motors, within 1,000 feet of a residence between the hours of 5:30 p.m and 7 am weekdays, unless otherwise approved by the City Engineer. Relevant General Plan Goals limiting noise for land use compatibility include:

- *Policy 12-P-1 establishes that the maximum exterior noise level considered to be "normally acceptable" for the business commercial land use category is 70 dB.*
- *Policy 12-P-9 establishes that generation of loud noises on construction sites adjacent to existing development should be limited to normal business hours between 8 am and 5 pm.*

Construction would generate noise on the Site consistent with typical construction activities. Heavy equipment and other mechanized equipment and vehicles would be used. Internal combustion engines, mechanized equipment, grading, material handling and other activities would generate noise. The noise levels from construction activities would vary during the different construction tasks, depending upon the activity locations and number and types of activities. Mitigation measure NOISE-1 would ensure that noise generated by construction onsite is controlled consistent with General Plan Policy 12-P-9. In addition, loud construction activities would be further limited to hours dictated by City ordinances including, but not limited to, Section 15.88.060A.5. With the noise ordinance in place, implementation of NOISE-1 would limit construction noise impacts to a less than significant level.

Operation of the Project would not generate loud noise. Low noise levels would be emitted, primarily from outdoor electrical equipment and roof-mounted heating, ventilation and air conditioning motors and fans. The only sensitive noise receptors in the immediate site vicinity are residences located to the east. The facility design includes a building at the east end of the Site to effectively shield those residences from noise generated by electrical equipment. Noise modeling was conducted for Project operations using an assumption of all equipment in operation at the same time. Modeling is outlined in Appendix D and results show that the nighttime noise at the closest residences would be approximately 2.5 dBA

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
above the average nighttime noise hour. Less than 3.0 dBA is not generally discernable so the 2.5 dBA increase would not be significant. Given the low levels of noise emitted and the location of noise generating equipment onsite, the Project would meet the noise level standard of General Plan Policy 12-P-1 at the property lines. Considering these factors, noise impacts from operations at the site would be less than significant. *In addition to the stationary noise sources on-site, the tie-line would have the potential to emit corona noise from the breakdown of air into charged particles in the electric field surrounding the surface of conductor wires. Corona noise levels vary widely based on humidity and other factors. Possible corona noise levels were modeled for the closest residences for each of the possible tie-line routes and results show corona noise levels at the closest residences are less than 25 dBA equivalent continuous level. This sound level is far below baseline noise levels and, therefore, would not be discernable. Therefore, the corona noise at nearest residences would be less than significant.* ***Mitigation Measure NOISE-1:*** *Loud construction work adjacent to development shall be limited to normal business hours between 8:00 am and 5:00 pm.*				
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☑	☐
Less Than Significant Impact: *Grading may generate localized low-level groundborne vibration and noise but would not generate excessive groundborne vibration or noise due to separation from sensitive receptors. Groundborne vibration and noise is attenuated rapidly with distance and the nearest sensitive receptors are residences to the east located approximately 100 feet or more from substantial grading activities. Considering this distance, groundborne vibration impacts would be less than significant.*				
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☑	☐
Less than Significant Impact: *Construction noise impacts would be short term and, therefore, would not result in a permanent increase of ambient noise. Operation of the Project would not generate loud noise. Low noise levels would be emitted, primarily from outdoor electrical equipment and roof-mounted heating, ventilation and air conditioning motors and fans. Given the low levels of noise emitted and the location of noise generating equipment onsite, the Project design is expected to meet the noise level standard of General Plan Policy 12-P-1 at the property lines. The only sensitive noise receptors in the immediate site vicinity are residences located to the east. The facility design includes a building at the east end of the Site to effectively shield those residences from noise generated by electrical equipment. Considering these factors, long-term noise impacts would be less than significant.*				
d) A substantial temporary or periodic increase in ambient noise levels in the	☐	☐	☑	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
project vicinity above levels existing without the project?				
Less Than Significant Impact With Mitigation Incorporated: *Construction would result in a temporary increase in ambient noise levels as described in Response (a) above. In addition, operations would result in low noise levels expected to be at or below the 70 dB General Plan Policy consistent with limits for the business commercial land use designation as described in Response (a) above. Mitigation measure NOISE-1 would ensure that noise generated by construction is controlled consistent with General Plan Policy 12-P-9. In addition, facility construction and operations would be required to comply with City noise protection ordinances. Because noise levels would be consistent with City standards, the impact would be less than significant.*				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
No Impact: *The Project area is not within an airport land use plan or within two miles of a public or public use airport. The closest airport is in Concord more than seven miles to the southwest.*				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
No Impact: *There is no private airstrip in the vicinity of the Project area. The closest airport is in Concord more than seven miles to the southwest.*				
XIII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☑
No Impact: *The proposed Project would not generate population growth, either directly or indirectly. It does not propose any housing or commercial development, nor extension of roads or expansion of infrastructure. Construction jobs would be short term and, therefore, would be expected to be filled by the existing regional workforce without inducing long-term growth. During operations, Project facilities would be unoccupied but visited periodically through the year for equipment inspections, monitoring and testing, and maintenance as needed. It is expected that operations positions would be filled with the existing workforce without relocation. Because the proposed Project would not generate new long-term full-time*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
jobs or commercial businesses, construct new housing, or extend existing infrastructure, it is not expected to generate population growth.				
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
No Impact: *Existing housing would not be displaced by the construction or operation of the proposed Project. The Site is on land that is currently vacant and undeveloped. Therefore, no impacts would occur.*				
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
No Impact: *No people would be displaced by the construction or operation of the proposed Project. The Site is on land that is currently vacant and undeveloped. Therefore, no impacts would occur.*				
XIV. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☐	☑
No Impact: *The proposed Project would be designed and constructed to follow CCCFPD requirements for access, fire water supply, and vegetation management. The final design would be subject to CCCFPD review and approval. The presence of oil in transformers onsite would require submittal of a Hazardous Materials Business Plan on the California Environmental Reporting System with an emergency response plan with emergency coordinator contact information and mechanisms for emergency access to the unoccupied Project Site. Onsite roads would be constructed with a compacted subgrade and compacted gravel surface and would be maintained in a drivable condition for the duration of construction and operations. Access/egress gates would be constructed in compliance with specifications of Contra Costa County Fire Prevention Regulations. California Fire Code Section 304.1.2 would require the Project to be maintained free of vegetation capable of being ignited or endangering property. All electrical systems for the Projects would be required to be constructed in accordance with applicable codes. With adherence to these requirements, the*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Project is not expected to create a capacity or service level problem related to fire protection. No new or modified government facilities would be needed to provide fire protection for the Project. Therefore, there would be no impact.				
Police protection?	☐	☐	☐	☑
No Impact: *The proposed Project would be located in the City of Pittsburg which provides police protection and public safety within the City limits. Construction and operation of the Project would not generate a material demand on police services. The Site would be fenced with controlled access gates that would avoid the need for routine police protection services. Security cameras and alarms would be monitored remotely. Construction and operation of the Projects are not expected to generate population growth. Project facilities would be typically unoccupied during operation. Considering these factors, the proposed Project would not result in an adverse impact on City of Pittsburg Police Department response times, service ratios, or other performance objectives, nor would it result in the need for new or modified police facilities. No new or modified government facilities are needed to provide police protection for the Project. Therefore, there would be no impact.*				
Schools?	☐	☐	☐	☑
No Impact: *As described in Response XIII(a), above, the proposed Project would not generate population growth. Therefore, no new demands on school facilities would occur, and there would be no impact on school capacities, service levels or performance objectives. The proposed Project would not require new or physically altered school facilities. Therefore, there would be no impact.*				
Parks?	☐	☐	☐	☑
No Impact: *As described in Response XIII(a), above, the proposed Project would not generate population growth. Therefore, no new demands on park facilities would occur and there would be no impact on park capacities, service levels or performance objectives. The proposed Project would not require new or physically altered park facilities. Therefore, there would be no impact.*				
Other public facilities?	☐	☐	☐	☑
No Impact: *As described in Response XIII(a), above, the proposed Project would not generate population growth or extend infrastructure. It would not create a substantial new demand for services and would not require new or physically altered public facilities. Therefore, there would be no impact related to new or physically altered government facilities.*				
XV. RECREATION --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☑
No Impact: *As described in Response XIII(a), above, the proposed Project would not generate population growth. Additionally, it would not displace, affect access to, or otherwise*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
physically affect any park or recreational facility. Therefore, no increase or change would occur in the use of any park or recreational facility. Therefore, the proposed Project would not result in or accelerate physical deterioration of any park or recreational facility.				
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☑
No Impact: *As described in Response XIII(a), above, the proposed Project would not generate population growth. Additionally, it would not displace, affect access to, or otherwise physically affect any existing park or recreational facility nor does it propose any new recreational facility.*				
XVI. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☑	☐
Less than Significant Impact: *As described in Response XIII(a), above, the proposed Project would not generate population growth. Project-related trips would be generated primarily during construction. Following construction, Project facilities would be unattended and visited periodically through the year for equipment inspections, monitoring and testing, and maintenance as needed. These periodic visits during operations represent negligible trip generation.* *Vehicles would access the Site from Willow Pass Road reached primarily via arterial roads from State Highway 4 including California Avenue (Minor Arterial), Railroad Avenue (Major Arterial), West 10th Street (Major Arterial), and Bailey Road (Major Arterial). The various routes available would tend to break up Project-related traffic on the arterial roads between State Highway 4 and Willow Pass Road. Willow Pass Road is a designated Major Arterial. Near the proposed Project it is a two lane paved road with 12 foot travel lanes, paved shoulders, and left turn pockets, within a 60-foot-wide ROW. The Site frontage on Willow Pass Road has sidewalks, curbs and gutters. Willow Pass Road has bus service via Tri Delta Transit with a bus stop east of the Site frontage at Willow Pass Road and Enterprise Circle (Tri Delta Transit, 2017). Willow Pass Road has a bike lane, but it is not marked as such (Reinders, 2017).* *Construction would occur over a six to 12 month period during which the peak number of*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
construction workers is expected to be approximately 75. In addition, deliveries during construction would generate an estimated 5 round trips spread throughout the day during peak construction activities. Construction worker and delivery traffic would incrementally add to existing traffic on Willow Pass Road and other arterial roads between Willow Pass Road and State Highway 4. Willow Pass Road and other arterials that may be used generally do not have existing capacity issues and can accommodate the short term construction traffic trip generation without exceeding the capacity of the existing circulation system (Reinders, 2017). The expected peak hour traffic considering the estimated 75 construction workers for peak activities would be considerably below the 100 peak hour trip threshold at which the City typically requires a detailed traffic analysis. Additionally, Project construction workers are expected to be primarily be from the existing regional workforce currently contributing traffic to regional transportation routes including State Route 4. Considering the relatively low number of trips generated and the expected use of the existing regional workforce, the short term of construction trip generation would not result in a substantial capacity impact on State Highway 4. *If the Project is required to connect to the existing water main in Willow Pass Road, a traffic management plan would be implemented pursuant to encroachment permit requirements from the City. A short-term lane closure may be required but work in the road is limited in scope and would be completed quickly with the road remaining open with traffic control. The nearby bus stop east of the site at Willow Pass Road and Enterprise Circle would not be affected. Construction parking and staging would be off-street on private property where it would not affect access to any public transportation. The proposed Project would not have a substantial effect on mass transit or bicycle transportation since Willow Pass Road would remain open.* *Considering the above analysis, the impact to the existing circulation system would be less than significant.*				
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards standard established by the county congestion management agency for designated roads or highways?	☐	☐	☑	☐
See Response to XVI, above.				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑
No Impact: *The proposed Project would not affect any air traffic patterns or levels. There are no airports in the Project vicinity and the Project would not have an effect on any airport or on air travel.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☑	☐
Less than Significant Impact: *The proposed Project does not include any new construction or realignment of existing road facilities. The Site is within an existing parcel and the Project would not require new or modified streets or intersections. The Site would be accessed by an existing paved driveway capable of accommodating anticipated construction trip generation. Willow Pass Road includes a left turn pocket at the driveway location and is straight with clear vision in both directions from the driveway entrance providing an adequate line-of-sight for safe entrance and exit.* *Some construction deliveries to the Site could be oversized or overweight. Vehicles providing deliveries would be subject to size, weight, and load restrictions pursuant to the California Vehicle Code Division 15, including permits for oversize or overweight loads as required by the California Vehicle Code Section 35780 and California Code of Regulations Title 21 Section 1411.1 et seq. Considering existing laws and regulations for limiting hazards of oversize loads, oversize loads during the short duration of construction would not be an incompatible use.* *During operations, the Site would typically be unattended. Considering the low volume of traffic that would be generated by site visits, and the location of the driveway on a straight segment of Willow Pass Road with good visibility, operations would not substantially increase hazards due to design features or incompatible uses.* *Considering these factors, neither construction nor operation would substantially increase hazards due to a design feature or incompatible use.*				
e) Result in inadequate emergency access?	☐	☐	☑	☐
Less than Significant Impact: *The proposed Project would not result in inadequate emergency access. It would not obstruct existing access routes, and onsite access roads and gates would be provided in accordance with CCCFPD requirements. Willow Pass Road would remain open during construction. Lane closure, if any, would be short-term and through passage would be maintained with traffic controls under an encroachment permit from the City. Considering these factors, the impact would be less than significant.*				
f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑
XVII. TRIBAL CULTURAL RESOURCES -- Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Resources Code section 21074 as either a site, feature, place, cultural landscape, that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	☐	☐	☐	☑
No Impact: *A cultural resource records search was conducted through the CHRIS Northwest Information Center. The record search indicated that portions of the Project area were included in cultural resource surveys in 1988, 1995, 1996 and 2001. The first three of these were for water conveyance structures and projects. The last was of the Montezuma Enhancement Site, associated with the Pittsburg and Contra Costa County Power Plants. In addition, there were 18 other surveys that may have included portions of the Project area. These, however, either had little or no fieldwork or were missing maps. The record search additionally revealed that there are no known archaeological or historic sites within the proposed Project Site or electric tie-line potential routes and that there are no known prehistoric archaeological sites within a one-half mile radius of the Project. A search of the NAHC Sacred Lands File failed to indicate the presence of Native American cultural resources in the Project area (Appendix E). As neither the proposed site nor the electric tie-line routes contain any identified archaeological, historic, or tribal cultural resources, as defined in Public Resources Code section 21074, there would be no effect on Tribal Cultural Resources.*				
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☑

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
No Impact: *A cultural resource records search was conducted through the CHRIS Northwest Information Center. The record search indicated that portions of the Project area were included in cultural resource surveys in 1988, 1995, 1996 and 2001. The first three of these were for water conveyance structures and projects. The last was of the Montezuma Enhancement Site, associated with the Pittsburg and Contra Costa County Power Plants. In addition there were 18 other surveys that may have included portions of the Project area. These, however, either had little or no fieldwork or were missing maps. The record search additionally revealed that there are no known archaeological or historic sites within the proposed Project Site or electric tie-line route and that there are no known prehistoric archaeological sites within a one-half mile radius of the Project. A search of the NAHC Sacred Lands File failed to indicate the presence of Native American cultural resources in the Project area. As neither the proposed site nor the electric tie-line potential routes contain any archaeological, historic, or tribal cultural resources, as defined in Public Resources Code section 21074, there would be no effect on Tribal Cultural Resources, and there are no resources determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. Consequently, there would be no effect upon such resources.*				
XVIII. UTILITIES AND SERVICE SYSTEMS -- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☑
No Impact: *The proposed Project would not discharge wastewater. No wastewater treatment requirements are applicable. Portable sanitary facilities would be provided on the Site and maintained by a licensed contractor for the term of construction.*				
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☑	☐
Less than Significant Impact: *The proposed Project would not discharge wastewater. The Project water demand would be minimal, consisting of a temporary demand for construction and landscape water for operations. The existing City water supply main in Willow Pass Road is adequate to serve the project without expansion of existing facilities (Mata, 2017). A short tie-in to the main would be required for the project if the project cannot tie into the existing water supply infrastructure on the 35-acre parcel.*				
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☑
Less than Significant Impact: *No new or expanded drainage facilities are required offsite. Drainage from the site would flow to existing catch basins and an existing culvert near the*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
northeast corner of the Site that would convey water beneath Willow Pass Road to an existing pump station with capacity for the anticipated flow. Therefore, there would be no impact.				
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☑	☐
Less than Significant Impact: *Project water demand would be minimal, consisting of a temporary demand for construction and landscape water for operations. The facility would be unattended and does not include sanitary facilities or other water needs other than minimal landscaping to satisfy City landscaping requirements. Water for construction and landscaping would be obtained from the City. Water is available from the City and existing City water entitlements and resources are adequate to serve the project (Mata, 2017).*				
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☑
No Impact: *The proposed Project would be unattended and would not need waste water services. No potable water or permanent sanitary facilities are proposed. Portable sanitary facilities would be used onsite for construction with regular pumping and maintenance by a licensed contractor. Because there would be no need for wastewater service to the Site, there would be no impact.*				
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☑	☐
Less than Significant Impact: *Most construction waste streams would consist of recyclable materials such as wood pallets, plastic and paper packaging and scrap metal that can be taken to a waste recycling center. Furthermore, construction would only generate waste for a short period of time. Generation of waste from construction that would need to be landfilled would be limited and would be short-term. The proposed project would be served by Keller Canyon Landfill, which is a class II landfill that accepts municipal solid waste. The landfill has a daily maximum capacity limit of 3500 tons/day and 320 truck trips. Keller Canyon Landfill has 52 million cubic yards of capacity remaining and is projected to have sufficient capacity for another 30 years. Total waste generated by the proposed project during construction and operation would not be substantial relative to the capacity of the landfill therefore, impacts would be less than significant.* *Quantities of non-hazardous and hazardous waste generated by routine operations would be negligible. At the end of battery life, battery modules would be removed from the battery racks and returned to the manufacturer or their approved and permitted recycling partner(s) for dismantling, material processing and recovery.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☑	☐
Less than Significant Impact: *The proposed Project would be required to comply with all relevant statutes and regulations and the Project as proposed would not conflict with any statute or regulation.*				
XIX. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☑	☐	☐
Less than Significant Impact With Mitigation Incorporated: *With the exception of a portion of the tie-line West Alignment, if used, the Project footprint is within non-native grassland and urbanized portions of the HCP/NCCP that do not provide critical habitat. The Project would comply with the HCP/NCCP including mitigation fees and pre-construction surveys to ensure that impacts to affected resources are mitigated. The portion of the tie-line West Alignment that is north of Willow Pass Road includes wetlands that may provide habitat for several protected species. Mitigation Measures BIO-1 through BIO-5, would protect habitat and sensitive species that may occur in that area. These measures include minimization of impacts to the extent feasible and offsetting measures for impacts that cannot be avoided. Permanent impacts in wetland habitat where these species may occur would be approximately 0.38 acres or less. Considering the small area of important habitat that could be affected long term, with implementation of mitigation measures BIO-1 BIO-2, BIO-3, AND BIO-4, the Project would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, nor reduce the number or restrict the range of a rare or endangered plant or animal. There are no structures on the Project Site and no significant historic or prehistoric resources are known to occur onsite based on a records search and Tribal outreach. Tie-line locations have not been surveyed for cultural resources. Mitigation Measure CUL-1 would require that the tie-line route be surveyed by a qualified professional and that significant resources, if present, be avoided by the tie-line design or, if unavoidable, be mitigated through proper research and documentation. Mitigation Measures CUL-2, CUL-3 and CUL-4 provide for protection of cultural resources in the event of a new discovery. Mitigation Measures CUL-1, CUL-2, CUL-3 and CUL-4 would ensure that impacts to cultural resources would be less than significant in the event cultural resource were to occur in the Project construction area.*				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☑	☐	☐

Less than Significant Impact With Mitigation Incorporated: *As described in preceding sections of this Initial Study checklist, the Project would have no impact on agricultural or forest lands, mineral resources, growth, population, housing, schools, parks, libraries, recreation, or public services, and the Project would not conflict with biological resource conservation plans, air quality protection plans, traffic congestion management plans, or other established environmental plans or policies. The Project would be consistent with the City Zoning ordinance with the adoption of a zoning text amendment such that a major utility would be permitted with a use permit. Because the Project would have no impact or conflict in these topic areas, there is no potential for the Project to have a cumulative effect in these topic areas with other past, current or probable future projects.*

The Project would not affect any designated scenic vista nor would it damage any scenic resources. The Project Site is in an industrial and commercially developed area and would be located on land zoned Industrial Park-Limited Overlay. The possible tie-line routes are through either existing industrial areas or adjacent to an existing major high voltage transmission line corridor. Considering these factors, the cumulative impact on aesthetic resources would be less than significant.

Air quality cumulative impacts are addressed in Section III of this Initial Study checklist and are less than significant.

As described in Section IV of this Initial Study, impacts to biological resources would be limited since, with the exception of a portion of the tie-line West Alignment, if used, the Project is in disturbed and urban habitat and impacts to biological resources would be mitigated through compliance with the HCP/NCCP. For the portion of the tie-line West Alternative where sensitive habitat and sensitive species may occur, Mitigation Measures BIO-1, BIO-2, BIO-3, and BIO-4 would limit impacts to a less than significant level and compensate for long term impacts with 3:1 habitat compensation for wetlands disturbances. The Applicant's Project Description incorporates HCP/NCCP requirements and Mitigation Measure BIO-5 would require payment of HCP/NCCP mitigation fees to be paid in advance of non-native grassland disturbance. With these measures, impacts to biological resources would be fully mitigated and would not have the potential for significant cumulative effects.

No significant cultural resources are known to occur. Mitigation Measures CUL-1, CUL-2, CUL-3 and CUL-4 would ensure that impacts to cultural resources are mitigated in the event of an unexpected cultural resource discovery so that there are no cumulative impacts.

The Project would have no cumulative impact related to geology or soils. The Project would not impact important mineral resources or unique geologic features. Geologic hazards, by

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
nature, are facility-specific and do not have the potential for cumulative effects. The Project would have no impact on seismic hazards at other locations, and no other reasonably foreseeable project could affect seismic hazards at the site. Therefore, there is no cumulative impact related to seismic shaking. *As described in Section VII of this Initial Study checklist, once constructed, the Project would not generate GhG emissions. The Project could be used to store energy from renewable projects such as solar and wind generation projects, reducing dependency on fossil fuel-produced electric energy and supporting the achievement of local, state and federal renewable energy goals directed at GhG reduction. Considering these factors, the Project would not have cumulative adverse GhG emission impacts.* *As described in Section VIII of this Initial Study checklist, impacts of the Projects related to hazards and hazardous materials would be less than significant. Construction of the Projects would require the use of fuels, lubricants and other hazardous materials typical of construction sites and would be short term. No cumulative impact is anticipated. The facility would be unoccupied and operations would not typically require handling of hazardous materials. The project would be required to comply with all existing laws for safe handling of materials and no cumulative impact is anticipated.* *The Project would not violate any water quality standard or waste discharge requirements or affect water quality. Therefore, there would be no cumulative effect in these areas. There would be no cumulative impact to hydrology because the Site would be designed in accordance with to drain to the same City-maintained system as existing conditions. The grading plan would be subject to review by the City's Building Division and the design includes bioretention swales and other BMPs features in accordance with the Stormwater C.3 Compliance Guidebook.* *Construction noise would be short term and following construction the Project would not be a source of loud noise. The Project is designed with a building at the east end of the site where it would shield the closest sensitive receptors from low levels of noise generated by electrical equipment. The facility would comply with General Plan Policy noise levels. Considering these factors, the cumulative noise impact would be considerable.* *As described in Section XVI of this Initial Study checklist, the Project would generate negligible traffic once construction is complete. No projects or other undertakings have been identified in the Site vicinity that could result in a considerable short term cumulative impact. Following construction, operations would typically be unattended, with routine monitoring and maintenance occurring during occasional site visits (e.g., monthly or less frequent over the long-term), which would be a negligible traffic impact. The Project would not involve new construction or realignment of any roads. The Project would be developed in conformance with all applicable plans, policies, programs, and ordinances related to transportation. Considering these factors, cumulative traffic impacts would be less than significant.* *Considering the factors addressed above, the Project would not have significant cumulative impacts with mitigation incorporated.*				
c) Does the project have environmental effects which will cause substantial	☐	☑	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
adverse effects on human beings, either directly or indirectly?				
Less than Significant Impact With Mitigation Incorporated: *The Project does not have the potential for environmental effects that could cause substantial adverse effects on human beings, either directly or indirectly, other than those addressed in preceding sections of this Initial Study checklist. As described in preceding sections of this Initial Study checklist, the Project would have no impact on agricultural or forest lands, mineral resources, growth, population, housing, schools, parks, libraries, recreation or public services, and the Project would not conflict with zoning, land use, biological resource conservation plans, air quality protection plans, energy plans or policies, transportation, traffic and congestion management plans, or other established environmental plans or policies. The Project would not have substantial adverse effects related to aesthetics, air quality, energy consumption, greenhouse gasses, geology and soils, hazards or hazardous materials, hydrology, water quality, transportation or utilities. With recommended mitigation measures BIO-1 through BIO-5, CUL-1 through CUL-4, and NOISE-1 identified in Sections IV, V, and XII, respectively, of this Initial Study checklist, the Project would have less than significant impacts related to biological resources, cultural resources, and noise. There would be no significant direct, indirect or cumulative impacts with these mitigation measures incorporated.*				

3.4 List of Preparers

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Appendix A

Detailed Project Description

Project Description
Diablo Energy Storage
701 Willow Pass Road
Pittsburg, California 94565

August 2017

Submitted to:
City of Pittsburg
Planning Department
65 Civic Avenue
Pittsburg, CA 94565

Submitted by:

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Attachment 1: Tentative Parcel Map
Attachment 2: Preliminary Site Plans

1.0 INTRODUCTION

Diablo Energy Storage, LLC proposes to install one or more single story buildings on a graded and vacant approximately 12 acre site (Site) representing a portion of an approximate 35 acre parcel (Parcel) located at 701 Willow Pass Road, Pittsburg, California (APN 085-280-010). The Parcel is designated Business Commercial (BC) in the General Plan and zoned Industrial Park-Limited Overlay (IP-O). The proposed use will require a zoning text amendment to amend the IP-O (Industrial Park with a Limited Overlay, Ord. No. 07-1284) District, or the "Empire Business Park Overlay District", such that a "major utility" would be permitted with a use permit. In addition to the zoning text amendment, Diablo Energy Storage, LLC is applying for a conditional use permit, design review and development agreement. A minor subdivision (lot line adjustment or parcel map waiver), or filing of a final map following the current Tentative Parcel Map in Attachment 1, may also be pursued that would divide the Site from the 35 acre Parcel.

The buildings will house advanced energy storage technology (e.g., lithium ion batteries) which, together with related control equipment including inverters, transformers, and a small onsite electric substation, will be connected via a new electric tie-line to the existing Pacific Gas & Electric Company (PG&E) Pittsburg Substation located approximately 0.6 mile north of the Site. The facility will be unoccupied and is designed for full remote operation. Diablo Energy Storage, LLC is the Applicant for development permits and will be the Lessor of the property.

The facility will not generate electricity. Rather, it will provide a service by receiving energy (charging) from the point of interconnection (POI) with the PG&E electric transmission system, storing energy, and then later delivering energy (discharging) back to the POI. The Site is within the East Contra Costa Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) area. Two alternate routes being considered for a tie-line to the POI are also within the HCP/NCCP area and a third alternative route being considered extends out of the HCP/NCCP area as described further under the subheading of West Alignment.

The Site is currently vacant with no structures. The Parcel is subject to a Covenant to Restrict Use of Property – Environmental Restriction dated July 27, 2007. Per terms of the Covenant, certain uses and activities on the Parcel are prohibited due to the presence of low concentrations of constituents of concern in ground water. The restrictions prohibit certain uses for the Parcel including raising food, drilling for drinking water, extraction of ground water, schools for persons under 21 years of age, day care centers, residences, and hospitals for humans. The proposed use of the Site is consistent with uses allowed by the Covenant.

The proposed use is compatible with the surrounding area and will have little or no effect on environmental resources or local services given its location on a vacant Site, its unmanned operating profile, and proximity to existing infrastructure. When operating, the proposed use will not create emissions to air, will not require sanitary facilities, and will not require water except to maintain water efficient landscape to meet City requirements.

2.0 PURPOSE

The purpose of the proposed development is to reliably and economically receive, store and discharge electric energy from the California Independent System Operator-controlled electric grid, including renewable energy produced by existing solar and wind resources in the region. The project will interconnect to the CAISO grid at the nearby PG&E's Pittsburg Substation. Construction of the project will:

- Provide a new economic and reliable means of capturing and managing renewable energy;
- Provide economic benefit to the City of Pittsburg, Contra Costa County, the region, and the State, through construction jobs, property and sales taxes, and increased energy efficiency and reliability;
- Help stabilize the electric grid and increase the effectiveness of both conventional and renewable energy generation projects;
- Support the achievement of local, state and federal renewable energy goals; and
- Support State goals for energy storage.

3.0 PROJECT DESCRIPTION

3.1 Location

The Site is located on the south side of Willow Pass Road just west of the point where West 10th Street becomes Willow Pass Road (Figure 1). The Site is Parcel B of the overall 35 acre Parcel as shown in Attachment 1. Photographs of the Site are provided in Figure 2. Preliminary Design Drawings for the project are provided in Attachment 2.

3.2 Design

The batteries will absorb and discharge electrical energy from and to the PG&E-owned and California Independent System Operator-controlled power grid. Batteries will be housed inside the buildings secured in racks arranged in rows with aisles for access. The batteries will be connected in series and in parallel to provide the total energy storage capacity. A Relay and Communications (R&C) room will be provided in the buildings for automated monitoring and managing of the batteries to ensure design performance and system life

Power inverters, medium voltage transformers, and a small onsite electric substation with a transformer will be installed. Conductors in underground conduits will be used to connect the buildings, inverters and transformers. Bi-directional inverters will be used to convert between direct current (DC) power in the battery systems and alternating current (AC) power of the electric grid. Inverters will be outdoor-rated skid mounted systems with equipment in weatherproof enclosures. The preliminary design is for bi directional inverters rated at 480 volts (V) AC, one medium voltage transformer for each one or two inverters, and a high voltage transformer within the onsite substation. Final design will include value engineering and a different number of inverters and transformers may be used. The output from the medium voltage transformers will be aggregated and stepped up to 230 kV by the high voltage transformer at the onsite electric substation.

The substation area will be fenced (in accordance with high voltage electric code requirements) and will include the high voltage transformer, switchgear and an approximately 24-foot wide x 50-

foot high H-frame structure with switches, lightning arrestors and metering equipment. The onsite substation will be connected to the existing PG&E Pittsburg Substation to the north via an overhead 230 kV electric tie-line. The electric tie-line will be constructed, owned and operated by the Applicant or other appropriate entity to a point of change in ownership (POCO) located just outside the Pittsburg Substation. Improvements within the Pittsburg Substation and between the Pittsburg Substation and the POCO will be installed by PG&E, and are within the scope of the environmental review to be conducted by the City.

The facility will be designed and constructed to comply with all applicable codes in effect in the City at the time of building permit submission. Each battery module is a sealed finished UL listed article installed as a component in device (battery rack) containing integrated safety systems to actively monitor electrical current, voltage and temperature to optimize performance, mitigate potential failures, and prevent upset. Batteries performing out of specification will be immediately taken off line by the automated monitoring system. There is no venting or release from the individual cells, cell packs, or casings and the batteries are not opened for use, maintenance, or other purposes. The buildings will be outfitted with fire suppression equipment to meet or exceed applicable fire safety codes and standards. The fire protection plan will include prevention, suppression, isolation methods and materials. At a minimum, this will include: smoke/fire detection sensors; ground fault detection, alarms, and systems for automatic shutdown of all cooling fans and opening of electrical contacts in the battery system; and systems for automatic release of a fire suppression agent appropriate to the battery technology. Typically, such systems use a clean fire suppression agent such as DuPont's FE-25, FM-200, or 3M's Novek 1230, designed specifically for electrical installations to reduce damage to uninvolved equipment. Water sprinkler or mist systems will also be provided as required by the fire code.

The project is designed consistent with low impact development standards and the Contra Costa Clean Water Program Stormwater C.3 Guidebook storm water management requirements. Impermeable surfaces are minimized and include building footprints and concrete pads for the substation and other outdoor electrical equipment. With the exception of landscaping to meet City requirements, other surfaces will be graveled including the onsite driveways since use will be infrequent. The driveways will be constructed with compacted Class 2 gravel surfacing over a compacted subgrade to provide all-weather passage and support for a 74,000 pound load capacity in accordance with Contra Costa County Fire Protection District requirements. No designated parking places are included in the design since the facility is unoccupied and there is existing parking in the Empire Business Park complex as well as space for parking on-site. Outside of the onsite driveways, areas not covered by the buildings or equipment pads will be surfaced with gravel (e.g., ¾-inch drain rock) that will provide for some storm water detention and infiltration.

Sidewalk, curb and gutter exist at the site frontage. Parcel 085-280-010 has an existing paved driveway from Willow Pass Road that will be used by the project. Water-efficient landscaping will be put in place where not already present in accordance with the City landscaping requirements. A Conceptual Landscape Plan is provided in the Preliminary Site Plans in Attachment 2. Landscape water will be obtained from the existing landscape water supply system or a new tie-in to the City water main located in Willow Pass Road. No signage is proposed for the building frontage or site perimeter except the address number. Inside the secured site

perimeter, signage will be provided in accordance with OSHA requirements and other relevant regulatory requirements.

Conceptual architectural renderings are provided in the Preliminary Site Plans in Attachment 2. The architectural design theme is to compliment and be compatible with the existing character of the neighboring industrial buildings. The established buildings in the area are low profile light industrial building types using cementitious and metallic exterior materials. The color palette for the large footprint buildings is in the warm beige range. The proposed architectural design is shown in Sheets A-1 through A-4 of the Preliminary Site Plans and uses tilt-up concrete construction for exterior walls to complement the existing architectural character of neighboring buildings, with colors complimentary to the adjacent buildings. To give a visual and textural interest to the building elevations facing the street, application of a darker beige metal cladding is proposed, complementing the use of metal in the adjacent buildings. The application of exposed roof drainage systems and reveals along the exterior walls provide visual relief and break up the wall surface to smaller modules. Projecting shade elements are included along the street frontage walls above the exterior doors to provide not only shading but also interest as the sun casts shadows along the walls.

Sheet A-5 introduces an alternate design for the buildings. The alternate design would utilize steel framed construction on the exterior walls with metal cladding. The design's vertical recess elements provide for visual relief and reduces the length appearance of the buildings. The Applicant is seeking approval for either architectural scheme, which will allow flexibility as the project further develops.

3.3 Tie-line Routing

The area between the Site and the Pittsburg Substation is extensively developed and industrial and utility infrastructure including bulk fuel oil tanks, railroad alignments, drainage and flood control features, underground gas pipelines, roadways, numerous underground and overhead high voltage electric lines, and other infrastructure. The existing facilities influence feasible routes. Three feasible preliminary alternative tie-line routes have been identified: a) west of the fuel oil tank farm, b) along an existing NRG access road through the fuel oil tank farm, and c) east of the fuel oil tank farm. The routes are described below and are shown in Figure 3. The preliminary tie-line pole locations are provided in Figure 3. Based on preliminary engineering, the poles will be approximately 77 to 95 feet high as shown in Sheet C-9 of the Preliminary Site Plans.

West Alignment

Using this route, the tie-line would extend along the south side of Willow Pass Road approximately 2,000 feet, cross under a series of existing PG&E high voltage lines, then turn north to cross Willow Pass Road and extend approximately 2,100 feet, and then turn northeast and extend approximately 2,500 feet to the POCO. The length of this route is approximately 6,700 feet. This route would require approximately 8 poles and would cross under seven existing PG&E transmission lines. This alignment is outside of the HCP/NCCP area between Willow Pass Road and the point approximately 300 feet southwest of the POI. Use of this alignment may require some surface preparation, or stabilization of existing access routes, to provide access to tie-line structures for construction and maintenance. This alignment is within the East Contra Costa

County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) area only where it is located south of Willow Pass Road.

Middle Alignment
Using this route the tie-line would cross Willow Pass Road directly north of the on-site substation and then turn east and extend approximately 550' feet along the north side of Willow Pass Road before turning north and extending along the west side of the existing NRG access road approximately 3,200 feet to the POCO. The length of this route is approximately 3,800 feet. This route would require approximately 12 poles and would cross under nine existing PG&E transmission lines. This alignment is entirely within the HCP/NCCP area.

East Alignment
This route is the same as the Middle Alignment except that after extending approximately 800 feet north along the NRG access road it would turn east and follow an existing drainage ditch approximately 1,400, then turn north for approximately 1,000 feet, then turn west approximately 1,400 feet, and then turn northwest approximately 1,200 feet crossing under the existing PG&E transmission lines just outside the Pittsburg Substation to the POCO. The length of this route is approximately 5,800 feet. This route would require approximately 16 poles and would cross under nine existing PG&E transmission lines. This alignment is entirely within the HCP/NCCP area.

The Applicant is requesting approval to develop the project using any of the alignments, subject to revisions as may be approved by the Planning Manager.

3.4 Construction

Construction and equipment installation is expected to take 6 to 12 months including the buildings, outdoor electrical equipment, and site preparation including stormwater controls and landscaping. Construction staging will occur onsite. Construction may be phased in response to market demands. If phased, project improvements essential for the entire site such as the connection to the City stormwater system, as the onsite substation, and the electric tie-line, will be installed in the initial phase. A phasing plan is included in Sheet C-11 of the Preliminary Site Plans. In general, if phased, a building and related systems would be installed in the initial phase while installation of subsequent building space and related systems would be deferred to a subsequent phase or phases as shown in the table below:

PHASING PLAN	
Initial Phase	**Subsequent Phase(s)**
Initial Phase Site Prep/Grading, Civil, Drainage	Phase related Site Prep/Grading Civil, Drainage
Onsite Substation & HV Electrical	Subsequent Building Space
Initial Building	Batteries & Associated Systems
Batteries & Associated Systems	Inverter Pads, Equipment & Connections
Inverter Pads, Equipment & Connections	
Electric Tie-Line	

The majority of the Site is currently covered with several feet or more of fill dirt and will be graded to be relatively flat-lying with drainage toward the north and east. Final grading plans will be subject to approval by the City. Grading quantities are provided on Sheet C-1 of the Preliminary Site Plans. Class 2 aggregate will be imported to the Site for surfacing the driveways. Crushed rock gravel will be imported for surfacing outside the building and driveway footprints and for building pad preparation.

It is estimated that Site grading and preparation will require the following equipment:

TYPE	QUANTITY
Bulldozer (e.g., CAT D7)	1
Grader (e.g., CAT D7)	1
Scraper (15-30 CY)	2
Water Truck (3,000- 5,000 gal)	1
Self-Propelled Compactor	1
Dump Truck	1
Tractor/Loader/Backhoe (e.g., Case 590)	1
Bobcat	1

Water may be used during construction if needed for dust control and compaction. A non-toxic dust palliative may also be used. If needed, water will be obtained from the City water supply via an existing hydrant on the Parcel or on the Site frontage of Willow Pass Road. Sanitary facilities during construction will be provided by portable self-contained units maintained by a licensed contractor.

Project construction will implement the following measures to control dust emissions during construction in accordance with Bay Area Air Quality Management District requirements:

- Exposed soil areas will be watered two times per day when needed to control dust emissions;
- Haul trucks transporting soil, sand or other loose material offsite will be covered;
- Best Management Practices (BMPs) will be implemented to minimize track-out onto adjacent public streets;
- A 15 mile per hour speed limit will be used for roadways until stabilized with gravel or other treatment to minimize dust; and
- Disturbed surfaces will be stabilized as soon as practical.

Construction is expected to generate up to an estimated 75 construction jobs during peak construction periods. Deliveries of equipment and materials will generate an estimated 5 round trips per day during peak construction periods that will occur throughout the day. Construction wages will contribute to the local and regional economy through direct income, spending and taxes.

The City operates a 10-inch diameter water main located in the westbound lane of Willow Pass Road (personal communication, Hilario Mata. Assistant Director of Public Works, June 23, 2017). Project construction will include a tie-in to the water main if the water supply for landscaping

cannot be obtained from existing infrastructure on the Parcel (e.g., if a separate parcel is created by subdivision, lot line adjustment or parcel map waiver).

Table 1A and 1B, respectively, summarize land areas and habitat types that could be disturbed by project development during construction and long-term. The Applicant is applying for coverage under the HCP/NCCP and will comply with requirements of the HCP/NCCP as applicable including pre-construction surveys. Planning Level Surveys under the HCP/NCCP have been completed on the Site. Tie-line routes north of Willow Pass Road have been surveyed from the public ROW due to access limitations and further studied using high-resolution aerial imagery. If construction is initiated during bird nesting season (February 1 – August 31), a preconstruction nesting bird survey will be conducted by a qualified biologist within 14 days prior to ground disturbance. If an active nest is located, then a qualified biologist will establish a nest buffer surrounding the active nest. Work will not occur in the buffer area until the biologist determines the nest is inactive. The extent of the nest buffers will be based on consideration of the anticipated levels of noise or disturbance, ambient levels of noise and other disturbances, species present, and topographic or other barriers. If construction is halted for more than 14 days, then a nesting bird survey will be completed within 14 days prior to re-initiating of construction work. Pre-construction surveys for protected raptors will also be completed prior to construction in accordance with requirements of the HCP/NCCP.

Results of a biological resources survey conducted for the project indicates that burrowing owl habit does not occur on the project Site. However, because burrowing owl habitat can occur in disturbed and developed areas, it is possible that burrowing owl could move into the area prior to construction. Therefore, in an abundance of caution, a burrowing owl survey will be conducted by a qualified biologist within 14 days prior to ground disturbance. If an occupied burrow is observed within or adjacent to the Site during the nesting season (February 1- August 31) and is determined to contain an active nest, then a buffer will be established surrounding the nest in accordance with CDFW's 2012 *Staff report on Burrowing Owl Mitigation*. No work will occur in the buffer area until the nest is determined to be inactive by a qualified biologist. If occupied burrows are observed within or adjacent to the Site during the non-nesting season (September 1-January 31) or if an occupied burrow is determined to not be a nest burrow during the nesting season, then a buffer will be established around the burrow by a qualified biologist in accordance with CDFW guidelines. If an occupied burrow cannot be avoided (i.e., is within the limits of disturbance), a burrowing owl exclusion plan will be written and submitted to CDFW for approval of passive relocation procedures.

Tie-Line Construction

If the selected alignment is not covered by HCP, then to the extent necessary, studies would be completed to develop a construction plan that would to the greatest extent possible minimize impacts to wetlands (if any). For example, tie-line structures would be placed to avoid wetlands where possible, and needed access routes would be aligned to utilize existing access routes where possible. Based on the surface disturbance estimates shown in Table 1B the total permanent disturbance to presumed wetlands if the West Alignment is used would be less than 0.5 acre so the project would use USACE Nationwide Permit No. 12 for utility infrastructure if it is determined that federally jurisdictional wetlands cannot be practically avoided. Nationwide Permit No. 12 also provides for temporary surface disturbance needed during construction. Coverage under the

Nationwide Permit No. 12 requires a Section 401 water quality certification from the RWQCB. In addition, approval from the California Department of Fish and Wildlife under Section 1600 of the Fish and Game Code may also be required if the West Alignment is used.

3.5 Stabilization of Temporary Disturbances

Disturbed surfaces on the site that are not covered by buildings, equipment or roads will be stabilized with crushed rock as well as landscaping at the site perimeter to meet City requirements. Temporary disturbances from tie-line construction will be stabilized as soon as practical by returning the ground surface to a condition approximating pre-project conditions. Temporary disturbances in Annual Grassland habitat will be stabilize by reseeding with a seed mix subject to approval by the City.

3.6 Operations

The facility will operate year-round and will be available to receive or deliver energy 24 hours a day, 365 days a year. The Site will be secured with a chain link fencing. Existing chain link fencing that occurs on the Site frontage will be repaired or replaced where needed, and new fencing will be installed at the Site perimeter where fencing does not currently exist. The Site will be equipped with security cameras that will be monitored remotely and with alarms and other security as needed. Landscaping will include water-efficient trees, shrubs and groundcover that will provide aesthetics for views from Willow Pass Road. Existing trees and landscaping along the driveway east of the Site (See Figure 2) will provide visual screening between the project and residences to the east. At the west edge of the site, landscaping along the edge of the existing driveway will include trees and ground cover to mirror the existing landscaping on the opposite (offsite) edge of the driveway. Because the facility will be unattended with little vehicle traffic, the Site gates will be designed to be opened and locked manually. The electrical equipment, heating, ventilation, air conditioning, fire protection systems, and security will be automated and monitored remotely. The Site will be unoccupied but visited periodically through the year for equipment inspections, monitoring and testing, and maintenance as needed. Periodically, batteries and various components will be replaced or renewed to ensure optimal operation.

The facility will operate without emissions to air or water. Except for landscape watering to meet City requirements, the facility will use no water. Because the facility will not be manned, no office, break room, sanitary facilities or potable water will be needed. Motion-activated lighting may be used where needed for safety or security such as at access gates and doorways to buildings. If used, lighting would be directed downward and shielded to minimize visibility from offsite.

Storm water treatment in accordance with City requirements will be provided by gravel yard surfacing and bioretention swales as shown in the Preliminary Design Drawings. Outdoor equipment will be sealed or enclosed and will not affect storm water quality.

Outdoor electrical equipment, cooling fans, and HVAC systems will generate low levels of noise during routine operations. Noise levels will be compatible with surrounding land uses and below levels that would conflict with the City's Noise Ordinance (Noise Ordinance Section 9.44.010). The closest sensitive noise receptors are residences located east of the Site. The project is designed with a building at the eastern side that will block electrical equipment noise to these residential

receptors. The facility will be designed comply with the City noise standards as described in the City's General Plan at Section 12, Noise.

At the end of battery life, battery modules will be removed from the battery racks and returned to the manufacturer or their approved recycling partner(s) for dismantling, material processing and recovery. Other waste from Site maintenance will be removed from the Site as part of maintenance work and managed in accordance with applicable regulations. Oil in oil-filled transformers is not routinely handled. Oil filled equipment is operated normally closed and sealed. On infrequent occasions, oil in oil-filled electrical equipment may require filtering or replacement if it becomes contaminated. If oil from oil-filled equipment needs to be replaced, the used oil would be recycled at a licensed offsite recycler.

4.0 PROJECT SCHEDULE

Construction of Phase I (or the complete project if all Phases were constructed concurrently) will be scheduled to begin after receipt of requisite permits and is expected to take approximately 6 - 12 months.

5.0 APPLICANT

The Applicant is Diablo Energy Storage, LLC, a company formed for the sole purpose of developing the project and wholly owned by LSP Generation Holdings, LLC. LSP Generation Holdings, LLC is part of the LS Power Group (LS Power), a privately held, leading independent energy development firm established in 1990 employing approximately 150 professionals. LS Power is well regarded in the development and financial community and in the past 10 years has raised over $17 billion of capital for investments in the energy sector including electric generation, storage, and transmission assets. More information can be found at www.lspower.com.

TABLE 1A
SUMMARY OF TOTAL DISTURBANCE BY PROJECT FEATURE AND HABITAT TYPE
(TOTAL SHORT-TERM PLUS LONG TERM DISTURBANCES)

FEATURE	DISTURBANCE IN HCP/NCCP AREA (AC)	DISTURBANCE OUT OF HCP/NCCP AREA (AC)	HABITAT	COMMENTS
Site Development	10.41	--	Annual Grassland	• Site gross is 11.85 acres including existing surfaced roads. Disturbance is 10.12 Ac.
West Alignment	0.49	0.45	Annual Grassland	• 3 pole sites x 3,500 sf ea. in HCP/NCCP area • 2 stringing sites x 1000 sf ea. in HCP/NCCP area • Access 10' x 900' in HCP/NCCP area • 2 pole sites x 3,500 sf ea. out HCP/NCCP area • Access 10' x 1000' out of HCP/NCCP area
	0.02	--	Urban	• 1 pole site (POCO)[1]
		1.47	Wetland[2]	• 1 or 2 pole sites totaling up to 20,000 sf[3] • 2 stringing sites 1,000 sf ea. • Access 12' x 1000' • Contingency Access 12' x 1,500[4]
Middle Alignment	0.16	--	Urban	• Ten pole sites x 700 sf ea[1]
East Alignment	0.21	--	Urban	• 13 pole sites x 700 sf each[1]

[1] Stringing sites, construction work areas and long-term access that may be used in urban areas not requiring clearing or surface improvement are not included in this table since there would be no ground disturbance. Ground disturbance for poles in urban habitat is estimated based on 15' radius around the pole center point.

[2] Presumed wetland area based on field survey results from other nearby projects, aerial imagery analysis, and visual survey from public rights-of-way due to access constraints. Actual wetland area and disturbed acreage to be determined prior to construction if Project for areas outside of the HCP/NCCP coverage area.

[3] Estimate allows for contingency for final design to determine minimum safe working area at each pole and for jurisdictional wetland conditions to be confirmed by delineation at one or two poles.

[4] Contingency for possible temporary access between tie-line structures B and C if a helicopter is not used for stringing.

TABLE 1B
SUMMARY OF LONG-TERM DISTURBANCE BY PROJECT FEATURE AND HABITAT TYPE

FEATURE	DISTURBANCE IN HCP/NCCP AREA (AC)	DISTURBANCE OUT OF HCP/NCCP AREA (AC)	HABITAT	COMMENTS
Site Development	10.41	--	Annual Grassland	• Site gross is 11.85 acres including existing surfaced roads. Disturbance is 10.12 Ac.
West Alignment	0.05	0.32	Annual Grassland	• 3 pole sites x 700 sf ea. in HCP/NCCP area • 2 pole sites x 700 sf ea. out of HCP/NCCP area • Access 10' x 1,250 out of HCP/NCCP area
	0.02	--	Urban	• 1 pole site (POCO)
		0.38	Wetland(1)	• 1 or 2 pole sites x 700 sf ea. • Access 12' x 1000' • Contingency Access 12' x 250'(2)
Middle Alignment	0.16	--	Urban	• Ten pole sites x 700 sf ea
East Alignment	0.21	--	Urban	• 13 pole sites x 700 sf ea

(1) Presumed wetland area based on field survey results from other nearby projects, aerial imagery analysis, and visual survey from public rights-of-way due to access constraints. Actual wetland area and disturbed acreage to be determined prior to construction if Project for areas outside of the HCP/NCCP coverage area.

(2) Contingency in the event that the vegetated portion of the long term access route to Pole C is found to be wetlands instead of grassland.

\\Sanfran-fs1\gis\GIS_LIB\Diablo_Energy_Storage\mxd\Figure 1_Project Location.mxd

Legend

Diablo Energy, LLC Site

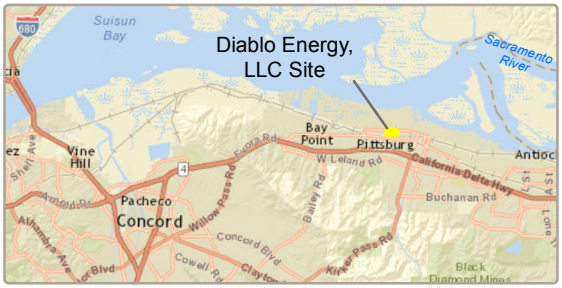


Figure 1: Project Location
Diablo Energy, LLC

N

0 400 800 1,200 Feet

1:9,600

7/14/2017

TRC
Results you can rely on

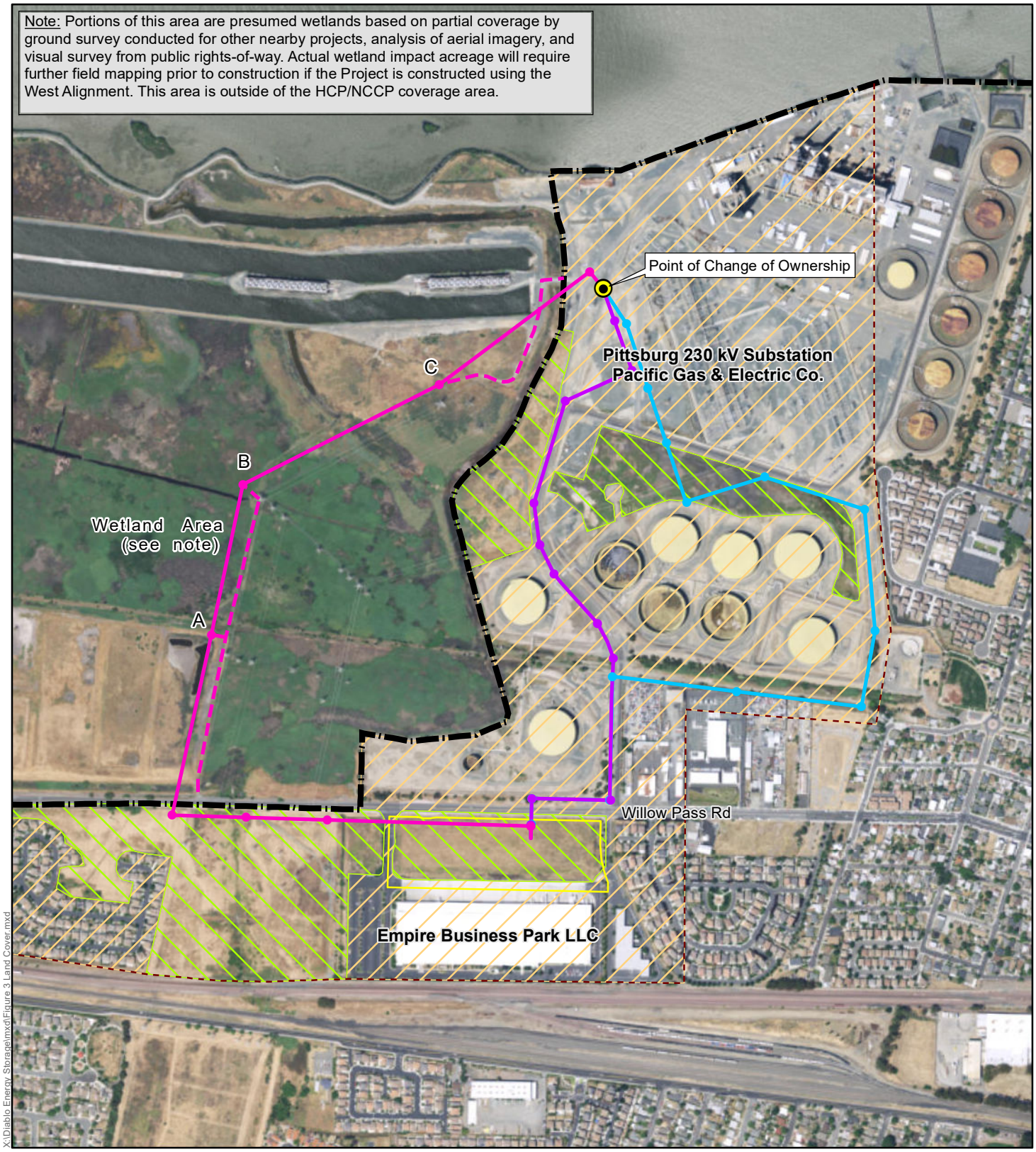
Figure 2: Site Photographs

1) Looking east from west end of the Site.

2) Looking north along the driveway just east of the Site.

3) Looking east on the northern end of the Site.

4) Looking west from the side of the Site.



Legend

- Project Site
- West Alignment
- Middle Alignment
- East Alignment
- Limits of Project Mapping
- HCP Inventory Area
- Preliminary Structure Locations
- Preliminary Access Route
- Annual Grassland
- Urban

Figure 3: Land Cover Map
Diablo Energy Storage, LLC

N

0 400 800 1,200 Feet

1:9,600

8/29/2017

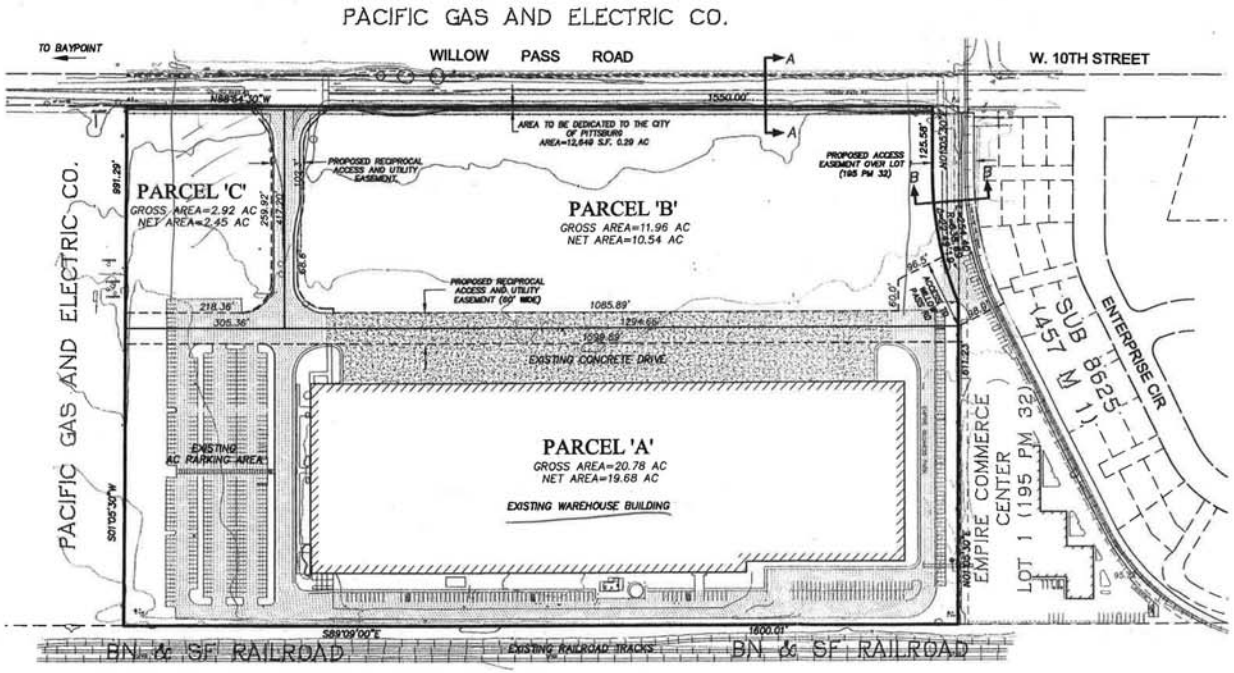
TRC
Results you can rely on

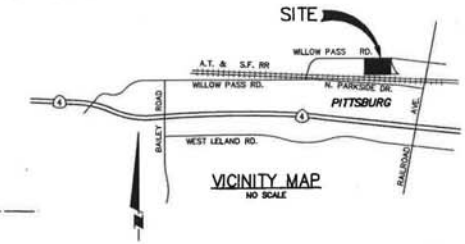
Attachment 1
Tentative Parcel Map

TENTATIVE MAP MINOR SUBDIVISION NO. 677-08

"EMPIRE BUSINESS PARK"

CITY OF PITTSBURG
CONTRA COSTA COUNTY, CALIFORNIA
SCALE: 1" = 100' OCTOBER 2008





VICINITY MAP
NO SCALE

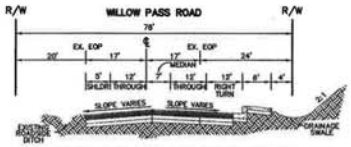
PROJECT SUMMARY

1.	OWNER & DEVELOPER:	DON & LONNE CARR C/O DAVIS & ASSOCIATES 701 WILLOW PASS ROAD PITTSBURG, CA 94565 (925) 432-4714
2.	ENGINEER:	ISAKSON & ASSOCIATES, INC. 2255 YGNACIO VALLEY ROAD #C WALNUT CREEK, CA 94598 (925) 937-9333
3.	PROPERTY ADDRESS:	701 & 753 WILLOW PASS RD.
4.	WATER SUPPLY:	CITY OF PITTSBURG
5.	SEWER SERVICE:	CITY OF PITTSBURG
6.	POWER:	PGE
7.	PHONE SERVICE:	AT&T
8.	CONTOURS:	1' CONTOURS
9.	ASSESSORS PARCEL NO.:	APN. 085-280-009
10.	TOTAL AREA (GROSS)	35.95 ACRES

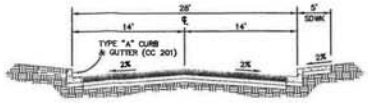
11. 3 PARCELS PROPOSED
PARCEL A-19.68 AC
PARCEL A-10.54 AC
PARCEL A-2.45 AC

LEGEND

PROPOSED	ITEM
	PROJECT BOUNDARY
	RIGHT-OF-WAY LINES
	PROPERTY LINES
	EASEMENT LINES
	EXISTING BUILDING
	PAVEMENT
	CONCRETE



EXISTING WILLOW PASS ROAD
SECTION A-A
NOT TO SCALE



EXISTING ENTRANCE DRIVEWAY
SECTION B-B
NOT TO SCALE

REGISTERED PROFESSIONAL ENGINEER
DAVID ISAKSON
STATE OF CALIFORNIA

SUBDIVISION MS — EMPIRE BUSINESS PARK

TENTATIVE MAP

PITTSBURG — CONTRA COSTA COUNTY — CALIFORNIA

Isakson & Assoc. Inc.
civil engineering & land surveying
2255 Ygnacio Valley Road, Suite C, Walnut Creek, CA 94598 Phone: (925) 937-9333

DATE: 10-30-08	DESIGNED BY: B.L.	DRAWN BY: NGS	CHECKED BY: DGI	JOB NO.: 200836	SHEET 1 OF 1

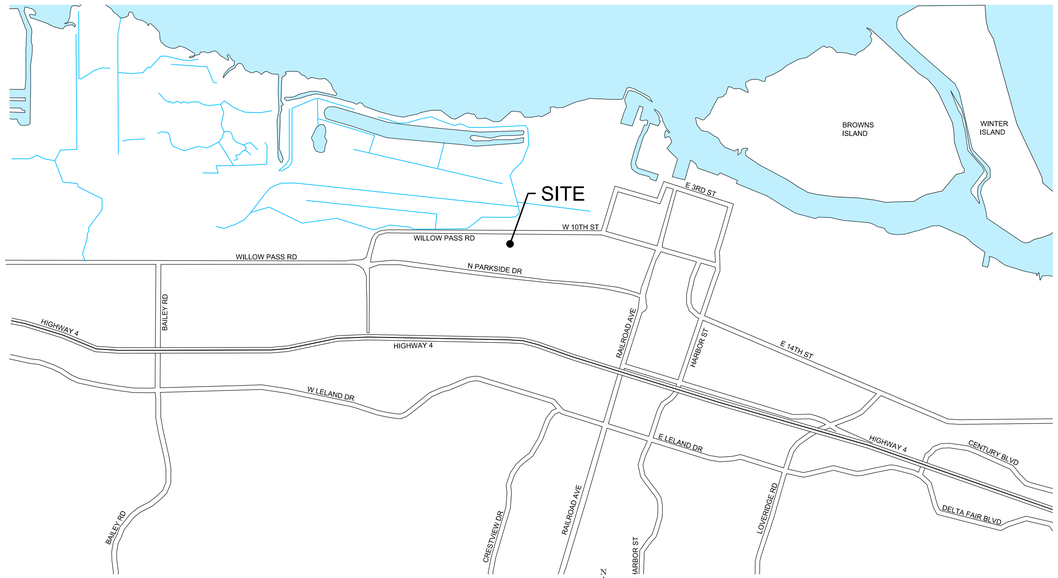
200836 EMPIRE - TENTATIVE MAP MINOR SUBDIVISION NO. 677-08 10-30-2008

Attachment 2
Preliminary Site Plans

PRELIMINARY SITE PLANS

DIABLO ENERGY STORAGE

PITTSBURG, CALIFORNIA



VICINITY MAP

NOT TO SCALE

PROPERTY OWNERS

EMPIRE BUSINESS PARK, LLC
1500 3RD STREET #C
NAPA, CA 94559
PH: 707-255-6540

ENGINEER/CONSULTANT

TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
JSTENGER@TRCSOLUTIONS.COM

APPLICANT

DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5240
FAX: 925-201-5230

DESCRIPTION

THESE PRELIMINARY PLANS INVOLVE THE DEVELOPMENT OF SINGLE-STORY BUILDING SPACE FOR HOUSING BATTERIES AND CONTROL EQUIPMENT, AND ANCILLARY EQUIPMENT INCLUDING INVERTERS AND TRANSFORMERS, AN ELECTRIC SUBSTATION AND ELECTRIC LINE TO THE EXISTING PG&E PITTSBURG SUBSTATION. THE FACILITY WILL BE UNOCCUPIED AND IS DESIGNED FOR FULL REMOTE OPERATION. BECAUSE THE FACILITY WILL NOT BE OCCUPIED, NO POTABLE WATER SYSTEM OR SANITARY SYSTEM IS PROPOSED. NO EXTERIOR LIGHTING IS PROPOSED. EXISTING DRIVEWAY AND PARKING WILL BE USED. THERE WILL BE ROOM FOR PARKING ONSITE FOR OCCASIONAL SITE VISITS.

SITE INFORMATION

STREET ADDRESS:	701 WILLOW PASS ROAD, PITTSBURG, CA
ASSESSOR'S PARCEL NUMBER:	085-280-010
ZONING:	INDUSTRIAL PARK - LIMITED OVERLAY (IP-O)
BUILDING SQUARE FOOTAGE:	(3) 62,000 SF
TOTAL BUILDING SQUARE FOOTAGE:	186,000 SF
PROPOSED LOT AREA (GROSS):	11.85 AC
PROPOSED LOT AREA (NET):	10.44 AC
LOT COVERAGE (EACH BUILDING):	13.33%
LOT COVERAGE (TOTAL):	40%
FLOOR AREA RATIO:	0.40
PERCENT OF LANDSCAPE COVERAGE:	17%
NUMBER OF PROPOSED PARKING:	0
DISTURBED AREA (GRASSLAND AND BARE SOIL):	10.73 AC
DISTURBED AREA (GRASSLAND):	10.41 AC
DISTURBED AREA (BARE SOIL):	0.32 AC
EXISTING IMPERVIOUS AREA:	0 SF
PROPOSED IMPERVIOUS AREA:	205,044 SF

LEGEND

- EXISTING PROPERTY BOUNDARY
- PROPOSED PROPERTY BOUNDARY
- EXISTING EASEMENT
- PROPOSED EASEMENT
- EXISTING TOPOGRAPHIC CONTOUR (1-FT INTERVAL)
- 15 EXISTING TOPOGRAPHIC CONTOUR (5-FT INTERVAL)
- 14 PROPOSED TOPOGRAPHIC CONTOUR (1-FT INTERVAL)
- SS EXISTING SEWER LINE
- EXISTING CHAIN LINK FENCE
- E EXISTING OVERHEAD ELECTRICAL
- TEL EXISTING COMMUNICATION LINE
- PROPOSED CHAIN LINK FENCE
- PROPOSED ELECTRIC LINE
- LIMITS OF GRADING AREA
- EXISTING FIRE HYDRANT
- EXISTING STREET LIGHT
- EXISTING MONITORING WELL
- EXISTING DRAIN INLET
- EXISTING MANHOLE
- PROPOSED POWER POLE
- PROPOSED STORMWATER PIPE
- PROPOSED DITCH (FLOWLINE)
- PROPOSED SHEET FLOW
- 1.6% SLOPE AND DIRECTION
- EXISTING ASPHALT CONCRETE
- EXISTING CONCRETE SURFACE
- PROPOSED CLASS II AGGREGATE BASE
- PROPOSED BIORETENTION BMP
- FMEA FLOOD ZONE AE
- FEMA FLOOD ZONE X (HATCHED)
- (E) EXISTING
- SL STREET LIGHT
- FH FIRE HYDRANT
- DI STORM DRAIN INLET
- PIV/FDC POST INDICATOR VALVE / FIRE DEPARTMENT CONNECTION
- WM WATER METER
- ELECT ELECTRICAL
- JT JOINT TRENCH LINES
- OH OVERHEAD LINES
- SSMH SANITARY SEWER MANHOLE

DRAWING SCHEDULE

C-1	COVER SHEET
C-2	EXISTING BOUNDARIES, EASEMENTS AND FLOODING
C-3	PROPOSED BOUNDARIES AND EASEMENTS
C-4	EXISTING TOPOGRAPHY
C-5	CONCEPTUAL GRADING PLAN
C-6	CONCEPTUAL SITE PLAN
C-7	CONCEPTUAL DRAINAGE PLAN
C-8	CONCEPTUAL LANDSCAPING PLAN
C-9	ELECTRICAL DETAILS
C-10	ROAD, DRAINAGE AND FENCE DETAILS
C-11	CONSTRUCTION PHASING
A-1	TYP. FLOOR PLAN BUILDING 1-2-3
A-2	ROOF PLAN - BUILDING 1-2-3
A-3	BUILDING SECTIONS
A-4	EXTERIOR ELEVATIONS
A-5	EXTERIOR ELEVATIONS ALTERNATE

EARTHWORK QUANTITIES

LIMITS OF GRADING: 8.64 AC

	CUT	FILL
WESTERN BUILDING PAD	1600 CY	2050 CY
CENTRAL BUILDING PAD	1900 CY	2400 CY
EASTERN BUILDING PAD	3300 CY	2800 CY
SUBSTATION PAD	450 CY	875 CY
ROADWAY	1175 CY	275 CY
STORMWATER BMP	845 CY	45 CY
NET CUT (ONSITE):	825 CY	
CLASS II AGG. BASE IMPORT	990 CY	
BIORETENTION MEDIA IMPORT	770 CY	

REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: COVER SHEET

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5240
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. C-1

NOTES:

1. INFORMATION SHOWN ON THIS SHEET IS BASED ON THE ALTA / NSPS LAND TITLE SURVEY PREPARED BY RUGGERI-JENSEN-AZAR DATED APRIL 20, 2017.
2. PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP FOR CONTRA COSTA COUNTY, CALIFORNIA AND INCORPORATED AREAS, MAP NUMBER 06013C0119G, MAP REVISED SEPTEMBER 30, 2015, THE SUBJECT PROPERTY LIES WITHIN ZONE AE (EL 11) – SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATION OR DEPTH; ZONE X (HATCHED) - SPECIAL FLOOD HAZARD AREAS, 0.2% ANNUAL CHANCE FLOOD HAZARD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTH LESS THAN ONE FOOT OR WITH DRAINAGE AREAS OF LESS THAN ONE SQUARE MILE; AND ZONE X - OTHER AREAS, AREAS OF MINIMAL FLOOD HAZARD.

N

60 ft 0 60 ft 120 ft

SHEET SIZE 24"x36" - SCALE: 1"=60'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: EXISTING BOUNDARIES, EASEMENTS AND FLOODING

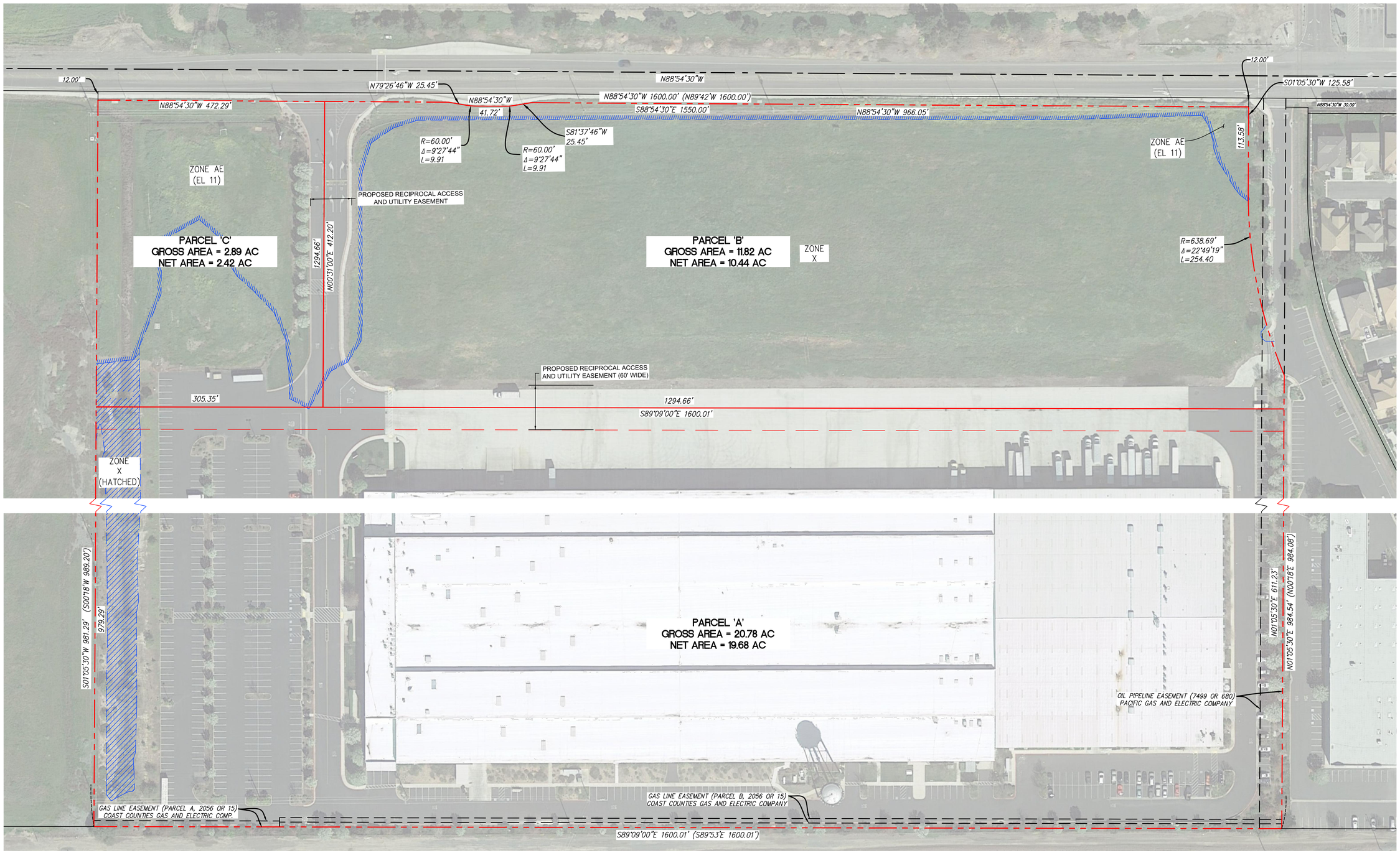
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5249
FAX: 925-201-5230

TRC Results you can rely on

SHEET NO. C-2



REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: PROPOSED BOUNDARIES AND EASEMENTS

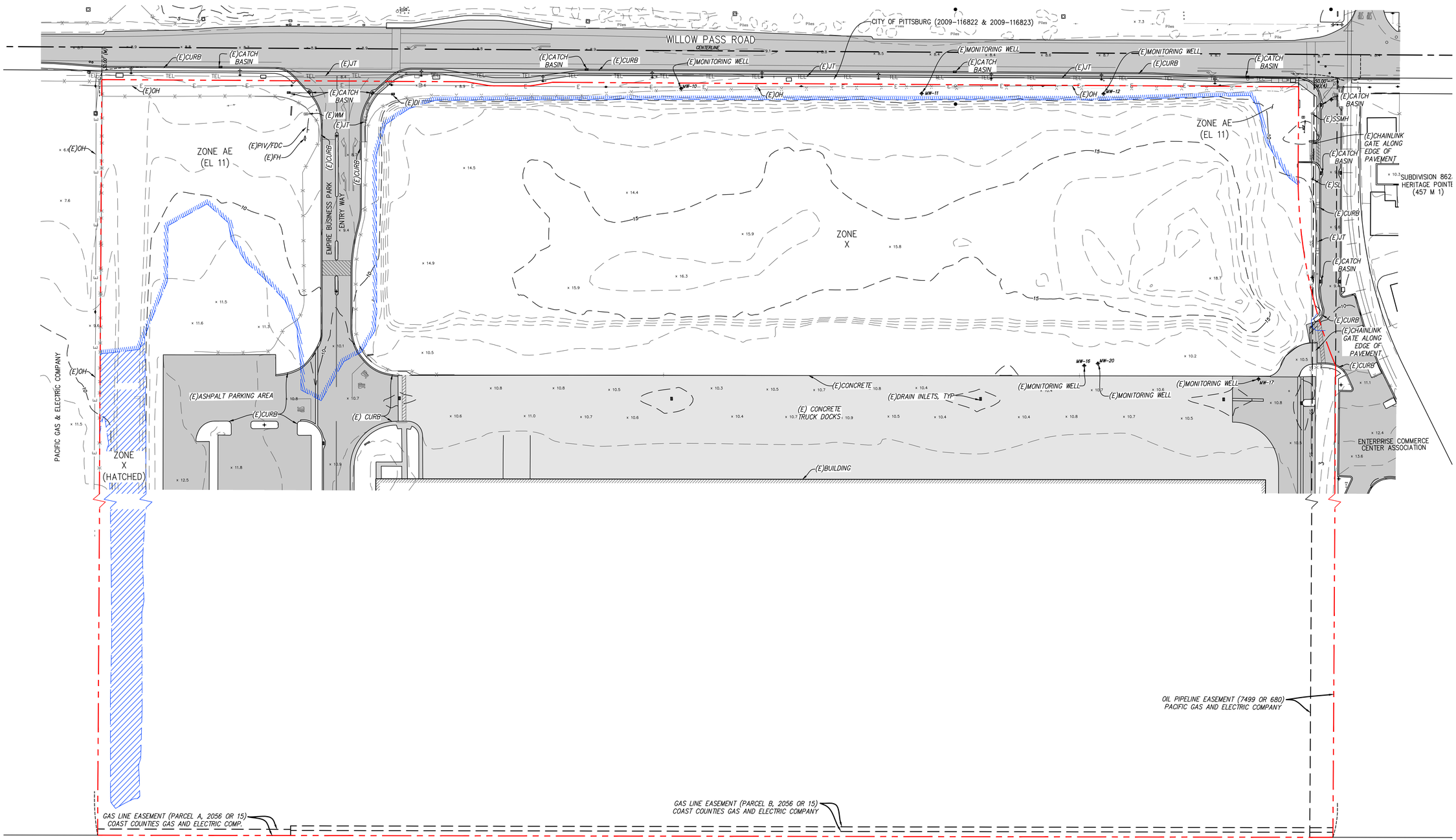
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
TEL: 925-201-6340
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614-5233
PH: 949-697-7469
jstenger@trcsolutions.com

TRC
Results you can rely on

SHEET NO. C-3



REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: EXISTING TOPOGRAPHY

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0540
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
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IRVINE, CALIFORNIA 92614
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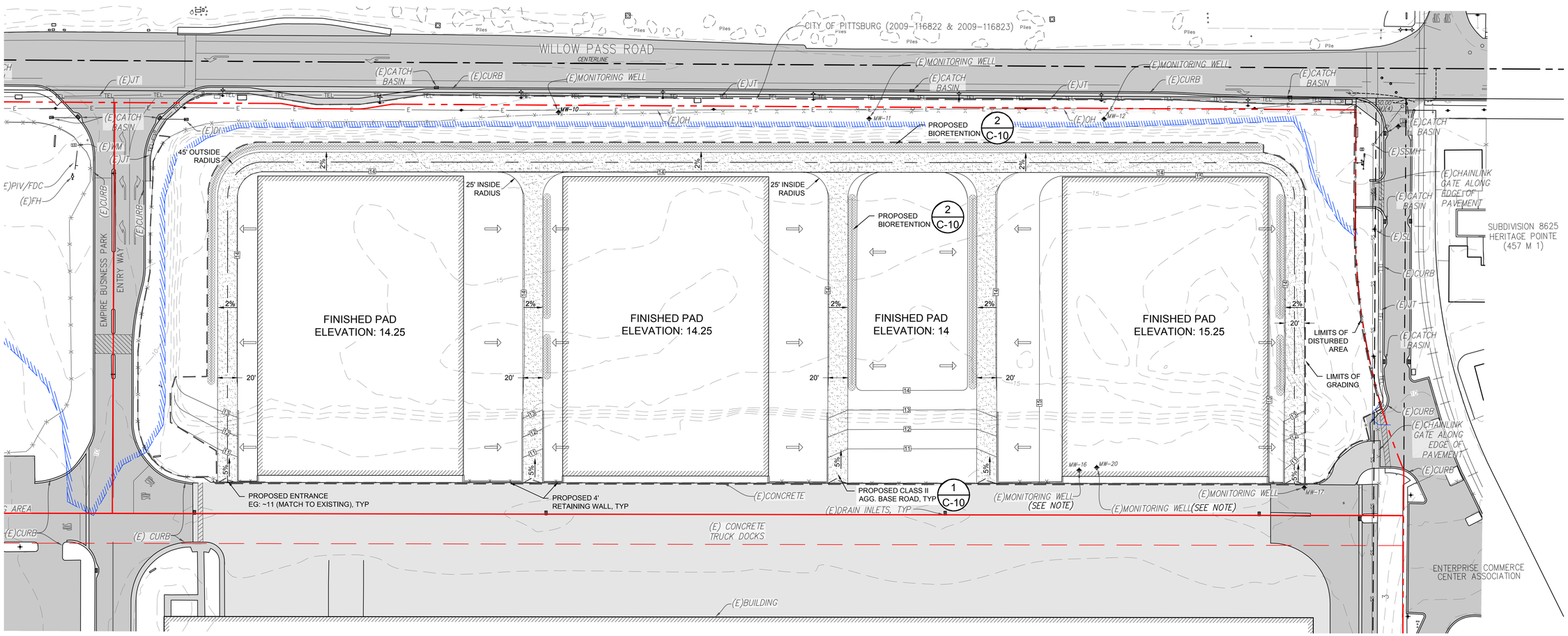
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. C-4



NOTE: EXISTING MONITORING WELLS TO BE PRESERVED IN PLACE IF NEEDED, AND FINISHED WITH FLUSH COVERS AT BUILDING FLOOR GRADE. ACCESS WILL BE PROVIDED FOR MONITORING AS NEEDED. ALTERNATIVELY, WELLS MAY BE ABANDONED OR RELOCATED IF APPROVED BY DTSC IN CONJUNCTION WITH THE SEPARATE ONGOING MONITORING AND REPORTING PROGRAM INTERACTIONS WITH THE LANDOWNER AND DTSC.

N

50 ft 0 50 ft 100 ft

SHEET SIZE 24"x36" - SCALE: 1"=50'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

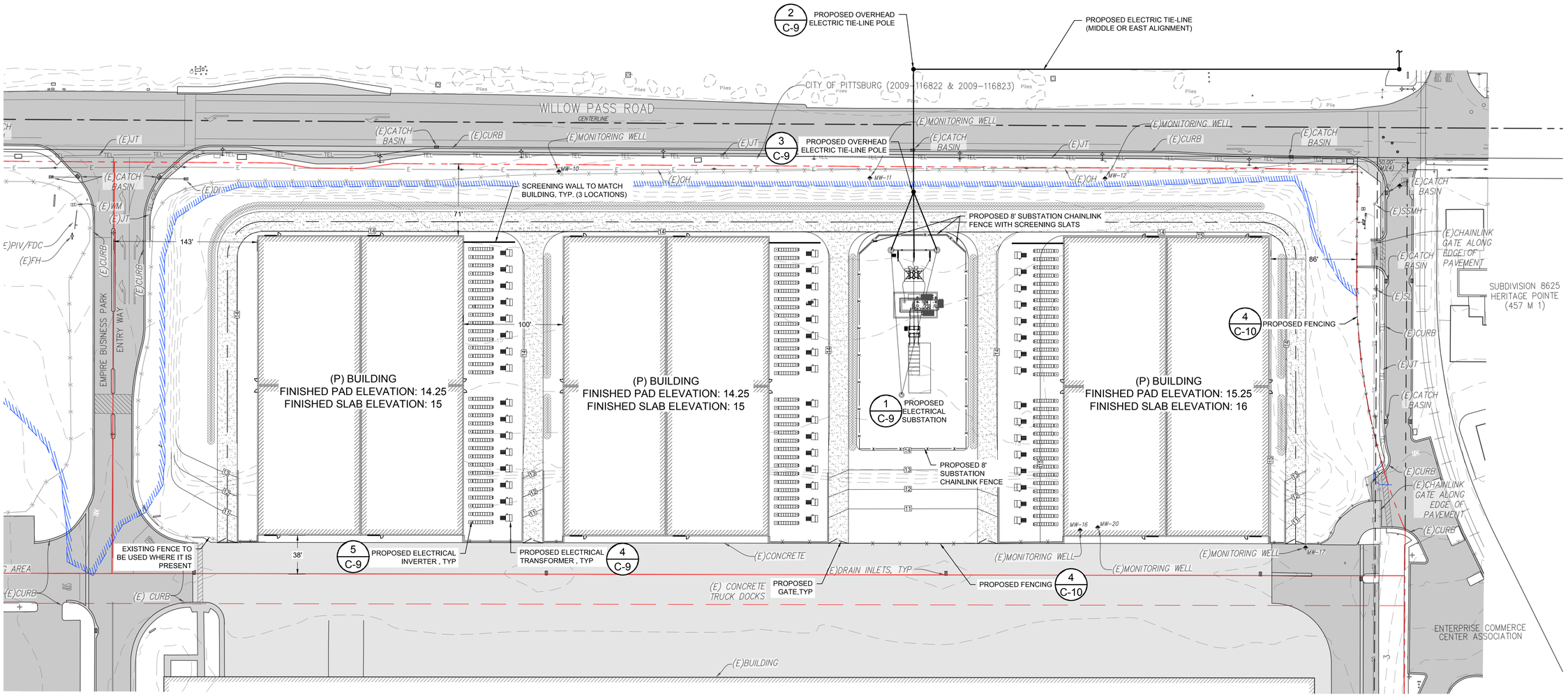
TITLE: CONCEPTUAL GRADING PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7264
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0945
FAX: 925-201-5230

SHEET NO. C-5



REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

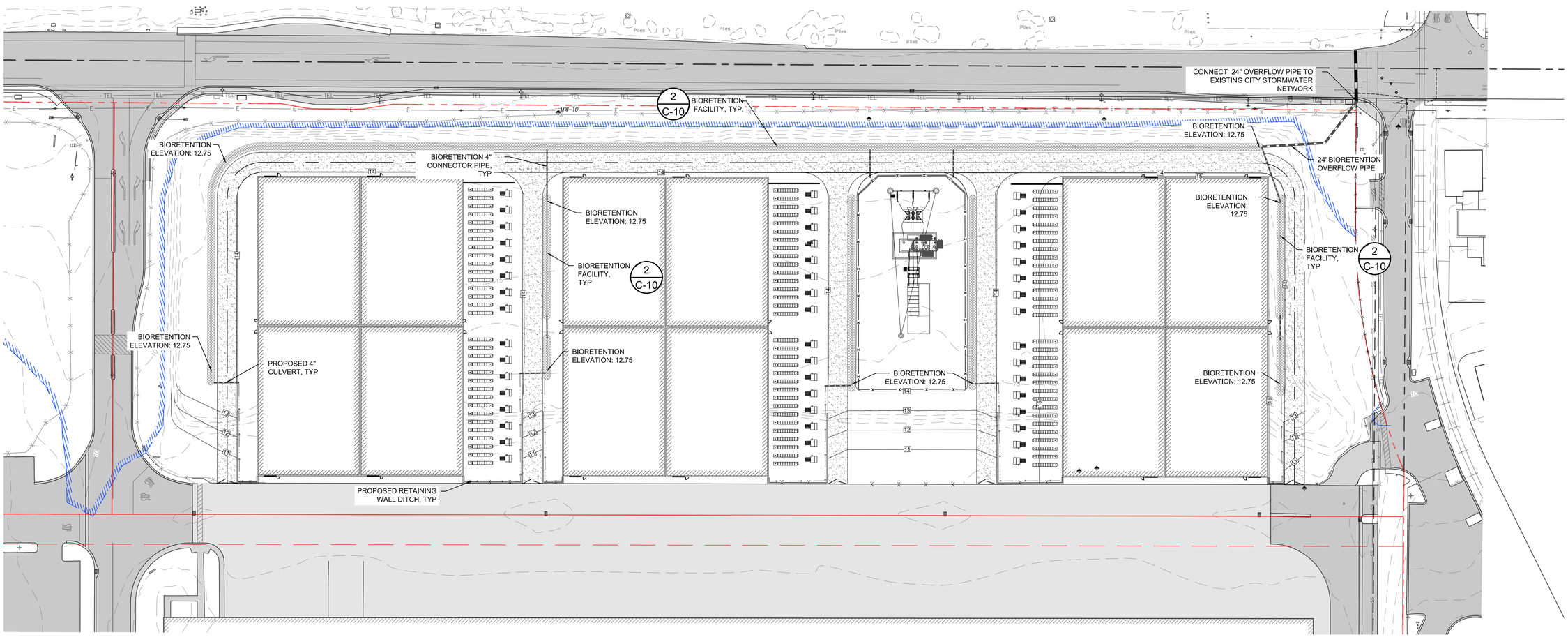
TITLE: CONCEPTUAL SITE PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CALIFORNIA 92614
PH: 949-697-7769
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5588
FAX: 925-201-5230

SHEET NO. C-6



N

50 ft 0 50 ft 100 ft

SHEET SIZE 24"x36" - SCALE: 1"=50'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

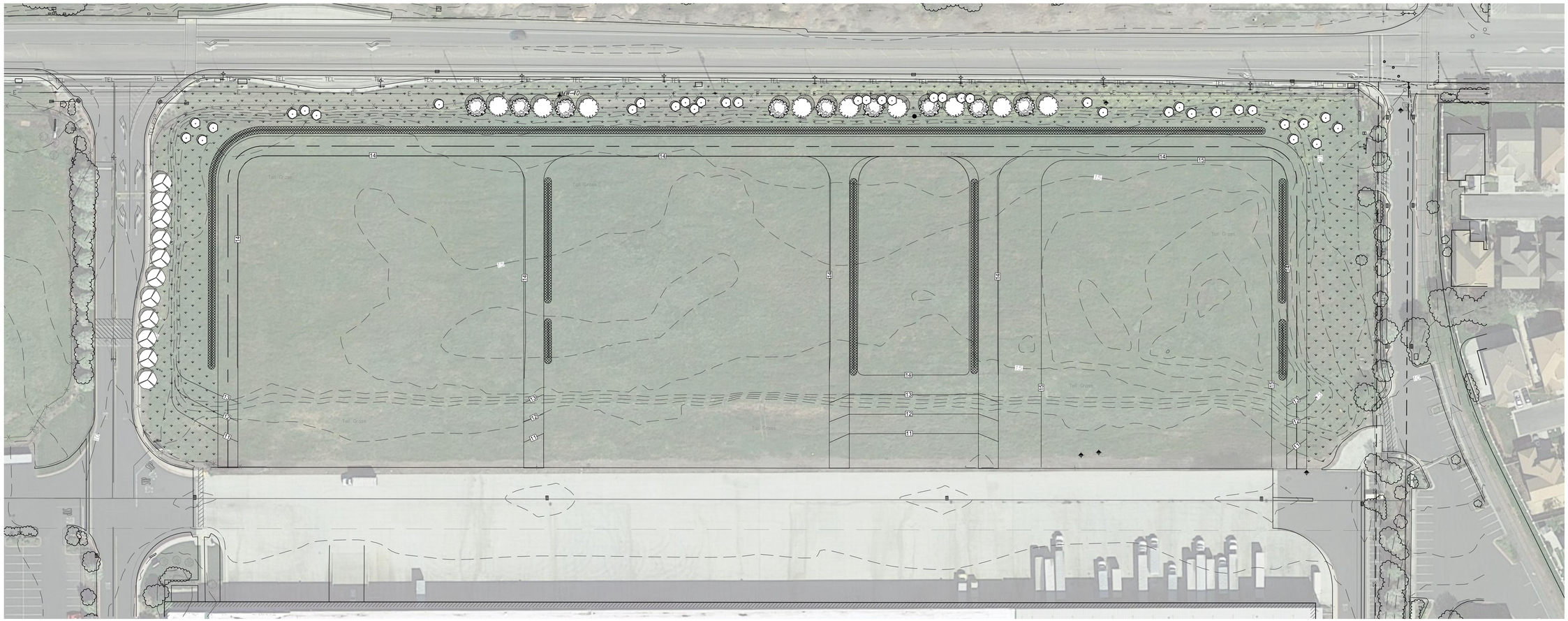
TITLE: CONCEPTUAL DRAINAGE PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
jatenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-6450
FAX: 925-201-5230

SHEET NO. C-7



LANDSCAPE CONCEPT

The landscape concept for Diablo Energy, LLC includes small canopy trees in combination with groups of low to medium height flowering shrubs and ground cover in an arrangement to blend with existing adjacent driveway landscaping, shield views of outdoor electrical equipment and provide a water efficient aesthetic frontage on Willow Pass Road. The suggested plant palette is comprised of drought tolerant species with evergreen foliage. An existing row of trees and driveway edge landscaping at the east side of the site will be left in place. On the west driveway edge, trees and groundcover is proposed to mirror the landscaping plan on the opposite side of the driveway offsite. Clustered trees and shrubs with ground cover is proposed for the Willow Pass frontage.

Two types of tree species are shown - a canopy tree and a flowering accent tree. Suggested trees have evergreen foliage; however an alternative accent tree with deciduous foliage is also included. All suggested trees are listed on the Contra Costa County Landscape Standards as suitable for planting under utility lines (2012).

Site areas: 11.85 acres (net); 10.44 acres (gross)
Total Existing Landscape: 0 sq. ft.
Additional Proposed Landscaped Area: 88,000 sq. ft.
Source of Irrigation Water: City of Pittsburg Potable Water Supply

NOTES:

1. Landscape shall incorporate best management practices for water efficient design consistent with Pittsburg Municipal Code 18.84.310.

2. Automated irrigation controllers shall be provided that utilize daily weather information, evapotranspiration data or soil moisture sensor data, along with other site information, to adjust the irrigation schedule on a daily basis.

3. Irrigation shall be designed and implemented to prevent excessive runoff, overspray or other water waste.

4. Final irrigation system design shall be under the direction of a licensed landscape architect or civil engineer.

5. Planting sizes shall not be less than 15-gallon containers specimens for trees, five-gallon container specimens for shrubs, and one-gallon container specimens for mass planting.

6. Medium bark mulch to a depth of 3 inches will be applied within the planting area for water conservation and weed suppression where live groundcover is not used.

7. Landscaping within the Willow Pass Road right-of-way will be installed and maintained by the Applicant.

8. Water meter shall be located on the property at a location approved to by the City of Pittsburg.

9. All planting areas are designed as a single hydrozone

10. Landscaping layout is conceptual and subject to change during final design.

11. Landscaping installation will be consistent with project construction phasing.

PLANT LEGEND

SYMBOL	TYPE AND FORM	APPROXIMATE QUANTITY	SUGGESTED SPECIES	CONTAINER SIZE	APPROXIMATE MAXIMUM HEIGHT/SPREAD
	Small canopy, broad leaf evergreen tree	11	Species to match existing landscape on west side of driveway	15 gallon	25'/25' 25'/25' 20'/20'
	Small canopy, broad leaf evergreen tree	9	Arbutus unedo (Strawberry Tree), or Rhu lancea (African Sumac), or Eriobotrya deflexa (Bronze Loquat)	15 gallon	25'/25' 25'/25' 20'/20'
	Small, broad leaf evergreen flowering accent tree (alternate species has deciduous foliage)	9	Pyrus kawakamii (Evergreen Pear), or Lagerstroemia indica x fauriei 'Natchez' (Natchez Crape Myrtle)	15 gallon	20'/20' 25'/25'
	Small, broad leaf evergreen shrub	38	Ceanothus griseus horizontalis 'Yankee Point' (Wild Lilac), and Rosmarinus officinalis 'Prostratus' (Dwarf Rosemary), or Rhaphiolepis indica 'Jack Evans' (Indian Hawthorn)	5 gallon	2'-3'/10'-12' 2'/4'-8' 4'-5'/4'
	Groundcover		Water efficient groundcover to be approved in final landscaping plan		
	Bioretention		Species to match existing landscape on west side of driveway		
	Existing Tree / Shrub / Landscape		Species to be approved in final landscaping plan		

N

50 ft 0 50 ft 100 ft

SHEET SIZE 24"x36" - SCALE: 1"=50'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

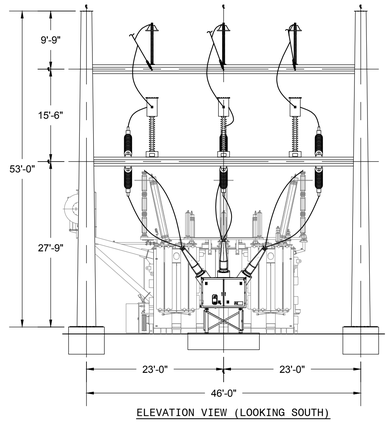
TITLE: CONCEPTUAL LANDSCAPING PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

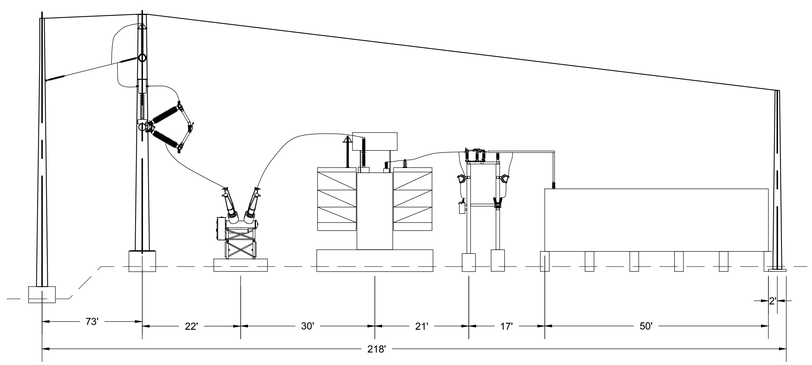
ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949.697.5264
jsitenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-2040
FAX: 925-201-5230

SHEET NO. C-8



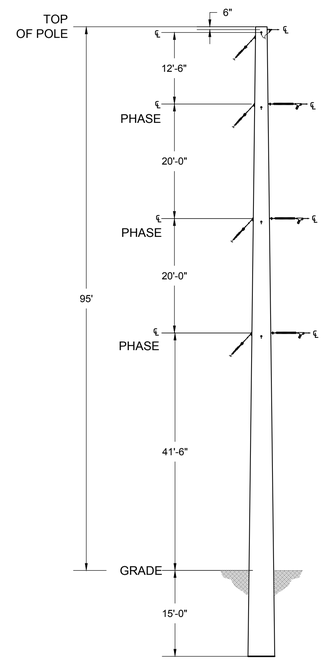
ELEVATION VIEW (LOOKING SOUTH)



ELEVATION VIEW (LOOKING EAST)

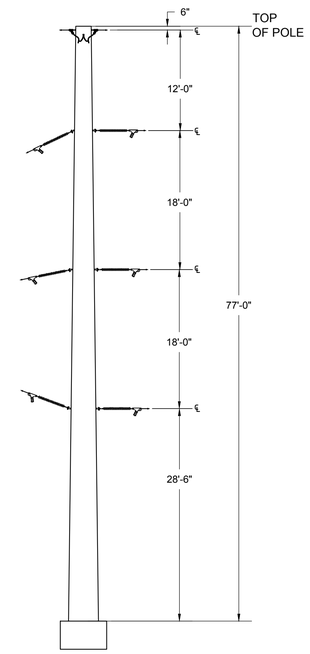
1 SUBSTATION

NOT TO SCALE



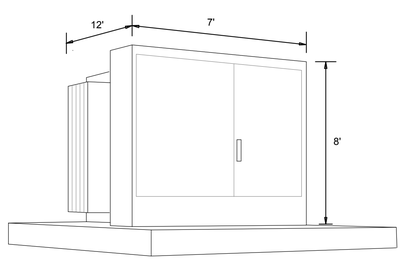
2 OVERHEAD ELECTRIC LINE TURNING POLE

NOT TO SCALE



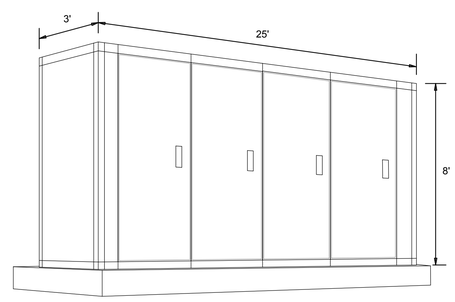
3 DOUBLE DEAD END ELECTRIC LINE POLE

NOT TO SCALE



4 PADMOUNT TRANSFORMER (TYP.)

NOT TO SCALE



5 INVERTER EQUIPMENT ENCLOSURE (TYP.)

NOT TO SCALE

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

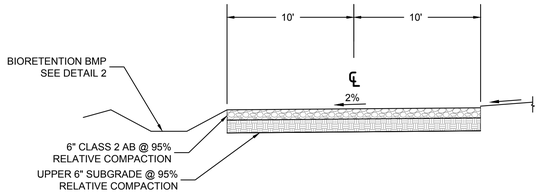
TITLE: ELECTRICAL DETAILS

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CALIFORNIA 92614
PH: 949-727-7169
jstenger@trcsolutions.com

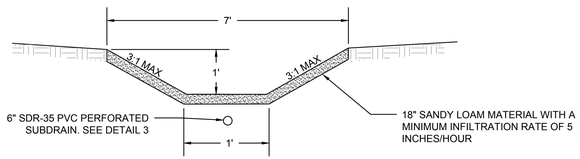
OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0345
FAX: 925-201-5230

SHEET NO. C-9



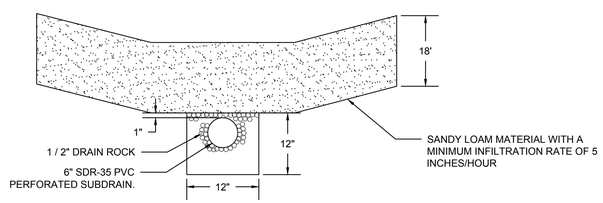
1 CLASS II AGGREGATE BASE SURFACE DRIVEWAY (TYP.)

NOT TO SCALE



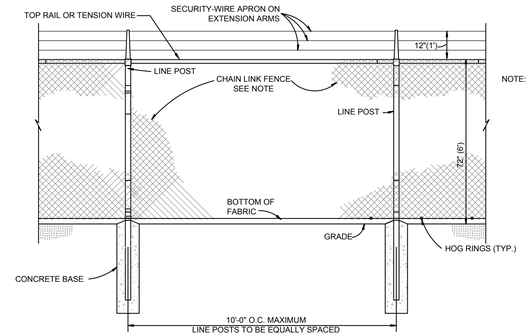
2 BIORETENTION BMP, TYP

NOT TO SCALE



3 6" SUBDRAIN UNDER BIORETENTION FACILITY, TYP

NOT TO SCALE



NOTE: NEW FENCING WILL BE INSTALLED AT THE SITE PERIMETER WHERE EXISTING FENCING DOES NOT OCCUR. EXISTING FENCING WILL BE REPAIRED WITH LIKE DESIGN OR REPLACED WITH NEW FENCING PER DETAIL SHOWN AS NEEDED BASED ON EXISTING FENCE INTEGRITY.

4 PROPOSED FENCING

NOT TO SCALE

REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: ROADWAY, DRAINAGE AND FENCE DETAILS

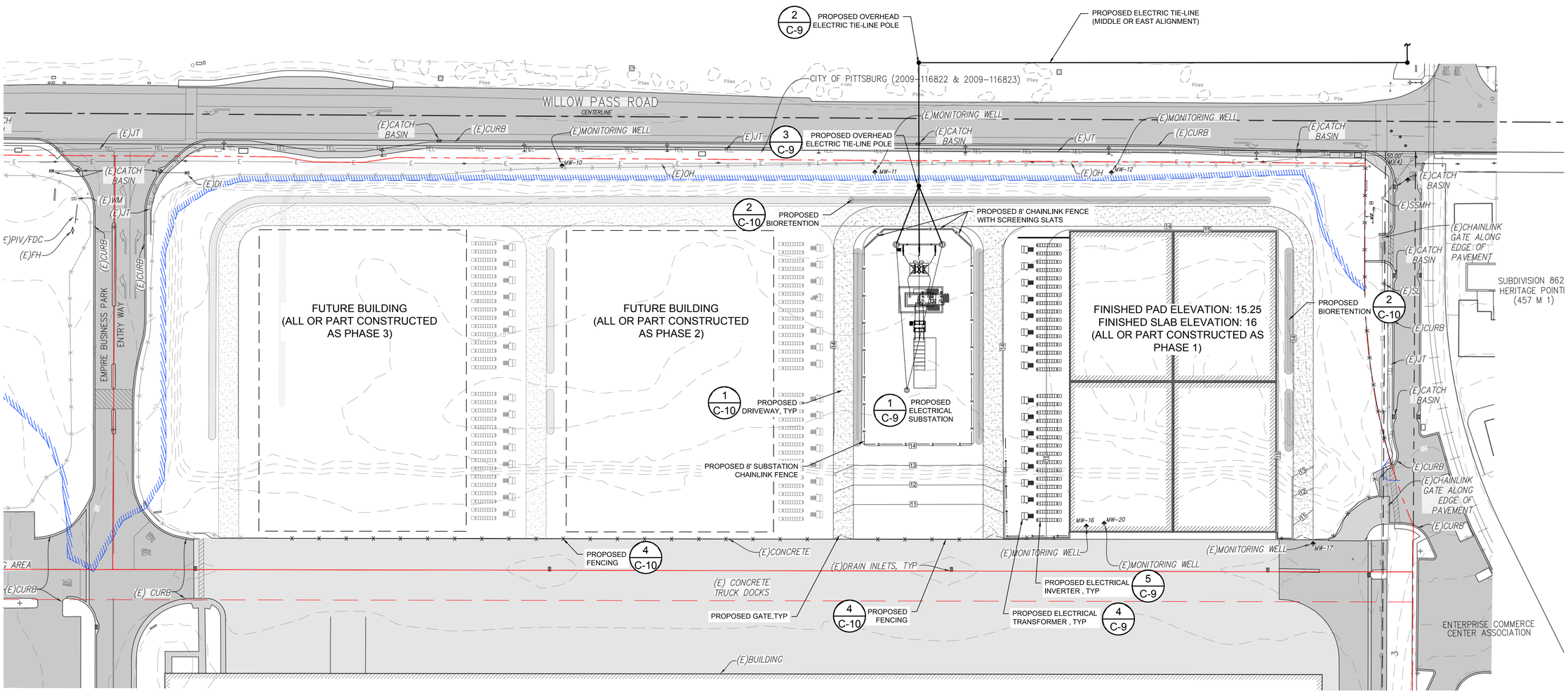
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0945
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7769
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. C-10



SHEET SIZE 24"x36" - SCALE: 1"=50'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: CONSTRUCTION PHASING

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-467-7161
jstenger@trcsolutions.com

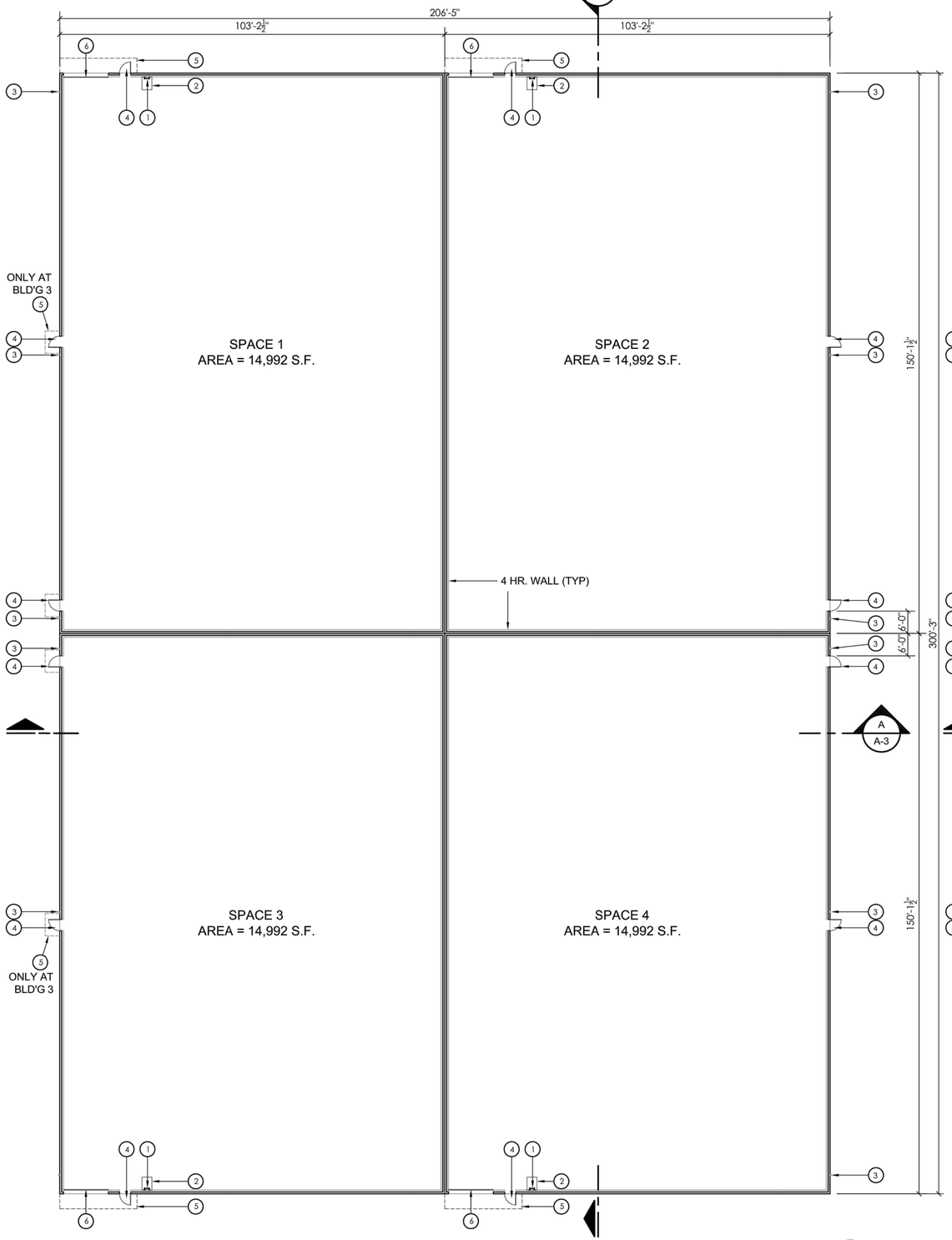
OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0345
FAX: 925-201-5230

SHEET NO. C-11

KEY NOTES

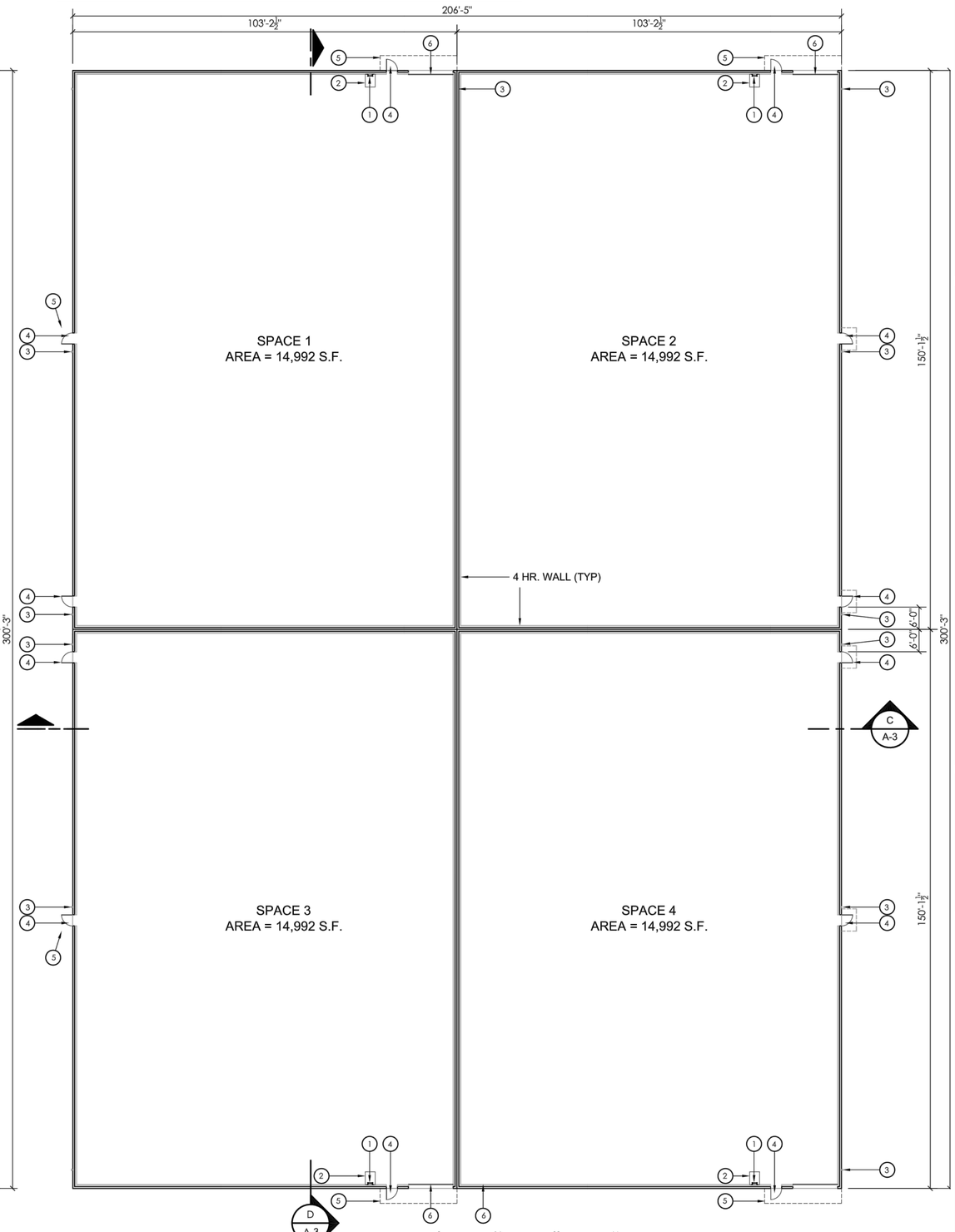
1. ROOF ACCESS LADDER
2. ROOF ACCESS HATCH ABOVE
3. DOWNSPOUT LOCATION
4. METAL DOOR
5. DOOR AWNING PROJECTION
6. 12' x12' METAL ROLL-UP DOOR

CBC Notes:
Occupancy - H-2
Construction - Type B - Sprinkled



TYPICAL FLOOR PLAN - BUILDING - 2 - 3

SCALE : 1/16" = 1'-0"



FLOOR PLAN - BUILDING 1

SCALE : 1/16" = 1'-0"

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: TYP. FLOOR PLAN BUILDING 1-2-3

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614-5020
PH: 949-697-7169
jstenger@trcsolutions.com

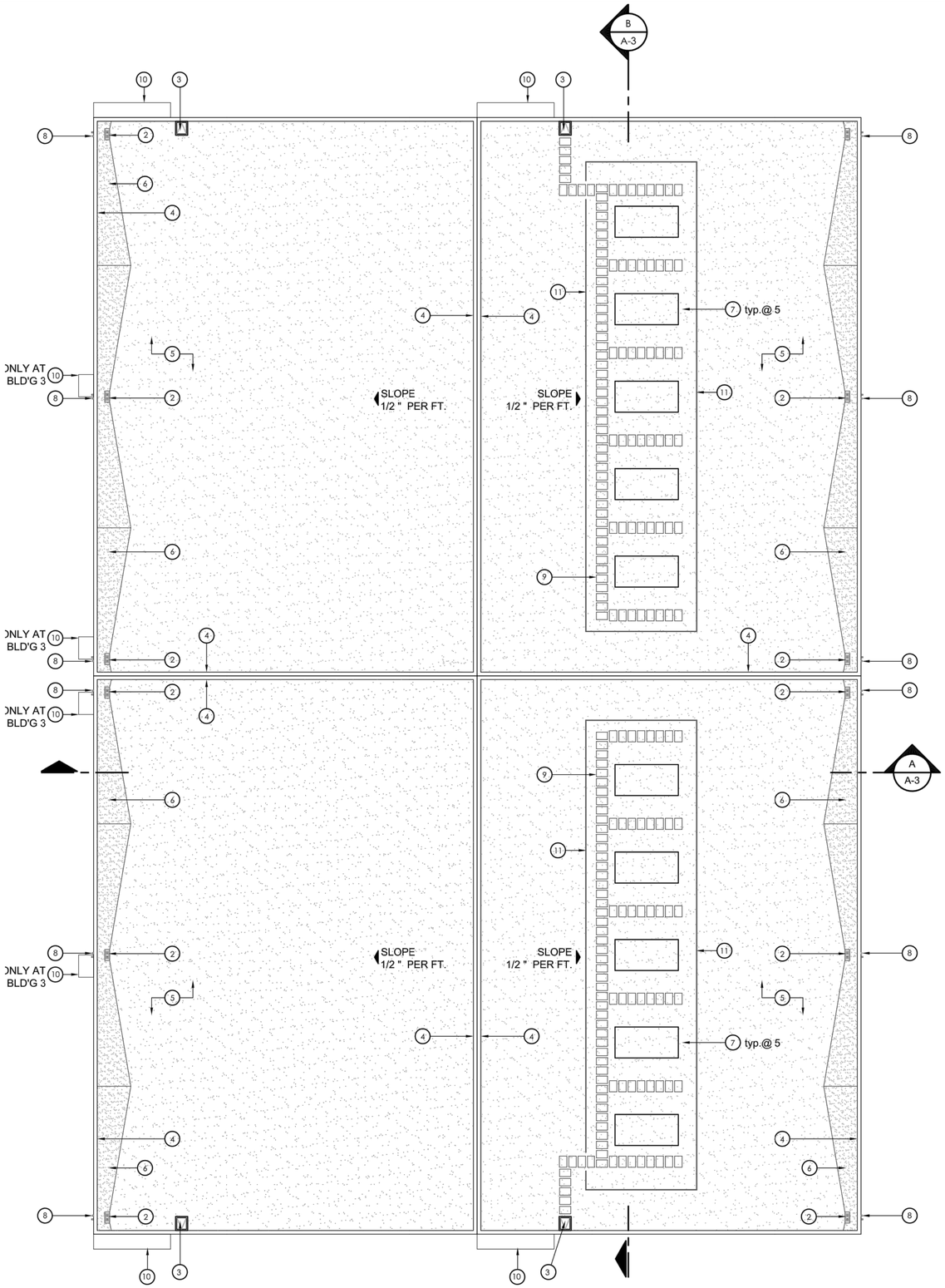
OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0540
FAX: 925-201-5230

TRC Results you can rely on

SHEET NO. A-1

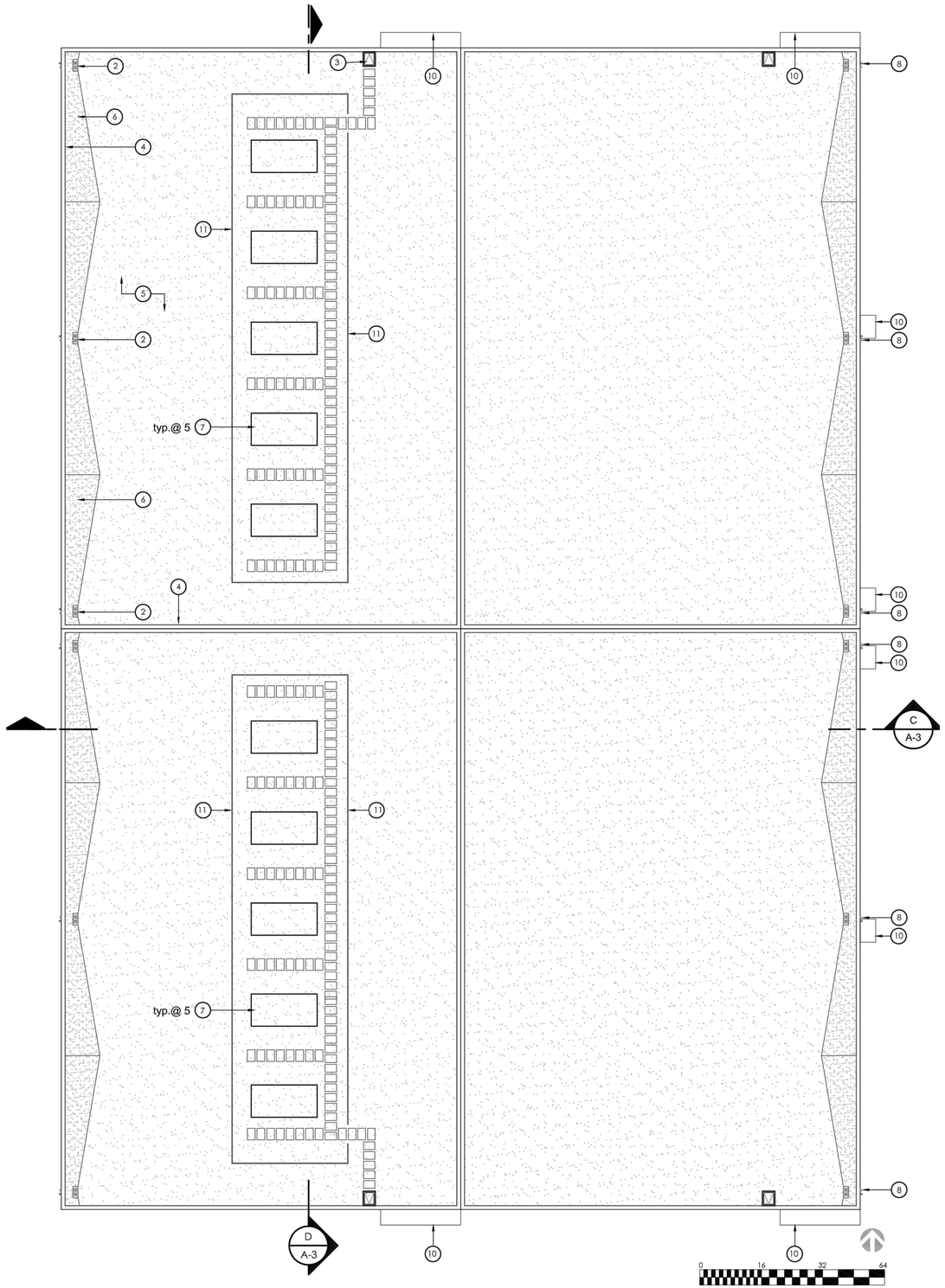
KEY NOTES

1. ROOF ACCESS LADDER
2. ROOF DRAIN AND OVERFLOW
3. ROOF ACCESS HATCH
4. PARAPET WALL
5. BUILT-UP ROOF
6. ROOF CRICKET
7. MECHANICAL UNITS
8. DOWNSPOUT
9. ROOF TRAFFIC PADS
10. DOOR AWNING
11. VENTED METAL MECHANICAL SCREEN SYSTEM



TYPICAL ROOF PLAN - BUILDING 2 - 3

SCALE : 1/16" = 1'-0"



ROOF PLAN - BUILDING 1

SCALE : 1/16" = 1'-0"

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: ROOF PLAN - BUILDING 1-2-3

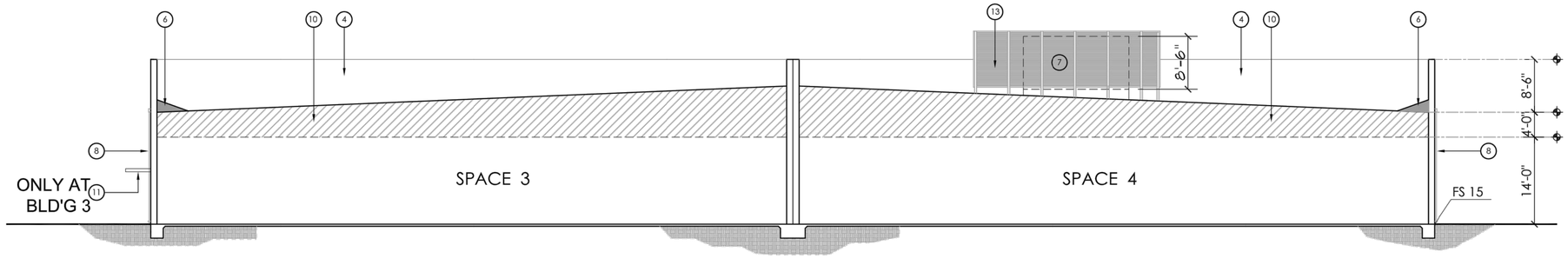
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7769
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD, SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0248
FAX: 925-201-5230

TRC Results you can rely on

SHEET NO. A-2

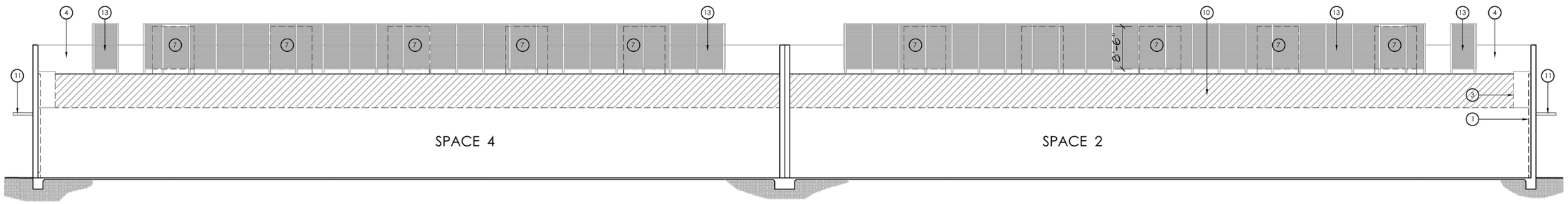


BUILDING SECTION - A - BUILDING 2 - 3

SCALE : 1" = 10'-0"

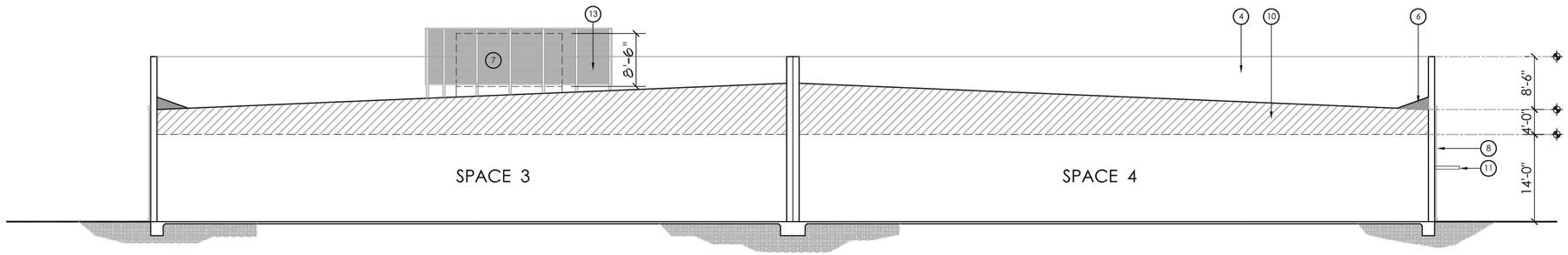
KEY NOTES

1. ROOF ACCESS LADDER
2. ROOF DRAIN AND OVERFLOW
3. ROOF ACCESS HATCH
4. PARAPET WALL
5. ROOF TRAFFIC PADS
6. ROOF CRICKET
7. MECHANICAL UNITS
8. DOWNSPOUT
9. ROOF TRAFFIC PADS
10. STRUCTURE SPACE
11. DOOR AWNING
12. METAL DOOR
13. VENTED METAL MECHANICAL SCREEN SYSTEM



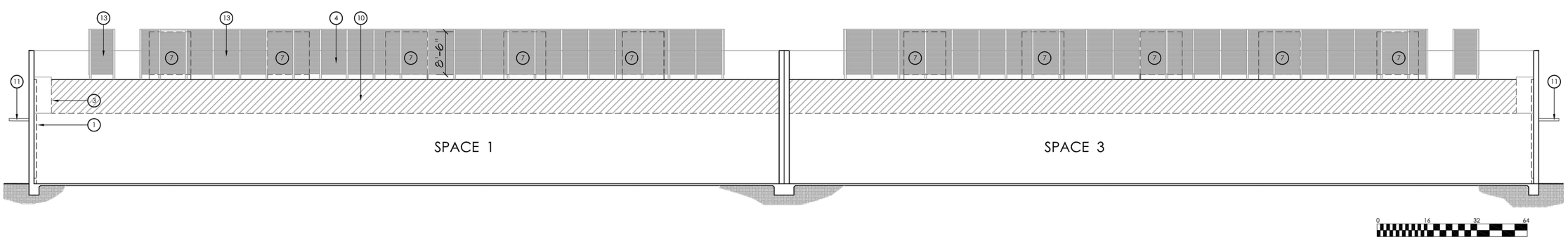
BUILDING SECTION - B - BUILDING - 2 - 3

SCALE : 1" = 10'-0"



BUILDING SECTION - C - BUILDING 1

SCALE : 1" = 10'-0"



BUILDING SECTION - D - BUILDING 1

SCALE : 1" = 10'-0"

REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: BUILDING SECTIONS - BUILDING 1-2-3

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
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IRVINE, CA 92614
PH: 949-797-7169
jsteinger@trcsolutions.com

OWNER/APPLICANT:
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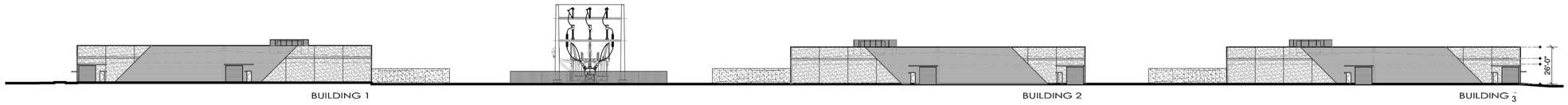
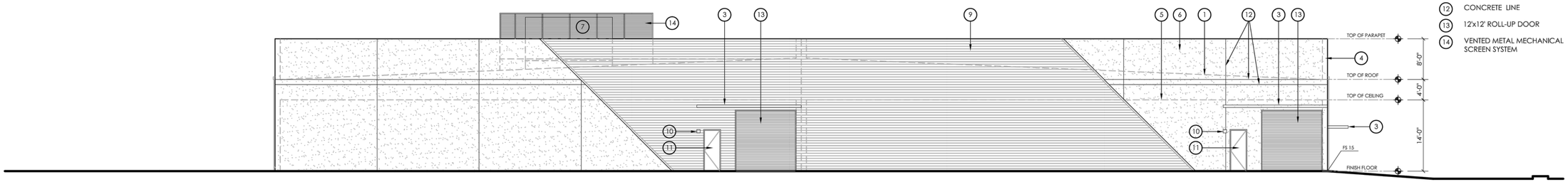
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5548
FAX: 925-201-5230

SHEET NO. A-3



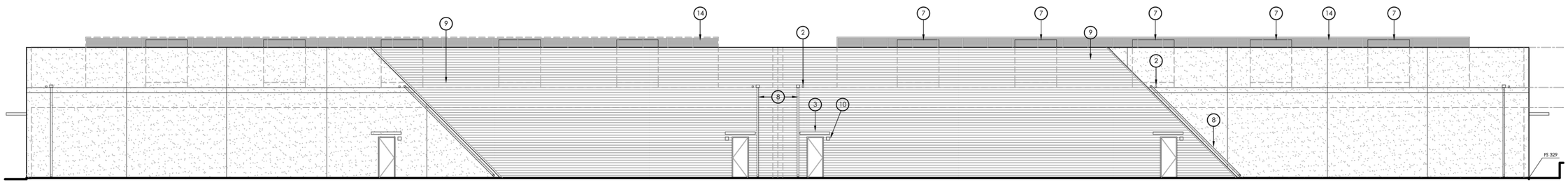
OVERALL - NORTH STREET ELEVATION - BUILDING 1 - 2 - 3

SCALE : 1" = 40'



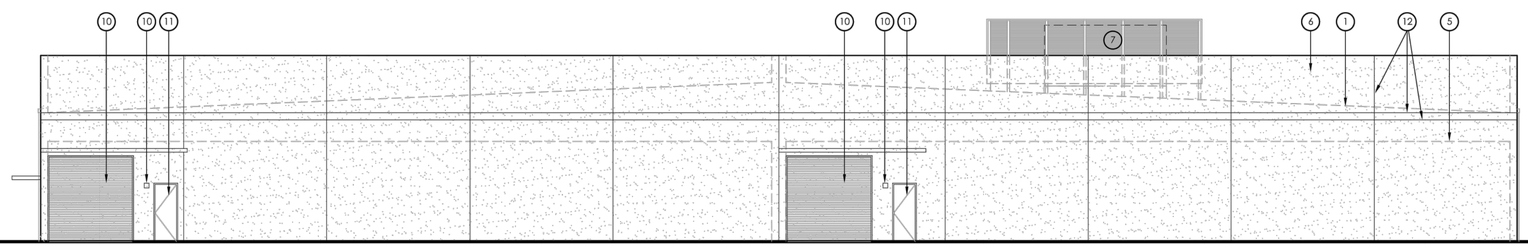
NORTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'



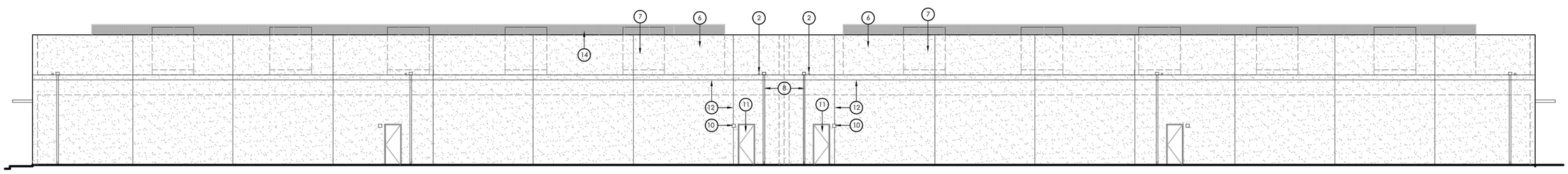
WEST ELEVATION - BUILDING 3 AND EAST ELEVATION - BUILDING - 1

SCALE : 1" = 10'



SOUTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'



WEST ELEVATION - BUILDING 1 -2 / EAST ELEVATION - BUILDING 2 - 3

SCALE : 1" = 10'

KEY NOTES

1. LINE OF ROOF
2. ROOF DRAIN OVERFLOW
3. DOOR AWNING
4. PARAPET WALL
5. TOP OF CEILING
6. TILT UP CONCRETE WALLS
7. MECHANICAL UNITS
8. DOWNSPOUT
9. METAL PANELS
10. LIGHT FIXTURE
11. METAL DOOR
12. CONCRETE LINE
13. 12'x12' ROLL-UP DOOR
14. VENTED METAL MECHANICAL SCREEN SYSTEM

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: EXTERIOR ELEVATIONS

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
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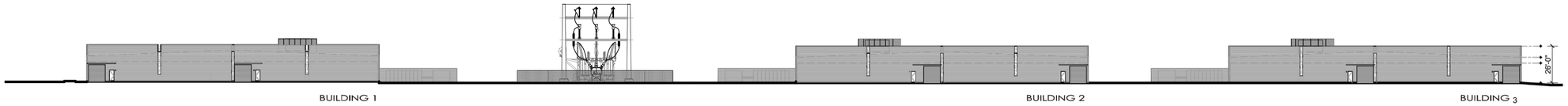
PLEASANTON, CA 94588
PH: 925-201-0248
FAX: 925-201-5230

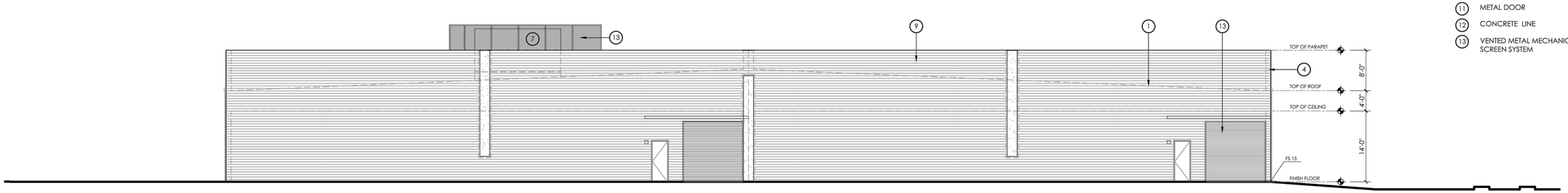
TRC Results you can rely on

SHEET NO. A-4



OVERALL - ALTERNATE - NORTH STREET ELEVATION - BUILDING 1 - 2 - 3

SCALE : 1" = 40'



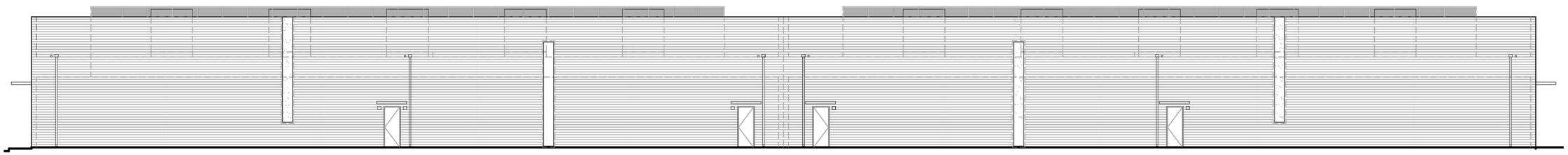
ALTERNATE NORTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'

NOTE: Illustration of alternate building exterior design employing the use of steel framing exterior walls and metal cladding exterior material.

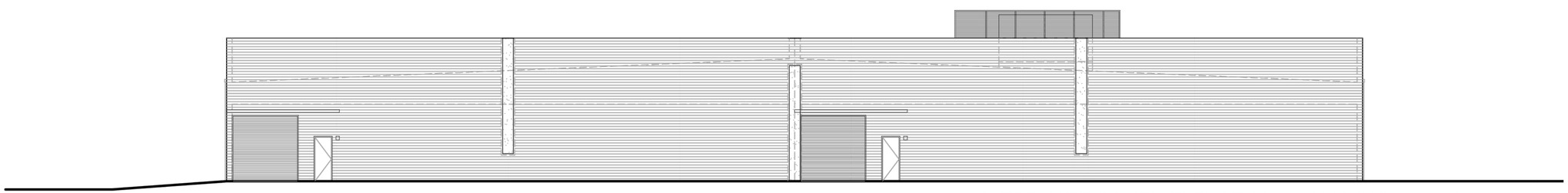
KEY NOTES

1. LINE OF ROOF
2. ROOF DRAIN OVERFLOW
3. DOOR AWNING
4. PARAPET WALL
5. TOP OF CEILING
6. TILT UP CONCRETE WALLS
7. MECHANICAL UNITS
8. DOWNSPOUT
9. SHEET METAL PANELS
10. LIGHT FIXTURE
11. METAL DOOR
12. CONCRETE LINE
13. VENTED METAL MECHANICAL SCREEN SYSTEM



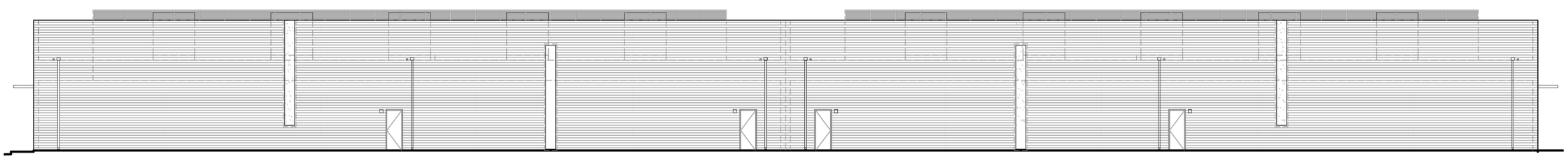
ALTERNATE ELEVATION - BUILDING 1- EAST and BUILDING 3 - WEST

SCALE : 1" = 10'



ALTERNATE SOUTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'



ALTERNATE ELEVATION - BUILDING 2- EAST and WEST

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: EXTERIOR ELEVATIONS ALTERNATE

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #450
PLEASANTON, CA 94588
PH: 925-201-5245
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-727-7169
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. A-5

Appendix B

CalEEMod Input and Output Summary

DIABLO ENERGY STORAGE PROJECT
WORST-CASE PEAK DAILY CONSTRUCTION EMISSIONS

The Diablo Energy Storage Project (Project) is proposed for construction in the City of Pittsburg, California, within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD).

The Project is expected to take 6 to 12 months to construct. During construction, the Grading Phase is expected to produce the maximum daily construction emissions. Therefore, peak daily construction emissions have been estimated based upon construction activities during the Grading Phase.

The Grading Phase is expected to include approximately 15 total work days taking place over approximately three weeks. Diesel exhaust is assumed to emit no more than Tier 2 equipment. Disturbed surfaces that are not stabilized will be watered twice per day, or other equally effective palliative will be used, and ground cover will be replaced as soon as reasonably possible. The following equipment was included in the emission calculation:

- 1x Bulldozer (247 Horsepower [HP]) @ 6 hours per day
- 1x Grader (187 HP) @ 6 hours per day
- 2x Scrapers (367 HP each) @ 6 hours per day
- 1x Water Truck (402 HP) @ 6 hours per day
- 1x Self- Propelled Compactor (80 HP) @ 6 hours per day
- 1x Dump truck (402 HP each) @ 6 hours per day
- 1x Tractor/Loader/Backhoe (97 HP) @ 6 hours per day
- 1x Bobcat (65 HP) @ 6 hours per day

Emissions were calculated using the California Emissions Estimator Model (CalEEMod), version 2016.3.1 in accordance with BAAQMD guidance. The calculated peak daily emissions are provided below.

Peak Daily Emissions (pounds per day)

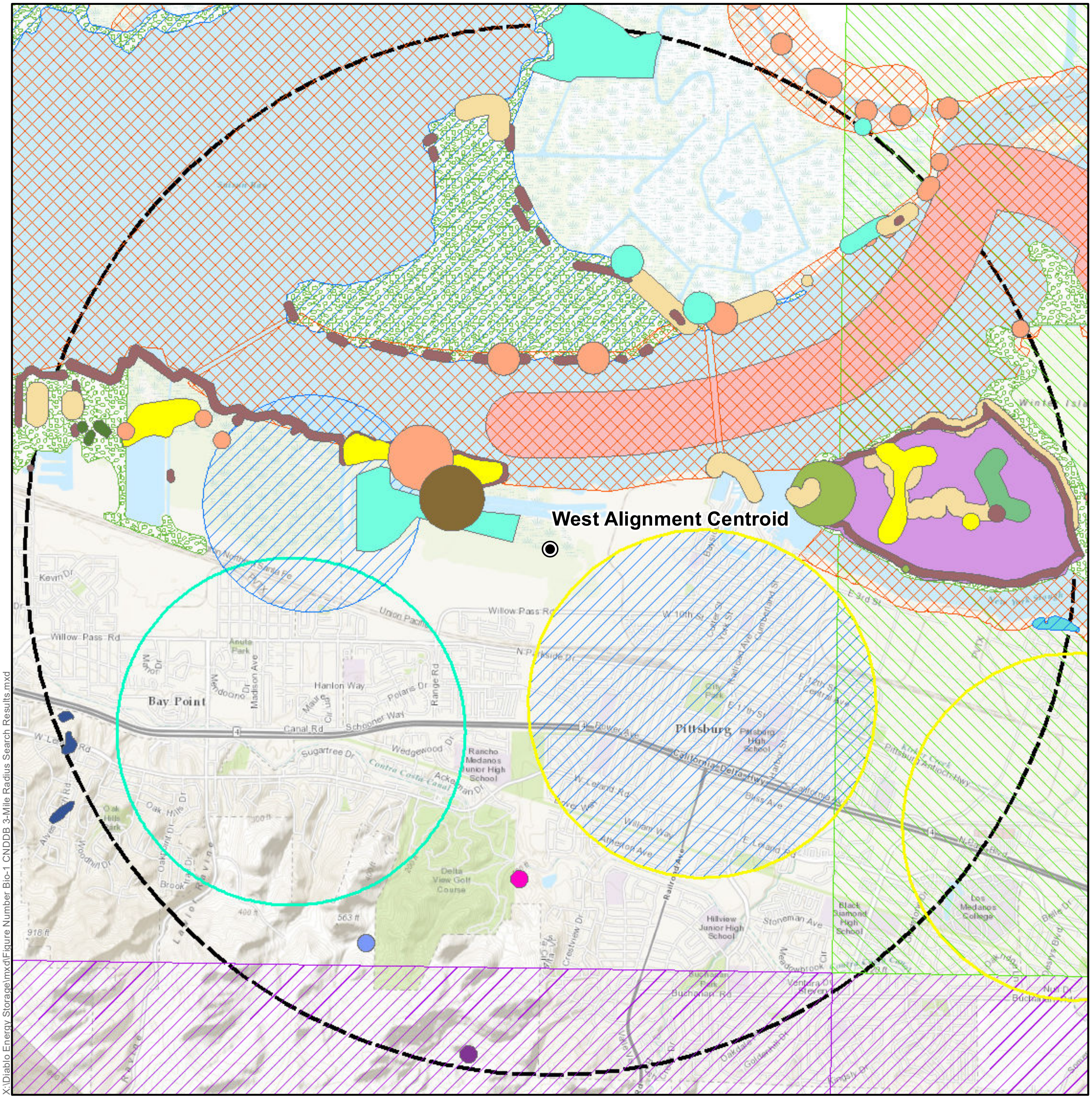
	ROG	CO	NOx	SO2	Fugitive PM10	Exhaust PM10	Fugitive PM2.5	Exhaust PM2.5
Emissions	5.4	34.3	45.9	0.1	3.8	2.3	1.5	2.1
Thresholds[1]	54	None	54	None	None	82	None	54
Significant?	No	NA	No	NA	NA	No	NA	No

[1] Source: BAAQMD, *CEQA Guidelines*, May 2017, http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines

Appendix C

Sensitive Species Occurrences within Three Miles

X:\Diablo Energy Storage\mxd\Figure Number Bio-1 CNDDB 3-Mile Radius Search Results.mxd



- West Alignment Centroid
- CNDDB 3-Mile Radius

CNDDB Occurrences

- Alameda whipsnake
- Antioch Dunes evening-primrose
- Bolander's water-hemlock
- California black rail
- California least tern
- California red-legged frog
- California tiger salamander
- Coastal Brackish Marsh
- Contra Costa wallflower
- Delta mudwort
- Delta tule pea
- Lange's metalmark butterfly
- Mason's lilaeopsis
- Suisun Marsh aster
- Suisun song sparrow
- big tarplant
- burrowing owl
- longfin smelt
- round-leaved filaree
- salt-marsh harvest mouse
- saltmarsh common yellowthroat
- soft salty bird's-beak
- steelhead - Central Valley DPS
- western bumble bee
- western pond turtle

Figure Number BIO-1
CNDDB 3-Mile Radius Search
West Tie-Line Alignment
Diablo Energy Storage, LLC

TRC Results you can rely on

N

0 1 2 Miles

1:52,000

8/29/2017

SPECIAL STATUS PLANT SPECIES WITH POTENTIAL TO OCCUR IN THE PROJECT VICINITY

Scientific Name **Common Name**	**Status**		**Habitat Requirements**	**Potential for Occurrence**
Amsinckia grandiflora Large-flowered fiddleneck	Fed: CA: CNPS:	FE SE 1B.1	Annual herb. Habitat includes cismontane woodland, and valley and foothill grassland. Blooms (March) April-May. Elevation 270-550 meters.	**No Potential:** Typical habitat not present in the project area. Species known from higher elevations and different vegetation communities than present in the project area.
Blepharizonia plumosa Big tarplant	Fed: CA: CNPS:	None None 1B.1	Annual herb. Habitat includes clay soils in valley and foothill grassland. Blooms July-October. Elevation 30-505 meters.	**No Potential:** Typical habitat not present within the project area. Species known from higher elevations and different vegetation communities than present in the project area.
California macrophylla Round-leaved filaree	Fed: CA: CNPS:	None None 1B.2	Annual herb. Habitat includes clay soils in cismontane woodland, and valley and foothill grassland. Elevation 15-1200 meters.	**No Potential:** Typical habitat not present within the project area. Species known from higher elevations and different vegetation communities than present in the project area.
Chloropyron molle ssp. *molle* Soft salty bird's-beak	Fed: CA: CNPS:	FE SR 1B.2	Hemiparasitic annual herb. Habitat includes coastal salt marshes and swamps. Blooms June-November. Elevation 0-3 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.
Cicuta maculata var. *bolanderi* Bolander's water hemlock	Fed: CA: CNPS:	None None 2B.1	Perennial herb. Habitat includes marshes and swamps with coastal, fresh, or brackish water. Blooms July-September. Elevation 0-200 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat of within the typical elevation range of this species.
Erysimum capitatum var. *angustatum* Contra Costa wallflower	Fed: CA: CNPS:	FE SE 1B.1	Perennial herb. Habitat includes inland dunes. Blooms March-July. Elevation 3-20 meters.	**Low Potential**: Inland dunes are not present. Project area elevations are generally at or below the low end of the range for this species.
Lathyrus jepsonii var. *jepsonii* Delta tule pea	Fed: CA: CNPS:	None None 1B.2	Perennial herb. Habitat includes marshes and swamps with fresh or brackish water. Blooms May-July (August-September). Elevation 0-5 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.

Limosella australis Delta mudwort	Fed: CA: CNPS:	None None 2B.1	Perennial stoloniferous herb. Habitat usually mud banks. Also found in riparian scrub, and marshes and swamps with fresh or brackish waters. Blooms May-August. Elevation 0-3 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.
Lasthenia conjugens Contra Costa goldfields	Fed: CA: CNPS: CRPR:	FE None 1B.1	Annual herb. Habitat is mesic areas including cismontane woodland, alkaline playas, valley and foothill grassland, and vernal pools. Blooms March-June. Elevation 0-470 meters.	**Low Potential**: Habitat typical of this species is not present.
Lilaeopsis masonii Mason's lilaeopsis	Fed: CA: CNPS:	None SR 1B.1	Perennial rhizomatous herb. Habitat is marshes and swamps with fresh or brackish water, and riparian scrub. Blooms April-November. Elevation 0-10 meters.	**Moderate Potential**: The project area may include marsh or wetland habitat within the typical elevation range of this species.
Neostapfia colusana Colusa grass	Fed: CA: CNPS:	FT SE 1B.1	Annual herb. Habitat is vernal pools (typically large). Blooms May-August. Elevation 5-200 meters.	**Low Potential**: Habitat typical of this species is not present. Elevation of project area below the typical range for this species.
Oenothera deltoides ssp. *howellii* Antioch dunes evening-primrose	Fed: CA: CNPS:	FE SE 1B.1	Perennial herb. Habitat is inland dunes. Blooms March-September. Elevation 0-30 meters.	**No Potential**: No dune habitat is present in the project area.
Sidalcea keckii Keck's checkerbloom	Fed: CA: CNPS:	FE None 1B.1	Annual herb. Habitat soil often clay or serpentinite. Habitat is cismontane woodland, and valley and foothill grassland. Blooms April-May (June). Elevation 75-650 meters.	**No Potential:** Typical habitat not present within the project area. Species known from higher elevations than the project area.
Symphyotrichum lentum Suisun marsh aster	Fed: CA: CNPS:	None None 1B.2	Perennial rhizomatous herb. Habitat is marshes and swamps with fresh or brackish water. Blooms (April) May-November. Elevation 0-3 meters.	**Moderate Potential**: The project area may be within marsh or wetland habitat of within the typical elevation range of this species.
Federal Designations: FE = Federal Endangered FT=Federal Threatened FC=Candidate for Federal Listing BCC = USFWS Bird of Conservation Concern			**California Rare Plant Ranks (CRPR):** **1A:** Presumed extirpated in California and rare or extinct elsewhere **1B:** Rare, threatened, or endangered in California and elsewhere **2A:** Presumed extirpated in California, but more common elsewhere **2B:** Rare, threatened, or endangered in California, but more common elsewhere	

	3: Review list of plants requiring more study **4:** Watch list of plants of limited distribution
CA State Designations: SE=State Endangered ST= State Threatened SR = State Rare SFP = State-Fully Protected SSC= Species of Special Concern WL = Watch List Species	**California Native Plant Society (CNPS) Threat Code:** **.1:** Seriously threatened in California **.2:** Moderately threatened in California **.3:** Not very threatened in California

References

California Native Plant Society, Rare Plant Program. 2017. *Inventory of Rare and Endangered Plants of California* (online edition, v8-03 0.39). California Native Plant Society, Sacramento, CA. http://www.rareplants.cnps.org (Accessed 8/31/17).

California Department of Fish and Wildlife. 2017. *California Natural Diversity Database, Rarefind*. https://map.dfg.ca.gov/rarefind/view/RareFind.aspx (Accessed 8/31/17).

U.S. Fish and Wildlife Service. 2017. *Information for Planning and Consultation* (IPaC). https://ecos.fws.gov/ipac/location/YGJLIYJGHZGKHPZYQLTSNZMSNA/resources (Accessed 8/31/17).

SPECIAL STATUS WILDLIFE WITH POTENTIAL TO OCCUR IN THE PROJECT VICINITY

Scientific Name **Common Name**	**Status**		**Habitat Requirements**	**Potential for Occurrence**
Fishes				
Oncorhynchus mykiss irideus Steelhead – Central Valley DPS	Fed: CA:	FT None	These include all populations in the Sacramento/San Joaquin River system and its delta. Found in cool, clear, fast-flowing waters, and are the most physiologically tolerant to of the salmonids.	**No Potential:** The project area does not contain appropriate aquatic habitat.
Hypomesus transpacificus Delta smelt	Fed: CA:	FT SE	Spawn in shallow fresh, or slightly brackish, waters. Found from Suisun Bay upwards through the Sacramento/San Joaquin River Delta.	**No Potential:** The project area does not contain the appropriate aquatic or open water estuarine habitat.
Spirinchus thaleichthys Longfin smelt	Fed: CA:	FC ST	Spend adult life in bays, estuaries, and nearshore coastal areas. Migrate to freshwater rivers to spawn. Found in mid-water to near the bottom following prey movement.	**No Potential:** The project area does not contain the appropriate aquatic or open water estuarine habitat.
Insects				
Elaphrus viridis Delta green ground beetle	Fed: CA:	FT None	To date found only in the greater Jepson Prairie area of Solano County. Preferred habitat appears to be a grassland-playa pool matrix.	**No Potential:** The project area does not contain the required habitat, and is outside of the known range of this species.
Apodemia mormo langei Lange's metalmark butterfly	Fed: CA:	FE None	To date is found only along the southern bank of the Sacramento-San Joaquin River in the Antioch sand dunes of Contra Costa County. All life stages occur near the host plant, which is buckwheat.	**Low Potential**: Dune habitat is not present in the Project area.
Desmocerus californicus dimorphus Valley elderberry longhorn beetle	Fed: CA:	FT None	Found on the host plant, which is red or blue elderberry, along streams and rivers in riparian forests.	**Low Potential:** The project area may contain the host elderberry plant however, the area is outside of the known range of this species.

Bombus occidentalis Western bumblebee	Fed: CA:	None None	Rare. Found in temperate regions such as meadows and prairies with an abundance of flowers.	**Low Potential**: The project area does not include typical habitat for this species.
Callophrys mossii bayensis San Bruno elfin butterfly	Fed: CA:	FE None	Habitat includes the rocky outcrops and cliffs in coastal scrub along the San Francisco peninsula. Live along north-facing slopes within the fog belt. Dependent on the host plant, *Sedum spathulifolium.*	**No Potential:** The project area does not contain the required habitat, and is outside of the known range of this species.
Invertebrates				
Branchinecta lynchi Vernal pool fairy shrimp	Fed: CA:	FT None	Require vernal pools or other seasonal wetlands that experience a drying cycle. Cysts may persist for years within the soil.	**Low Potential**: The project area may include seasonal wetland habitat but vernal habitat, if present, is anthropogenic and likely of low habitat value.
Lepidurus packardi Vernal pool tadpole shrimp	Fed: CA:	FE None	Require vernal pools or other seasonal wetlands that experience a drying cycle. Cysts may persist for years within the soil.	**Low Potential**: The project area may include marsh or wetland habitat of unknown quality, and composition. Likely presence of vernal pool habitat low.
Branchinecta conservatio Conservancy fairy shrimp	Fed: CA:	FE None	Require large, cool vernal pools with moderately turbid water. Hatch during the fall rainy season.	**No Potential**: The project area does not include typical habitat for this species.
Amphibians				
Ambystoma californiense California tiger salamander	Fed: CA:	FT ST	Require seasonal wetlands for breeding, and upland grassland areas with burrows for shelter and habitat as adults. Migrations correspond to the rain season in fall.	**Low Potential**: The project area does not is not conducive to providing the upland habitat needs for this species.
Rana draytonii California red-legged frog	Fed: CA:	FT SSC	Found in humid forests, woodlands, grasslands, coastal scrub and streamsides with plant cover. Usually in the lowlands or foothills.	**None**: The project area does not include typical habitat for this species.
Reptiles				
Actinemys marmorata Western pond turtle	Fed: CA:	None SSC	Found in slow moving streams, lakes, ponds, and wetlands.	**Moderate Potential**: The project area may include marsh or wetland habitat suitable for this species.

Masticophis lateralis euryxanthus Alameda whipsnake	Fed: CA:	FT ST	Found in chaparral habitats including northern coastal sage scrub and coastal sage. Utilize rock outcrops, rock crevices, and mammal burrows for hunting and shelter.	**No Potential:** The project area does not contain the required habitat, and is outside of the known range of this species.
Thamnophis gigas Giant garter snake	Fed: CA:	FT ST	Found in marshes, sloughs, drainage canals, irrigation ditches (rice fields), and slow moving creeks. Prefers vegetation next to water for basking and hunting, primarily tule grass.	**No Potential:** The project area does not contain the required habitat, and is outside of the known range of this species.
Birds				
Athene cunicularia Burrowing owl	Fed: CA:	BCC SSC	Utilize burrows created by ground squirrels, prairie dogs, or gopher tortoises. Require open vegetated habitats such as grassland or deserts. Can be found in abandoned urban areas.	**Low Potential:** Planning Survey results show the Project Site does not provide burrowing owl habitat. Some burrowing owl individuals could occur along the tie-line alignments, including urbanized areas
Geothlypis trichas sinuosa Saltmarsh common yellowthroat	Fed: CA:	BCC SSC	Require tall, emergent, and herbaceous wetlands. Utilize salt marshes east of the Carquinez Strait.	**Low Potential**: The project area may include marsh or wetland, but is outside of known range of this species.
Laterallus jamaicensis coturniculus California black rail	Fed: CA:	BCC ST; SFP	Utilize salt marshes, freshwater marshes, and wet meadows. Leaves the marsh during high tides, and requires dense vegetation to hide from predators within.	**Low Potential**: Area surrounded by anthropogenic disturbance and this species is highly secretive and cryptic. Vegetation in the Project area is not conducive to cover needed by this species.
Melospiza melodia maxillaris Suisun song sparrow	Fed: CA:	BCC SSC	Found in the brackish-marsh waters of Suisun Bay. Utilize a matrix of emergent vegetation including bulrush and cattails.	**Moderate Potential**: The project area may include marsh or wetland similar to locations of known occurrences in the vicinity.
Rallus obsoletus obsoletus California Ridgway's (clapper) rail	Fed: CA:	FE SE; SFP	Require the tidal marshes of the San Francisco Bay estuary. Forage on the open mud flats, and nest in dense marsh vegetation.	**Low Potential**: The project area may include marsh or wetland foraging habitat. Nesting requirements not anticipated to be met by the project area.
Sternula antillarum browni California least tern	Fed: CA:	FE SE; SFP	Require beaches, mudflats, or sand dunes that are near shallow estuaries or lagoons. Areas are often large and flat.	**No Potential**: Typical habitat requirements not met by the project area.

Mammals				
Reithrodontomys raviventris Salt-marsh harvest mouse	Fed: CA:	FE SE; SFP	Found in saline emergent wetlands of San Francisco Bay. Require salt marsh vegetation, primarily pickleweed. Nest in grasses, or utilize abandoned bird nests. Known population adjacent to project area.	**Moderate Potential**: The project area may include marsh or wetland habitat similar to a nearby area with a known SMHM population.
Vulpes macrotis mutica San Joaquin kit fox	Fed: CA:	FE ST	Habitat includes open desert, creosote bush flats, and sand dunes. Most individuals found in areas with less than 20 percent vegetation cover.	**No Potential:** The project area does not contain the required habitat, and is outside of the known range of this species.
Federal Designations FE = Federal Endangered FT=Federal Threatened FC=Candidate for Federal Listing BCC = USFWS Bird of Conservation Concern				**State Designations:** SE=State Endangered ST= State Threatened SFP = State-Fully Protected SSC= Species of Special Concern WL = Watch List Species

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Appendix D

Noise Technical Report

NOISE AND VIBRATION IMPACT ANALYSIS

DIABLO ENERGY STORAGE PROJECT

CITY OF PITTSBURG, CALIFORNIA

LSA

January 2018

NOISE AND VIBRATION IMPACT ANALYSIS

DIABLO ENERGY STORAGE PROJECT

CITY OF PITTSBURG, CALIFORNIA

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January 2018

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LIST OF ABBREVIATIONS AND ACRONYMS

µin/sec	microinches per second
µPa	micropascal
ADT	average daily traffic
CEQA	California Environmental Quality Act
CNEL	Community Noise Equivalent Level
dB	decibels
dBA	A-weighted decibels
EPA	United States Environmental Protection Agency
FHWA	Federal Highway Administration
ft	foot/feet
FTA	Federal Transit Administration
HP	horsepower
HVAC	heating, ventilation, and air conditioning
Hz	Hertz
in/sec	inches per second
L_{dn}	day-night average noise level
L_{eq}	equivalent continuous sound level
L_{max}	maximum instantaneous noise level
LSA	LSA Associates, Inc.
L_V	velocity in decibels
mi	miles
N/A	not applicable
PPV	peak particle velocity
project	Diablo Energy Storage Project
RCNM	Roadway Construction Noise Model
RMS	root-mean-square (velocity)
sf	square feet
Spec.	specification
VdB	vibration velocity decibels
VMS	variable message sign
V_{ref}	reference velocity amplitude

EXECUTIVE SUMMARY

This noise and vibration impact analysis has been prepared to evaluate the potential noise and vibration impacts and mitigation measures associated with the proposed Diablo Energy Storage Project located in the City of Pittsburg, California.

The proposed Diablo Energy Storage Project and associated discretionary actions collectively are the "project" assessed in this noise and vibration impact analysis. The project proposes to install one to three single-story buildings on a graded and vacant approximately 12 acre site representing a portion of an approximately 35 acre parcel located at 701 Willow Pass Road. The buildings would house advanced energy storage technology (e.g. lithium batteries) which together with related control equipment including inverters, transformers and a small on-site electric substation, would be connected via a new tie-line to the existing PG&E substation located approximately 0.6 miles north of the project site.

This report discusses the characteristics of noise, the way in which it is measured, the physiological effects of noise, and provides a definition of acoustical terms. It also discusses vibration and human response to different levels of ground-borne and vibration. The report also summarizes federal, state and local standards and regulation regarding acceptable noise levels for specified land uses including residential use.

The existing sources of noise in the project civility include traffic noise from Willow Pass Road to the north industrial uses and the existing rail line to the south, and corona noise from the overhead power lines. Sound levels in the project vicinity were documented by noise measurements taken at five locations shown in Figure 3, including one at the property line of each of the three residential developments in the vicinity of the project site. As shown in Table I, the range of existing noise levels for these properties is 45.9 to 64.2 dBA L_{eq}.

The impact analysis evaluates the potential noise impacts that could occur during project construction including vibration impacts. It also characterizes the potential noise impacts during project operation and potential corona noise from the proposed overhead tin-in line that would connect to the existing PG&E substation.

CONSTRUCTION NOISE IMPACT SUMMARY

Construction is undertaken in discrete steps, each of which has its own mix of equipment, and consequently its own noise characteristics. These various sequential phases would change the character of the noise generated on the project site. Therefore, the noise levels vary as construction progresses. The composite noise level of the pieces of equipment during construction would be up to 89 dBA L_{eq} at a distance of 50 ft from the construction area. It is expected that noise levels at the residences 80 feet to the east would approach 85 dBA L_{eq}, construction impacts at residences 1,325 feet to the west would approach 61 dBA Leq, and construction impacts at residences 1,040 feet to the south would approach 63 dBA Leq. While construction-related short-term noise levels have the

potential to be higher than existing ambient noise levels in the project area today, the noise impacts would no longer occur once project construction is completed.

With the requirement of the project to comply with hours of operation restrictions outlined in the City of Pittsburg Municipal Code and the policies related to construction in the Noise Element of the General Plan, construction noise impacts would be reduced to the greatest extent feasible and would not cause a substantial impact to surrounding sensitive uses.

OPERATIONS NOISE IMPACT SUMMARY

Noise impacts associated with the long-term operation of the project must comply with the standards presented in the City's Noise Element, described above. A potential impact would occur if the noise impacts associated with operation of the proposed project increase existing ambient noise levels by 5 dBA L_{eq} or more.

Energy Storage Facility Noise Impact Summary

In order to calculate the expected impacts due to long-term operational stationary source activities, the software SoundPlan was used. SoundPlan is a noise modeling program that allows 3-D calculations to be made taking into account topography, ground attenuation, and shielding from structures and walls. More specifically, this also includes the existing wall that runs north-south and is located east of the project site and west of the existing single-family homes. It is expected that this wall will provide some reduction associated with the sources that are located closer to ground level, however, the wall has the potential to provide less reduction for elevated sources such as rooftop HVAC equipment. The eastern-most building would provide significant reduction from sources associated with the middle and western-most buildings.

Following the completion of all construction phases, the results of the analysis for each sensitive area in the vicinity of the project would be as follows:

- Residences East of Project Site: The existing average nighttime noise level is 57.9 dBA L_{eq}. With the implementation of the project, noise level impacts generated by the project would be 48.9 dBA L_{eq} resulting in composite noise level of 58.4 dBA L_{eq} with an overall increase of 0.5 dBA L_{eq}.

- Residences West of Project Site: The existing average nighttime noise level is 45.9 dBA L_{eq}. With the implementation of the project, noise level impacts generated by the project would be 44.5 dBA L_{eq} resulting in composite noise level of 48.1 dBA L_{eq} with an overall increase of 2.5 dBA L_{eq}.

- Residences South of Project Site: The existing average nighttime noise level is 61.8 dBA Leq. With the implementation of the project, noise level impacts generated by the project would be 46.1 dBA Leq resulting in composite noise level of 61.9 dBA Leq with an overall increase of 0.1 dBA Leq.

- Sidewalk North of Project Site: The existing average daytime noise level is 64.2 dBA Leq. With the implementation of the project, noise level impacts generated by the project would be 65.6 dBA Leq resulting in composite noise level of 68.0 dBA Leq with an overall increase of 3.8 dBA Leq.

These results show that the noise levels at all points around the project site would experience a future noise level increase less than 5 dBA; thus the project would not result in an impact to the existing sensitive receptors.

Corona Noise Impact Summary

In addition to the stationary sources on-site, the proposed project has the potential to create corona, or electro-static noise, along the proposed tie-in lines. The audible noise from the corona noise effect was calculated based on the Bonneville Power Administration (BPA) method provided in the Electric Power Research Institute (EPRI) Transmission Line Reference Book – 115 – 230 kV Compact Line Design. The results show that the noise level contributions at the nearest residences would be highly dependent on weather conditions, however, the potential corona noise levels would be very quiet, less than 20 dBA Leq, which would likely to be masked by existing ambient noise from other sources in the vicinity of the sensitive uses.

LOCATION AND DESCRIPTION

PROJECT LOCATION AND SURROUNDING USES

The project site is located at 701 Willow Pass Road, Pittsburg, California (APN 085-280-010). The Parcel is designated Business Commercial (BC) in the City of Pittsburg General Plan[1] and is zoned Industrial Park-Limited Overlay (IP-O). The proposed use would require a zoning text amendment to amend the IPO (Industrial Park with a Limited Overlay, Ord. No. 07-1284) District, or the "Empire Business Park Overlay District," such that a "major utility" would be permitted with a use permit. The proposed project site is currently vacant and undeveloped. Figure 1 indicates the project location, and Figure 2 is the project site plan.

The following describes the adjacent land uses:

- **North:** Willow Pass Road, existing tank farm, undeveloped land
- **East:** Existing single-family homes
- **South:** Existing industrial uses, existing rail line
- **West:** Vacant land with multiple over-head high-voltage power lines, and single-family homes farther west

PROJECT DESCRIPTION

The project proposes to install between one and three single-story buildings on a graded and vacant approximately 12 acre site as shown in Figure 2. The project may be constructed in one or more phases. For the purposes of this analysis, noise impacts were analyzed for three phases:

- Phase 1: Eastern-most building, associated transformers, inverters and rooftop-HVAC as well the substation and electric tie line.
- Phase 2: The addition of the middle building with associated transformers, inverters and rooftop-HVAC.
- Phase 3: The addition of the western-most building with associated transformers, inverters and rooftop-HVAC.

[1] City of Pittsburg, 2001. *General Plan Pittsburg 2020: A Vision for the 21st Century.* November.

The buildings would house advanced energy storage technology (e.g., lithium ion batteries) which, together with related control equipment including inverters, transformers, and a small onsite electric substation, would be connected via a new electric tie-line to the existing Pacific Gas & Electric Company (PG&E) Pittsburg Substation located approximately 0.6 mile north of the Site. The facility would be unoccupied and is designed for full remote operation. Diablo Energy Storage, LLC is the Applicant for development permits and would be the Lessee of the property.

The facility would not generate electricity. Rather, it would provide a service by receiving energy (charging) from the point of interconnection (POI) with the PG&E electric transmission system, storing energy, and then later delivering energy (discharging) back to the POI. The Site is within the East Contra Costa Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) area. Two alternate routes being considered for a tie-line to the POI are also within the HCP/NCCP area, and a third alternative route being considered extends out of the HCP/NCCP area as described further under the subheading of West Alignment. The Site is currently vacant with no structures.

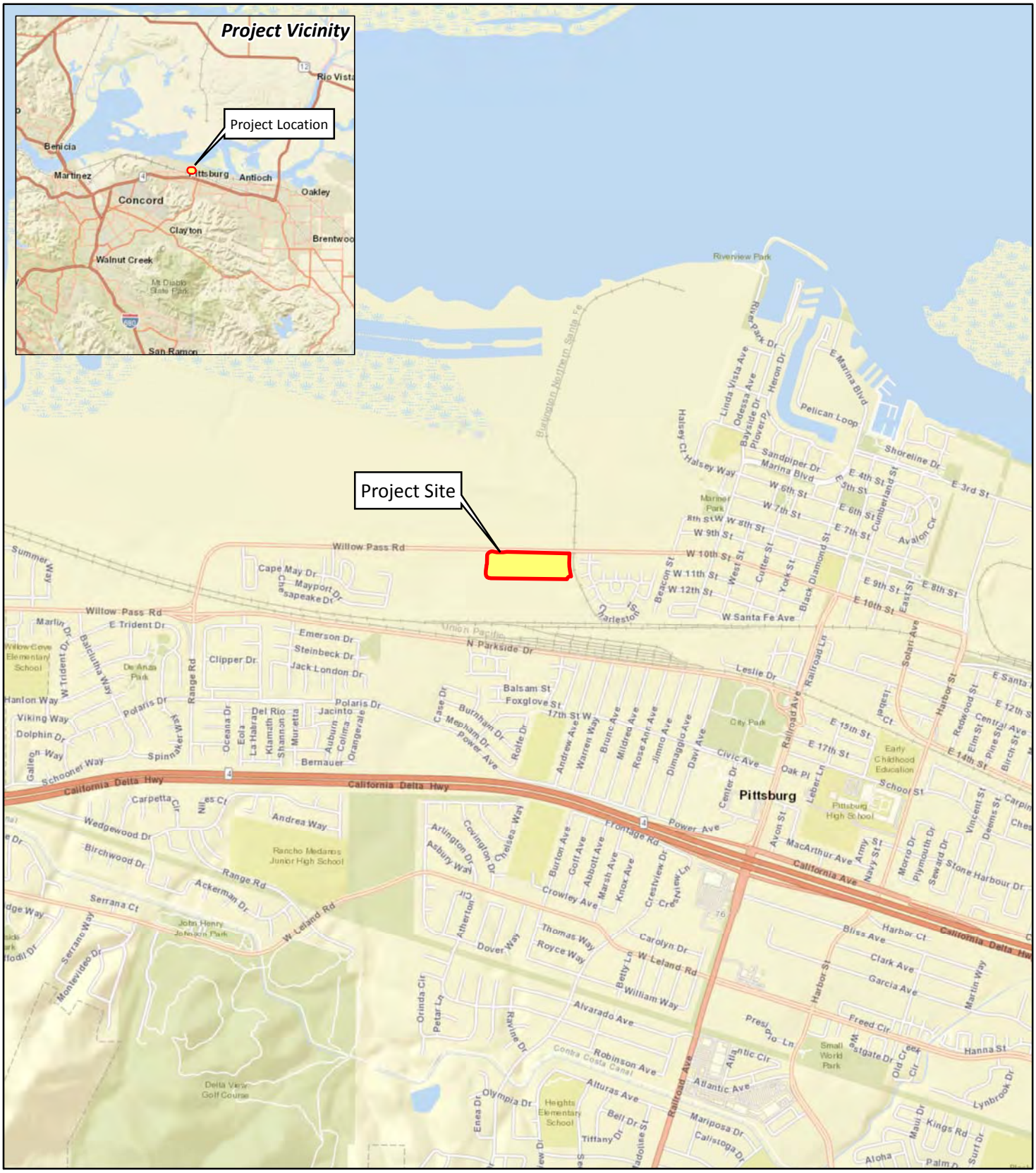

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FIGURE 1

N

0 1000 2000
FEET

SOURCE: ESRI World Streetmap.

I:\LPD1702\GIS\Maps\Noise\Figure 1_Location Map.mxd (11/10/2017)

Diablo Energy Storage Facility
Pittsburg, Contra Costa County, California

Location Map

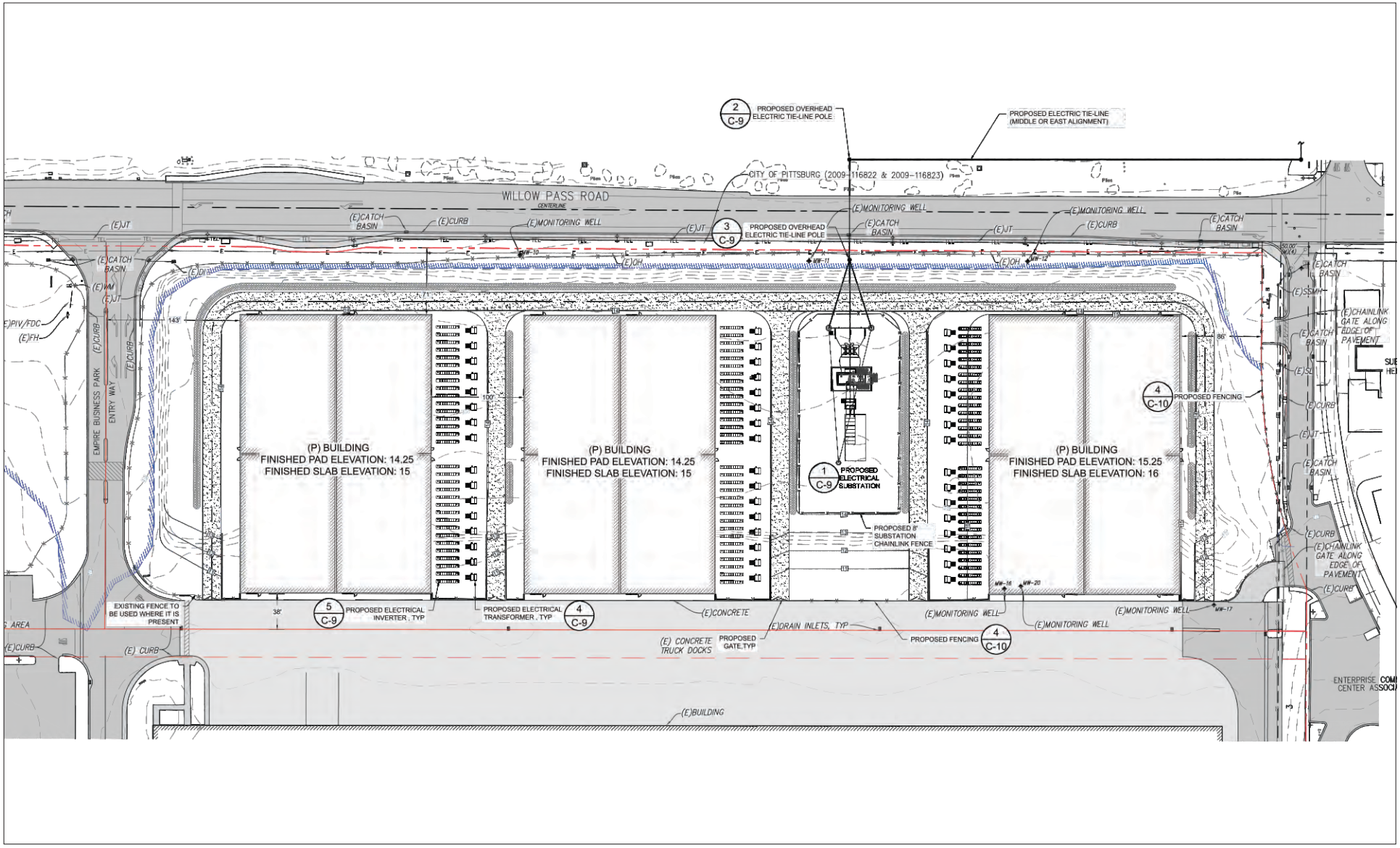

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FIGURE 2

0 75 150
FEET

SOURCE: TRC Solutions, Inc. (8/29/17)

Diablo Energy Storage Facility
Pittsburg, Contra Costa County, California

Site Plan

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METHODOLOGY

Evaluation of noise and vibration impacts associated with the project includes the following:

- Determination of the short-term construction noise and vibration impacts on off-site noise-sensitive uses;
- Determination of the long-term noise and vibration impacts from on-site stationary noise sources at the existing off-site noise-sensitive uses; and
- Determination of the required mitigation measures to reduce long-term noise and vibration impacts, if any, from all sources.

CHARACTERISTICS OF SOUND

Noise is usually defined as unwanted sound. Noise consists of any sound that may produce physiological or psychological damage and/or interfere with communication, work, rest, recreation, and sleep.

To the human ear, sound has two significant characteristics: pitch and loudness. Pitch is generally an annoyance, while loudness can affect the ability to hear. Pitch is the number of complete vibrations, or cycles per second, of a wave resulting in the tone's range from high to low. Loudness is the strength of a sound that describes a noisy or quiet environment and is measured by the amplitude of the sound wave. Loudness is determined by the intensity of the sound waves combined with the reception characteristics of the human ear. Sound intensity refers to how hard the sound wave strikes an object, which in turn produces the sound's effect. This characteristic of sound can be precisely measured with instruments. The analysis of a project defines the noise environment of the project area in terms of sound intensity and its effect on adjacent sensitive land uses.

Measurement of Sound

Sound intensity is measured through the A-weighted scale to correct for the relative frequency response of the human ear. That is, an A-weighted noise level de-emphasizes low and very high frequencies of sound similar to the human ear's de-emphasis of these frequencies. Unlike linear units (e.g., inches or pounds) decibels are measured on a logarithmic scale representing points on a sharply rising curve.

For example, 10 decibels (dB) is 10 times more intense than 1 dB, 20 dB is 100 times more intense than 1 dB, and 30 dB is 1,000 times more intense than 1 dB. Thirty decibels (30 dB) represents 1,000 times as much acoustic energy as 1 dB. The decibel scale increases as the square of the change, representing the sound pressure energy. A sound as soft as human breathing is about 10 times greater than 0 dB. The decibel system of measuring sound gives a rough connection between the physical intensity of sound and its perceived loudness to the human ear. A 10 dB increase in sound level is perceived by the human ear as only a doubling of the loudness of the sound. Ambient sounds generally range from 30 dB (very quiet) to 100 dB (very loud).

Sound levels are generated from a source, and their decibel level decreases as the distance from that source increases. Sound dissipates exponentially with distance from the noise source. For a single point source, sound levels decrease approximately 6 dB for each doubling of distance from the source. This drop-off rate is appropriate for noise generated by stationary equipment. If noise is produced by a line source (e.g., highway traffic or railroad operations) the sound decreases 3 dB for each doubling of distance in a hard site environment. Line source (noise in a relatively flat environment with absorptive vegetation) decreases 4.5 dB for each doubling of distance.

There are many ways to rate noise for various time periods, but an appropriate rating of ambient noise affecting humans also accounts for the annoying effects of sound. The equivalent continuous sound level (L_{eq}) is the total sound energy of time-varying noise over a sample period. However, the predominant rating scales for human communities in the State of California are the L_{eq} and Community Noise Equivalent Level (CNEL) or the day-night average noise level (L_{dn}) based on A-weighted decibels (dBA). CNEL is the time-varying noise over a 24-hour period, with a 5 dBA weighting factor applied to the hourly L_{eq} for noises occurring from 7:00 p.m. to 10:00 p.m. (defined as relaxation hours), and a 10 dBA weighting factor applied to noises occurring from 10:00 p.m. to 7:00 a.m. (defined as sleeping hours). L_{dn} is similar to the CNEL scale but without the adjustment for events occurring during the evening hours. CNEL and L_{dn} are within 1 dBA of each other and are normally interchangeable. The City uses the CNEL noise scale for long-term noise impact assessment.

Other noise rating scales of importance when assessing the annoyance factor include the maximum instantaneous noise level (L_{max}), which is the highest exponential time-averaged sound level that occurs during a stated time period. The noise environments discussed in this analysis for short-term noise impacts are specified in terms of maximum levels denoted by L_{max}, which reflects peak operating conditions and addresses the annoying aspects of intermittent noise. It is often used together with another noise scale, or noise standards in terms of percentile noise levels, in noise ordinances for enforcement purposes. For example, the L_{10} noise level represents the noise level exceeded 10 percent of the time during a stated period. The L_{50} noise level represents the median noise level. Half the time the noise level exceeds this level, and half the time it is less than this level. The L_{90} noise level represents the noise level exceeded 90 percent of the time and is considered the background noise level during a monitoring period. For a relatively constant noise source, the L_{eq} and L_{50} are approximately the same.

Noise impacts can be described in three categories. The first category includes audible impacts that refer to increases in noise levels noticeable to humans. Audible increases in noise levels generally refer to a change of 3 dB or greater because this level has been found to be barely perceptible in exterior environments. The second category, potentially audible, refers to a change in the noise level between 1 dB and 3 dB. This range of noise levels has been found to be noticeable only in laboratory environments. The last category includes changes in noise levels of less than 1 dB, which are inaudible to the human ear. Only audible changes in existing ambient or background noise levels are considered a potentially impact.

Physiological Effects of Noise

Physical damage to human hearing begins at prolonged exposure to noise levels higher than 85 dBA. Exposure to high noise levels affects the entire system, with prolonged noise exposure in excess of 75 dBA increasing body tensions, thereby affecting blood pressure and functions of the heart and the nervous system. In comparison, extended periods of noise exposure above 90 dBA would result in permanent cell damage. When the noise level reaches 120 dBA, a tickling sensation occurs in the human ear, even with short-term exposure. This level of noise is called the threshold of feeling. As the sound reaches 140 dBA, the tickling sensation is replaced by the feeling of pain in the ear (the threshold of pain). A sound level of 160–165 dBA will result in dizziness or loss of equilibrium. The ambient or background noise problem is widespread and generally more concentrated in urban areas than in outlying, less developed area. Table A lists definitions of acoustical terms, and Table B shows common sound levels and their sources.

Table A: Definitions of Acoustical Terms

Term	Definitions
Decibel, dB	A unit of measurement that denotes the ratio between two quantities that are proportional to power; the number of decibels is 10 times the logarithm (to the base 10) of this ratio.
Frequency, Hz	Of a function periodic in time, the number of times that the quantity repeats itself in 1 second (i.e., number of cycles per second).
A-Weighted Sound Level, dBA	The sound level obtained by use of A-weighting. The A-weighting filter de-emphasizes the very low- and very high-frequency components of the sound in a manner similar to the frequency response of the human ear and correlates well with subjective reactions to noise. (All sound levels in this report are A-weighted, unless reported otherwise.)
L_{01}, L_{10}, L_{50}, L_{90}	The fast A-weighted noise levels that are equaled or exceeded by a fluctuating sound level 1%, 10%, 50%, and 90% of a stated time period.
Equivalent Continuous Noise Level, L_{eq}	The level of a steady sound that, in a stated time period and at a stated location, has the same A-weighted sound energy as the time-varying sound.
Community Noise Equivalent Level, CNEL	The 24-hour A-weighted average sound level from midnight to midnight, obtained after the addition of 5 dBA to sound levels occurring in the evening from 7:00 PM to 10:00 PM and after the addition of 10 dBA to sound levels occurring in the night between 10:00 PM and 7:00 AM.
Day/Night Noise Level, L_{dn}	The 24-hour A-weighted average sound level from midnight to midnight, obtained after the addition of 10 dBA to sound levels occurring in the night between 10:00 PM and 7:00 AM.
L_{max}, L_{min}	The maximum and minimum A-weighted sound levels measured on a sound level meter, during a designated time interval, using fast time averaging.
Ambient Noise Level	The all-encompassing noise associated with a given environment at a specified time; usually a composite of sound from many sources at many directions, near and far; no particular sound is dominant.
Intrusive	The noise that intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency, and time of occurrence and tonal or informational content, as well as the prevailing ambient noise level.

Source: *Handbook of Acoustical Measurements and Noise Control* (Harris 1991).

Table B: Common Sound Levels and Their Noise Sources

Noise Source	A-Weighted Sound Level in Decibels	Noise Environments	Subjective Evaluations
Near Jet Engine	140	Deafening	128 times as loud
Civil Defense Siren	130	Threshold of Pain	64 times as loud
Hard Rock Band	120	Threshold of Feeling	32 times as loud
Accelerating Motorcycle at a Few Feet Away	110	Very Loud	16 times as loud
Pile Driver; Noisy Urban Street/Heavy City Traffic	100	Very Loud	8 times as loud
Ambulance Siren; Food Blender	95	Very Loud	—
Garbage Disposal	90	Very Loud	4 times as loud
Freight Cars; Living Room Music	85	Loud	—
Pneumatic Drill; Vacuum Cleaner	80	Loud	2 times as loud
Busy Restaurant	75	Moderately Loud	—
Near Freeway Auto Traffic	70	Moderately Loud	—
Average Office	60	Quiet	One-half as loud
Suburban Street	55	Quiet	—
Light Traffic; Soft Radio Music in Apartment	50	Quiet	One-quarter as loud
Large Transformer	45	Quiet	—
Average Residence without Stereo Playing	40	Faint	One-eighth as loud
Soft Whisper	30	Faint	—
Rustling Leaves	20	Very Faint	—
Human Breathing	10	Very Faint	Threshold of Hearing
—	0	Very Faint	—

Source: Compiled by LSA (2015).

FUNDAMENTALS OF VIBRATION

Vibration refers to ground-borne noise and perceptible motion. Ground-borne vibration is almost exclusively a concern inside buildings and is rarely perceived as a problem outdoors, where the motion may be discernible, but without the effects associated with the shaking of a building there is less adverse reaction. Vibration energy propagates from a source through intervening soil and rock layers to the foundations of nearby buildings. The vibration then propagates from the foundation throughout the remainder of the structure. Building vibration may be perceived by occupants as the motion of building surfaces, the rattling of items on shelves or hanging on walls, or a low-frequency rumbling noise. The rumbling noise is caused by the vibration of walls, floors, and ceilings that radiate sound waves. Annoyance from vibration often occurs when the vibration exceeds the threshold of perception by 10 vibration velocity decibels (VdB) or less. This is an order of magnitude below the damage threshold for normal buildings.

Typical sources of ground-borne vibration are construction activities (e.g., blasting, pile driving, and operating heavy-duty earthmoving equipment), steel-wheeled trains, and occasional traffic on rough roads. Problems with both ground-borne vibration and noise from these sources are usually localized to areas within approximately 100 feet (ft) from the vibration source, although there are

examples of ground-borne vibration causing interference out to distances greater than 200 ft (FTA 2006). When roadways are smooth, vibration from traffic, even heavy trucks, is rarely perceptible. It is assumed for most projects that the roadway surface will be smooth enough that ground-borne vibration from street traffic will not exceed the impact criteria; however, both construction of a project and freight train operations on railroad tracks could result in ground-borne vibration that may be perceptible and annoying.

Ground-borne noise is not likely to be a problem because noise arriving via the normal airborne path will usually be greater than ground-borne noise. Ground-borne vibration has the potential to disturb people and damage buildings. Although it is very rare for train-induced ground-borne vibration to cause even cosmetic building damage, it is not uncommon for heavy duty construction processes (e.g., blasting and pile driving) to cause vibration of sufficient amplitudes to damage nearby buildings (FTA 2006). Ground-borne vibration is usually measured in terms of vibration velocity, either the root-mean-square (RMS) velocity or peak particle velocity (PPV). The RMS is best for characterizing human response to building vibration, and PPV is used to characterize potential for damage. Decibel notation acts to compress the range of numbers required to describe vibration. Vibration velocity level in decibels is defined as:

$$L_v = 20 \log_{10} [V/V_{ref}]$$

Where L_v is the VdB, "V" is the RMS velocity amplitude, and "V_{ref}" is the reference velocity amplitude, or 1 x 10^{-6} inches/second (in/sec) used in the United States. Table C illustrates human response to various vibration levels, as described in the *Transit Noise and Vibration Impact Assessment* (FTA 2006).

Table C: Human Response to Different Levels of Ground-Borne Noise and Vibration

Vibration Velocity Level	Noise Level		Human Response
	Low-Frequency[1]	Mid-Frequency[2]	
65 VdB	25 dBA	40 dBA	Approximate threshold of perception for many humans. Low-frequency sound usually inaudible; mid-frequency sound excessive for quiet sleeping areas.
75 VdB	35 dBA	50 dBA	Approximate dividing line between barely perceptible and distinctly perceptible. Many people find transit vibration at this level annoying. Low-frequency noise acceptable for sleeping areas; mid-frequency noise annoying in most quiet occupied areas.
85 VdB	45 dBA	60 dBA	Vibration acceptable only if there are an infrequent number of events per day. Low-frequency noise annoying for sleeping areas; mid-frequency noise annoying even for infrequent events with institutional land uses such as schools and churches.

Source: *Transit Noise and Vibration Impact Assessment* (FTA 2006).
[1] Approximate noise level when vibration spectrum peak is near 30 Hz.
[2] Approximate noise level when vibration spectrum peak is near 60 Hz.
dBA = A-weighted decibels Hz = Hertz
FTA = Federal Transit Administration VdB = vibration velocity decibels

Factors that influence ground-borne vibration and noise include the following:

- **Vibration Source.** Vehicle suspension, wheel types and condition, railroad track/roadway surface, railroad track support system, speed, transit structure, and depth of vibration source
- **Vibration Path.** Soil type, rock layers, soil layering, depth to water table, and frost depth
- **Vibration Receiver.** Foundation type, building construction, and acoustical absorption

Among the factors listed above, there are significant differences in the vibration characteristics when the source is underground compared to at the ground surface. In addition, soil conditions are known to have a strong influence on the levels of ground-borne vibration. Among the most important factors are the stiffness and internal damping of the soil and the depth to bedrock.

Experience with ground-borne vibration indicates: (1) vibration propagation is more efficient in stiff, clay soils than in loose, sandy soils; and (2) shallow rock seems to concentrate the vibration energy close to the surface and can result in ground-borne vibration problems at large distances from a railroad track. Factors including layering of the soil and the depth to the water table can have significant effects on the propagation of ground-borne vibration. Soft, loose, sandy soils tend to attenuate more vibration energy than hard, rocky materials. Vibration propagation through groundwater is more efficient than through sandy soils.

REGULATORY SETTING

FEDERAL REGULATIONS

Vibration standards included in the Federal Transit Administration's (FTA) *Transit Noise and Vibration Impact Assessment* (FTA 2006) are used in this analysis for ground-borne vibration impacts on human annoyance, as shown in Table D. The criteria presented in Table D account for variation in project types as well as the frequency of events, which differ widely among projects. It is intuitive that when there will be fewer events per day, it should take higher vibration levels to evoke the same community response. This is accounted for in the criteria by distinguishing between projects with frequent and infrequent events, in which the term "occasional events" is defined as between 30 and 70 events per day.

Table D: Ground-Borne Vibration and Ground-Borne Noise Impact Criteria for General Assessment

Land Use Category	Ground-Borne Vibration Impact Levels (VdB re 1 µin/sec)			Ground-Borne Noise Impact Levels (dB re 20 µPa)		
	Frequent[1] Events	Occasional[2] Events	Infrequent[3] Events	Frequent[1] Events	Occasional[2] Events	Infrequent[3] Events
Category 1: Buildings where low ambient vibration is essential for interior operations.	65 VdB[4]	65 VdB[4]	65 VdB[4]	N/A[5]	N/A[5]	N/A[5]
Category 2: Residences and buildings where people normally sleep.	72 VdB	75 VdB	80 VdB	35 dBA	38 dBA	43 dBA
Category 3: Institutional land uses with primarily daytime use.	75 VdB	78 VdB	83 VdB	40 dBA	43 dBA	48 dBA

Source: *Transit Noise and Vibration Impact Assessment* (FTA 2006).
[1] Frequent events are defined as more than 70 events per day.
[2] Occasional events are defined as between 30 and 70 events per day.
[3] Infrequent events are defined as fewer than 30 events per day.
[4] This criterion limit is based on levels that are acceptable for most moderately sensitive equipment, such as optical microscopes. Vibration-sensitive manufacturing or research will require detailed evaluation to define the acceptable vibration levels. Ensuring lower vibration levels in a building often requires special design of the HVAC systems and stiffened floors.
[5] Vibration-sensitive equipment is not sensitive to ground-borne noise.

µin/sec = microinches per second
µPa = micropascals
dB = decibels
dBA = A-weighted decibels
FTA = Federal Transit Administration
HVAC = heating, ventilation, and air conditioning
VdB = vibration velocity decibels

The criteria for environmental impact from ground-borne vibration and noise are based on the maximum levels for a single event. Table E lists the potential vibration building damage criteria associated with construction activities, as suggested in the *Transit Noise and Vibration Impact Assessment* (FTA 2006).

FTA guidelines show that a vibration level of up to 102 VdB (equivalent to 0.5 in/sec in PPV) (FTA 2006) is considered safe for buildings consisting of reinforced concrete, steel, or timber (no plaster), and would not result in any construction vibration damage. For a nonengineered timber

and masonry building, the construction building vibration damage criterion is 94 VdB (0.2 in/sec in PPV).

Table E: Construction Vibration Damage Criteria

Building Category	PPV (in/sec)	Approximate L_V (VdB)[1]
Reinforced concrete, steel, or timber (no plaster)	0.50	102
Engineered concrete and masonry (no plaster)	0.30	98
Non-engineered timber and masonry buildings	0.20	94
Buildings extremely susceptible to vibration damage	0.12	90

Source: *Transit Noise and Vibration Impact Assessment* (FTA 2006).
[1] RMS vibration velocity in decibels (VdB) re 1 µin/sec.
µin/sec = inches per second
FTA = Federal Transit Administration
in/sec = inches per second
L_V = velocity in decibels
PPV = peak particle velocity
RMS = root-mean-square
VdB = vibration velocity decibels

STATE REGULATIONS

The State of California has established regulations that help prevent adverse impacts to occupants of buildings located near noise sources. Referred to as the *State Noise Insulation Standard*, it requires buildings to meet performance standards through design and/or building materials that would offset any noise source in the vicinity of the receptor. State regulations include requirements for the construction of new hotels, motels, apartment houses, and dwellings other than detached single-family dwellings that are intended to limit the extent of noise transmitted into habitable spaces. These requirements are found in the California Code of Regulations, Title 24 (known as the Building Standards Administrative Code), Part 2 (known as the California Building Code), Appendix Chapters 12 and 12A. For limiting noise transmitted between adjacent dwelling units, the noise insulation standards specify the extent to which walls, doors, and floor ceiling assemblies must block or absorb sound. For limiting noise from exterior noise sources, the noise insulation standards set an interior standard of 45 dBA CNEL in any habitable room with all doors and windows closed. In addition, the standards require preparation of an acoustical analysis demonstrating the manner in which dwelling units have been designed to meet this interior standard, where such units are proposed in an area with exterior noise levels greater than 60 dBA CNEL.

The State has also established land use compatibility guidelines for determining acceptable noise levels for specified land uses. The City has adopted and modified the State's land use compatibility guidelines, as discussed below.

LOCAL REGULATIONS

City of Pittsburg General Plan Noise Element

The Noise Element, Section 12 of the General Plan (2004), contains a description of various noise level increases and their respective perception, specifically at residential uses, in terms of potential impacts:A one (1) dBA change or less is not perceptible.

- A three (3) dBA change is considered barely perceptible

- A five (5) dBA change is considered noticeable, thus often resulting in a potential impact.

As presented in Policy 12-P-7, noise control at the source through site design and other techniques is required for new development.

Policy 12-P-9 limits the generation of loud noises on construction sites to the hours between 8:00 a.m. and 5:00 p.m.

Policy 12-P-10 limits truck traffic to appropriate truck routes and requires consideration of the restriction of truck traffic travel times in sensitive areas.

City of Pittsburg Municipal Code

The City of Pittsburg's Noise Ordinance (Title 9 - Public Peace, Safety and Morals, Chapter 9.44 - Noise, Section 9.44.010) prohibits the use of pile drivers, pneumatic hammers, and similar equipment between the hours of 10:00 p.m. and 7:00 a.m., but does not establish noise-level limits related to fixed noise sources or construction noise.

The City's Building and Construction Ordinance (Title 15 – Buildings and Construction, Chapter 15.88 – Grading, Erosion and Sediment Control, Section 15.88.060.A.5) prohibits grading noise, including warming of equipment motors, within 1,000 feet of a residence between the hours of 5:30 p.m. and 7:00 a.m. weekdays, unless other hours are approved by the City Engineer.

The City's Performance Standards For All Uses (Title 18 – Zoning, Chapter 18.82 – Noise, Section 18.82.040B) states that no construction event or activity occurring on any site adjoining a lot located in an R, residential PD or GQ district shall generate loud noises in excess of 65 decibels measured at the property line, except between the hours of 8:00 a.m. and 5:00 p.m.

City of Pittsburg Vibration Standards

The City of Pittsburg does not have established specific vibration impact criteria; therefore, during construction the FTA criteria presented above will be utilized to assess potential damage and human annoyance.

EXISTING SETTING

OVERVIEW OF THE EXISTING NOISE ENVIRONMENT

The existing noise environment includes traffic noise from Willow Pass Road to the north, industrial uses and the existing rail line to the south and southeast, and corona noise from the existing powerlines. Noise from motor vehicles is generated by engine vibrations, interaction between tires and the road, and exhaust systems. Noise associated with the neighboring industrial uses is generated by heavy tuck movements, loading dock activities, forklift operations and other parking lot activities.

SENSITIVE LAND USES IN THE PROJECT VICINITY

Certain land uses are considered more sensitive to noise than others. Examples of these include residential areas, educational facilities, hospitals, childcare facilities, and senior housing. The closest sensitive receptors would be single-family residences approximately 80 feet east of the project site. These residential uses have an existing 8-foot high wall along the western property line. There are also existing residences to the west and south. The distances to these communities are 1,300 and 1,050 feet, respectively.

EXISTING NOISE LEVEL MEASUREMENTS

Noise levels at the project site are dominated by traffic on the surrounding streets and rail line as well as the existing industrial use activities. In order to assess the existing noise conditions in the project study area. Three long-term measurements were gathered from October 27 to October 29, 2017 as well as two (2) 15-minute short-term noise measurements on October 27, 2017. The locations of the noise measurements are shown on Figure 3, with the results shown in Table F, and the survey sheets are shown in Appendix A.

EXISTING AIRCRAFT NOISE

Airport related noise levels are primarily associated with aircraft engine noise made while aircraft are taking off, landing, or running their engines while still on the ground. The closest airport to the project site is the Buchanan Field Airport (CCR) located approximately 8.8 miles to the southwest in Contra Costa County. According to the Buchanan Field Noise Program, the project is located outside of the airport's influence area. Aircraft flyovers may be audible at the project site; however, no portion of the project site lies within the 65 dBA CNEL noise contours of the airport.

Table F: Existing Noise Level Measurements

Location	Description	Range of Daytime Noise Levels (dBA L_{eq})	Range of Nighttime Noise Levels (dBA L_{max})
LT-1	Southeast corner of proposed project site near existing single-family residences.	51.2 – 62.3	53.0 – 62.8
LT-2	Approximately 1,200 feet west of the proposed project site and 50 feet south of Willow Pass Road.	58.4 – 70.0	51.8 – 64.3
LT-3	Approximately 1,750 feet southwest of the proposed project site and 55 feet south of North Parkside Drive.	62.1 – 69.0	55.8 – 67.8
ST-1	Approximately 630 feet southeast of the project site, near the existing industrial uses.	55.9	-
ST-2	Approximately 250 feet west of the project site, near the existing parking lot.	49.0	-

Source: LSA, October 27-29, 2017
dBA = A-weighted decibel
L_{eq} = average noise level
L_{max}=maximum noise level

LSA

LEGEND

Project Site

Noise Monitoring Number and Location

LT-1

0 200 400

FEET

SOURCE: Google Maps Satellite (2016).

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FIGURE 5

Diablo Energy Storage Facility
Pittsburg, Contra Costa County, California

Noise Monitoring Locations

PROJECT NOISE AND VIBRATION IMPACTS

Noise levels on and in the vicinity of the project site would change as a result of the proposed project. Potential noise impacts associated with the project include noises created during construction and operation of the project.

SHORT-TERM CONSTRUCTION NOISE IMPACTS

Two types of short-term noise impacts would occur during project construction. The first type would be from construction crew commutes and the transport of construction equipment and materials to the project site which would incrementally raise noise levels on access roads leading to the project site. The pieces of heavy equipment for grading and construction activities would be moved on site, would remain for the duration of each construction phase, and would not add to the daily traffic volume in the project vicinity. Willow Pass Road would be used to access the project site. Although there would be high single-event noise exposure potential at a maximum level of 75 dBA L_{max} at 50 ft due to truck pass-bys, the effect on longer-term (hourly or daily) ambient noise levels would be small when compared to existing hourly and daily traffic volumes. Because construction-related vehicle trips would not approach the hourly and daily traffic volumes mentioned above, traffic noise would not increase by 3 dBA. A noise level increase of less than 3 dBA would not be perceptible to the human ear in an outdoor environment. Therefore, short-term, construction-related impacts associated with worker commute and equipment transport to the project site would not cause an impact.

The second type of short-term noise impact is related to noise generated during site preparation, grading, building construction, architectural coating, and paving on the project site. The site preparation phase is expected to take approximately 60 days. After site preparation is complete, the remaining construction activities are expected to generate barely perceptible noise impacts to surrounding uses.

Construction is undertaken in discrete steps, each of which has its own mix of equipment, and consequently its own noise characteristics. These various sequential phases would change the character of the noise generated on the project site. Therefore, the noise levels vary as construction progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow construction-related noise ranges to be categorized by work phase. Table G lists the maximum noise levels recommended for noise impact assessments for typical construction equipment based on a distance of 50 ft between the equipment and a noise receptor. Typical operating cycles for these types of construction equipment may involve 1 to 2 minutes of full power operation followed by 3 to 4 minutes at lower power settings.

In addition to the reference maximum noise level, the usage factor provided in Table G is utilized to calculate the hourly noise level impact for each piece of equipment based on the following equation:

$$L_{eq}(equip) = E.L. + 10\log(U.F.) - 20\log\left(\frac{D}{50}\right)$$

where: $L_{eq}(equip)$ = L_{eq} at a receiver resulting from the operation of a single piece of equipment over a specified time period

E.L. = noise emission level of the particular piece of equipment at a reference distance of 50 ft

U.F. = usage factor that accounts for the fraction of time that the equipment is in use over the specified period of time

D = distance from the receiver to the piece of equipment

Table G: Typical Maximum Construction Equipment Noise Levels (Lmax)

Type of Equipment	Acoustical Usage Factor	Suggested Maximum Sound Levels for Analysis (dBA L_{max} at 50 ft)
Bulldozer	40	85
Grader	40	85
Scraper	40	85
Water Truck	20	82
Compactor	20	80
Dump Truck	40	84
Loader	40	80
Bobcat	40	80

Source: Federal Highway Administration, *Highway Construction Noise Handbook* (2006).
dBA = A-weighted decibel
ft = feet
L_{max} = maximum noise level

Each piece of construction equipment operates as an individual point source. Utilizing the following equation, a composite noise level can be calculated when multiple sources of noise operate simultaneously:

$$Leq\ (composite) = 10 * \log_{10}\left(\sum_{1}^{n} 10^{\frac{Ln}{10}}\right)$$

The composite noise level of the pieces of equipment during construction would be 89 dBA L_{eq} at a distance of 50 ft from the construction area.

Once composite noise levels are calculated, reference noise levels can then be adjusted for distance using the following equation:

$$Leq\ (at\ distance\ X) = Leq\ (at\ 50\ feet) - 20 * \log_{10}\left(\frac{X}{50}\right)$$

In general, this equation shows that doubling the distance would decrease noise levels by 6 dBA while halving the distance would increase noise levels by 6 dBA. It is expected that noise levels at the residences 80 feet to the east would approach 85 dBA L_{eq}, construction impacts at residences 1,325 feet to the west would approach 61 dBA Leq, and construction impacts at residences 1,040 feet to the south would approach 63 dBA Leq. While construction-related short-term noise levels have the potential to be higher than existing ambient noise levels in the project area today, the noise impacts would no longer occur once project construction is completed.

With the requirement of the project to comply with hours of operations restriction in the Noise Ordinance and the policies related to construction in the Noise Element of the General Plan, construction noise impacts would be reduced to the greatest extent feasible and not cause a substantial impact to surrounding sensitive uses.

SHORT-TERM CONSTRUCTION VIBRATION IMPACTS

This construction vibration impact analysis discusses the level of human annoyance using vibration levels in VdB and will assess the potential for building damages using vibration levels in PPV (in/sec) because vibration levels calculated in RMS are best for characterizing human response to building vibration while vibration level in PPV is best used to characterize potential for damage. As shown in Table E, the FTA guidelines indicate that a vibration level up to 102 VdB (an equivalent to 0.5 in/sec in PPV) (FTA 2006) is considered safe for buildings consisting of reinforced concrete, steel, or timber (no plaster), and would not result in any construction vibration damage. For a non-engineered timber and masonry building, the construction vibration damage criterion is 94 VdB (0.2 in/sec in PPV).

Table H shows the PPV and VdB values at 25 feet from the construction vibration source. As shown in Table H, bulldozers and other heavy-tracked construction equipment (vibratory rollers) generate approximately 87 VdB of ground-borne vibration when measured at 25 feet, based on the Transit Noise and Vibration Impact Assessment (FTA 2006). This level of ground-borne vibration levels could result in potential annoyance to residences and workers located adjacent to the project site, but would not cause any damage to the buildings. Construction vibration, similar to vibration from other sources, would not have any significant effects on outdoor activities (e.g., those outside of residences and commercial/office buildings in the project vicinity). Outdoor site preparation for the project is expected to use a bulldozer and loaded truck. The greatest levels of vibration are anticipated to occur during the site preparation phase. After the site preparation phase, all other construction phases will result in lower vibration levels because heavy tracked equipment will not be in use.

Table H: Vibration Source Amplitudes for Construction Equipment

Equipment	Reference PPV/L_V at 25 ft.	
	PPV (in/sec)	L_V (VdB)[1]
Vibratory Roller	0.210	94
Large Bulldozer[2]	**0.089**	**87**
Loaded Trucks	**0.076**	**86**
Jackhammer	0.035	79
Small Bulldozer	0.003	58

Sources: *Transit Noise and Vibration Impact Assessment* (FTA 2006).
[1] RMS vibration velocity in decibels (VdB) is 1 µin/sec.
[2] Equipment shown in **bold** is expected to be used on site.
µin/sec = micro-inches per second
ft = feet
FTA = Federal Transit Administration
in/sec = inches per second
L_V = velocity in decibels
PPV = peak particle velocity
RMS = root-mean-square
VdB = vibration velocity decibels

The distance to the nearest buildings for vibration impact analysis is measured between the nearest off-site buildings and the project boundary (assuming the construction equipment would be used at or near the project boundary) because vibration impacts occur normally within the buildings. The formula for vibration transmission is provided below.

$$L_v dB\ (D) = L_v dB\ (25\ ft) - 30\ Log\ (D/25)$$

$$PPV_{equip} = PPV_{ref} \times (25/D)^{1.5}$$

For typical construction activity, the equipment with the highest vibration generation potential is the large bulldozer, which would generate 87 VdB at 25 ft. The closest residential structure from the project site is approximately 80 ft. from the project construction boundary. The closest industrial building from the project site from is approximately 135 ft. to the south. Utilizing the information in Table H, the closest residences would experience vibration levels of up to 72 VdB (0.016 PPV [in/sec]). The closest industrial building to the south of the project site would experience vibration levels of 65 VdB (0.007 PPV [in/sec]). This range of vibration levels from construction equipment or activity would be below the FTA 94 VdB (0.2 in/sec PPV) threshold and would not exceed the 80 VdB threshold for residences due to infrequent events, thus resulting in no impact to surrounding uses.

LONG-TERM AIRCRAFT NOISE IMPACTS

The project would develop an energy facility within the City, and would not contribute to any aircraft activity. There currently is no airport located within the city. The closest airport to the project site is the Buchanan Field Airport (CCR) located approximately 8.8 miles to the southwest in Contra Costa County. According to the Buchanan Field Noise Program, the project site is located outside of the airport's influence area. Therefore, no measurable long-term aircraft or airport noise impacts would occur.

LONG-TERM STATIONARY NOISE IMPACTS

Noise impacts associated with the long-term operation of the project must comply with the standards presented in the City's Noise Element, described above. A potential impact could occur if

the noise impacts associated with operation of the proposed project increase existing noise levels by 5 dBA L_{eq} or more. Noise associated with the project includes the energy facility and corona noise.

In order to calculate the expected impacts due to long-term operational stationary source activities, the software SoundPlan was used. SoundPlan is a noise modeling program that allows 3-D calculations to be made taking into account topography, ground attenuation, and shielding from structures and walls. More specifically, this also includes the existing wall that runs north-south and is located east of the project site and west of the existing single-family homes. It is expected that this wall will provide some reduction associated with the sources that are located closer to ground level, however, the wall has the potential to provide less reduction for elevated sources such as rooftop HVAC equipment. Similarly, once the eastern-most building is constructed, it will provide significant reduction from sources associated with the middle and western-most building. Within the model, the noise library allows for the input of many noise sources and calculates the composite noise levels experienced at any receptor necessary. The results from any calculation can be presented both in both tabular and graphic formats.

The proposed operations assumed in this analysis were based on conversations with the project engineer and are conservative in nature (i,e. all operations are occurring simultaneously). A description of the sources measured and their respective sound pressure level at a distance of 10 feet included in the analysis, which represent the loudest noise hour when the greatest amount of equipment is in operation, is as follows:

- 48 (3 groups of 16) – 5.6 megawatt transformers that have a sound pressure noise level of 70.3 dBA L_{eq}.
- 96 (3 groups of 32) – 2.8 megawatt inverters that have a sound pressure noise level of 74.5 dBA L_{eq}.
- 30 (3 groups of 10) rooftop HVAC Units that have a sound pressure noise level of 73.3 dBA L_{eq}.
- 2 HVAC units within the substation that have a sound pressure noise level of 58.7 dBA L_{eq}.
- 1 generator step-up transformer within the substation with a reference sound pressure level of 80.9 dBA L_{eq}.

In order to remain conservative, it is assumed that all equipment above operating simultaneously for the duration of the entire hour.

Table I shows the results of the SoundPlan noise modeling for each phase of project development. The results show that the noise levels at all points around the project site would experience noise level impacts that would increase the existing measured noise level by less than 5 dBA; thus the project would not result in an impact to the existing sensitive receptors. A graphic showing the results of the SoundPlan modeling during full site operations is provided in Figure 4.

Table I: Project Operations – All Sources

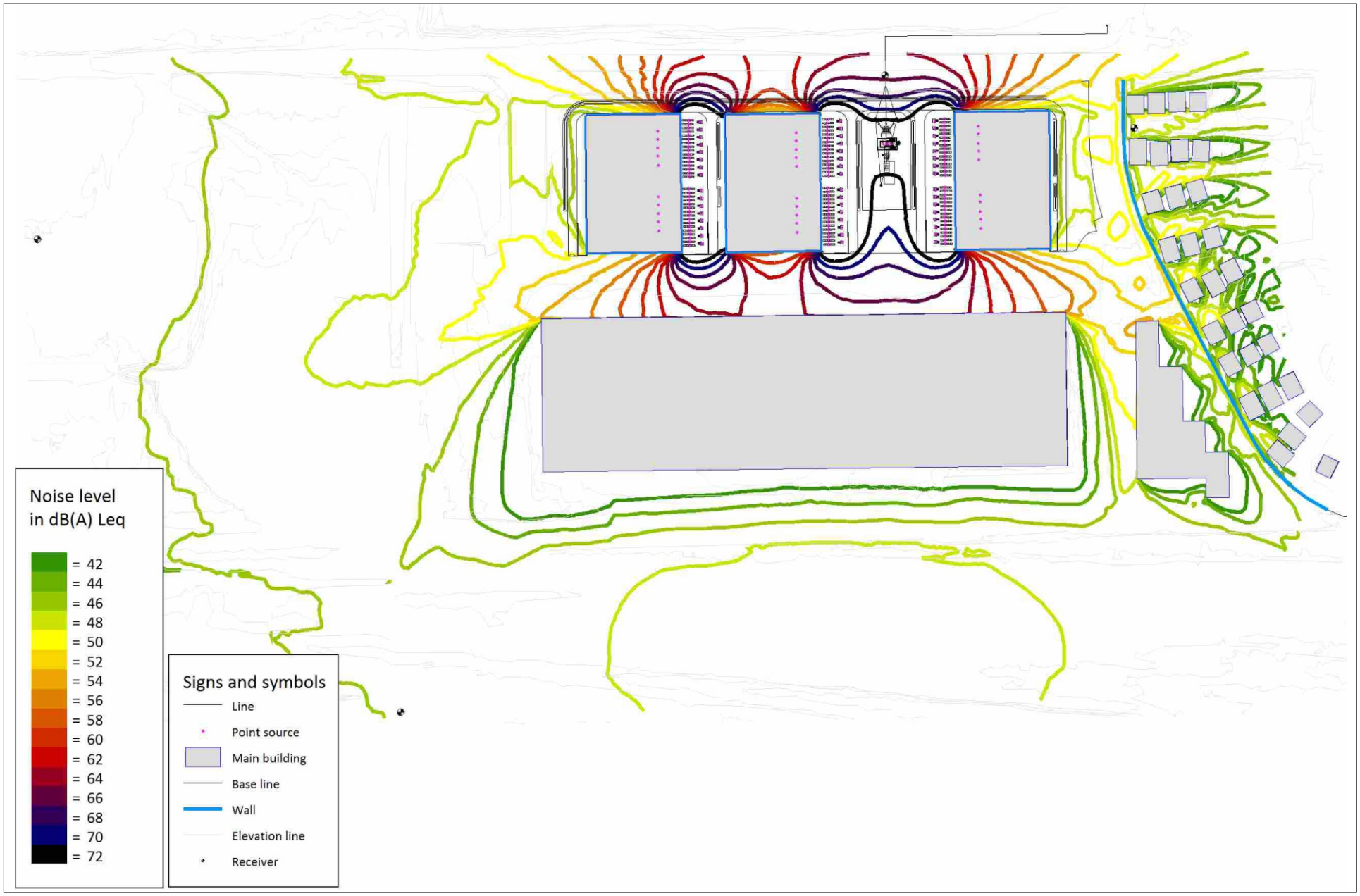
Receiver Location	Existing Average Noise Hour (dBA Leq)[1]	Phase 1		Phase 2		Full Operations	
		Noise Impact From Project Operations (dBA Leq)	Future Noise Level / Noise Level Increase (dBA L_{eq})	Noise Impact From Project Operations (dBA Leq)	Future Noise Level / Noise Level Increase (dBA L_{eq})	Noise Impact From Project Operations (dBA Leq)	Future Noise Level / Noise Level Increase (dBA L_{eq})
R-1 Residences East of Site	57.9[1]	47.6	58.3 / 0.4	48.6	58.4 / 0.5	48.9	58.4 / 0.5
R-2 Residences West of Site	45.9[1]	43.4	47.7 / 2.0	42.9	47.5 / 1.8	44.5	48.1 / 2.5
R-3 Residences South of Site	61.8[1]	43.6	61.9 / 0.1	44.7	61.9 / 0.1	46.1	61.9 / 0.1
R-4 Northern Property Line	64.2[2]	62.9	66.6 / 2.4	63.3	66.8 / 2.6	65.6	68.0 / 3.8

Source: LSA. January 2018..

1. The average nighttime noise hour was taken from existing measurements provided in Table F above. In the case of R-2, existing noise levels were propagated based on distance from Willow Pass Road.
2. The average daytime noise hour was taken from existing measurements provided in Table F above given the use of the sidewalk to the north of the project is expected to occur during daytime hours and is an active use.

dBA = A-weighted decibels

L_{eq} = equivalent continuous level



LSA

FIGURE 4

Diablo Energy Storage Facility
Pittsburg, Contra Costa County, California

Future Operational Impacts

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Corona Noise

The proposed project electric tie line has the potential to create corona, or electro-static noise, along the proposed tie-in lines. The audible noise from the corona noise effect was calculated based on the Bonneville Power Administration (BPA) method provided in the Electric Power Research Institute (EPRI) Transmission Line Reference Book – 115 – 230 kV Compact Line Design. The equation used to calculate the audible noise from the corona noise effect is based on median fair weather, rainy weather, and heavy rain conditions and for less than three sub-conductors in each conductor (bundle) as provided below.

Equation: P = 55 log d + 120 log g + Alt./300 – 115.4 – 11.4 log D

Where: P = the audible noise in dBA above 20 µPA.

d = the sub-conductor diameter in centimeter (cm).

g = the maximum gradient in kilo-volts/centimeter (kV/cm).

Alt. = the altitude above sea level in meters.

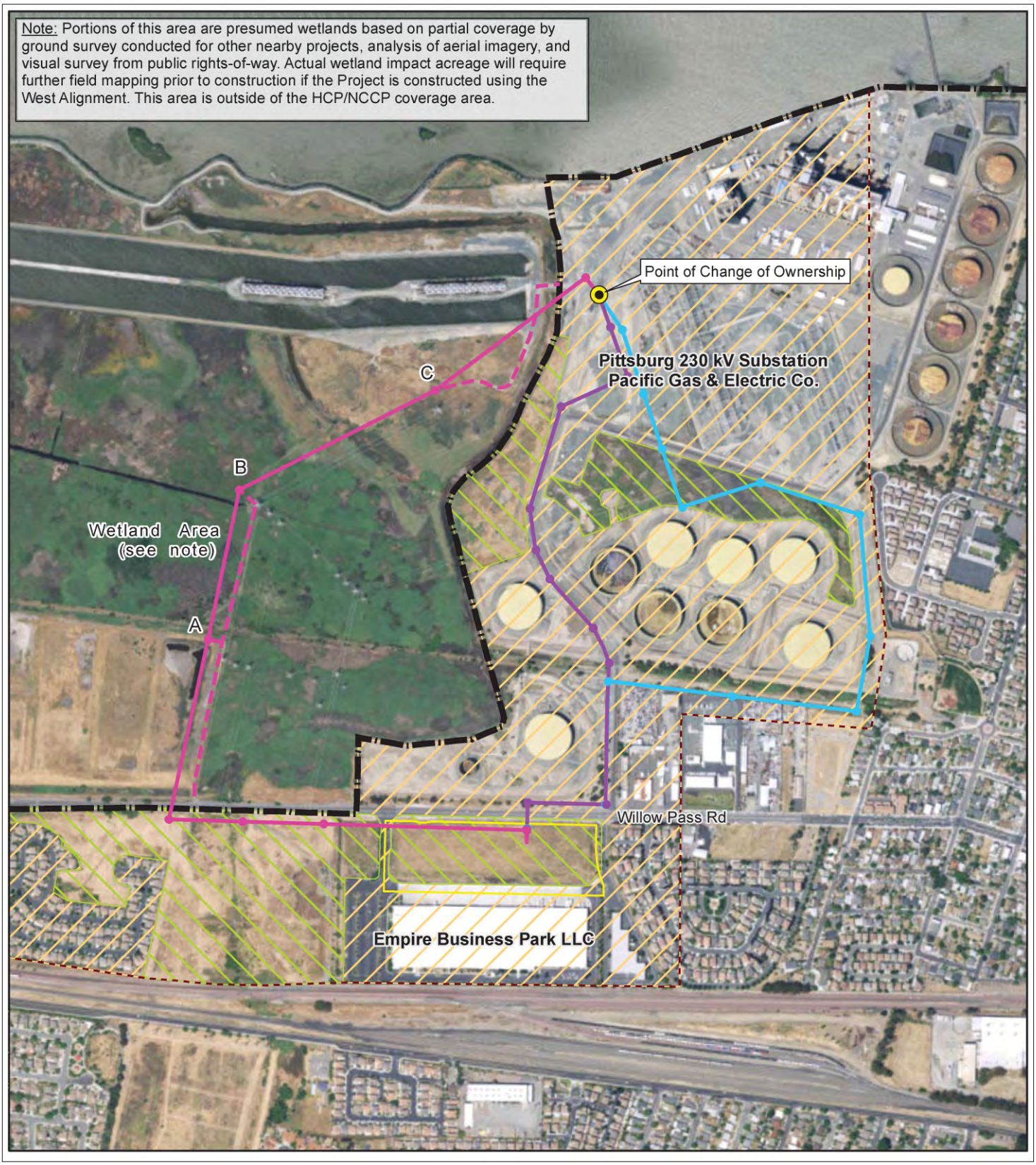
D = the distance from the phase to the measuring point in meters.

Table J shows the results of the corona noise calculations for each potential tie-in alignment. The results show that the noise level contributions at the nearest residences would be highly dependent on weather conditions and the potential corona noise levels would be very quiet, less than 20 dBA Leq, which would likely to be masked by existing ambient noise from other sources in the vicinity of the sensitive uses.

Table J: Corona Noise Contributions – dBA Leq

Alignment / Address of Nearest Receptor	Distance to Nearest Receptor (feet)	Noise Level (dBA) for Median Fair Weather Conditions	Noise Level (dBA) for Rainy Weather Conditions[1]	Noise Level (dBA) for Heavy Rain Conditions[2]
Reference / 10 feet from Alignment	10	Not Audible	21.0	24.5
West Alignment / 127 Mayport Court	250	Not Audible	12.0	15.5
Middle Alignment / 114 Prosperity Court	130	Not Audible	15.0	18.5
East Alignment / 1000 Beacon Street	110	Not Audible	16.0	19.5

Source: LSA. January 2018.
[1] The audible noise level for median fair weather conditions is 25 dBA less than rainy weather conditions.
[2] The audible noise level for heavy rain conditions is 3.5 dBA higher than rainy weather conditions.
dBA = A-weighted decibels
L_{eq} = equivalent continuous level



LSA

LEGEND

- Project Site
- West Alignment
- Middle Alignment
- East Alignment

N

0 400 800
FEET

SOURCE: TRC Solutions, Inc.

FIGURE 5

Diablo Energy Storage Facility
Pittsburg, Contra Costa County, California

Off-site Tie-in Alignments

I:\LPD1702\G\Figure 5_Off-site Tie-in Alignments.cdr (11/10/2017)

RESULTS SUMMARY

As described herein, the proposed project would result in increased noise levels in the project vicinity due to temporary construction activities, however those increases would cease after construction is completed. Noise associated with long-term operations or corona noise would not create an impact to surrounding noise sensitive receptors. With the requirement of the project to comply with hours of operations restriction in the Noise Ordinance and the policies related to construction in the Noise Element of the General Plan, construction noise impacts would be reduced to the greatest extent feasible and not cause a substantial impact to surrounding sensitive uses.

REFERENCES

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_____. 2007. Municipal Code, Code of Ordinance. Website: http://www.codepublishing.com/CA/Pittsburg/ (Accessed January 2018).

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United States Environmental Protection Agency (EPA). 1978. *Protective Noise Levels, Condensed Version of EPA Levels Document*, EPA 550/9-79-100. November.

LIST OF PREPARERS

J.T. Stephens, Author, Senior Noise Specialist

Mr. Stephens holds a B.S. in Acoustical Engineering from Purdue University. He is a Senior Acoustical Specialist at LSA with over 13 years of experience in preparing noise studies. Mr. Stephens is primarily responsible for the preparation of noise studies for a variety of projects. He is proficient in the use of the FHWA Highway Traffic Noise Prediction Model (FHWA RD-77-108), Traffic Noise Model (TNM) 2.5, RCNM, Insul, and SoundPlan noise prediction software. Mr. Stephens is also responsible for performing noise monitoring surveys using a variety of Larson Davis sound level meters.

Amy Fischer, Principal-In-Charge.

Ms. Fischer has a B.S. in Environmental Policy Analysis from the University of Nevada, Reno. With 17 years of experience, Ms. Fischer serves as a Noise Principal, is qualified to conduct analyses for a variety of projects, is the technical lead on noise impact analyses documents, and oversees the research and preparation of technical reports.

APPENDIX A

NOISE MONITORING SURVEY SHEETS

Noise Measurement Survey – 24 HR

Project Number: LPD1702
Project Name: Diablo Energy

Test Personnel: JT / Kaitlin
Equipment: Quest Noise Pro DLX

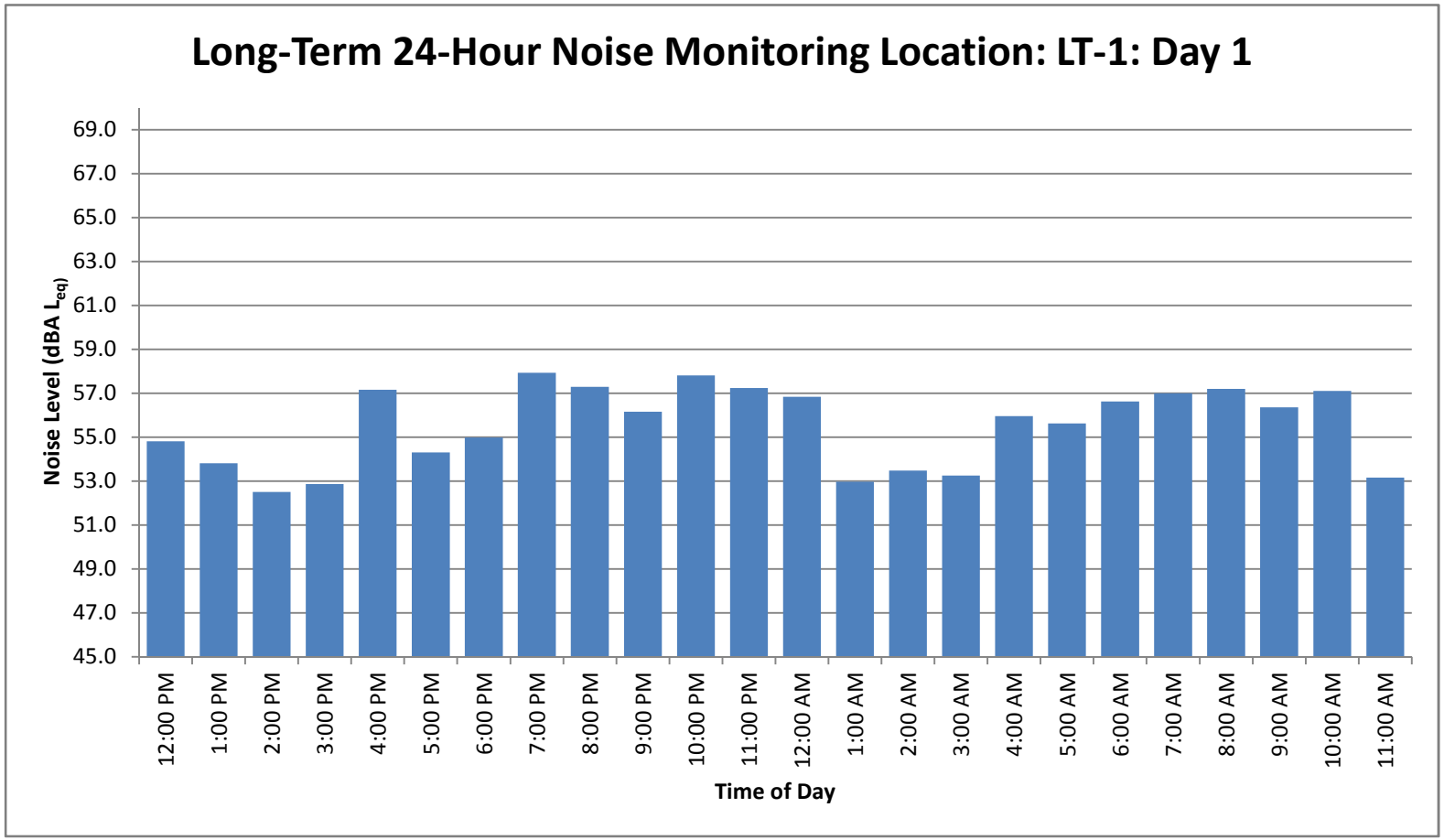
Site Number: LT-1 Date: 10/27-10/30/17

Time: From 12 pm To 1 pm

Site Location: SE Corner of the Proposed Project Site

Primary Noise Sources: Activities at the existing distribution center, traffic on Willow Pass Road, Trains

Comments: Serial Number: NXF 100112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55.0
53.0
51.0
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47.0
45.0
12:00 PM
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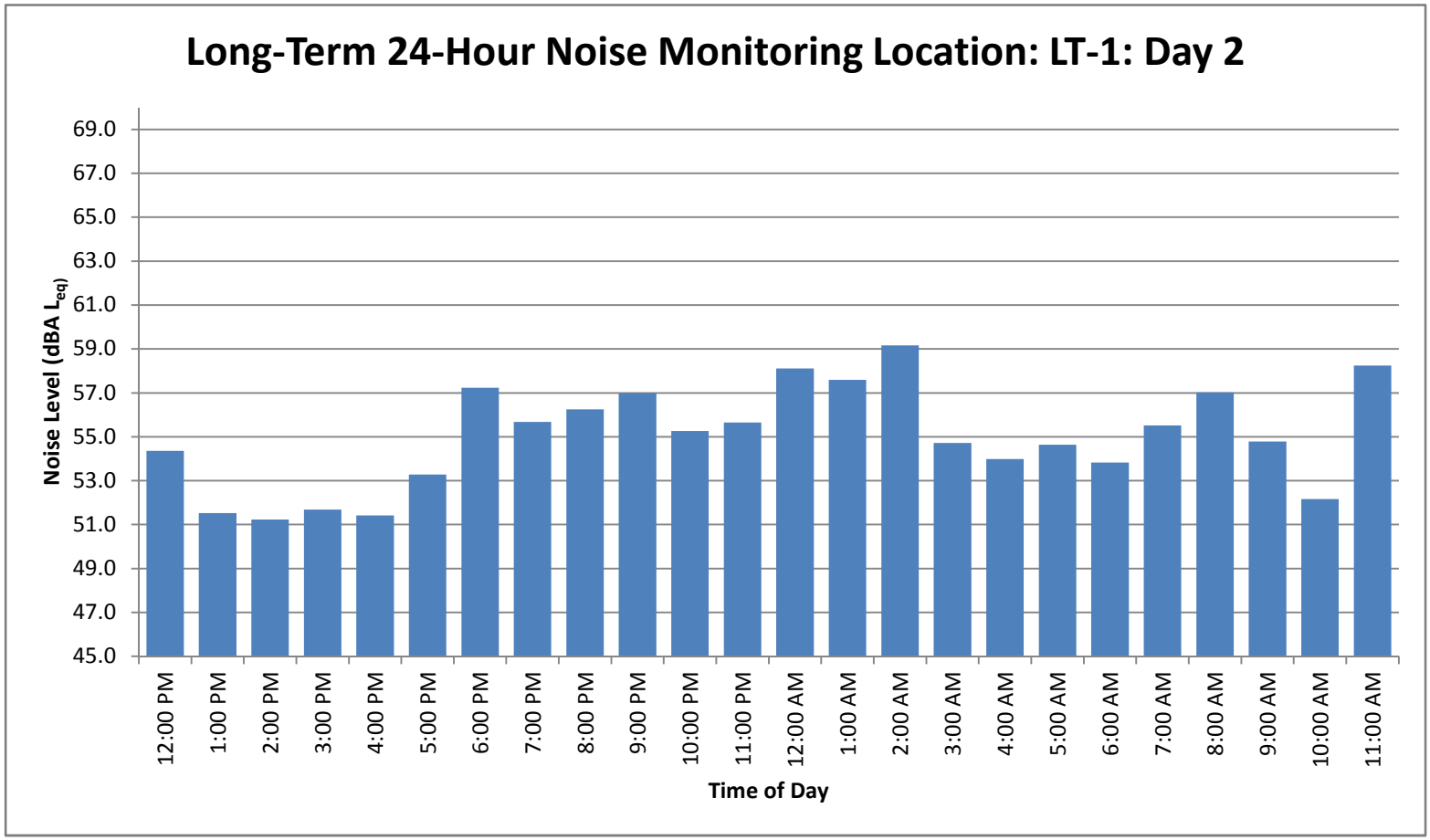
Time of Day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Noise Level (dBA L_{eq})
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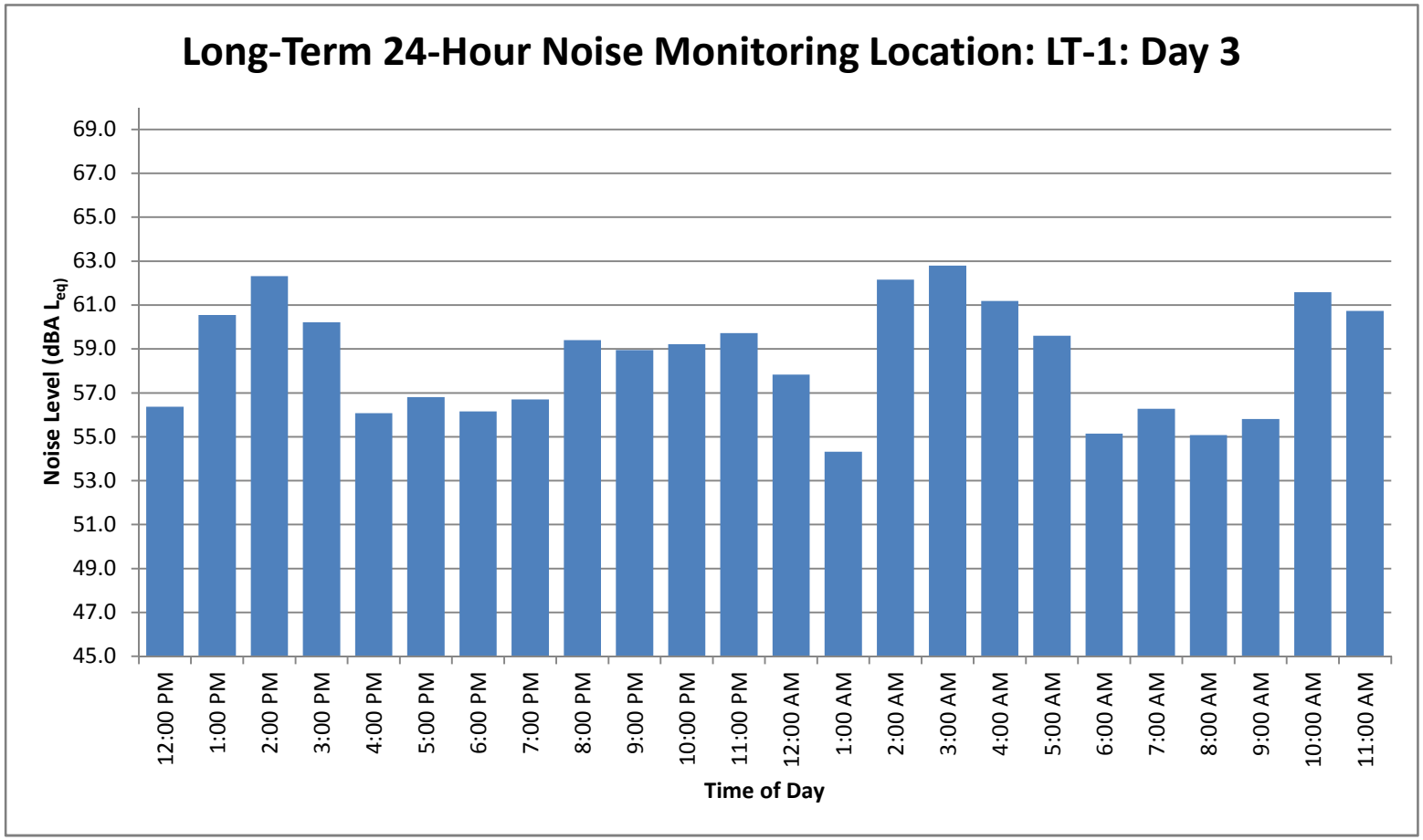
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Noise Level (dBA L_{eq})
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57.0
55.0
53.0
51.0
49.0
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Time of Day

Noise Measurement Survey – 24 HR

Project Number: LPD1702
Project Name: Diablo Energy

Test Personnel: JT / Kaitlin
Equipment: Quest Noise Pro DLX

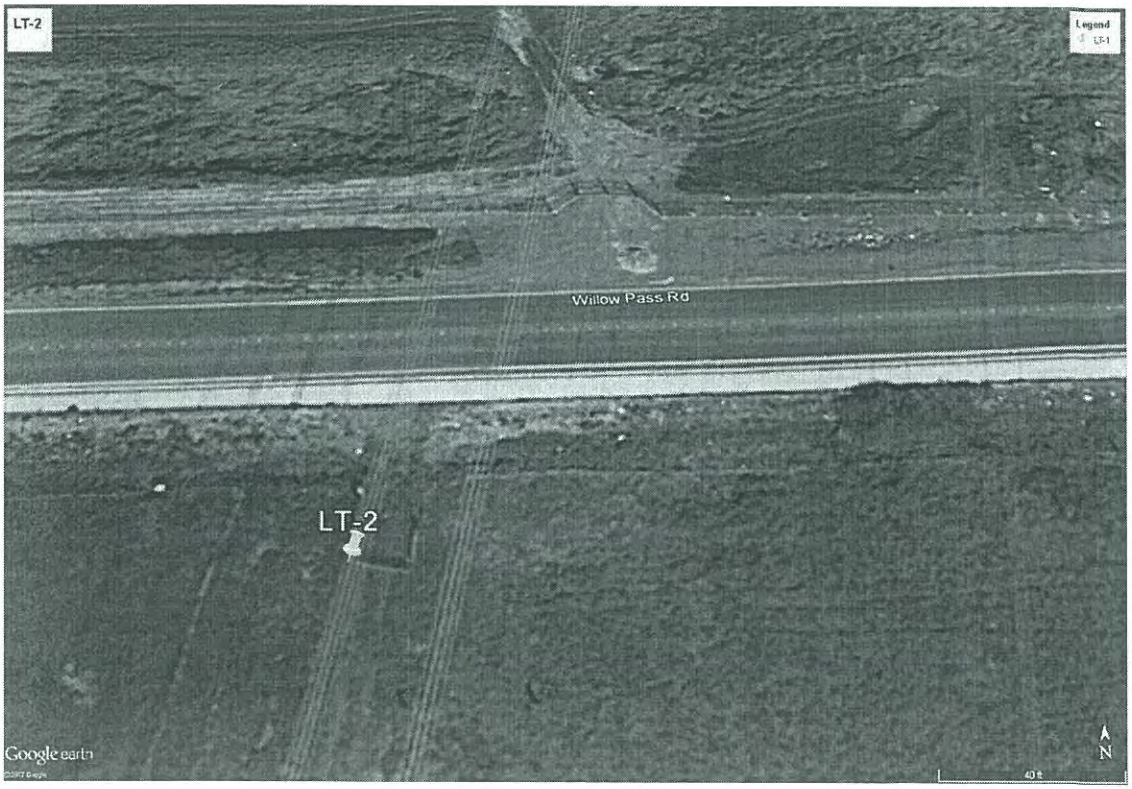
Site Number: LT-2 Date: 10/27-10/30/17

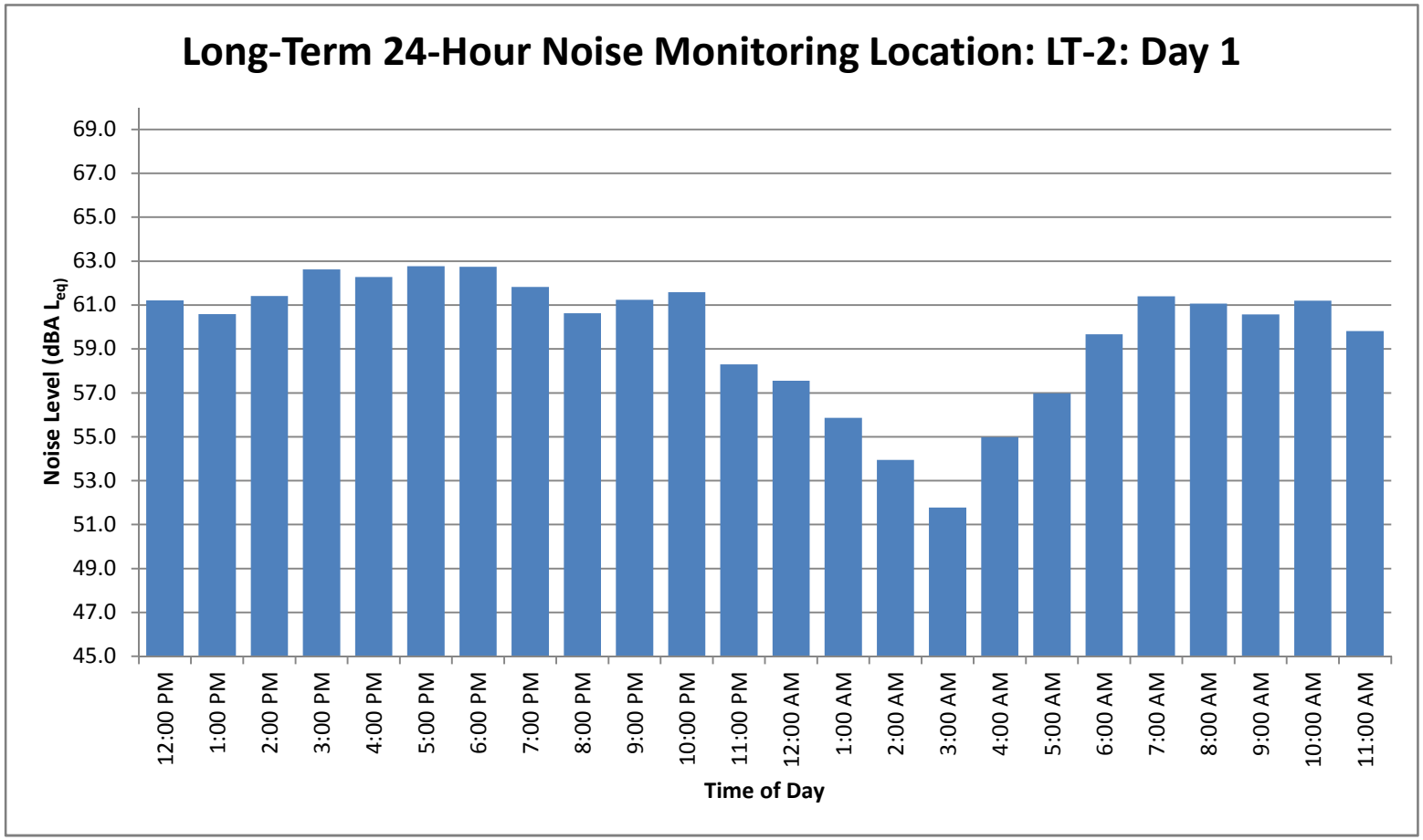
Time: From 12 pm To 1:10 pm

Site Location: West of the Proposed Project Site, south of Willow Pass Road

Primary Noise Sources: Traffic on Willow Pass Road, Corona Noise

Comments: Serial Number: NXG060 1AA

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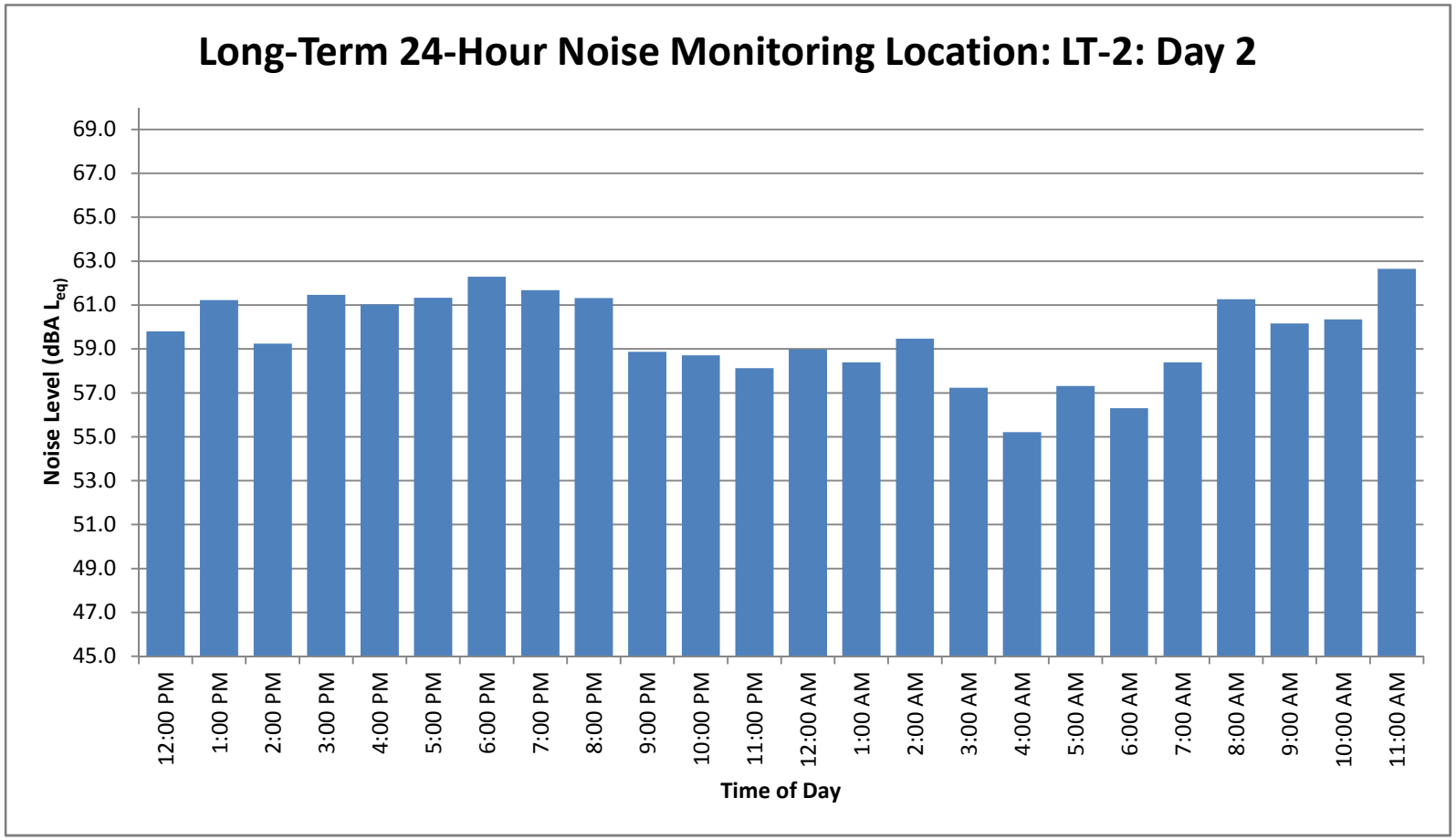
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Noise Level (dBA L_{eq})
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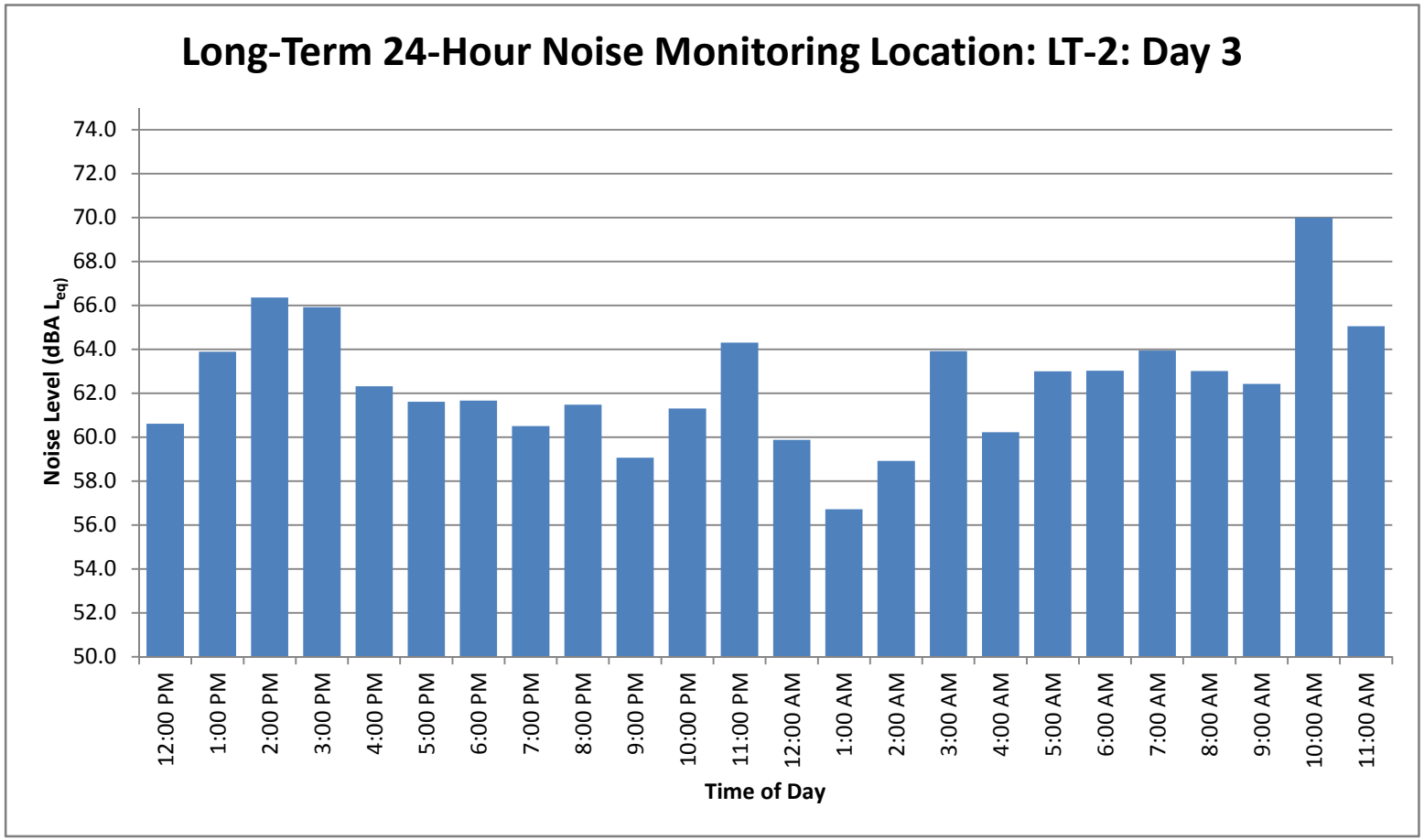
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Time of Day

Noise Measurement Survey – 24 HR

Project Number: LPD1702
Project Name: Diablo Energy

Test Personnel: JT / Kaitlin
Equipment: Quest Noise Pro DLX

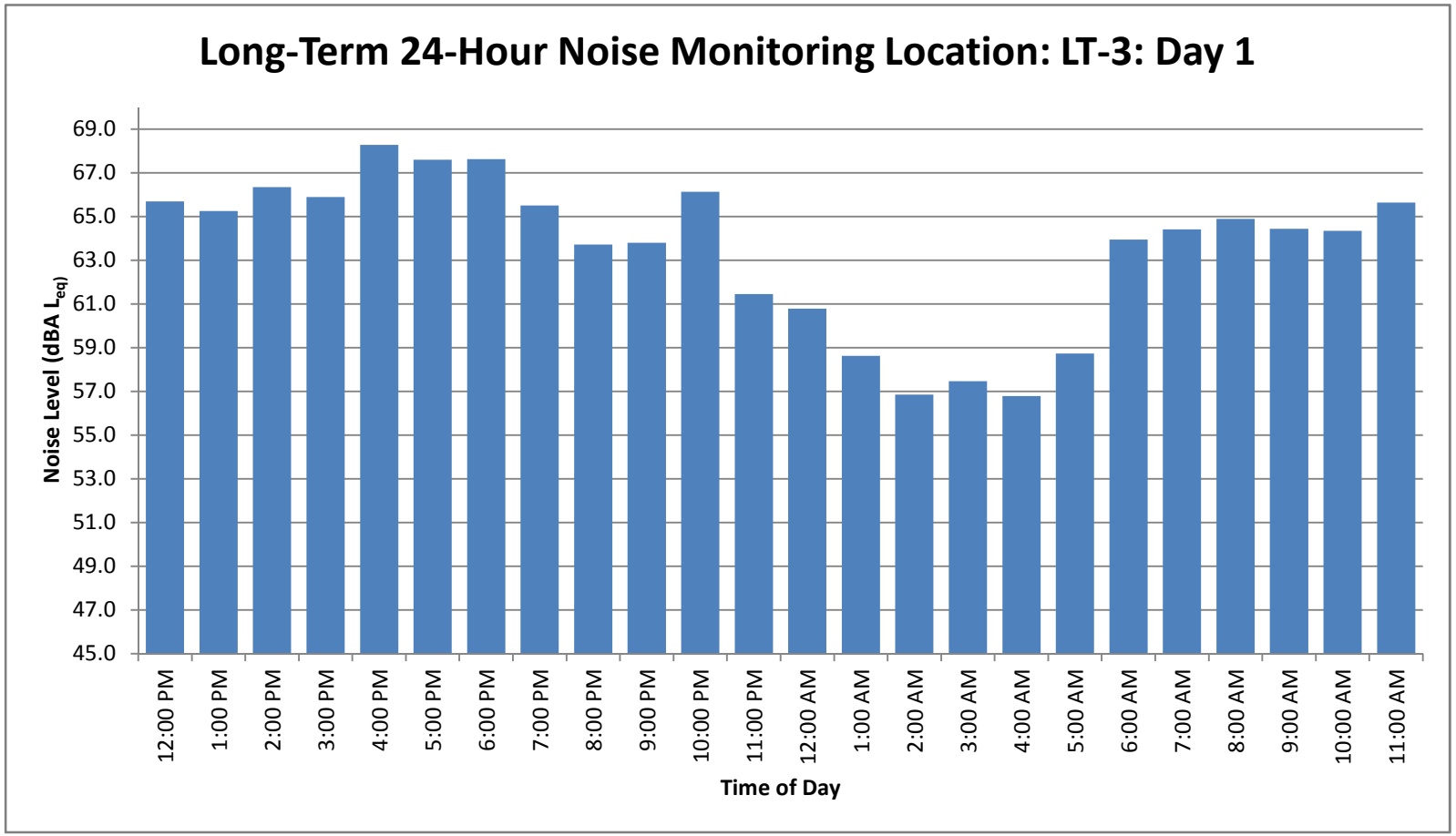
Site Number: LT-3 Date: 10/27-10/30/17

Time: From 12 pm To 1:23pm

Site Location: Southwest of the Proposed Project Site, south of Parkside Drive

Primary Noise Sources: Traffic on Parkside Drive, Corona Noise

Comments: Serial Number: NXU070024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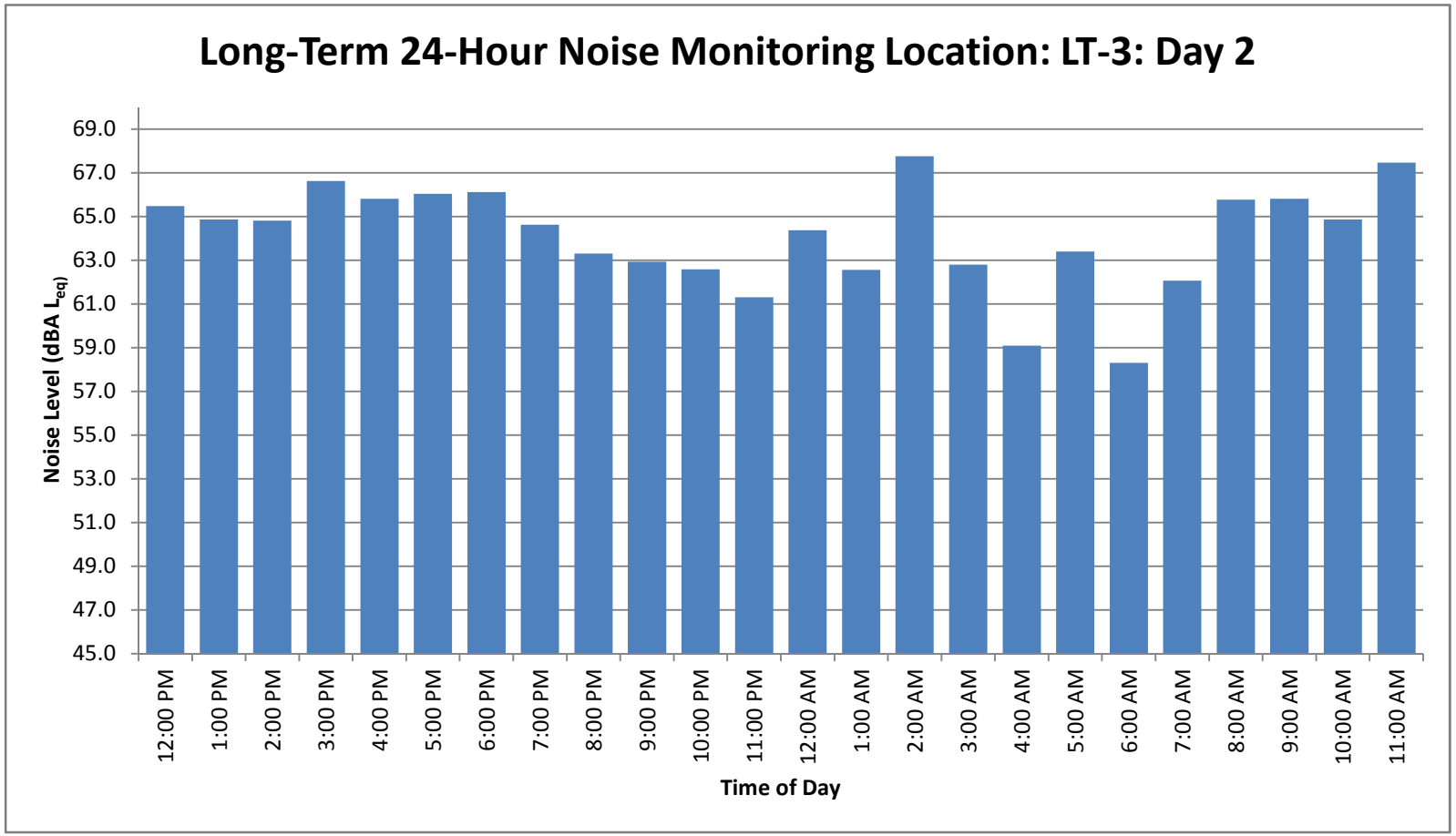
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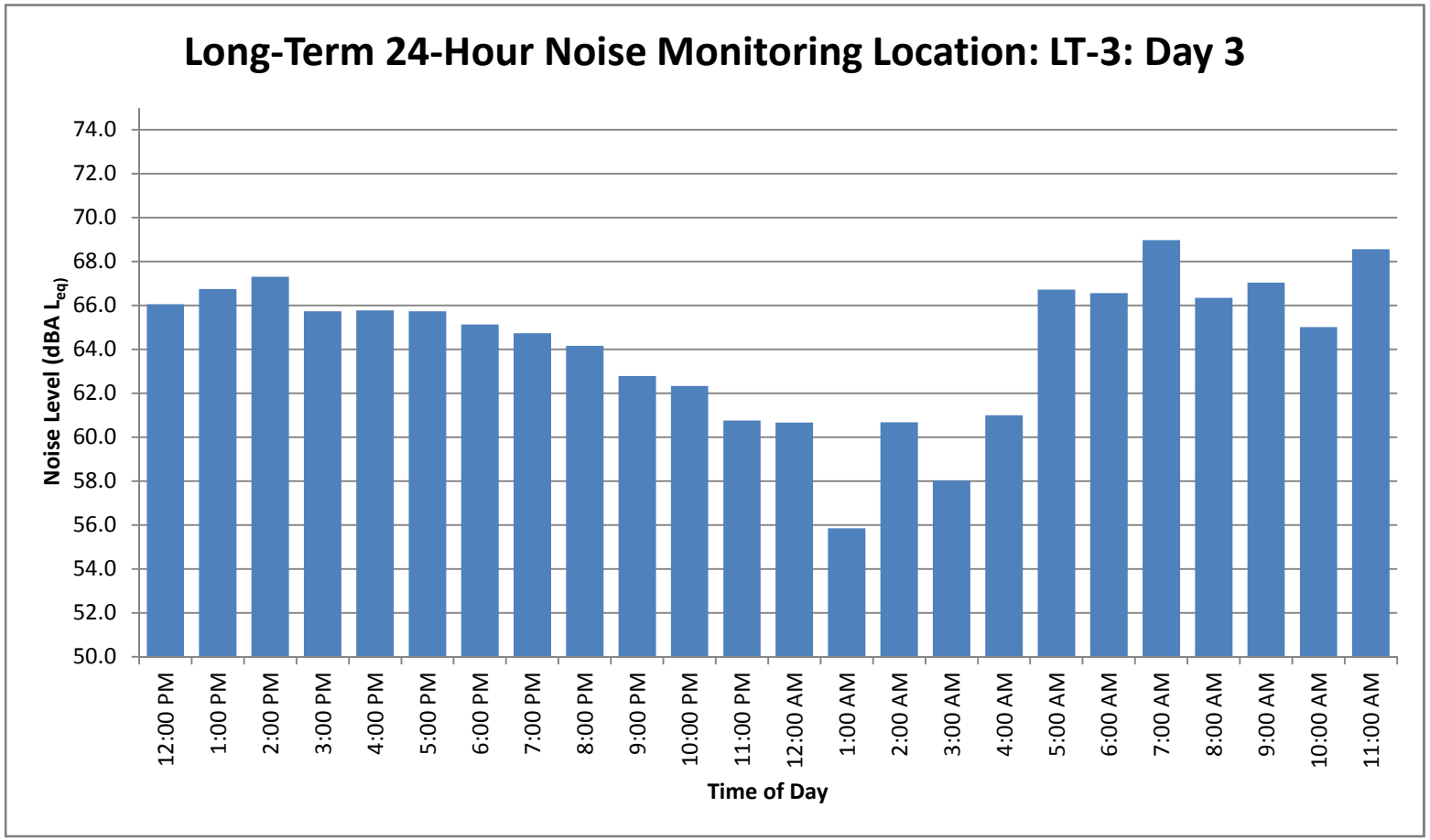
Time of Day


Long-Term 24-Hour Noise Monitoring Location: LT-3: Day 3
Noise Level (dBA L_{eq})
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Noise Measurement Survey

Project Number: LPD1702
Project Name: Diablo Energy

Test Personnel: JT Stephens
Equipment: LD LxT

Site Number: ST-1 Date: 10/27/17

Time: From 1:21p To 1:34p.

Site Location: SE Corner of Existing Industrial Building
Along fence line. Close to single-Family Homes

Primary Noise Sources: Forklift operations / back-up beeper
trains

Comments: 9'-10' high prop. line fence.
Forklift pass-by 64-66dBA
Backup beeper 61 dBA when near door

Adjacent Roadways: Existing Rail Line

File:	64
L_{eq}	55.9
L_{max}	69.3
L_{min}	37.9
L_{2} 5	63.2
L_{8} 10	60.3
L_{25} 33.3	52.3
L_{50}	49.7
L_{90} 66.6	43.4
L_{99} 90	39.3

Atmospheric Conditions	
Average Wind Velocity (mph)	0.9
Maximum Wind Velocity (mph)	1.9
Temperature (F)	87.2
Relative Humidity (%)	21

Noise Measurement Survey

Project Number: LPD1702
Project Name: Diablo Energy

Test Personnel: JT Stephens
Equipment: LD LxT

Site Number: ST-2 Date: 10/27/17

Time: From 1:44p To

Site Location: West of project site, NW corner of existing parking lot

Primary Noise Sources: Truck and Vehicle movements
Loading Dock Activities / Forklift.
Traffic on Willow Pass Rd (faint)
Airplanes

Comments: ~ 20 dock @ building.

Adjacent Roadways: Willow Pass Rd.

File:	65
L_{eq}	49.0
L_{max}	62.1
L_{min}	40.3
L_{2} ~~5~~	52.8
L_{8} ~~10~~	51.5
L_{25} ~~33.3~~	48.9
L_{50}	47.5
L_{90} ~~66.6~~	46.2
L_{99} ~~90~~	43.2

Atmospheric Conditions	
Average Wind Velocity (mph)	1.0
Maximum Wind Velocity (mph)	3.0
Temperature (F)	87.4
Relative Humidity (%)	21%

Appendix E

NAHC Correspondence

NATIVE AMERICAN HERITAGE COMMISSION
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
(916) 373-3710
Fax (916) 373-5471

May 30, 2017

Howard Higgins
TRC Environmental

Sent by Email: hhiggins@trcsolutions.com
Number of Pages: 2

RE: Diablo Project, Honker Bay, Contra Costa County

Dear Mr. Higgins:

A record search of the Native American Heritage Commission (NAHC) *Sacred Lands File* was completed for the area of potential project effect (APE) referenced above with negative results. **Please note that the absence of specific site information in the *Sacred Lands File* does not indicate the absence of Native American cultural resources in any APE**.

I suggest you contact all of those listed, if they cannot supply information, they might recommend others with specific knowledge. The list should provide a starting place to locate areas of potential adverse impact within the APE. **By contacting all those on the list, your organization will be better able to respond to claims of failure to consult.** If a response has not been received within two weeks of notification, the NAHC requests that you follow-up with a telephone call to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from any of these individuals or groups, please notify me. With your assistance we are able to assure that our lists contain current information. If you have any questions or need additional information, please contact via email: Sharaya.souza@nahc.ca.gov.

Sincerely,

Sharaya Souza
Staff Services Analyst

Native American Heritage Commission
Native American Contacts
5/30/2017

Amah MutsunTribal Band of Mission San Juan Bautista
Irenne Zwierlein, Chairperson
789 Canada Road
Woodside , CA 94062
amahmutsuntribal@gmail.com
(650) 851-7489 Cell
(650) 851-7747 Office
(650) 332-1526 Fax

Ohlone/Costanoan

Indian Canyon Mutsun Band of Costanoan
Ann Marie Sayers, Chairperson
P.O. Box 28
Hollister , CA 95024
ams@indiancanyon.org
(831) 637-4238

Ohlone/Costanoan

Muwekma Ohlone Indian Tribe of the SF Bay Area
Rosemary Cambra, Chairperson
P.O. Box 360791
Milpitas , CA 95036
muwekma@muwekma.org
(408) 314-1898
(510) 581-5194

Ohlone / Costanoan

North Valley Yokuts Tribe
Katherine Erolinda Perez, Chairperson
P.O. Box 717
Linden , CA 95236
canutes@verizon.net
(209) 887-3415

Ohlone/Costanoan
Northern Valley Yokuts
Bay Miwok

The Ohlone Indian Tribe
Andrew Galvan
P.O. Box 3152
Fremont , CA 94539
chochenyo@AOL.com
(510) 882-0527 Cell

(510) 687-9393 Fax

Ohlone/Costanoan
Bay Miwok
Plains Miwok
Patwin

Wilton Rancheria
Raymond Hitchcock, Chairperson
9728 Kent Street
Elk Grove , CA 95624
rhitchcock@wiltonrancheria-nsn.gov
(916) 683-6000 Office

(916) 683-6015 Fax

Miwok

This list is current only as of the date of this document and is based on the information available to the Commission on the date it was produced.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resource Section 5097.98 of the Public Resources Code

This list is only applicable for contacting local Native Americans with regard to cultural resources assessments for the updated contact list for Diablo Project, Honker Bay, Contra Costa County.

City of Pittsburg

Community Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

December 11, 2017

Wilton Rancheria
Raymond Hitchcock, Chairperson
9728 Kent Street
Elk Grove, CA 95624

Subject: **AB 52 Tribal Consultation for the Diablo Energy Storage Project**

Raymond Hitchcock:

The City of Pittsburg has received a request for formal notice of and information on proposed projects within the geographic area of the City's jurisdiction from your tribe per Public Resources Code, Section 21080.3.1(b). In accordance with Public Resources Code, Section 21080.3.1(d), the City of Pittsburg is hereby providing formal notification to your tribe of the Diablo Energy Storage Project.

In September 2017, Diablo Energy Storage LLC submitted an application requesting a Conditional Use Permit, Zoning Text Amendment and Design Review for a Battery Storage Project. The applicant proposes to install up to three single story buildings on a graded and vacant approximately 12 acre site representing a portion of an approximately 35 acre parcel located at 701 Willow Pass Road, Pittsburg, California (APN 085-280-010). The proposed project would also include a tie in line to the existing PG&E Substation. Three alternative routes are shown on the attached project location map.

If your tribe would like to consult on this project, please submit a request for consultation to the City at the following address:

Kristin Pollot, Planning Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Per Public Resources Code, Section 21080.3.1(d), a request for consultation must be submitted within 30 days of receipt of this letter.

If you have any questions, please contact me at (925) 252-4043 or via e-mail at KPollot@ci.pittsburg.ca.us.

Sincerely,

Kristin Pollot,
Planning Manager

Attachment: Project Location Map

City of Pittsburg

Community Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

December 13, 2017

North Valley Yakuts Tribe
Katherine Erolinda Perez, Chairperson
P. O. Box 717
Linden, CA 95236

Subject: **AB 52 Tribal Consultation for the Diablo Energy Storage Project**

Katherine Erolinda Perez:

The City of Pittsburg has received a request for formal notice of and information on proposed projects within the geographic area of the City's jurisdiction from your tribe per Public Resources Code, Section 21080.3.1(b). In accordance with Public Resources Code, Section 21080.3.1(d), the City of Pittsburg is hereby providing formal notification to your tribe of the Diablo Energy Storage Project.

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Kristin Pollot, Planning Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Per Public Resources Code, Section 21080.3.1(d), a request for consultation must be submitted within 30 days of receipt of this letter.

If you have any questions, please contact me at (925) 252-4043 or via e-mail at KPollot@ci.pittsburg.ca.us.

Sincerely,

Kristin Pollot,
Planning Manager

Attachment: Project Location Map

City of Pittsburg

Community Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

December 13, 2017

Indian Canyon Mutsun Band of Costanoan
Ann Marie Sayers, Chairperson
P. O. Box 28
Hollister, CA 95024

Subject: **AB 52 Tribal Consultation for the Diablo Energy Storage Project**

Ann Marie Sayers:

The City of Pittsburg has received a request for formal notice of and information on proposed projects within the geographic area of the City's jurisdiction from your tribe per Public Resources Code, Section 21080.3.1(b). In accordance with Public Resources Code, Section 21080.3.1(d), the City of Pittsburg is hereby providing formal notification to your tribe of the Diablo Energy Storage Project.

In September 2017, Diablo Energy Storage LLC submitted an application requesting a Conditional Use Permit, Zoning Text Amendment and Design Review for a Battery Storage Project. The applicant proposes to install up to three single story buildings on a graded and vacant approximately 12 acre site representing a portion of an approximately 35 acre parcel located at 701 Willow Pass Road, Pittsburg, California (APN 085-280-010). The proposed project would also include a tie in line to the existing PG&E Substation. Three alternative routes are shown on the attached project location map.

If your tribe would like to consult on this project, please submit a request for consultation to the City at the following address:

Kristin Pollot, Planning Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Per Public Resources Code, Section 21080.3.1(d), a request for consultation must be submitted within 30 days of receipt of this letter.

If you have any questions, please contact me at (925) 252-4043 or via e-mail at KPollot@ci.pittsburg.ca.us.

Sincerely,

Kristin Pollot,
Planning Manager

Attachment: Project Location Map

City of Pittsburg

Community Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

December 13, 2017

Amah Mutsun Tribal Band of Mission San Juan Bautista
Irene Zwierlein, Chairperson
789 Canada Road
Woodside, CA 94062

Subject: **AB 52 Tribal Consultation for the Diablo Energy Storage Project**

Irene Zwierlein:

The City of Pittsburg has received a request for formal notice of and information on proposed projects within the geographic area of the City's jurisdiction from your tribe per Public Resources Code, Section 21080.3.1(b). In accordance with Public Resources Code, Section 21080.3.1(d), the City of Pittsburg is hereby providing formal notification to your tribe of the Diablo Energy Storage Project.

In September 2017, Diablo Energy Storage LLC submitted an application requesting a Conditional Use Permit, Zoning Text Amendment and Design Review for a Battery Storage Project. The applicant proposes to install up to three single story buildings on a graded and vacant approximately 12 acre site representing a portion of an approximately 35 acre parcel located at 701 Willow Pass Road, Pittsburg, California (APN 085-280-010). The proposed project would also include a tie in line to the existing PG&E Substation. Three alternative routes are shown on the attached project location map.

If your tribe would like to consult on this project, please submit a request for consultation to the City at the following address:

Kristin Pollot, Planning Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Per Public Resources Code, Section 21080.3.1(d), a request for consultation must be submitted within 30 days of receipt of this letter.

If you have any questions, please contact me at (925) 252-4043 or via e-mail at KPollot@ci.pittsburg.ca.us.

Sincerely,

Kristin Pollot,
Planning Manager

Attachment: Project Location Map

City of Pittsburg

Community Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

December 13, 2017

The Ohlone Indian Tribe
Andrew Galvin
P. O. Box 3152
Fremont, CA 94539

Subject: **AB 52 Tribal Consultation for the Diablo Energy Storage Project**

Andrew Galvin:

The City of Pittsburg has received a request for formal notice of and information on proposed projects within the geographic area of the City's jurisdiction from your tribe per Public Resources Code, Section 21080.3.1(b). In accordance with Public Resources Code, Section 21080.3.1(d), the City of Pittsburg is hereby providing formal notification to your tribe of the Diablo Energy Storage Project.

In September 2017, Diablo Energy Storage LLC submitted an application requesting a Conditional Use Permit, Zoning Text Amendment and Design Review for a Battery Storage Project. The applicant proposes to install up to three single story buildings on a graded and vacant approximately 12 acre site representing a portion of an approximately 35 acre parcel located at 701 Willow Pass Road, Pittsburg, California (APN 085-280-010). The proposed project would also include a tie in line to the existing PG&E Substation. Three alternative routes are shown on the attached project location map.

If your tribe would like to consult on this project, please submit a request for consultation to the City at the following address:

Kristin Pollot, Planning Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Per Public Resources Code, Section 21080.3.1(d), a request for consultation must be submitted within 30 days of receipt of this letter.

If you have any questions, please contact me at (925) 252-4043 or via e-mail at KPollot@ci.pittsburg.ca.us.

Sincerely,

Kristin Pollot,
Planning Manager

Attachment: Project Location Map

City of Pittsburg

Community Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

December 13, 2017

Muwekma Ohlone Indian Tribe of the SF Bay Area
Rosemary Cambra, Chairperson
P. O. Box 360791
Milpitas, CA 95036

Subject: **AB 52 Tribal Consultation for the Diablo Energy Storage Project**

Rosemary Cambra:

The City of Pittsburg has received a request for formal notice of and information on proposed projects within the geographic area of the City's jurisdiction from your tribe per Public Resources Code, Section 21080.3.1(b). In accordance with Public Resources Code, Section 21080.3.1(d), the City of Pittsburg is hereby providing formal notification to your tribe of the Diablo Energy Storage Project.

In September 2017, Diablo Energy Storage LLC submitted an application requesting a Conditional Use Permit, Zoning Text Amendment and Design Review for a Battery Storage Project. The applicant proposes to install up to three single story buildings on a graded and vacant approximately 12 acre site representing a portion of an approximately 35 acre parcel located at 701 Willow Pass Road, Pittsburg, California (APN 085-280-010). The proposed project would also include a tie in line to the existing PG&E Substation. Three alternative routes are shown on the attached project location map.

If your tribe would like to consult on this project, please submit a request for consultation to the City at the following address:

Kristin Pollot, Planning Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Per Public Resources Code, Section 21080.3.1(d), a request for consultation must be submitted within 30 days of receipt of this letter.

If you have any questions, please contact me at (925) 252-4043 or via e-mail at KPollot@ci.pittsburg.ca.us.

Sincerely,

Kristin Pollot,
Planning Manager

Attachment: Project Location Map

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
Impact BIO-1: Development of the Proposed Tie-line on the western alignment has the potential to impact six special status plant species.	***Mitigation Measure BIO-1:*** If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Applicant shall provide biological, wetlands and jurisdictional waters survey reports accompanying the final tie-line design demonstrating that facilities and access are designed to minimize disturbance to sensitive plants to the extent practical for safe and efficient construction. Reports provided by the Applicant shall be prepared by qualified professionals and shall address federal and state jurisdictional waters and potential for occurrence of Soft salty bird's-beak, Bolander's water hemlock, Delta tule pea, Delta mudwort, Mason's lilaeopsis, Suisun marsh aster based on pedestrian transect surveys for the portion of the West Alignment north of Wouldow Pass Road including final access routes. The project shall be designed to avoid direct impact to soft salty bird's beak and Mason's lilaeopsis, as well as Bolander's water hemlock, Delta tule pea, Delta	Applicant and City of Pittsburg Community Development Services Department, US Army Corps of Engineers, US Fish and Wildlife Service, California Department of Fish and Wildlife	Prior to approval of any grading or building plans for the Tie-line route.	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	mudwort, and Suisun marsh aster. If direct impact to soft salty bird's beak and Mason's lilaeopsis cannot be practically avoided, then the applicant shall consult with USFWS and CDFW to develop a plan for transplanting affected individuals to an appropriate adjacent location. The plan shall be subject to review by USFWS and CDFW and approval by the City prior to the issuance of a Buildng Permit.. If direct impact to Bolander's water hemlock, Delta tule pea, Delta mudwort, or Suisun marsh aster cannot be practically avoided, then the applicant shall submit a plan for transplanting, restoring, or preserving these species including success criteria to offset individuals lost at a ratio of no less than 1:1. This report shall e submitted to the State Department of Fish and Wildlife, and approved prior to the issuance of a Building Permit. Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to federal or state jurisdictional waters or wetlands, or locations with State or federally listed plants or State Rare plants.			

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	Material revisions to the selected final tie-line alignment routing and structure locations shown and described in the Applicant's Project Description shall be subject to approval by the Planning Manager.			
Impact BIO-2: Development of the Tie-line on the western alignment has the potential to impact the Salt Marsh Harvest Mouse, which is a protected species under the State of California Endangered Species Act.	**Mitigation Measure BIO-2:** If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Applicant shall provide a biological survey report prepared by a qualified professional accompanying the final tie-line design addressing potential for occurrence of salt-marsh harvest mouse. The project shall be designed to avoid any Take of salt-marsh harvest mouse under the State ESA. If impact to salt-marsh harvest mouse habitat cannot be practically avoided, then the applicant shall develop a plan for construction to ensure no State ESA Take during construction, and for restoring or preserving habitat for this species at an area ratio of no less than 3 to 1. The plan shall be subject to review by USFWS and CDFW and approval by the	Applicant and City of Pittsburg Community Development Services Department, US Fish and Wildlife Service, California Department of Fish and Wildlife	Prior to issuance of any grading or building permit.	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	City prior to the issuance of any Building Permit.			
Impact BIO-3: Development of the Tie-line route along the western alignment has the potential to impact the habit of the Western Pond Turtle which is a State Species of Special Concern.	**Mitigation Measure BIO-3:** If the tie-line West Alignment is used, a qualified biologist shall conduct a pre-construction survey for western pond turtles no more than 30 days prior to construction in suitable aquatic habitats in and adjacent to the West Alignment work area. A combination of visual and trapping surveys may be performed with authorization from the California Department of Fish and Wildlife. If the species is found near any proposed construction areas, impacts on individuals and their habitat shall be avoided to the extent feasible. If occupied habitat can be avoided, an exclusion zone shall be established around the habitat and clearly marked with temporary fencing for avoidance during construction. If avoidance is not possible and the species is determined to be present in work areas, the biologist with approval from CDFW may capture turtles prior to construction activities and	Applicant and City of Pittsburg Community Development Services Department	Prior to issuance of grading or building permits for the Tie-line route.	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	relocate them to nearby, suitable habitat a minimum of 300 feet from the work area. Exclusion fencing should then be installed if feasible to prevent turtles from reentering the work area. Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to occupied western pond turtle habitat.			
Impact BIO-4: If the Tie-line is developed on the western alignment, the project could result in 0.38 acres of long term wetland disturbance and an additional 1.09 acres of short-term wetland disturbance for construction.	**Mitigation Measure BIO-4:** If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Applicant shall provide a wetlands and jurisdictional waters survey report accompanying the final tie-line design demonstrating that facilities and access are designed to minimize disturbance to waters and wetlands to the extent practical for safe and efficient construction. Reports provided by the Applicant shall be prepared by a qualified professional and shall delineate federal and state jurisdictional waters and wetlands, including verification by USACE for federal wetlands, if present. If disturbance	Applicant and City of Pittsburg Community Development Services Department, US Army Corps of Engineers, US Fish and Wildlife Service, California Department of Fish and Wildlife	Prior to issuance of any grading or building permits for the Tie-line route.	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	to waters of the US and the state including wetlands cannot be avoided, then such disturbance shall not exceed 0.5-acre long term plus 1.3 acres of short term disturbance, and the Applicant shall obtain required authorizations from USACE and CDFW prior to construction. Disturbances to wetlands or riparian vegetation shall be mitigated at a ratio of no less than 3:1 for long term impacts.			
Impact Bio-5 The Project is within the area covered by the HCP/NCCP.	**Mitigation Measure BIO-5** Measure BIO-5: The Developer shall pay HCP/NCCP mitigation fees consistent with HCP/NCCP requirements. If development is phased such fees, shall be paid prior to the issuance of a grading permit for acreage to be disturbed in such phase.	Applicant and City of Pittsburg Community Development Services Department, East Contra Costa County Habitat Conservancy	Prior to the issuance of a grading or building permit.	
Impact CUL-1: There is a potential for an impact on historic resources during construction of the tie-in line.	**Mitigation Measure CUL-1:** Prior to issuance of a grading permit, the Applicant shall provide the City with a historical resources survey report prepared by a	Applicant and City of Pittsburg Community Development Services Department	Prior to the issuance of any grading or building permits for the Tie-line route.	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	professional meeting the Secretary of the Interior's Professional Qualification Standards (36 CFR 61) for the electric tie-line easement. If the survey identifies potentially significant cultural resources within the electric tie-line easement, then a tie-line design shall be provided to the City for approval prior to issuance of a grading permit that demonstrates either: (1) no significant resource would be disturbed by tie-line construction; or (2) any significant resource that cannot be practically avoided would be mitigated through photo-documentation and archival research by a qualified historic archaeologist or architectural historian.			
Impact CUL-2: There are no known archaeological resources within the project site or along the proposed tie-line routes. However, there is always the possibility (although very slight) that archaeological resources could be uncovered during site excavation work.	**Mitigation Measure CUL-2:** Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Applicant or its contractor to be observant for the potential occurrence of	Applicant and City of Pittsburg Community Development Services Department, California Historical Resources Northwest Information Center	During construction	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	archaeological resources in the geologic materials encountered, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Applicant's representative if such resources are discovered. In the event of a discovery, the Applicant or Applicant's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified cultural resource specialist. If evaluation by a qualified cultural resource specialist indicates that the discovery may be significant, then excavation in the area shall be continued only as directed by a qualified cultural resource specialist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project, including development of a Research Design and Data Recovery Program if needed to mitigate impacts. If cultural artifacts are collected they shall be cataloged and curated with an appropriate institution. A final monitoring report shall be prepared if significant cultural			

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	resources are discovered. This report shall be submitted to the California Historical Resources Northwest Information Center.			
Impact CUL-3:	**Mitigation Measure CUL-3:** Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Applicant or its contractor to be observant for the potential occurrence of paleontological resources when excavating on the Site beneath the depth of existing fill, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Applicant's representative if vertebrate fossils are discovered. In the event of a discovery, the Applicant or Applicant's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified paleontologist. If evaluation by a qualified paleontologist indicates that the discovery may be significant, then excavation in the area shall be	Applicant and City of Pittsburg Community Development Services Department, California Historical Resources Northwest Information Center	During construction	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
	continued only as directed by a qualified paleontologist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project. If significant fossils are collected they shall be cataloged and curated with an appropriate institution. A final monitoring report shall be prepared if significant fossils are discovered. This report shall be submitted to the California Historical Resources Northwest Information Center			
Impact CUL-4: Given that there are no records of Native American sacred lands in the area, no evidence of human remains at the site, and the area is so heavily disturbed, no impact to human remains is anticipated. However, a Mitigation Measure is included to ensure that impacts are mitigated to a less than significant level in the event that human remains are encountered unexpectedly during construction.	**Mitigation Measure CUL-4:** Construction shift foremen, excavation equipment operators and other construction workers shall be trained and instructed by a representative of the Applicant or its contractor to halt work immediately if human remains are observed in the geologic materials encountered. In the event of a discovery, the County coroner shall be notified immediately and work in the area shall cease until the discovery is evaluated and removed in accordance with applicable laws and requirements.	Applicant and City of Pittsburg Community Development Services Department, County Coroner	During Construction	

Environmental Impact	Mitigation Measure	Monitoring Responsibility	Mitigation Timing	Verification (Signature and Date)
Impact NOISE-1: Construction could generate noise levels that exceed 70 dBA depending on the construction activity.	***Mitigation Measure NOISE-1:*** *Loud construction work adjacent to development shall be limited to normal business hours between 8:00 am and 5:00 pm.*	Applicant and City of Pittsburg Community Development Services Department	During construction	

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving a Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, Use Permit, and Design Review at 701 Willow Pass Road, for "Diablo Energy, AP-17-1270 (RZ, UP, DR)."	)	RESOLUTION NO. 18-___

The Pittsburg City Council DOES RESOLVE as follows:

WHEREAS, on September 1, 2017, Kevin Johnson on behalf of Diablo Energy Storage, LLC, filed Planning Application No. 17-1270, requesting approval of: 1) an amendment to the existing 'Empire Business Park' Overlay Zoning District (Ord. Nos. 07-1284 and 04-1214) to allow a "Major Utility" use subject to a use permit; 2) a use permit for a Major Utility; and 3) design review approval of plans to install an energy storage project in three 60,000 sq. ft. buildings with related accessory equipment and tie-line to an existing PG&E substation.The project site covers a 12-acre portion of the 35-acre Empire Business Park parcel located at 701 Willow Pass Road in the IP-O (Industrial Park Overlay) District. Assessor's Parcel No. 085-280-010; and

WHEREAS, the proposed project is governed by the applicable goals and policies of the Pittsburg General Plan, the Pittsburg Municipal Code (PMC), and the City's adopted Design Review and Development Guidelines (DRDGs; Planning Commission Resolution No. 9864); and

WHEREAS, the proposed project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for the Project. Based on the analysis in the study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a Mitigated Negative Declaration was prepared; and

WHEREAS, on February 9, 2018, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). The review period was extended to March 23, 2018, to accommodate additional public review. Public distribution of the NOI consisted of delivery to the County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the project, in accordance with CEQA Guidelines section 15072; and

WHEREAS, on August 14, 2018, after conducting a duly noticed public hearing,

the Planning Commission adopted Resolution No. 10095, recommending approval of the requested mitigated negative declaration, an amendment to the 'Empire Business Park' Overlay Zoning District, use permit, and design review; and

WHEREAS, on October 1, 2018, the City Council approved the Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program (MMRP) for this project through the adoption of City Council Ordinance No. 18-_____; and

WHEREAS, pursuant to Pittsburg Municipal Code (PMC) section 18.36.230, the City Council, upon recommendation of the Planning Commission, may grant design review approval if it findsthat: a) the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality; b)the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable; c) the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; d) the structure is in harmony with proposed developments on land in the general area; and e) the application conforms with the criteria set forth in any applicable City adopted design guidelines; and

WHEREAS, on or prior to Friday, September 7, 2018, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B and D, a "Notice of Public Hearing," for the September 17, 2018, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice; and

WHEREAS, on September 17, 2018, the City Council held a duly-noticed public hearing to: 1) introduce and waive further reading of an ordinance approving amitigated negative declaration and the proposedamendment to the 'Empire Business Park' Overlay Zoning District; and 2) adopt this resolution approving the proposed use permit and design review, at which time oral and/or written testimony was considered.

NOW THEREFORE, the City Council finds and determines as follows:

Section 1. Findings

A. Based on the City Councilstaff report entitled, "Introduction and Waive First Reading of an Ordinance and Adoption of a Resolution Approving the Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)," dated September 17, 2018,and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Divisionlocated at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council

finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. The Mitigated Negative Declaration for the project wasprepared in compliance with Public Resources Code section 21000 et seq. and the City Council has independently reviewed and considered the information contained therein.

Use Permit:

3. The project is in accord with the objective of the Zoning Ordinance, the purposes of the land use district in which it is located, and is appropriate to the specific location, in that the property was designated with an Industrial Park Overlay District, the intent of which is to provide sites in landscaped settings for research and development facilities, and limited warehouse type facilities. The proposed use will be consistent with this intent.

4. The project will not be detrimental to the health, safety, and general welfare of the City, in that it will have no impact on air quality, odors, or hazardous materials. The project will be unmanned and therefore will not generate traffic. Equipment outside the buildings will be screened in accordance with the Design Review Design Guidelines.

5. The project will not adversely affect the orderly development of property within the City, in that the project site is vacant and designated for Industrial Park use.

6. The project will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City, in that it will add to the tax base through the development of the property and increased assessed valuation.

7. The project is consistent with the objectives, policies, general land uses and programs specified in the General Plan, in that this site is located in the 'West Central Subarea' of the Pittsburg General Plan and would conform to the General Plan policies adopted for this subarea, specifically Policy 2-P-77, which is intended to encourage development of a Business Commercial complex between Willow Pass Road and the BNSF Railroad track, east of the PG&E transmission corridor. The project would also provide fiscal benefits to the City of Pittsburg, consistent with the goals of the General Plan Economic Development Element.

8. The project will not create a nuisance or enforcement problem within the neighborhood, in that the battery portion of the project will be enclosed

within the three buildings, which will also partially screen substation equipment. Further, the noise and vibration assessment prepared for the project has indicated that noise generated from the project would not be noticeable by neighboring residences. Lastly, the use will be required to meet performance standards, as set forth by PMC chapter 18.82, which are intended to address ongoing safety, noise, odor, and maintenance concerns.

9. The project will not encourage marginal development within the neighborhood, in that the project would be located on a vacant, infill site, and has been designed to complement and blend in with the existing mixed-use character of the area.

10. The project will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints imposed by law, in that the facility will be unmanned, causing no demand for additional public services.

11. The project is consistent with the City's approved funding priorities, in that there are no public funds associated with this project.

Design Review

12. The project conforms with good taste and design and will not diminish the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that it has been designed to complement and respect its relationship with existing industrial uses and the adjacent residential use.

13. The project does not require protection from noise, vibrations, and other factors that may tend to make the environment less desirable for its users because the facility is intended for unmanned operation.

14. The project will not cause the neighborhood to materially depreciate in appearance and value because it is designed to have a utilitarian appearance consistent with the area’s industrial zoning. The existing landscaping on the eastern property line will remain in place and provide screening for the residential uses located across the driveway which are also screened by the existing wall.

15. The project will be in harmony with proposed developments on land in the general area, in that there are no projects currently proposed in the immediate vicinity of the site.

16. The project is generally consistent with the criteria set forth in the City’s Development Review Design Guidelines, in that an attempt has been

made to reduce the visual impact of the large building size and significant massing of the three buildings through landscaping and masonry wall screening. Conditions have been included that will require: 1) extension of the metal detailing on the building above to the top of the parapet (Guideline IV.f); 2) screening of the outdoor equipment (Guideline IV.d); 3) provision of a cool roof (Guideline VI.D.1.).

Section 2. Decision

Based on the findings and the authority set forth above, the City Council hereby takes the following actions:

A. Approves a use permit and design review of plans for the Diablo Energy Storage Project, AP-17-1270, subject to the approval of the overlay district amendment described in the staff report, and subject to the following conditions:

1. The project shall be constructed in substantial conformity with the project plans and color and materials board date-stamped January 12, 2018, except as may be hereinafter modified. Any major changes to the project plans shall be subject to review and approval by the Planning Commission at the City Planner's discretion.

2. Any purchase, acquisition, and/or supply of goods and materials, as well as any new or replacement equipment and supplies purchased by Diablo Energy Storage, LLC ("DES") or its contractors, subcontractors, agents or affiliates, in connection with this project shall be apportioned and paid to and at the applicable sales tax rate in effect for the City as administrated by the California Department of Tax and Fee Administration (CDTFA). At no point may DES or its contractors, subcontractors, agents or affiliates contractually agree to share sales and use taxes from this project with any other city, county or other entity in the State of California, regardless of agreement they might have with another jurisdiction where they have offices or conduct business. The City of Pittsburg will be the sole jurisdiction of record to the transfer of title. DES and its contractors, subcontractors, agents and affiliates shall comply with the Sales and Use Tax Requirements ("Requirements") set forth below and all CDTFA requirements. If the City becomes aware of modifications necessary to such Requirements, City may propose to incorporate new or revised requirements, subject to DES's agreement which shall not be unreasonably withheld, conditioned or delayed. Failure by DES, its contractors, subcontractors, agents or affiliates to comply with this condition to ensure appropriate taxes are properly paid and passed through to the City will result in DES paying a fee equivalent to the taxes which the City would have received had DES, its contractors, subcontractors, agents or affiliates taken such actions to ensure the sales taxes referenced in the first sentence of this subsection are apportioned to the City.

Sales and Use Tax Requirements:DES/General Contractor and/or future project owners and/or operators, as applicable, shall adhere to the following steps in effort to maximize the City's allocation of sales and use taxes associated with project construction and operations by taking the following steps:

- Prior to issuance of a grading or building permit or within 60 days of the effective date of this approval, whichever comes first, the developer shall register with the CDTFA and keep such registration current throughout the operational life of the project.

- Apply for a Use Tax Direct Pay Permit. Upon receipt of registration, provide a copy to the City and/or their consultant for verification.

- Self-accrue and pay use taxes in accordance CDFTA requirements.

- Report local and district use taxes to CDFTA on applicable use tax returns.

- Use Tax-Point of Sale/Use Designation. DES shall require all contractors, subcontractors, agents and affiliates providing building materials and fixtures, such as but not limited to, bulk lumber, concrete, structural steel and pre-fabricated building components to be used in connection with the construction and development of, or incorporated into, the Project, to:

  (a) obtain a Seller's Permit;

  (b) issue a resale certificate to any supplier of material that will allow it to buy property without payment of tax;

  (c) file timely Sales and Use tax returns and report local tax on materials consumed and fixtures sold by the contractor, subcontractor, agent or affiliate based on the sole jobsite location located in the City of Pittsburg;

  (d) elect to obtain a sub permit for the job site of any contract valued at Five Million Dollars ($5,000,000) or more enabling the contractor, subcontractor, agent or affiliate to make a direct allocation of the tax based on the jobsite located in the City of Pittsburg; and

  (e) otherwise designate the Property as the place of use of materials used in the construction of the Project in order to have

the full local use tax portion of the sales and use tax distributed directly to the City of Pittsburg.

(f) DES/General Contractor shall require and instruct each of its subcontractors to cooperate with the City to ensure the local use tax is allocated to City of Pittsburg.

(g) To assist City in its efforts to ensure that the full amount of such local sales/use tax is allocated to the City, DES/General Contractor shall provide City with a quarterly spreadsheet, which includes a list of all subcontractors, agents or affiliates with contracts in excess of the amount set forth above, a description of all applicable work, and the dollar value of such subcontracts or agreements. City or City's consultant may use the information provided it to contact each contractor, subcontractor, agent or affiliate to determine which may qualify to register the jobsite for allocation of the local use tax to the City of Pittsburg.

(h) The DES will lease seven hundred twenty-seven (727) square feet of office space at 160 East 10th Street, Pittsburg California for One Dollar ($1.00) per square foot plus Common Area Maintenance and its portion of utilities from September 1, 2018 until the earlier of: a) 90 days after the commercial operations date of the Project and DES establishes an office at the Project site or b) expiration of design review approval.

3. Prior to issuance of a grading or building permit, the developer shall advise the City Manager and City Planner in writing of the final tie-line alignment, and all necessary approvals (including but not limited to, easements and encroachment permits). The developer may elect to utilize City property interests for the construction and operation of the above-ground electric tie line north of the northern boundary of the public right-of-way on Willow Pass Road, if such interests are available. If developer elects to use utilize such interests the developer shall enter into an agreement with the City satisfactory to and approved by the City Manager in writing that provides reasonable compensation to the City for the use of such property interests.

4. Prior to issuance of a grading or building permit, the developer shall submit proof of application for any other permits and/or approvals from other governmental or quasi-governmental agencies having jurisdiction over the project site as may be required for construction.

5. Upon approval by the City Planner, the developer may elect to relocate the proposed substation to that portion of the parcel west of the existing driveway, or immediately east of the existing driveway and west of Building 3. If this

portion of the property is utilized, the City Planner reserves the right to require all applicable mitigation measures outlined in condition of approval No. 19 below,to be incorporated, along with any other condition of approval outlined within this resolution not already affecting this portion of the property.

6. All tie line towers shall be setback from the center-line of Willow Pass Road, at minimum, a distance equal to the height of the proposed tower or 25 feet from the northern extent of the Willow Pass Road right-of-way, whichever is greater. All towers within 100 feet of the right-of-way shall include landscaping around the base of the tower. All trees removed for tower installation shall be replaced and subject to the City's Tree Preservation Ordinance (PMC Title 18, Article XIX) as applicable.

7. The metal detail on the façade shall be extended above the top of the parapet to assist in visually reducing the perceived mass of each building.Rooftops shall be painted white to create a cool roof effect under any necessary mechanical equipment.

8. The project shall not employ a light source that causes any direct illumination beyond the property lines of the project site (PMC section 18.82.030).

9. The project's operational noise levels shall not exceed 65 dBA beyond the property lines of the project site (PMC section 18.82.040).

10. The project shall not produce an unreasonable, disturbing, or unnecessary emission of odors that cause material distress, discomfort or injury to the average person (PMC section 18.82.045).

11. The developer shall revise the landscaping plan to provide a row of street trees along the northern frontage of the project with spacing every 40-feet on center. New trees shall be a minimum of 15-gallon in size and final placement, quantity, and species shall be subject to review and approval by the Planning Division prior to issuance of a building permit.

12. The developer shall utilize recycled water for all construction activities, including but not limited to dust control measures, to the maximum extent feasible and if available from Delta Diablo. In the event a recycled water line is extended to the project site prior to issuance of the first building permit issued for the project, the developer shall be required to connect to and utilize recycled water for all landscaping.

13. The developer shall remove all sediment from the existing stormwater detention infrastructure within the City right-of-way south of Willow Pass Road along the project frontage and shall provide new landscaping within the detention area. The developer shall also clean out all existing through-sidewalk cross drains and repair as necessary. The developer shall not be

required to resize the detention area or provide any additional through drains. The final landscaping plan shall comply with the provisions outlined in condition No. 11 and 14 of this resolution. Maintenance of this facility shall remain with the City of Pittsburg.

14. Prior to the issuance of a building permit, the developer shall submit a detailed landscaping and irrigation plan and other documentation as required by the state model water efficient landscaping ordinance or other local water efficient landscaping ordinance in effect at the time the developer applies for a building permit. Prior to issuance of a certificate of occupancy, the developer shall complete and submit all certifications confirming that the landscaping and irrigation were installed in compliance with the approved detailed landscaping and irrigation plan, as required pursuant to the applicable ordinance in effect at the time the developer applies for a building permit.

15. The developer shall consult directly with the Contra Costa County Hazardous Materials Program prior to construction, and if necessary, establish a Hazard Mitigation Plan.

16. The developer shall comply with Design Review Design Guidelines, Appendix A, requiring the screening of all utility box transformers, backflow preventers, meters, junction boxes and other outdoor equipment.

17. The developer shall remove the existing galvanized chain link fence located along the northern property frontage and replace with new black vinyl clad chain link fencing. If feasible, the new fence shall be relocated south of the bioretention area along Willow Pass Road. The final design and location of the fencing shall be subject to approval by the City Planner prior to the issuance of a building permit for the site.

18. The project shall be kept in a good state of repair and the project site shall be kept clean and orderly and free of all weeds, litter, debris, and other refuse at all times (PMC section 18.82.050).

19. The developer shall comply with the following environmental impact mitigation measures identified below. Where there may be a conflict between the mitigation measures below and the Mitigation Monitoring and Reporting Program, attached to City Council Ordinance No. 18-_____, the specific measures of this resolution shall govern..

    a) Measure BIO-1:If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Developer shall provide biological, wetlands and jurisdictional waters survey reports accompanying the final tie-line design demonstrating that facilities and access are designed to minimize disturbance to sensitive plants to the extent practical

for safe and efficient construction.Reports provided by the Developer shall be prepared by qualified professionals and shall address federal and state jurisdictional waters and potential for occurrence of Soft salty bird's-beak, Bolander's water hemlock, Delta tule pea, Delta mudwort, Mason's lilaeopsis, Suisun marsh aster based on pedestrian transect surveys for the portion of the West Alignment north of Willow Pass Road including final access routes. The project shall be designed to avoid direct impact to soft salty bird's beak and Mason's lilaeopsis, as well as Bolander's water hemlock, Delta tule pea, Delta mudwort, and Suisun marsh aster. If direct impact to soft salty bird's beak and Mason's lilaeopsis cannot be practically avoided, then the Developer shall consult with USFWS and CDFW to develop a plan for transplanting affected individuals to an appropriate adjacent location.The plan shall be subject to review by USFWS and CDFW and approval by the City prior to the issuance of grading or building permits for the tie-line.If direct impact to Bolander's water hemlock, Delta tule pea, Delta mudwort, or Suisun marsh aster cannot be practically avoided, then the Developer shall submit a plan to the City for transplanting, restoring, or preserving these species including success criteria to offset individuals lost at a ratio of no less than 1:1 and shall obtain approval by the City prior to the issuance of grading or building permits for the tie-line.Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to federal or state jurisdictional waters or wetlands, or locations with State or federally listed plants or State Rare plants. Material revisions to the selected final tie-line alignment routing and structure locations shown and described in the Developer's Project Description shall be subject to approval by the Planning Manager.

b) Measure BIO-2: If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Developer shall provide a biological survey report prepared by a qualified professional accompanying the final tie-line design addressing potential for occurrence of salt-marsh harvest mouse.The project shall be designed to avoid any Take of salt-marsh harvest mouse under the State ESA.If impact to salt-marsh harvest mouse habitat cannot be practically avoided, then the Developer shall develop a plan for construction to ensure no State ESA Take during construction, and for restoring or preserving habitat for this species at an area ratio of no less than 3 to 1.The plan shall be subject to review by USFWS and CDFW and approval by the City prior to the issuance of grading or building permits for the tie-line.

c) Measure BIO-3:If the tie-line West Alignment is used, a qualified biologist shall conduct a pre-construction survey for western pond turtles no more than 30 days prior to construction in suitable aquatic habitats in and adjacent to the West Alignment work area. A combination of visual and trapping surveys may be performed with authorization from the California

Department of Fish and Wildlife. If the species is found near any proposed construction areas, impacts on individuals and their habitat shall be avoided to the extent feasible. If occupied habitat can be avoided, an exclusion zone shall be established around the habitat and clearly marked with temporary fencing for avoidance during construction. If avoidance is not possible and the species is determined to be present in work areas, the biologist with approval from CDFW may capture turtles prior to construction activities and relocate them to nearby, suitable habitat a minimum of 300 feet from the work area. Exclusion fencing should then be installed if feasible to prevent turtles from reentering the work area. Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to occupied western pond turtle habitat.

d) Measure BIO-4:If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Developer shall provide a wetlands and jurisdictional waters survey report accompanying the final tie-line design demonstrating that facilities and access are designed to minimize disturbance to waters and wetlands to the extent practical for safe and efficient construction.Reports provided by the Developer shall be prepared by a qualified professional and shall delineate federal and state jurisdictional waters and wetlands, including verification by USACE for federal wetlands, if present.If disturbance to waters of the US and the state including wetlands cannot be avoided, then such disturbance shall not exceed 0.5-acre long term plus 1.3 acres of short term disturbance, and the Developer shall obtain required authorizations from USACE and CDFW prior to construction.Disturbances to wetlands or riparian vegetation shall be mitigated at a ratio of no less than 3:1 for long term impacts.

e) Measure BIO-5:The Developer shall pay HCP/NCCP mitigation fees consistent with HCP/NCCP requirements.If development is phased such fees, shall be paid prior to the issuance of a grading permit for acreage to be disturbed in such phase.

f) Measure CUL-1:Prior to issuance of a grading permit, the Developer shall provide the City with a historical resources survey report prepared by a professional meeting the Secretary of the Interior's Professional Qualification Standards (36 CFR 61) for the electric tie-line easement.If the survey identifies potentially significant cultural resources within the electric tie-line easement, then a tie-line design shall be provided to the City for approval prior to issuance of a grading permit that demonstrates either: (1) no significant resource would be disturbed by tie-line construction; or (2) any significant resource that cannot be practically avoided would be mitigated through photo-documentation and archival research by a qualified historic archaeologist or architectural historian.

g) Measure CUL-2:Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Developer or its contractor to be observant for the potential occurrence of archaeological resources in the geologic materials encountered, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Developer's representativeif such resources are discovered.In the event of a discovery, the Developer or Developer's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified cultural resource specialist.If evaluation by a qualified cultural resource specialist indicates that the discovery may be significant, then excavation in the area shall be continued only as directed by a qualified cultural resource specialist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project, including development of a Research Design and Data Recovery Program if needed to mitigate impacts.If cultural artifacts are collected they shall be cataloged and curated with an appropriate institution.A final monitoring report shall be prepared if significant cultural resources are discovered.

h) Measure CUL-3:Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Developer or its contractor to be observant for the potential occurrence of paleontological resources when excavating on the Site beneath the depth of existing fill, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Developer's representativeif vertebrate fossils are discovered.In the event of a discovery, the Developer or Developer's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified paleontologist.If evaluation by a qualified paleontologist indicates that the discovery may be significant, then excavation in the area shall be continued only as directed by a qualified paleontologist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project.If significant fossils are collected they shall be cataloged and curated with an appropriate institution.A final monitoring report shall be prepared if significant fossils are discovered.

i) Mitigation Measure CUL-4:Construction shift foremen, excavation equipment operators and other construction workers shall be trained and instructed by a representative of the Developer or its contractor to halt work immediately if human remains are observed in the geologic materials encountered. In the event of a discovery, the County coroner shall be notified immediately and work in the area shall cease until the discovery is

evaluated and removed in accordance with applicable laws and requirements.

j) Measure NOISE-1:Loud construction work shall be limited to the hours between 8:00 am and 5:00 pm unless otherwise approved by the Planning Manager.

Engineering Conditions:

20. All new electric tie-line equipment south of the northern extent of the Willow Pass Road right-of-way shall be placed underground. The developer shall also relocate all existing above-ground power lines between the western boundary of the subject parcel and Enterprise Circle with the exception of the eastern-most power pole, underground.

21. The developer shall complete the following pavement repair: crack sealing, minimum 1.5 inches of asphalt concrete overly, and thermoplastic re-striping of Willow Pass Road along frontage limits.

22. The developer shall submit an engineer's estimate to the Engineering Division for review and approval together with the initial engineering plans. The engineer's estimate shall include all costs associated with the site development improvements, excluding those costs associated with the construction of the proposed building structures.

23. The developer shall repair or replace, as deemed necessary, all broken or uneven sidewalks and through-curb drains along the project frontage.

24. The developer shall provide an initial payment for review of the grading plans with the first grading plan submittal. These fees are based on the engineer's estimated costs for grading, which shall be submitted with the plans. The grading plan check fee is 2.5% of the cost for grading or may be based upon cubic yards of earth disturbance. Payments of 50% of these total fees are due payable with the initial submittal of plans and Engineer's Cost Estimate. These initial payments will be credited towards the final fees as determined at time of issuance of an engineering permit.

25. The developer shall pay the grading inspection fee to the Engineering Division at the time the grading permit is issued.The grading inspection fee is 3% of the estimated cost of grading. The grading inspection fee may also be based upon an engineer's City-approved estimate of total cubic yards, according to the current schedule of grading fee charges.

26. The developer shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Division, for water and sewer service in the amounts in effect when the developer obtains a

building permit. The developer understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City. The FRC shall be paid to the Engineering Division prior to the issuance of a building permit.

27. The developer shall pay an NPDES plan review (SWPPP Plan) fee to the Engineering Division in the amounts in effect when the developer obtains a grading permit. The developer understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

28. The developer shall pay an NPDES inspection deposit (SWPPP Plan) fee to the Engineering Division in the amounts in effect when the developer obtains a grading permit.The developer understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

29. If additional engineering studies are deemed necessary by the City Engineer, i.e. geotechnical, structural, hydraulic, etc., or expedited reviews are requested by the developer, the developer shall pay for all costs related to the extra work. The costs may include the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the developer's engineer.

30. The developer shall submit five (5) copies of the engineering plans, prepared by a registered civil engineer, to include but not be limited to the following:

    - Grading and Drainage Plan;
    - Utilities Plan;
    - Geotechnical Report;
    - Engineer's Estimate;
    - Stormwater Pollution Prevention Plan (SWPPP); and
    - Offsite Improvements due to Project Impacts.

31. The geotechnical report submitted pursuant to Condition 30 above,shall substantiatethe design features incorporated into the project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and issuance of any engineering permits.

32. All grading work shall be done in accordance with the provisions of Chapter 15.88 of the Pittsburg Municipal Code.

33. All site development shall comply with Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a Site Development Permit, including but not limited to grading permits, will be required whereby specific engineering requirements will be made as conditions of approval.

34. All public and pedestrian facilities shall be designed in accordance with Title 24, Handicap Access, and the California Department of State Architect's standards for accessibility compliance.

35. Prior to issuance of a grading permit, the developer shall submit the following to the Engineering Division for review: a Stormwater Pollution Prevention Plan (SWPPP) and a copy of the Notice of Intent (NOI), which was submitted to the State Water Resources Control Board. The SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The SWPPP measures shall also include erosion control measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with the regulations outlined in CASQA Handbook.

36. Submittal of grading and/or building plans shall be consistent with the approved Stormwater Control Plan. The plans shall include drawings and specifications necessary to implement all measures in the approved Stormwater Control Plan. A copy of a completed "Construction Plan C.3 Checklist", as described in the Stormwater C.3 Guidebook, most current edition shall be included. Grading and/or building permits, shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.

37. Equipment and materials containing polychlorinated biphenyls (PCBs) and mercury shall be prohibited. These substances accumulate in fish and may cause serious adverse health effects to people and wildlife that eat fish. The City has an obligation to reduce the discharge and control all potential sources of PCBs and Mercury in the environment as mandated in the City's NPDES Stormwater permit Order No. R2-2015-0049.

38. The developer shall coordinate with Delta Diablo, in accordance with letter dated March 15, 2018, regarding placement of the proposed tie-line poles as follows:

    a. Project design plans for access, structures, and the proposed tie-line improvements that may potentially adversely impact Delta Diablo District wastewater pipelines or access shall be submitted to the District and be subject to its favorable review prior to City issuance of approval

of the final tie-line route, any grading permit and the start of construction. Design measures shall include:

i. Fencing and roadway improvements, and gates shall be designed to allow for optimized District access to existing wastewater pipelines during construction and after completion of construction. Project design shall ensure that access to District existing facilities will not be impeded or compromised from current conditions.
ii. Grading over District pipelines shall not decrease ground surface cover over existing District pipelines and shall not significantly increase over District pipelines unless approved by the District.
iii. No structures shall be constructed over existing District pipelines or easements.
iv. When feasible and practical, all proposed new structures, overhead lines, or underground pipelines shall maintain a minimum of twenty-five feet horizontal distance between the outside edge of the District pipelines and the new improvement. Where not practical, all new improvements shall maintain a minimum of ten feet horizontal distance from the outside edge of the District pipelines.
v. Crossings of District pipelines shall be at perpendicular angles and be designed such that overhead wires do not impede District safe manway access.

Additional Engineering Exactions

39. The property owner shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2005-1 Community Facilities District (CFD 2005-1) for Public Safety Services, prior to the issuance of any building or engineering permits. Community Facilities District 2005-1 is for Public Safety Services, and the fee will provide funding for an increase of police coverage in the area. The rate of the CFD 2005-1 fee is subject to City Council Resolution No. 05-10342.

40. The property owner shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2017-1 Fire Facilities and Fire Safety and Emergency Services Community Facilities District (CFD 2017-1), prior to the issuance of any building or engineering permits. Community Facilities District 2017-1 is for Fire Facilities and Fire Safety and Emergency Services. The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311.

Standard Conditions

41. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is a conflict between the Standard Conditions of Development and the project-specific conditions identified in this resolution, the specific conditions of this resolution shall govern.

42. The developer shall comply with all the requirements of the City's Community Development Department, Contra Costa County Fire Protection District (including but not limited to those noted in the letter dated August 8, 2018), and all other applicable local, state and federal agencies. It is the responsibility of the Developer to contact each local, state, or federal agency for requirements that may pertain to this project.

43. Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval.The parties shall cooperate in defending such action or proceeding.The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at developer's sole cost and expense. Developer may select its own legal counsel to represent developer's interests at developer's sole cost and expense. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

44. This use permit will expire on October 1, 2021, unless the use has been legally established and all applicable conditions of approval complied with prior to the expiration date, or a written request for an extension is filed with the Planning Division prior to the expiration date and subsequently approved by the Planning Commission. The design review approval granted herein shall be coterminous with this use permit.

Section 3. Effective Date

This resolution shall take effect immediately upon the effective date of City Council Ordinance No. 18-_____, approving the amendment to the Empire Business Park Overlay Zoning District applicable to the site.

Section 4.Adoption

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of September 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine "Pete" Longmire, Mayor

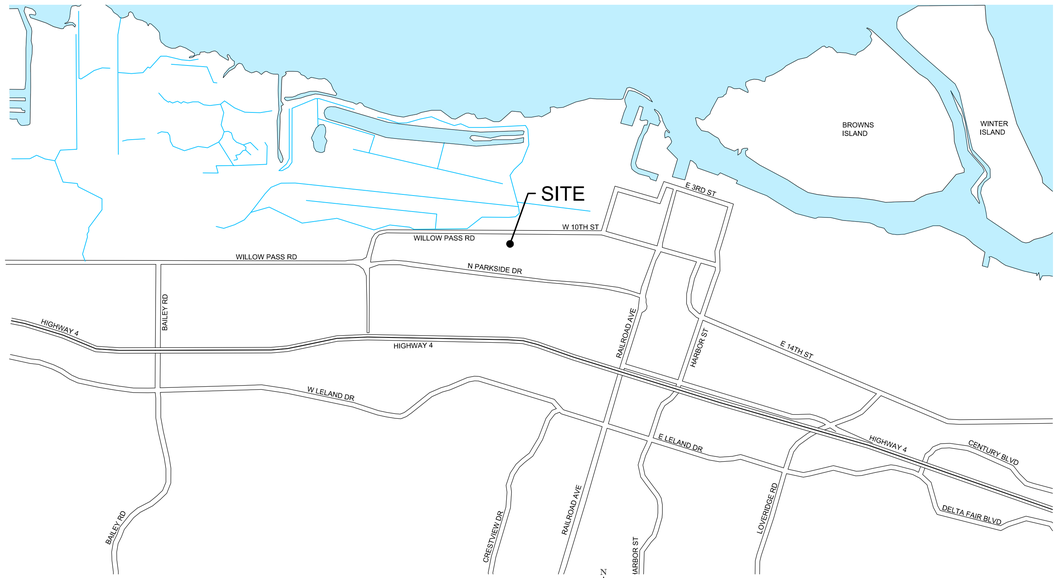
ATTEST:

_____
Alice E. Evenson, City Clerk

PRELIMINARY SITE PLANS

DIABLO ENERGY STORAGE

PITTSBURG, CALIFORNIA



VICINITY MAP

NOT TO SCALE

PROPERTY OWNERS

EMPIRE BUSINESS PARK, LLC
1500 3RD STREET #C
NAPA, CA 94559
PH: 707-255-6540

ENGINEER/CONSULTANT

TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
JSTENGER@TRCSOLUTIONS.COM

APPLICANT

DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5240
FAX: 925-201-5230

DESCRIPTION

THESE PRELIMINARY PLANS INVOLVE THE DEVELOPMENT OF SINGLE-STORY BUILDING SPACE FOR HOUSING BATTERIES AND CONTROL EQUIPMENT, AND ANCILLARY EQUIPMENT INCLUDING INVERTERS AND TRANSFORMERS, AN ELECTRIC SUBSTATION AND ELECTRIC LINE TO THE EXISTING PG&E PITTSBURG SUBSTATION. THE FACILITY WILL BE UNOCCUPIED AND IS DESIGNED FOR FULL REMOTE OPERATION. BECAUSE THE FACILITY WILL NOT BE OCCUPIED, NO POTABLE WATER SYSTEM OR SANITARY SYSTEM IS PROPOSED. NO EXTERIOR LIGHTING IS PROPOSED. EXISTING DRIVEWAY AND PARKING WILL BE USED. THERE WILL BE ROOM FOR PARKING ONSITE FOR OCCASIONAL SITE VISITS.

SITE INFORMATION

STREET ADDRESS:	701 WILLOW PASS ROAD, PITTSBURG, CA
ASSESSOR'S PARCEL NUMBER:	085-280-010
ZONING:	INDUSTRIAL PARK - LIMITED OVERLAY (IP-O)
BUILDING SQUARE FOOTAGE:	(3) 62,000 SF
TOTAL BUILDING SQUARE FOOTAGE:	186,000 SF
PROPOSED LOT AREA (GROSS):	11.85 AC
PROPOSED LOT AREA (NET):	10.44 AC
LOT COVERAGE (EACH BUILDING):	13.33%
LOT COVERAGE (TOTAL):	40%
FLOOR AREA RATIO:	0.40
PERCENT OF LANDSCAPE COVERAGE:	17%
NUMBER OF PROPOSED PARKING:	0
DISTURBED AREA (GRASSLAND AND BARE SOIL):	10.73 AC
DISTURBED AREA (GRASSLAND):	10.41 AC
DISTURBED AREA (BARE SOIL):	0.32 AC
EXISTING IMPERVIOUS AREA:	0 SF
PROPOSED IMPERVIOUS AREA:	205,044 SF

LEGEND

- EXISTING PROPERTY BOUNDARY
- PROPOSED PROPERTY BOUNDARY
- EXISTING EASEMENT
- PROPOSED EASEMENT
- EXISTING TOPOGRAPHIC CONTOUR (1-FT INTERVAL)
- 15 EXISTING TOPOGRAPHIC CONTOUR (5-FT INTERVAL)
- 14 PROPOSED TOPOGRAPHIC CONTOUR (1-FT INTERVAL)
- SS EXISTING SEWER LINE
- EXISTING CHAIN LINK FENCE
- E EXISTING OVERHEAD ELECTRICAL
- TEL EXISTING COMMUNICATION LINE
- PROPOSED CHAIN LINK FENCE
- PROPOSED ELECTRIC LINE
- LIMITS OF GRADING AREA
- EXISTING FIRE HYDRANT
- EXISTING STREET LIGHT
- EXISTING MONITORING WELL
- EXISTING DRAIN INLET
- EXISTING MANHOLE
- PROPOSED POWER POLE
- PROPOSED STORMWATER PIPE
- PROPOSED DITCH (FLOWLINE)
- PROPOSED SHEET FLOW
- 1.6% SLOPE AND DIRECTION
- EXISTING ASPHALT CONCRETE
- EXISTING CONCRETE SURFACE
- PROPOSED CLASS II AGGREGATE BASE
- PROPOSED BIORETENTION BMP
- FMEA FLOOD ZONE AE
- FEMA FLOOD ZONE X (HATCHED)
- (E) EXISTING
- SL STREET LIGHT
- FH FIRE HYDRANT
- DI STORM DRAIN INLET
- PIV/FDC POST INDICATOR VALVE / FIRE DEPARTMENT CONNECTION
- WM WATER METER
- ELECT ELECTRICAL
- JT JOINT TRENCH LINES
- OH OVERHEAD LINES
- SSMH SANITARY SEWER MANHOLE

DRAWING SCHEDULE

C-1	COVER SHEET
C-2	EXISTING BOUNDARIES, EASEMENTS AND FLOODING
C-3	PROPOSED BOUNDARIES AND EASEMENTS
C-4	EXISTING TOPOGRAPHY
C-5	CONCEPTUAL GRADING PLAN
C-6	CONCEPTUAL SITE PLAN
C-7	CONCEPTUAL DRAINAGE PLAN
C-8	CONCEPTUAL LANDSCAPING PLAN
C-9	ELECTRICAL DETAILS
C-10	ROAD, DRAINAGE AND FENCE DETAILS
C-11	CONSTRUCTION PHASING
A-1	TYP. FLOOR PLAN BUILDING 1-2-3
A-2	ROOF PLAN - BUILDING 1-2-3
A-3	BUILDING SECTIONS
A-4	EXTERIOR ELEVATIONS
A-5	EXTERIOR ELEVATIONS ALTERNATE

EARTHWORK QUANTITIES

LIMITS OF GRADING: 8.64 AC

	CUT	FILL
WESTERN BUILDING PAD	1600 CY	2050 CY
CENTRAL BUILDING PAD	1900 CY	2400 CY
EASTERN BUILDING PAD	3300 CY	2800 CY
SUBSTATION PAD	450 CY	875 CY
ROADWAY	1175 CY	275 CY
STORMWATER BMP	845 CY	45 CY
NET CUT (ONSITE):	825 CY	
CLASS II AGG. BASE IMPORT	990 CY	
BIORETENTION MEDIA IMPORT	770 CY	

REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: COVER SHEET

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5240
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. C-1

NOTES:

1. INFORMATION SHOWN ON THIS SHEET IS BASED ON THE ALTA / NSPS LAND TITLE SURVEY PREPARED BY RUGGERI-JENSEN-AZAR DATED APRIL 20, 2017.
2. PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP FOR CONTRA COSTA COUNTY, CALIFORNIA AND INCORPORATED AREAS, MAP NUMBER 06013C0119G, MAP REVISED SEPTEMBER 30, 2015, THE SUBJECT PROPERTY LIES WITHIN ZONE AE (EL 11) – SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATION OR DEPTH; ZONE X (HATCHED) - SPECIAL FLOOD HAZARD AREAS, 0.2% ANNUAL CHANCE FLOOD HAZARD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTH LESS THAN ONE FOOT OR WITH DRAINAGE AREAS OF LESS THAN ONE SQUARE MILE; AND ZONE X - OTHER AREAS, AREAS OF MINIMAL FLOOD HAZARD.

N

60 ft 0 60 ft 120 ft

SHEET SIZE 24"x36" - SCALE: 1"=60'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: EXISTING BOUNDARIES, EASEMENTS AND FLOODING

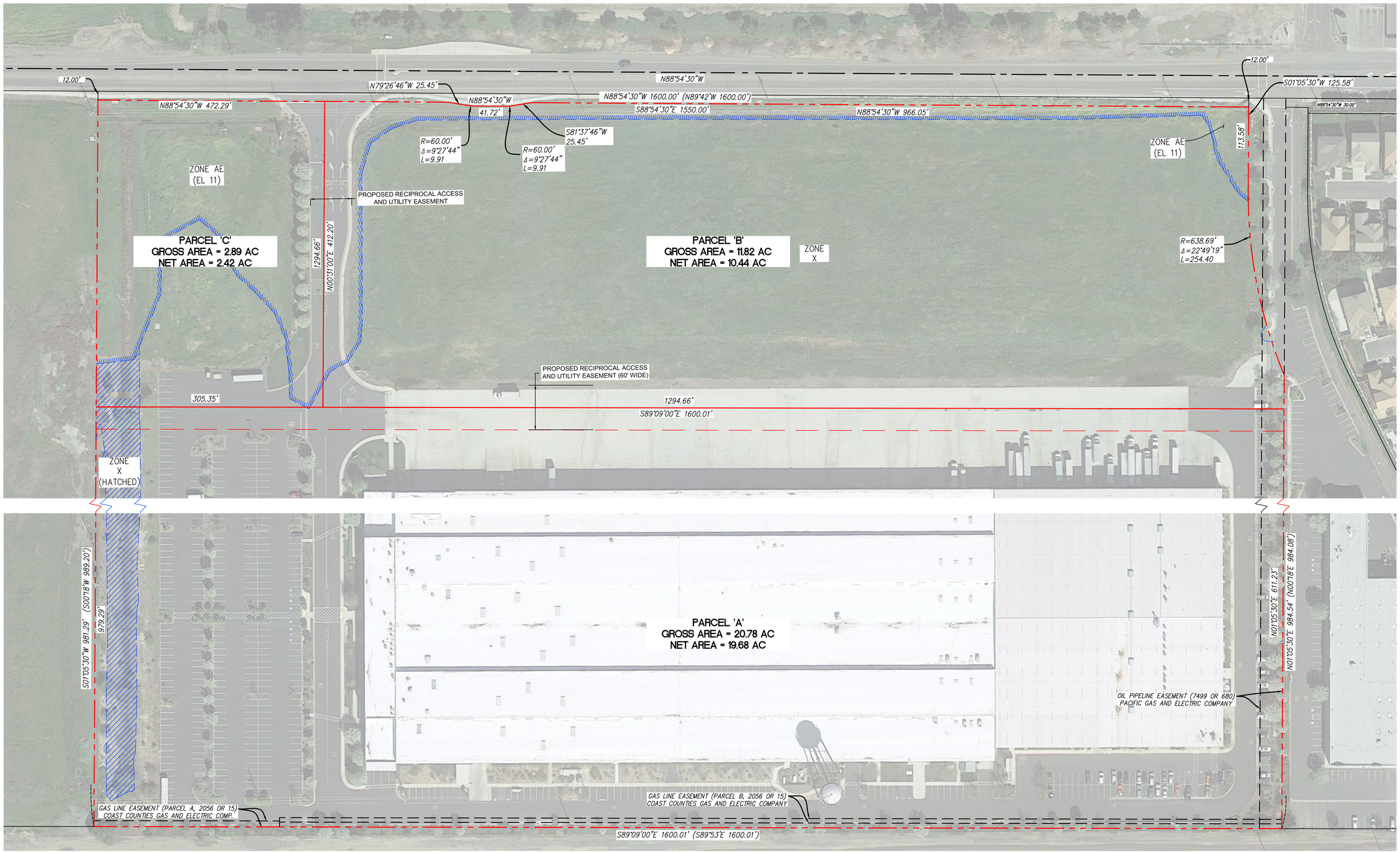
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5249
FAX: 925-201-5230

TRC Results you can rely on

SHEET NO. C-2



REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: PROPOSED BOUNDARIES AND EASEMENTS

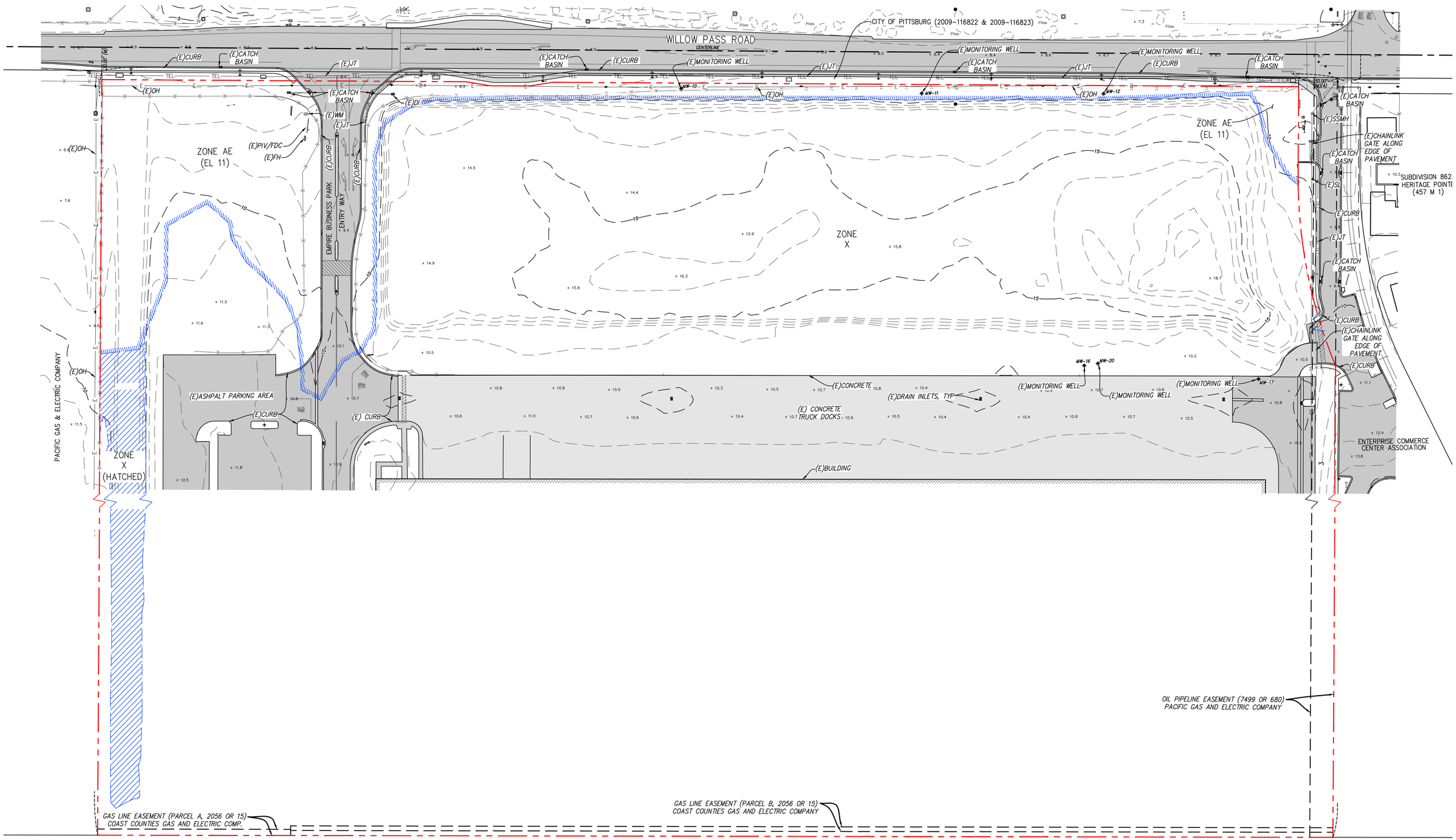
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
TEL: 925-201-6340
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614-5233
PH: 949-697-7469
jstenger@trcsolutions.com

TRC
Results you can rely on

SHEET NO. C-3



REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

TITLE: EXISTING TOPOGRAPHY

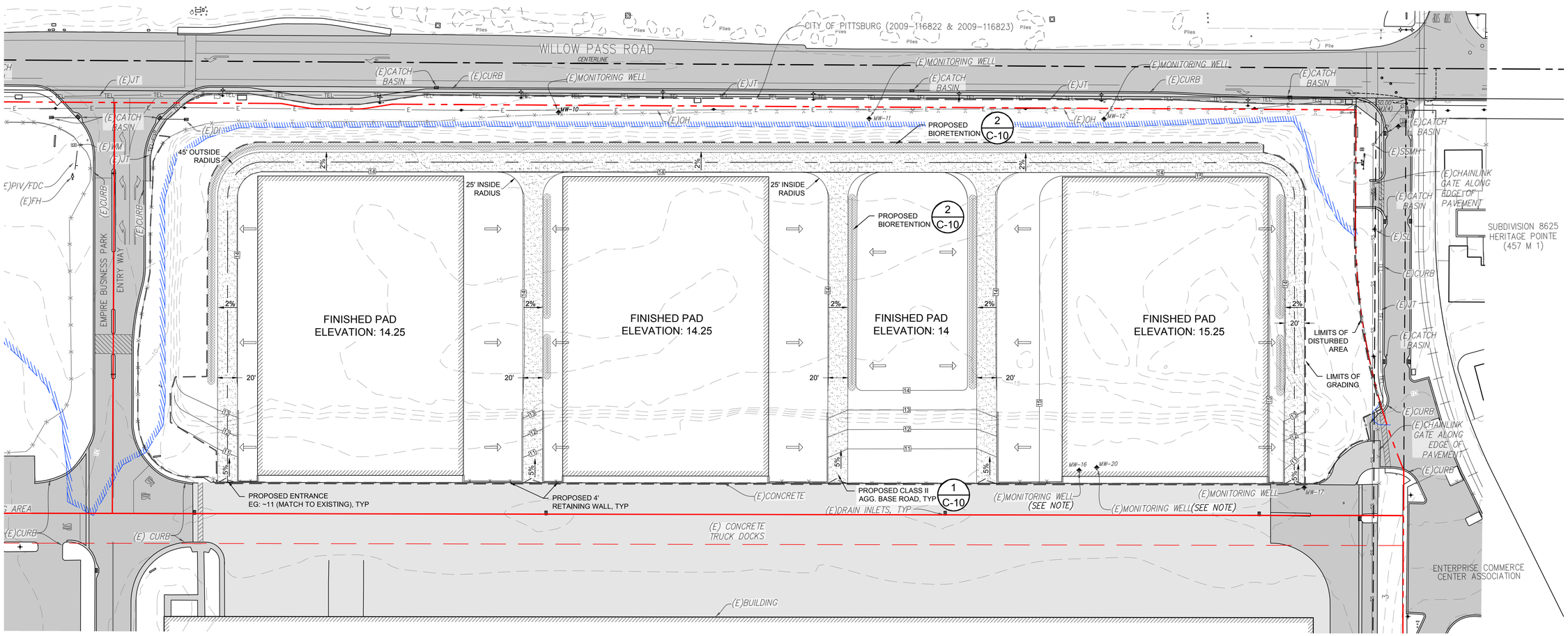
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0540
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CALIFORNIA 92614
PH: 949-697-7169
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. C-4



NOTE: EXISTING MONITORING WELLS TO BE PRESERVED IN PLACE IF NEEDED, AND FINISHED WITH FLUSH COVERS AT BUILDING FLOOR GRADE. ACCESS WILL BE PROVIDED FOR MONITORING AS NEEDED. ALTERNATIVELY, WELLS MAY BE ABANDONED OR RELOCATED IF APPROVED BY DTSC IN CONJUNCTION WITH THE SEPARATE ONGOING MONITORING AND REPORTING PROGRAM INTERACTIONS WITH THE LANDOWNER AND DTSC.

N

50 ft 0 50 ft 100 ft

SHEET SIZE 24"x36" - SCALE: 1"=50'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	UPDATE TRC ADDRESS	VL	SH	JS

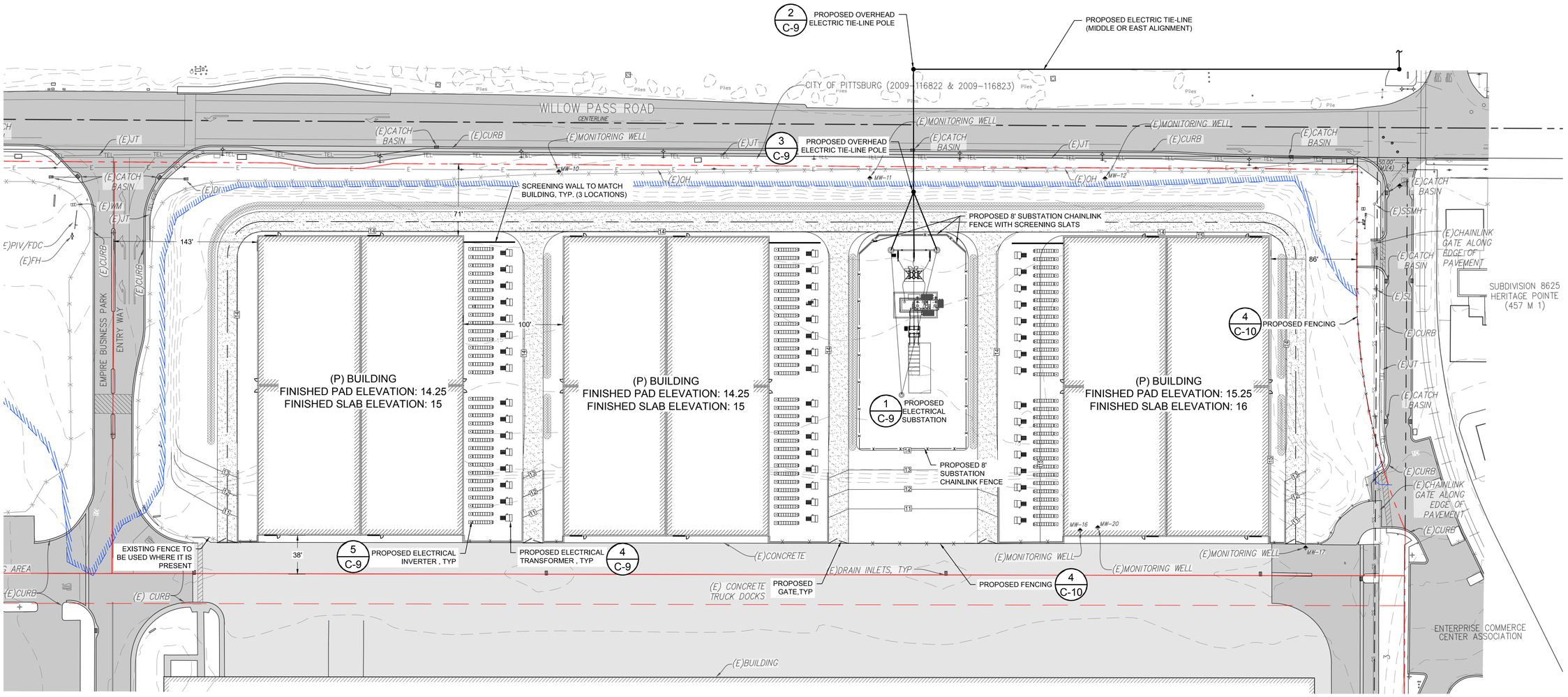
TITLE: CONCEPTUAL GRADING PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7264
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0945
FAX: 925-201-5230

SHEET NO. C-5



REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

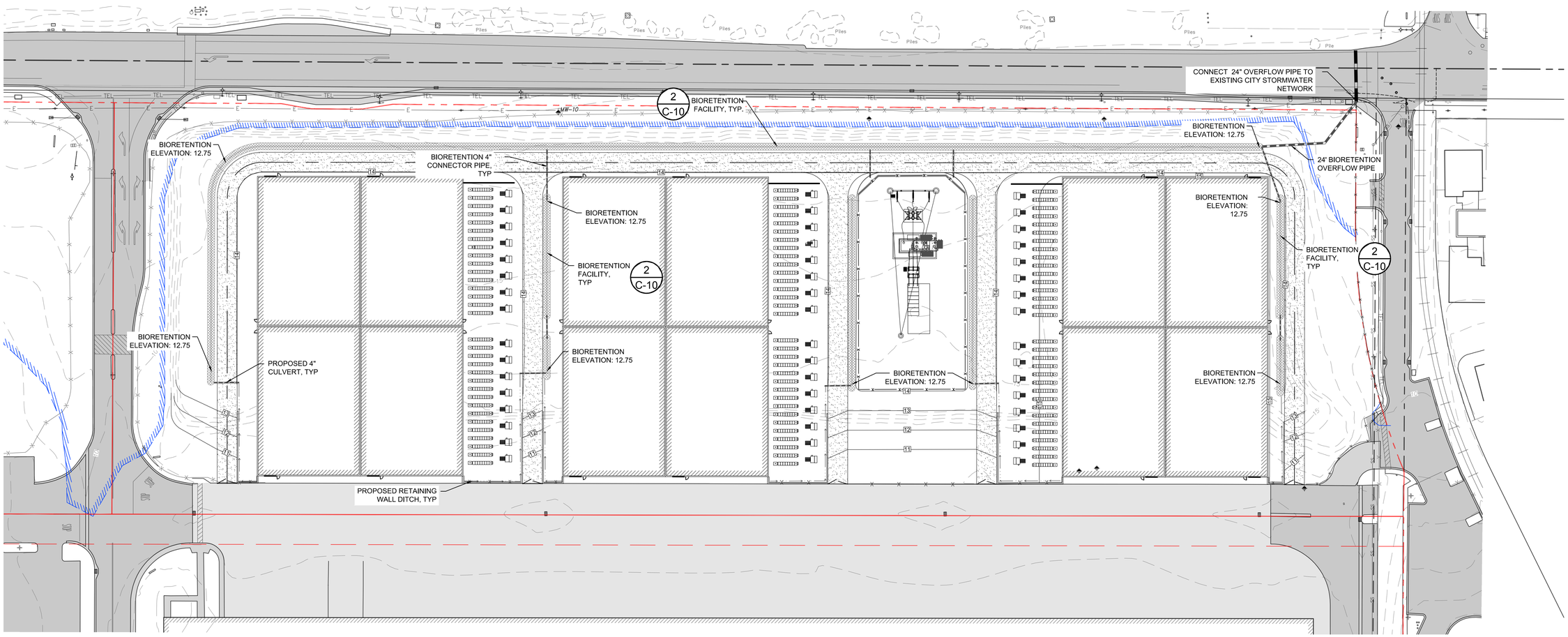
TITLE: CONCEPTUAL SITE PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CALIFORNIA 92614
PH: 949-697-7769
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5588
FAX: 925-201-5230

SHEET NO. C-6



N

50 ft 0 50 ft 100 ft

SHEET SIZE 24"x36" - SCALE: 1"=50'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

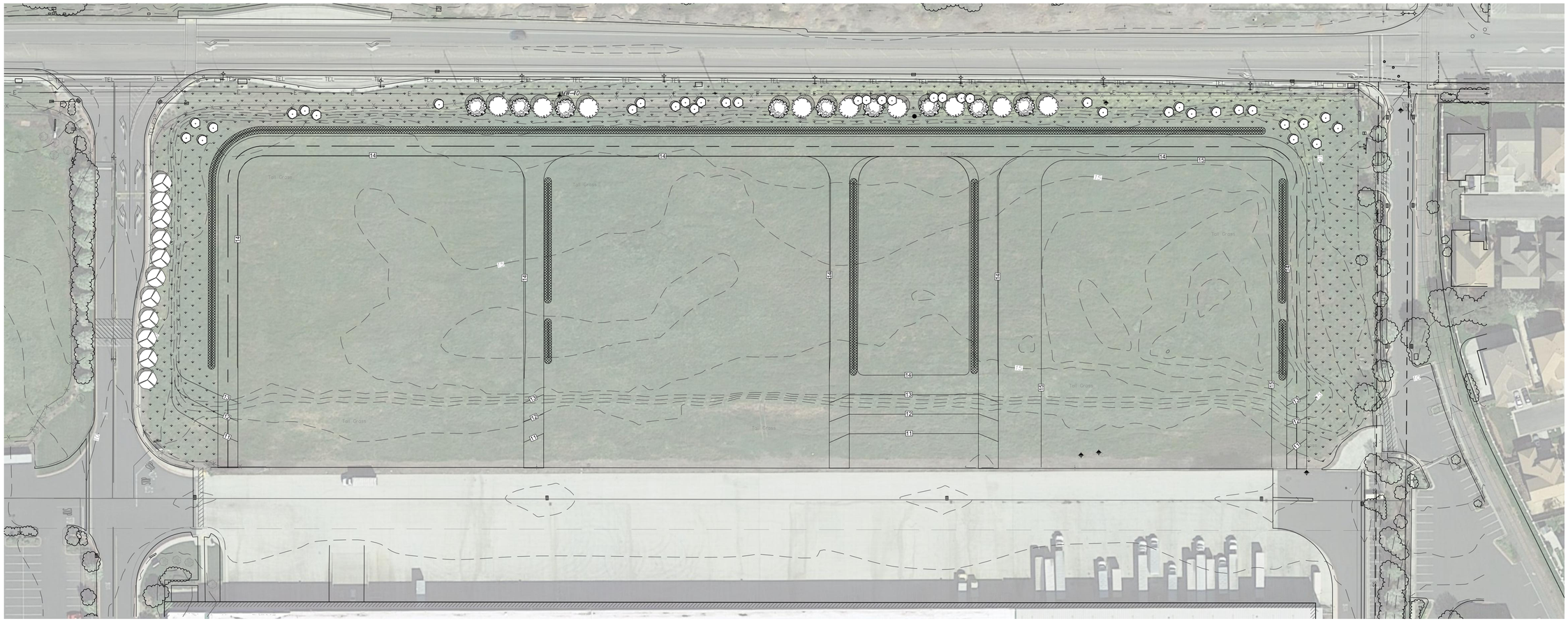
TITLE: CONCEPTUAL DRAINAGE PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7169
jatenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-6450
FAX: 925-201-5230

SHEET NO. C-7



LANDSCAPE CONCEPT

The landscape concept for Diablo Energy, LLC includes small canopy trees in combination with groups of low to medium height flowering shrubs and ground cover in an arrangement to blend with existing adjacent driveway landscaping, shield views of outdoor electrical equipment and provide a water efficient aesthetic frontage on Willow Pass Road. The suggested plant palette is comprised of drought tolerant species with evergreen foliage. An existing row of trees and driveway edge landscaping at the east side of the site will be left in place. On the west driveway edge, trees and groundcover is proposed to mirror the landscaping plan on the opposite side of the driveway offsite. Clustered trees and shrubs with ground cover is proposed for the Willow Pass frontage.

Two types of tree species are shown - a canopy tree and a flowering accent tree. Suggested trees have evergreen foliage; however an alternative accent tree with deciduous foliage is also included. All suggested trees are listed on the Contra Costa County Landscape Standards as suitable for planting under utility lines (2012).

Site areas: 11.85 acres (net); 10.44 acres (gross)
Total Existing Landscape: 0 sq. ft.
Additional Proposed Landscaped Area: 88,000 sq. ft.
Source of Irrigation Water: City of Pittsburg Potable Water Supply

NOTES:

1. Landscape shall incorporate best management practices for water efficient design consistent with Pittsburg Municipal Code 18.84.310.

2. Automated irrigation controllers shall be provided that utilize daily weather information, evapotranspiration data or soil moisture sensor data, along with other site information, to adjust the irrigation schedule on a daily basis.

3. Irrigation shall be designed and implemented to prevent excessive runoff, overspray or other water waste.

4. Final irrigation system design shall be under the direction of a licensed landscape architect or civil engineer.

5. Planting sizes shall not be less than 15-gallon containers specimens for trees, five-gallon container specimens for shrubs, and one-gallon container specimens for mass planting.

6. Medium bark mulch to a depth of 3 inches will be applied within the planting area for water conservation and weed suppression where live groundcover is not used.

7. Landscaping within the Willow Pass Road right-of-way will be installed and maintained by the Applicant.

8. Water meter shall be located on the property at a location approved to by the City of Pittsburg.

9. All planting areas are designed as a single hydrozone

10. Landscaping layout is conceptual and subject to change during final design.

11. Landscaping installation will be consistent with project construction phasing.

PLANT LEGEND

SYMBOL	TYPE AND FORM	APPROXIMATE QUANTITY	SUGGESTED SPECIES	CONTAINER SIZE	APPROXIMATE MAXIMUM HEIGHT/SPREAD
	Small canopy, broad leaf evergreen tree	11	Species to match existing landscape on west side of driveway	15 gallon	25'/25' 25'/25' 20'/20'
	Small canopy, broad leaf evergreen tree	9	Arbutus unedo (Strawberry Tree), or Rhu lancea (African Sumac), or Eriobotrya deflexa (Bronze Loquat)	15 gallon	25'/25' 25'/25' 20'/20'
	Small, broad leaf evergreen flowering accent tree (alternate species has deciduous foliage)	9	Pyrus kawakamii (Evergreen Pear), or Lagerstroemia indica x fauriei 'Natchez' (Natchez Crape Myrtle)	15 gallon	20'/20' 25'/25'
	Small, broad leaf evergreen shrub	38	Ceanothus griseus horizontalis 'Yankee Point' (Wild Lilac), and Rosmarinus officinalis 'Prostratus' (Dwarf Rosemary), or Rhaphiolepis indica 'Jack Evans' (Indian Hawthorn)	5 gallon	2'-3'/10'-12' 2'/4'-8' 4'-5'/4'
	Groundcover		Water efficient groundcover to be approved in final landscaping plan		
	Bioretention		Species to match existing landscape on west side of driveway		
	Existing Tree / Shrub / Landscape		Species to be approved in final landscaping plan		

N

50 ft 0 50 ft 100 ft

SHEET SIZE 24"x36" - SCALE: 1"=50'

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1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

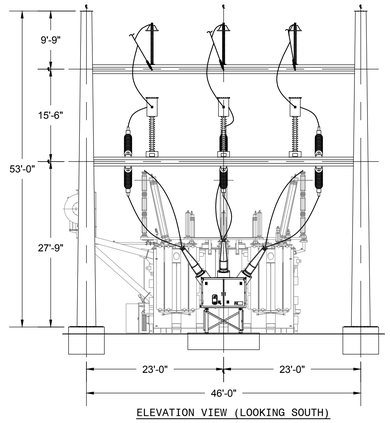
TITLE: CONCEPTUAL LANDSCAPING PLAN

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

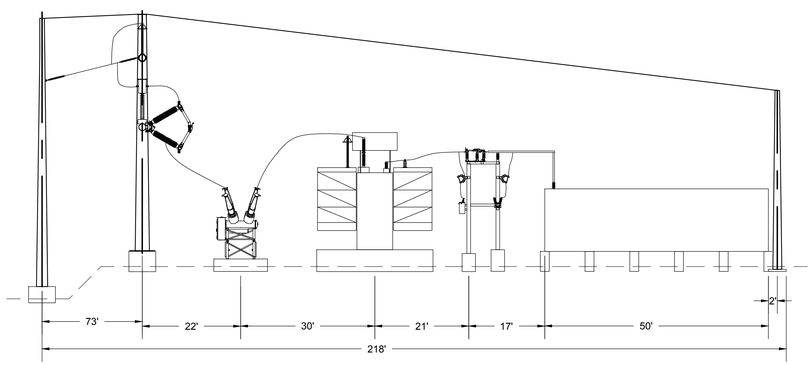
ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949.697.5264
jsitenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-2040
FAX: 925-201-5230

SHEET NO. C-8



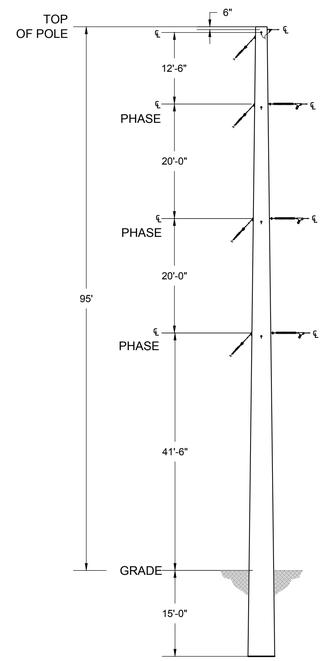
ELEVATION VIEW (LOOKING SOUTH)



ELEVATION VIEW (LOOKING EAST)

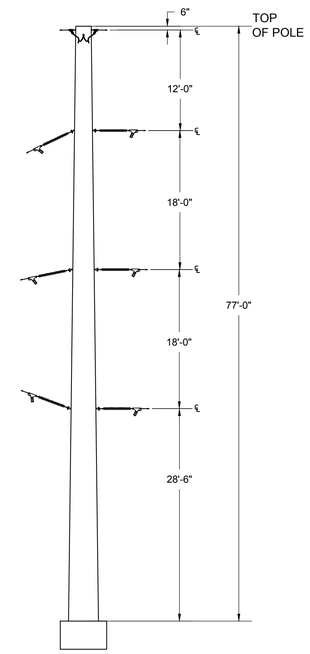
1 SUBSTATION

NOT TO SCALE



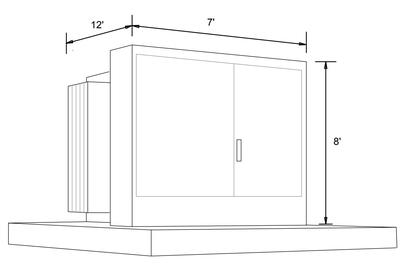
2 OVERHEAD ELECTRIC LINE TURNING POLE

NOT TO SCALE



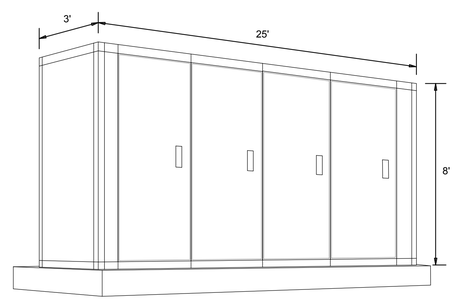
3 DOUBLE DEAD END ELECTRIC LINE POLE

NOT TO SCALE



4 PADMOUNT TRANSFORMER (TYP.)

NOT TO SCALE



5 INVERTER EQUIPMENT ENCLOSURE (TYP.)

NOT TO SCALE

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0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

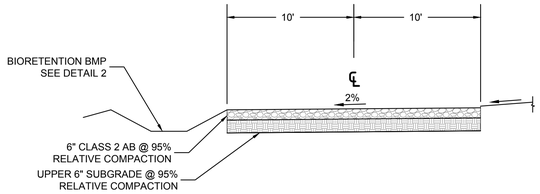
TITLE: ELECTRICAL DETAILS

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CALIFORNIA 92614
PH: 949-727-7169
jstenger@trcsolutions.com

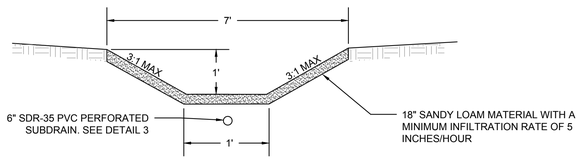
OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0345
FAX: 925-201-5230

SHEET NO. C-9



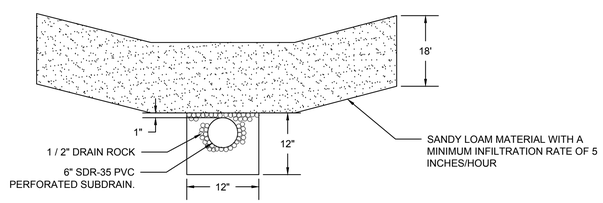
1 CLASS II AGGREGATE BASE SURFACE DRIVEWAY (TYP.)

NOT TO SCALE



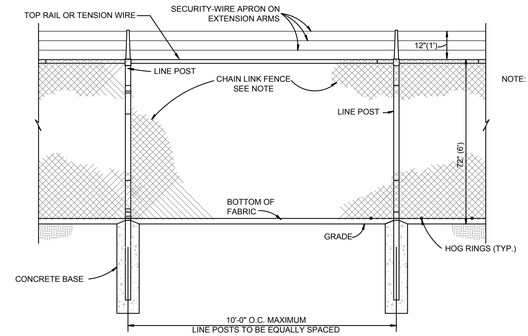
2 BIORETENTION BMP, TYP

NOT TO SCALE



3 6" SUBDRAIN UNDER BIORETENTION FACILITY, TYP

NOT TO SCALE



NOTE: NEW FENCING WILL BE INSTALLED AT THE SITE PERIMETER WHERE EXISTING FENCING DOES NOT OCCUR. EXISTING FENCING WILL BE REPAIRED WITH LIKE DESIGN OR REPLACED WITH NEW FENCING PER DETAIL SHOWN AS NEEDED BASED ON EXISTING FENCE INTEGRITY.

4 PROPOSED FENCING

NOT TO SCALE

REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: ROADWAY, DRAINAGE AND FENCE DETAILS

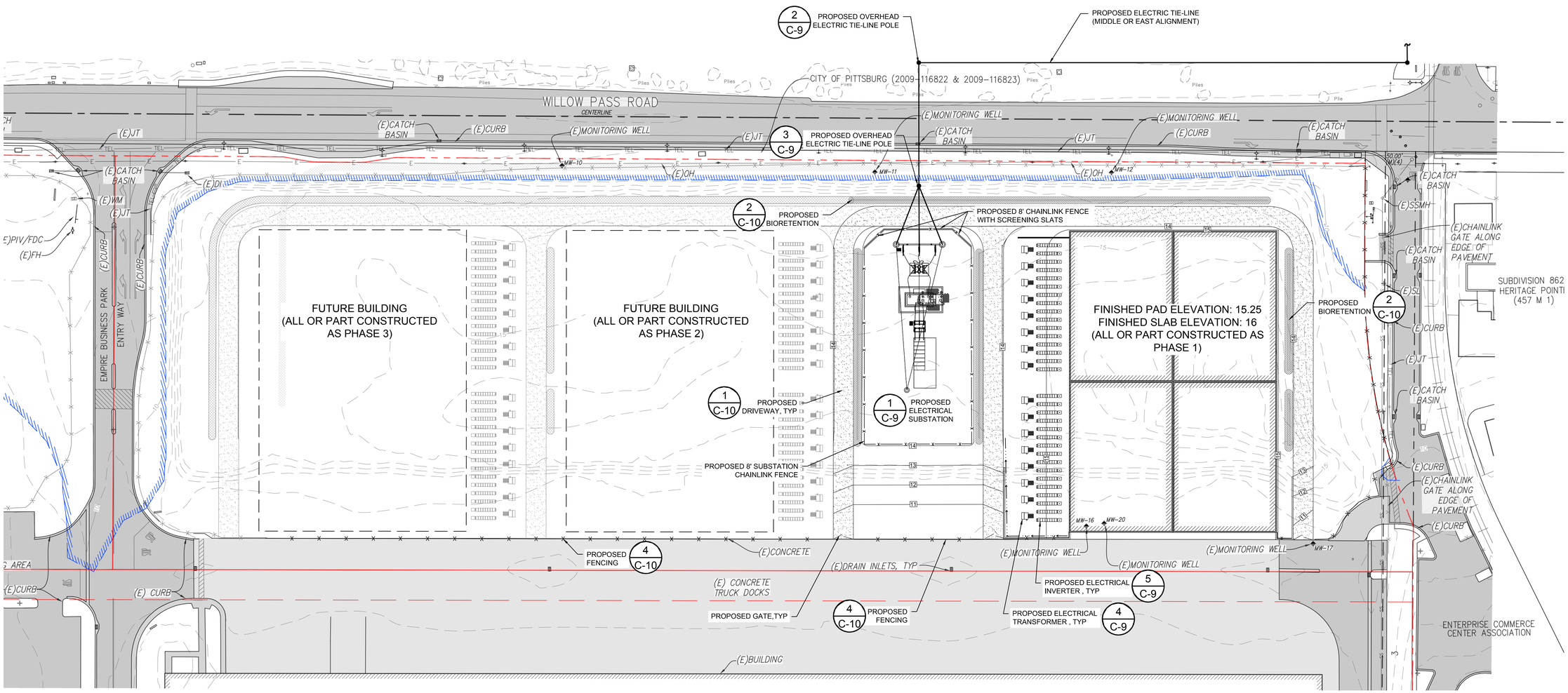
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0945
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7769
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. C-10



SHEET SIZE 24"x36" - SCALE: 1"=50'

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: CONSTRUCTION PHASING

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-467-7161
jstenger@trcsolutions.com

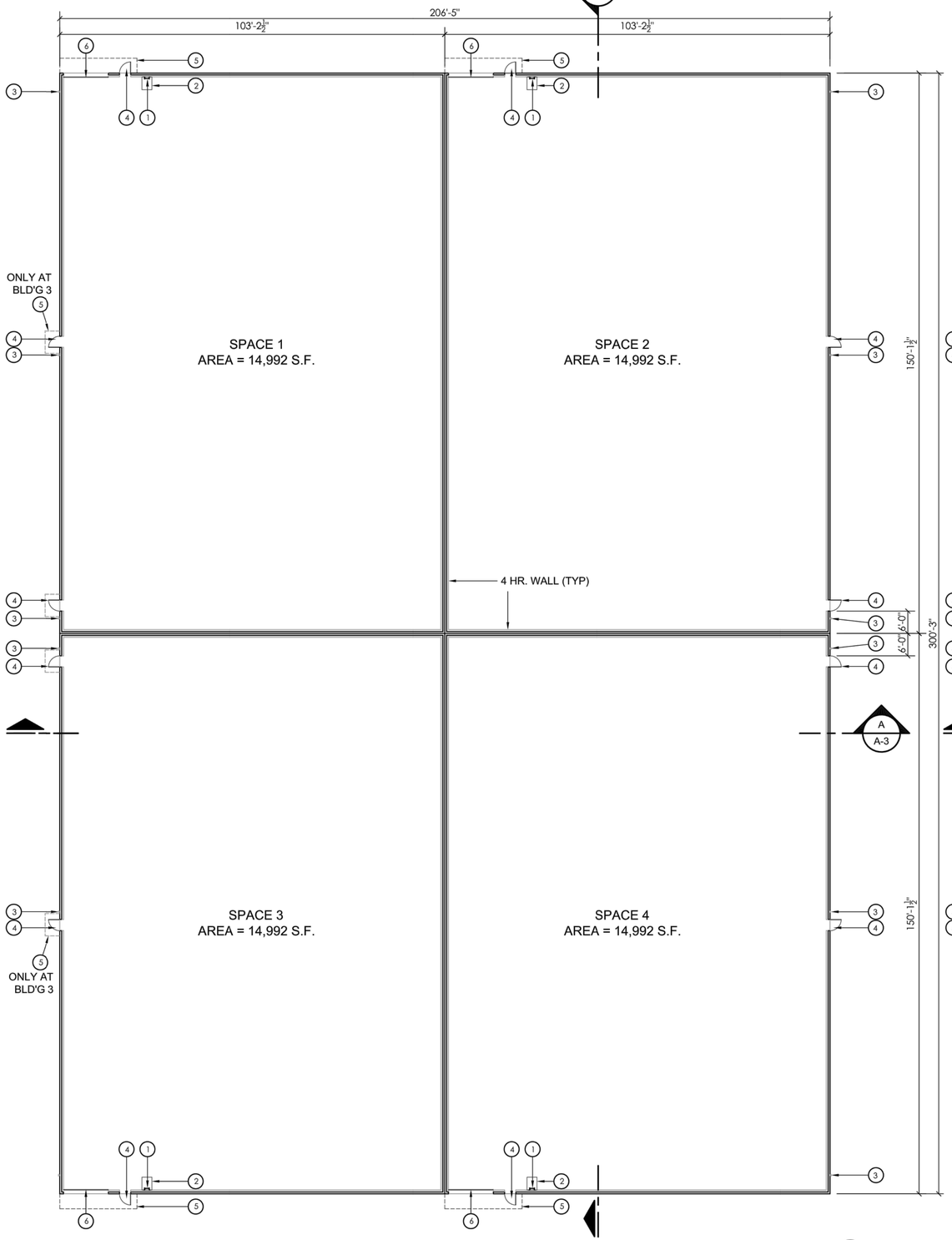
OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0345
FAX: 925-201-5230

SHEET NO. C-11

KEY NOTES

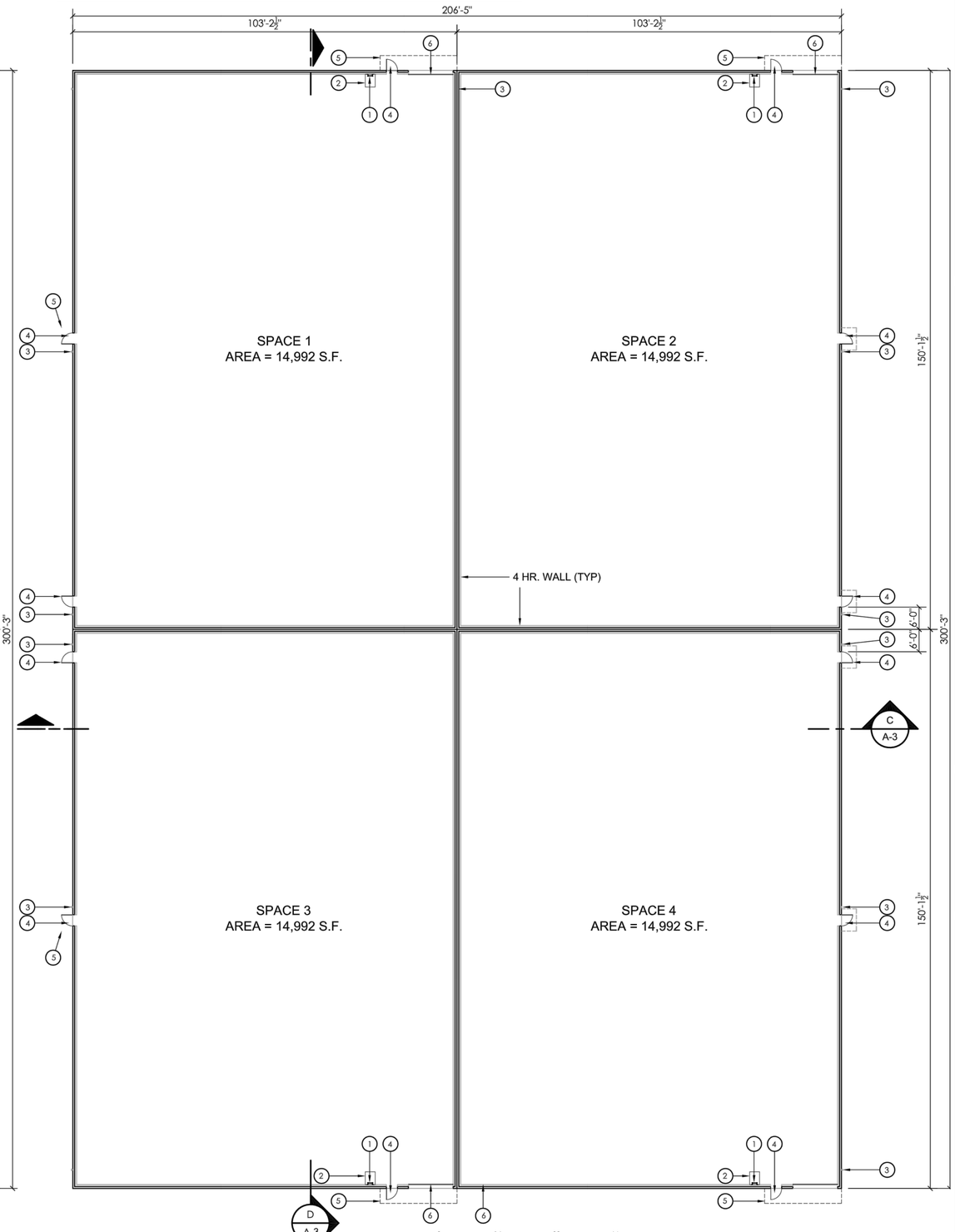
1. ROOF ACCESS LADDER
2. ROOF ACCESS HATCH ABOVE
3. DOWNSPOUT LOCATION
4. METAL DOOR
5. DOOR AWNING PROJECTION
6. 12' x12' METAL ROLL-UP DOOR

CBC Notes:
Occupancy - H-2
Construction - Type B - Sprinkled



TYPICAL FLOOR PLAN - BUILDING - 2 - 3

SCALE : 1/16" = 1'-0"



FLOOR PLAN - BUILDING 1

SCALE : 1/16" = 1'-0"

REV	DATE	DESCRIPTION	BY	CHKD	APP.
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: TYP. FLOOR PLAN BUILDING 1-2-3

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614-5020
PH: 949-697-7169
jstenger@trcsolutions.com

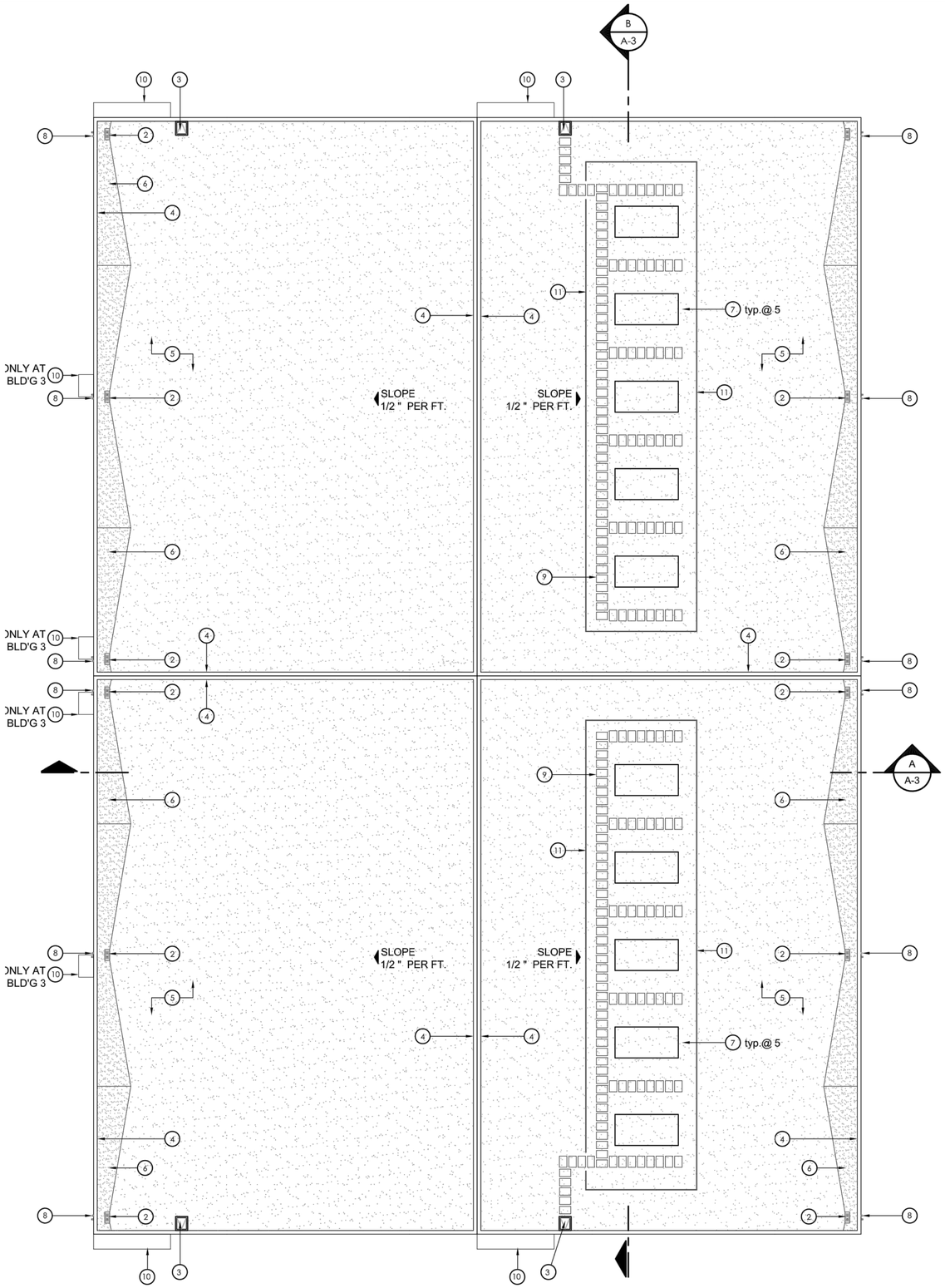
OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0540
FAX: 925-201-5230

TRC Results you can rely on

SHEET NO. A-1

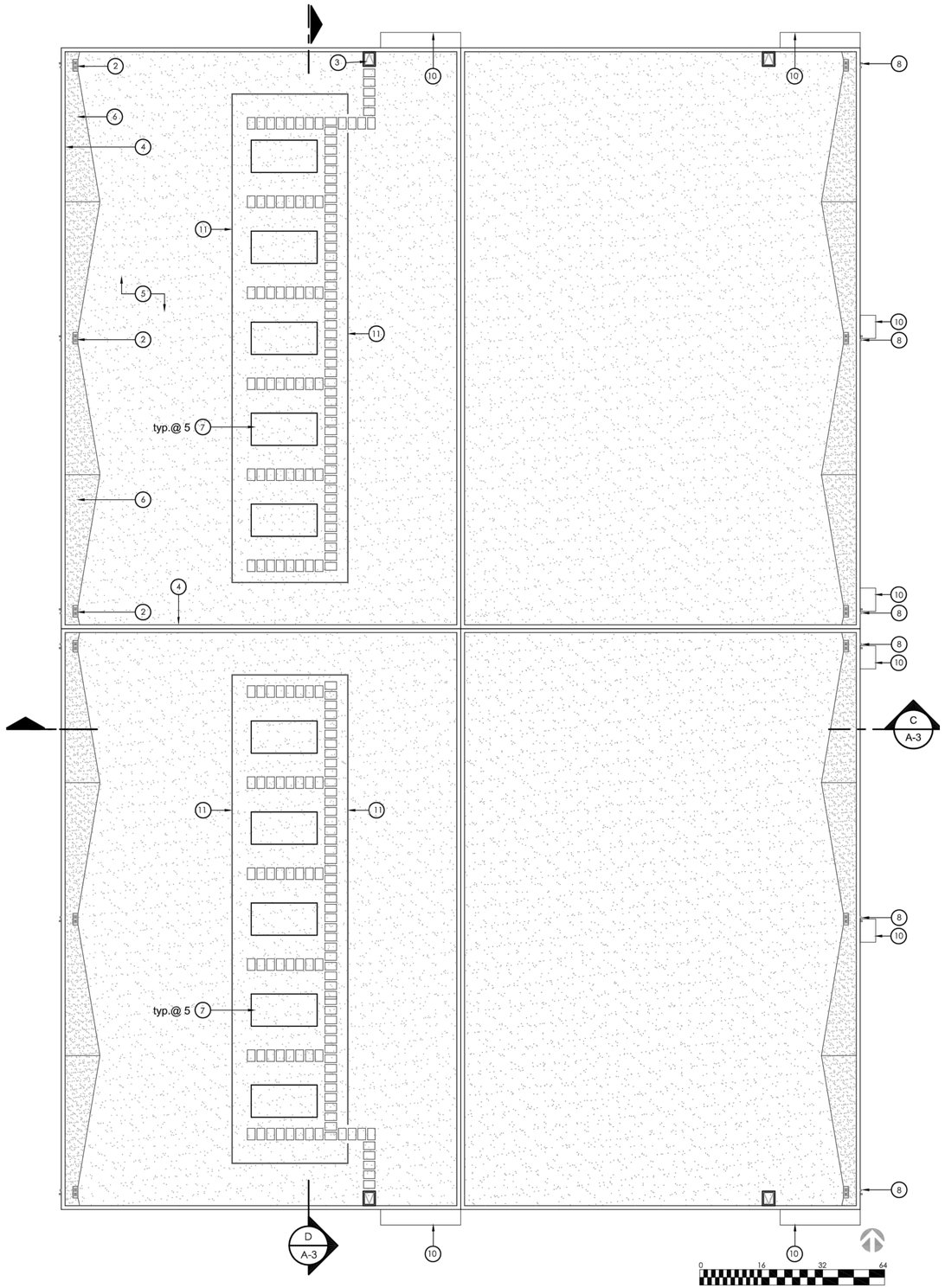
KEY NOTES

1. ROOF ACCESS LADDER
2. ROOF DRAIN AND OVERFLOW
3. ROOF ACCESS HATCH
4. PARAPET WALL
5. BUILT-UP ROOF
6. ROOF CRICKET
7. MECHANICAL UNITS
8. DOWNSPOUT
9. ROOF TRAFFIC PADS
10. DOOR AWNING
11. VENTED METAL MECHANICAL SCREEN SYSTEM



TYPICAL ROOF PLAN - BUILDING 2 - 3

SCALE : 1/16" = 1'-0"



ROOF PLAN - BUILDING 1

SCALE : 1/16" = 1'-0"

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0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: ROOF PLAN - BUILDING 1-2-3

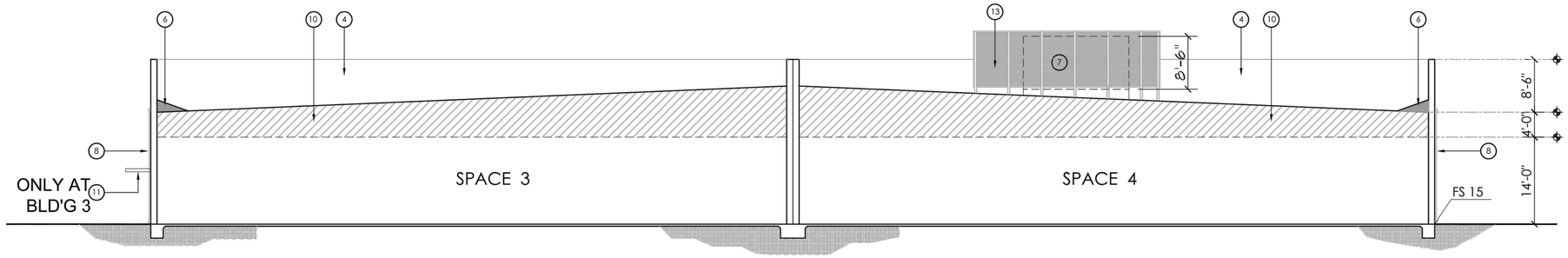
PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7769
jstenger@trcsolutions.com

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD, SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0248
FAX: 925-201-5230

TRC Results you can rely on

SHEET NO. A-2

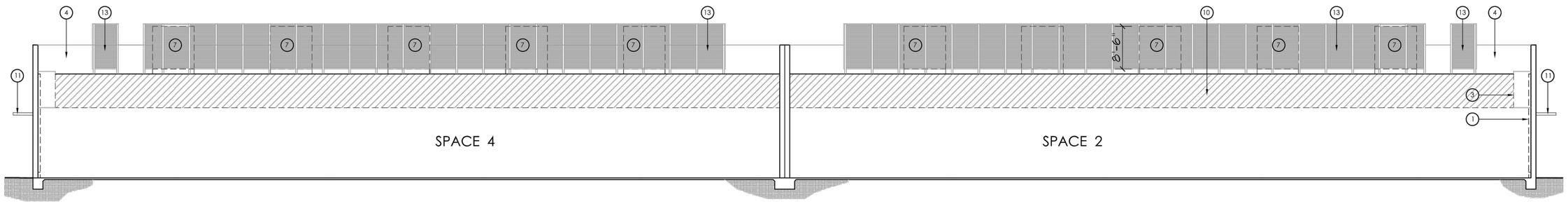


BUILDING SECTION - A - BUILDING 2 - 3

SCALE : 1" = 10'-0"

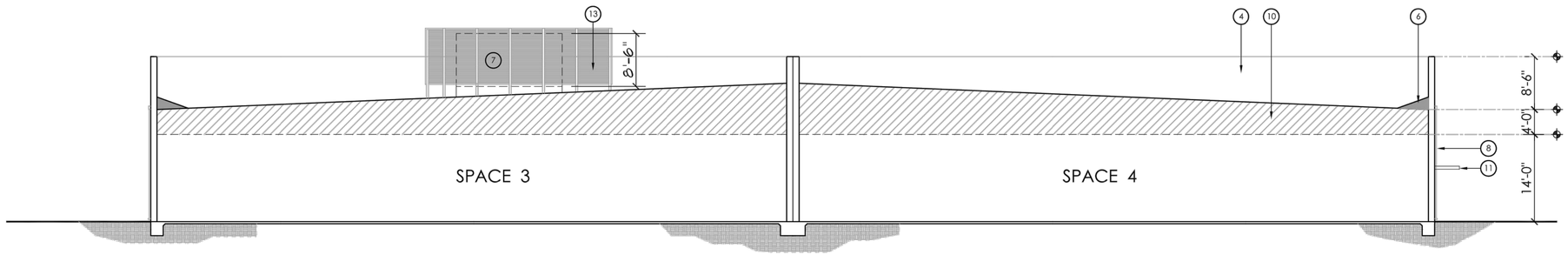
KEY NOTES

1. ROOF ACCESS LADDER
2. ROOF DRAIN AND OVERFLOW
3. ROOF ACCESS HATCH
4. PARAPET WALL
5. ROOF TRAFFIC PADS
6. ROOF CRICKET
7. MECHANICAL UNITS
8. DOWNSPOUT
9. ROOF TRAFFIC PADS
10. STRUCTURE SPACE
11. DOOR AWNING
12. METAL DOOR
13. VENTED METAL MECHANICAL SCREEN SYSTEM



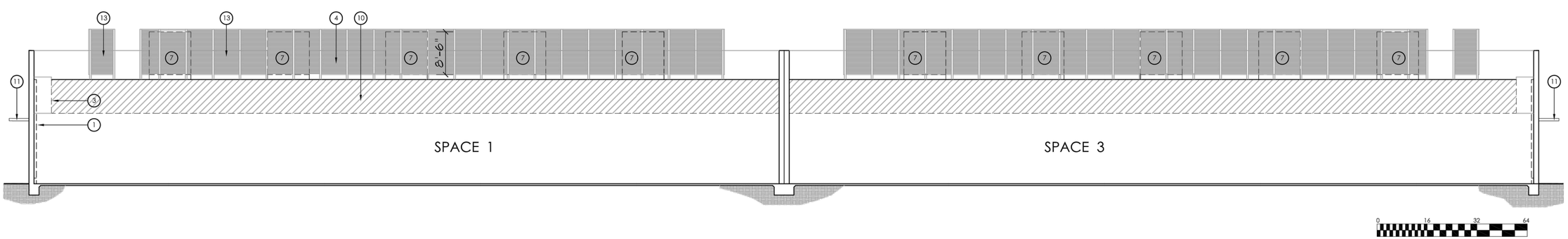
BUILDING SECTION - B - BUILDING - 2 - 3

SCALE : 1" = 10'-0"



BUILDING SECTION - C - BUILDING 1

SCALE : 1" = 10'-0"



BUILDING SECTION - D - BUILDING 1

SCALE : 1" = 10'-0"

REV	DATE	DESCRIPTION	BY	CHKD	APP
0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: BUILDING SECTIONS - BUILDING 1-2-3

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-797-7169
jsteinger@trcsolutions.com

OWNER/APPLICANT:
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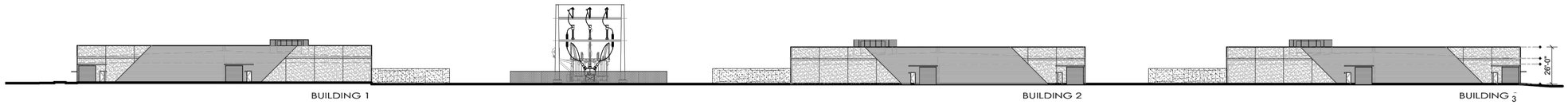
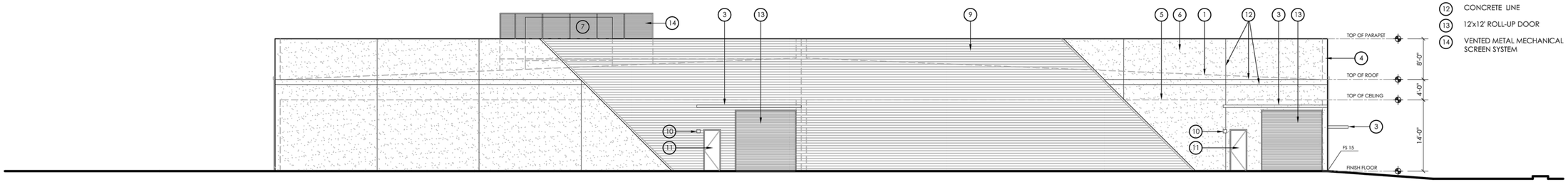
5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-5548
FAX: 925-201-5230

SHEET NO. A-3



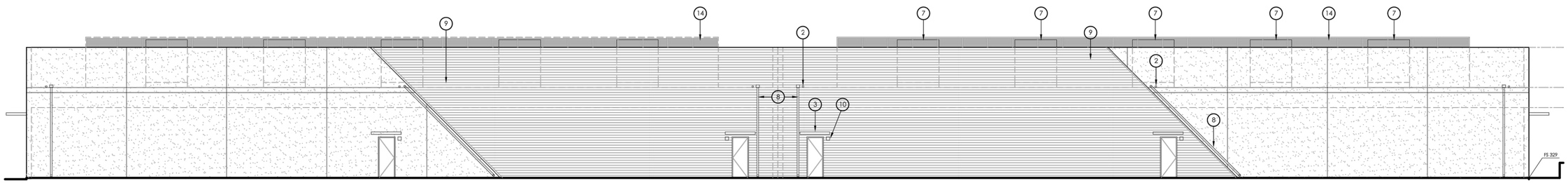
OVERALL - NORTH STREET ELEVATION - BUILDING 1 - 2 - 3

SCALE : 1" = 40'



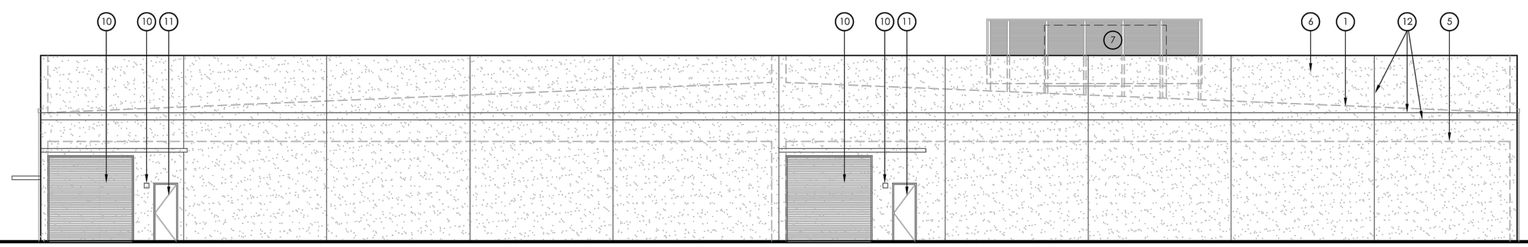
NORTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'



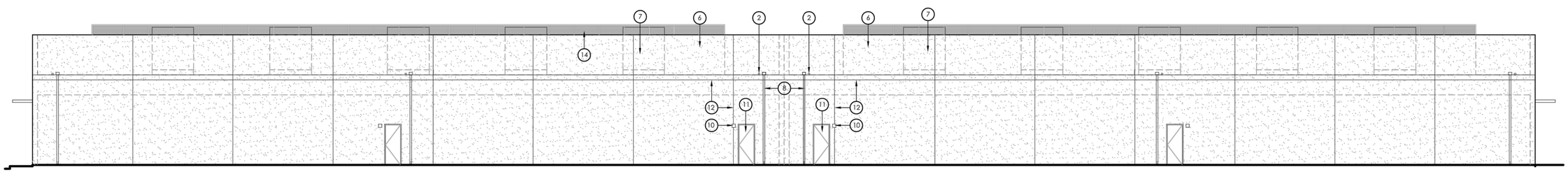
WEST ELEVATION - BUILDING 3 AND EAST ELEVATION - BUILDING - 1

SCALE : 1" = 10'



SOUTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'



WEST ELEVATION - BUILDING 1 -2 / EAST ELEVATION - BUILDING 2 - 3

SCALE : 1" = 10'

KEY NOTES

1. LINE OF ROOF
2. ROOF DRAIN OVERFLOW
3. DOOR AWNING
4. PARAPET WALL
5. TOP OF CEILING
6. TILT UP CONCRETE WALLS
7. MECHANICAL UNITS
8. DOWNSPOUT
9. METAL PANELS
10. LIGHT FIXTURE
11. METAL DOOR
12. CONCRETE LINE
13. 12'x12' ROLL-UP DOOR
14. VENTED METAL MECHANICAL SCREEN SYSTEM

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0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: EXTERIOR ELEVATIONS

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-697-7214
jstenger@trcsolutions.com

OWNER/APPLICANT:
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5000 HOPYARD ROAD SUITE #480
PLEASANTON, CA 94588
PH: 925-201-0248
FAX: 925-201-5230

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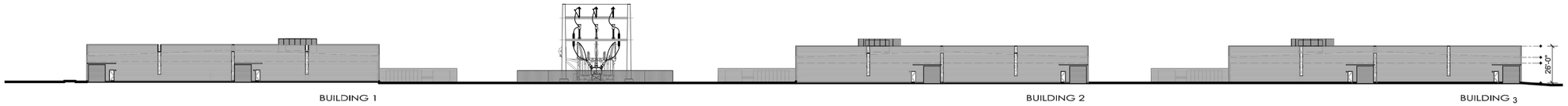
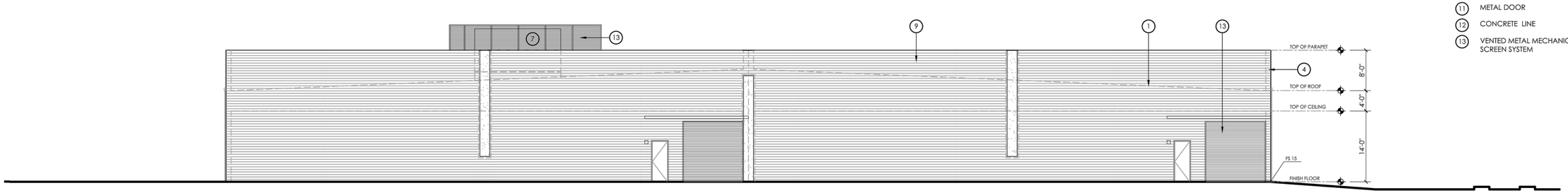


OVERALL - ALTERNATE - NORTH STREET ELEVATION - BUILDING 1 - 2 - 3

SCALE : 1" = 40'



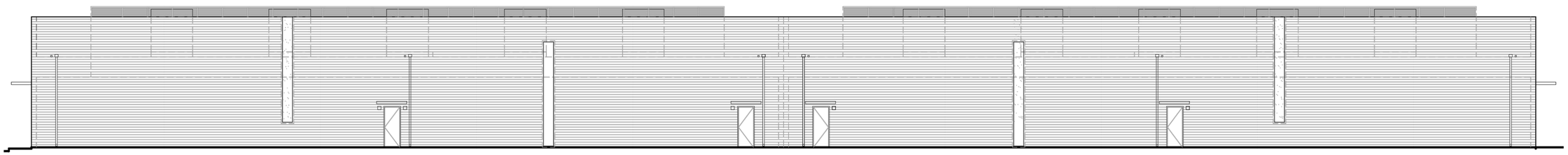
ALTERNATE NORTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'

NOTE: Illustration of alternate building exterior design employing the use of steel framing exterior walls and metal cladding exterior material.

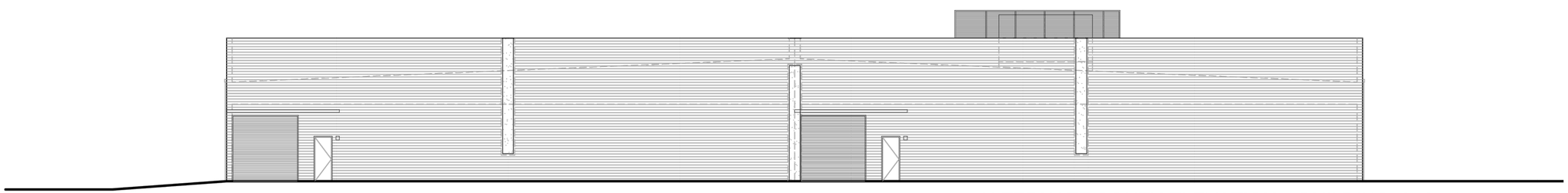
KEY NOTES

1. LINE OF ROOF
2. ROOF DRAIN OVERFLOW
3. DOOR AWNING
4. PARAPET WALL
5. TOP OF CEILING
6. TILT UP CONCRETE WALLS
7. MECHANICAL UNITS
8. DOWNSPOUT
9. SHEET METAL PANELS
10. LIGHT FIXTURE
11. METAL DOOR
12. CONCRETE LINE
13. VENTED METAL MECHANICAL SCREEN SYSTEM



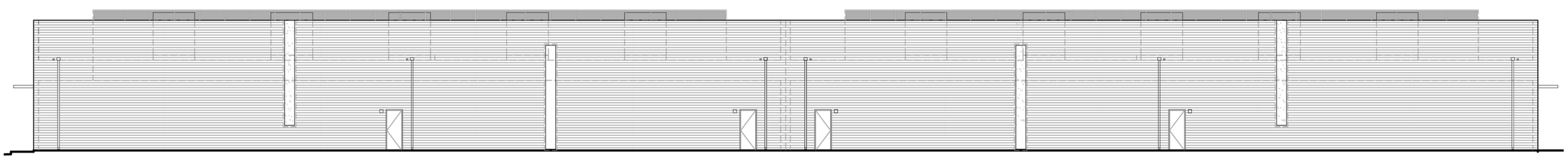
ALTERNATE ELEVATION - BUILDING 1- EAST and BUILDING 3 - WEST

SCALE : 1" = 10'



ALTERNATE SOUTH ELEVATION - BUILDING 2 -3 - 1 (REVERSE)

SCALE : 1" = 10'



ALTERNATE ELEVATION - BUILDING 2- EAST and WEST

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0	08/29/17	INITIAL SUBMITTAL TO CITY OF PITTSBURG	VL	SH	JS
1	01/12/18	MINOR DESIGN UPDATES INCORPORATED	VL	SH	JS

TITLE: EXTERIOR ELEVATIONS ALTERNATE

PROJECT: DIABLO ENERGY STORAGE
APN 085-280-010
701 WILLOW PASS ROAD, PITTSBURG, CA

OWNER/APPLICANT:
DIABLO ENERGY STORAGE, LLC
5000 HOPYARD ROAD SUITE #450
PLEASANTON, CA 94588
PH: 925-201-5245
FAX: 925-201-5230

ENGINEER:
TRC SOLUTIONS, INC
17911 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92614
PH: 949-727-7169
jstenger@trcsolutions.com

TRC Results you can rely on

SHEET NO. A-5

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Recommending City Council Approval of: 1) an Amendment to a Limited Overlay District; 2) a Use Permit; and 3) Design Review of Plans to Install a 180,000-Square Foot Energy Storage Facility at 701 Willow Pass Road, for "Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)."	)	Resolution No. 10095

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

A. On September 1, 2017, Diablo Energy Storage LLC, filed Planning Application No. 17-1270, requesting: 1) approval an amendment to the existing 'Empire Business Park' Overlay Zoning District (Ord. Nos. 07-1284 and 04-1214) to allow a "Major Utility" use subject to a use permit; 2) approval of a use permit for a Major Utility; and 3) design review approval of plans to install an energy storage project in three 60,000 sq. ft. buildings with related accessory equipment and tie-line to an existing PG&E substation. The project site covers a 12-acre portion of the 35-acre Empire Business Park parcel located at 701 Willow Pass Road in the IP-O (Industrial Park Overlay) District. Assessor's Parcel No. 085-280-010.

B. The proposed Diablo Energy Storage is governed by the applicable goals and policies of the Pittsburg General Plan, Pittsburg Municipal Code (PMC), and the City's Design Review and Development Guidelines adopted by Planning Commission through Resolution No. 9864.

C. PMC section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed zoning amendments. Pursuant to PMC section 18.48.030, the Planning Commission shall include written findings to support any recommendation it makes to the City Council to amend the Zoning Ordinance.

D. The project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for the Project. Based on the analysis in that study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a draft Mitigated Negative Declaration (MND) was prepared.

E. On February 9, 2018, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). The review period was extended to March 23, 2018 to accommodate public review. Public distribution of the NOI consisted of delivery to the State Clearinghouse, County Clerk's Office, posting on the City's website, and direct

mailing to all interested parties and owners/occupants of properties directly contiguous with the Project, in accordance with CEQA Guidelines section 15072.

F. On March 27, 2018, the Planning Commission continued the public hearing to April 10, 2018. On April 10, 2018, the Planning Commission continued the public hearing to April 24, 2018. On April 24, 2018, the Planning Commission continued the public hearing to May 8, 2018. On May 8, 2018, the Planning Commission continued the public hearing on this request to a date uncertain.

G. On or before June 30, 2018, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B, C and D, a "Notice of Public Hearing," for the July 10, 2018, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice.

H. On July 10, 2018, the Planning Commission held a public hearing on Planning Application No. 17-1270 (RZ, UP, DR), at which time oral and/or written testimony was considered. Following the public hearing, the Planning Commission moved to continue the public hearing on the item to the July 24, 2018, meeting. On July 24, 2018, the Planning Commission again continued the public hearing, to the August 14, 2018, meeting.

I. Though not required by law, on August 3, 2018, a "Supplemental Notice of Public Hearing," containing additional project information and answers to questions raised during the July 10, 2018 public hearing was mailed to all property owners and current residents of the Harbor Lights and Heritage Pointe Subdivisions. In addition, the supplemental notice was emailed to managers of the respective homeowners' associations, with a request that the supplemental notice be posted in common areas and forwarded directly to association board members.

J. On August 14, 2018, the Planning Commission held a continued public hearing on Planning Application No. 17-1270 (RZ, UP, DR), at which time oral and/or written testimony was considered.

Section 2. Findings

A. Based on the Planning Commission Staff Report entitled, "Consideration of a Resolution Recommending City Council Approval of the Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)," dated August 14, 2018, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. The Initial Study and draft Mitigated Negative Declaration for the project were prepared in compliance with Public Resources Code section 21000 et seq. and the Planning Commission has independently reviewed and considered the information contained therein.

Zoning Amendment/Limited Overlay District:

3. The proposed amendment is consistent with the General Plan, specifically policy 2-P-77, in that it will facilitate the continued development of a business commercial complex between Willow Pass Road and the BNSF Railroad track, east of the PG&E transmission corridor.

4. The proposed land use regulations are compatible with uses and regulations of the land use district for which they are proposed, in that they will permit a light industrial use with limited customer presence and no industrial activities.

5. The proposed amendment to the 'Empire Business Park' IP-O District will allow development of an energy storage project which will support California's renewable energy goals by providing a means of storing electrical energy including renewable energy produced by existing solar and wind resources in the region.

6. The proposed overlay amendment will allow development of a battery storage project to help meet a community and statewide need to reduce greenhouse gas emissions, consistent with Assembly Bill (AB) 32 targets. The specific amendment is needed in Pittsburg because the City's Zoning Ordinance does not currently specify where battery storage facilities are allowed.

7. The proposed overlay amendment will be in conformity with the public convenience and general welfare, in that it will allow development of a battery storage facility that will improve the efficiency of the electric grid and help reduce energy costs and greenhouse gas emissions. This project will be in keeping with measures other jurisdictions have taken to promote sustainable energy production in their communities.

8. The proposed overlay amendment is necessary because there are special or unique characteristics of the site or improvements that require land use and development regulations that cannot be adequately accommodated or controlled by the base zoning district, in that the Zoning Ordinance currently does not have a land use classification for "Battery Storage" projects. This is a new technology which is important in promoting sustainable energy goals by providing a means of storing energy in non-daylight hours.

Use Permit:

9. The project is in accord with the objective of the Zoning Ordinance, the purposes of the land use district in which it is located, and is appropriate to the specific location, in that the property was designated with an Industrial Park Overlay District, the intent of which is to provide sites in landscaped settings for research and

development facilities, and limited warehouse type facilities. The proposed use will be consistent with this intent.

10. The project will not be detrimental to the health, safety, and general welfare of the City, in that it will have no impact on air quality, odors, or hazardous materials. The project will be unmanned and therefore will not generate traffic. Equipment outside the buildings will be screened in accordance with the Design Review Guidelines.

11. The project will not adversely affect the orderly development of property within the City, in that the project site is vacant and designated for Industrial Park use.

12. The project will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City, in that it will add to the tax base through the development of the property and increased assessed valuation.

13. The project is consistent with the objectives, policies, general land uses and programs specified in the General Plan, in that this site is located in the 'West Central Subarea' of the Pittsburg General Plan and would conform to the General Plan policies adopted for this subarea, specifically Policy 2-P-77, which is intended to encourage development of a Business Commercial complex between Willow Pass Road and the BNSF Railroad track, east of the PG&E transmission corridor. The project would also provide fiscal benefits to the City of Pittsburg, consistent with the goals of the General Plan Economic Development Element.

14. The project will not create a nuisance or enforcement problem within the neighborhood, in that the battery portion of the project will be enclosed within the three buildings, which will also partially screen substation equipment. Further, the noise and vibration assessment prepared for the project has indicated that noise generated from the project would not be noticeable by neighboring residences. Lastly, the use will be required to meet performance standards, as set forth by PMC chapter 18.82, which are intended to address ongoing safety, noise, odor, and maintenance concerns.

15. The project will not encourage marginal development within the neighborhood, in that project would be located on a vacant, infill site, and has been designed to complement and blend in with the existing mixed-use character of the area.

16. The project will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints imposed by law, in that the facility will be unmanned, causing no demand for additional public services.

17. The project is consistent with the City's approved funding priorities, in that there are no public funds associated with this project.

Design Review

18. The project conforms with good taste and design and will not diminish the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that it has been designed to complement and respect its relationship with existing industrial uses and the adjacent residential use.

19. The project does not require protection from noise, vibrations, and other factors that may tend to make the environment less desirable for its users because the facility is intended for unmanned operation.

20. The project will not cause the neighborhood to materially depreciate in appearance and value because it is designed to have a utilitarian appearance consistent with the area's industrial zoning. The existing landscaping on the eastern property line will remain in place and provide screening for the residential uses located across the driveway which are also screened by the existing wall.

21. The project will be in harmony with proposed developments on land in the general area, in that there are no projects currently proposed in the immediate vicinity of the site.

22. The project is generally consistent with the criteria set forth in the City's Development Review Design Guidelines, in that an attempt has been made to reduce the visual impact of the large building size and significant massing of the three buildings through landscaping and masonry wall screening. Conditions have been included that will require: 1) extension of the metal detailing on the building above to the top of the parapet (Guideline IV.f); 2) screening of the outdoor equipment (Guideline IV.d); 3) provision of a cool roof (Guideline VI.D.1.).

B. The staff report entitled, "Consideration of a Resolution Recommending City Council Approval of the Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR)," dated August 14, 2018, is referenced hereto as additional support for the findings.

Section 3. Decision

Based on the findings set forth above, the Planning Commission hereby recommends that the City Council:

A. Adopt an ordinance amending Ordinance No. 07-1284, and Ordinance No. 04-1214 by reference, to permit a "Major Utility" subject to a use permit within the IP-O-2 portion of the existing Overlay (applicable to assessor's parcel no. 085-280-010), as shown in Exhibit "A" of this resolution; and

B. Adopt a resolution approving a use permit and design review for plans to install an energy storage project in three approximately 60,000 sq. ft. buildings with related accessory equipment and tie-line to an existing PG&E substation, subject to approval of the overlay district amendment described in section 3.A above, and subject to the following conditions:

Planning Conditions:

1. The project shall be constructed in substantial conformity with the project plans and color and materials board date-stamped January 12, 2018, except as may be hereinafter modified. Any major changes to the project plans shall be subject to review and approval by the City Council at the City Planner's discretion.

2. Any purchase, acquisition, and/or supply of goods and materials, as well as any new or replacement equipment and supplies purchased by Diablo Energy Storage, LLC ("DES") or its contractors, subcontractors, agents or affiliates, in connection with this Project shall be apportioned and paid to and at the applicable sales tax rate in effect for the City as administrated by the California Department of Tax and Fee Administration (CDTFA). At no point may DES or its contractors, subcontractors, agents or affiliates contractually agree to share sales and use taxes from this project with any other city, county or other entity in the State of California, regardless of agreement they might have with another jurisdiction where they have offices or conduct business. The City of Pittsburg will be the sole jurisdiction of record to the transfer of title. DES and its contractors, subcontractors, agents and affiliates shall comply with the Sales and Use Tax Requirements ("Requirements") set forth below and all CDTFA requirements. If the City becomes aware of modifications necessary to such Requirements, City may propose to incorporate new or revised requirements, subject to DES's agreement which shall not be unreasonably withheld, conditioned or delayed. Failure by DES, its contractors, subcontractors, agents or affiliates to comply with this Condition to ensure appropriate taxes are properly paid and passed through to the City will result in DES paying a fee equivalent to the taxes which the City would have received had DES, its contractors, subcontractors, agents or affiliates taken such actions to ensure the sales taxes referenced in the first sentence of this subsection are apportioned to the City.

   Sales and Use Tax Requirements: DES/General Contractor and/or future project owners and/or operators, as applicable, shall adhere to the following steps in effort to maximize the City's allocation of sales and use taxes associated with Project construction and operations by taking the following steps:

   - Prior to issuance of a grading or building permit or within 60 days of the effective date of this approval, whichever comes first, the developer shall register with the CDTFA and keep such registration current throughout the operational life of the project.

   - Apply for a Use Tax Direct Pay Permit. Upon receipt of registration, provide a copy to the City and/or their consultant for verification.

   - Self-accrue and pay use taxes in accordance CDFTA requirements.

   - Report local and district use taxes to CDFTA on applicable use tax returns.

- Use Tax-Point of Sale/Use Designation. DES shall require all contractors, subcontractors, agents and affiliates providing building materials and fixtures, such as but not limited to, bulk lumber, concrete, structural steel and pre-fabricated building components to be used in connection with the construction and development of, or incorporated into, the Project, to:

  (a) obtain a Seller's Permit;

  (b) issue a resale certificate to any supplier of material that will allow it to buy property without payment of tax;

  (c) file timely Sales and Use tax returns and report local tax on materials consumed and fixtures sold by the contractor, subcontractor, agent or affiliate based on the sole jobsite location located in the City of Pittsburg;

  (d) elect to obtain a sub permit for the job site of any contract valued at Five Million Dollars ($5,000,000) or more enabling the contractor, subcontractor, agent or affiliate to make a direct allocation of the tax based on the jobsite located in the City of Pittsburg; and

  (e) otherwise designate the Property as the place of use of materials used in the construction of the Project in order to have the full local use tax portion of the sales and use tax distributed directly to the City of Pittsburg.

  (f) DES/General Contractor shall require and instruct each of its subcontractors to cooperate with the City to ensure the local use tax is allocated to City of Pittsburg.

  (g) To assist City in its efforts to ensure that the full amount of such local sales/use tax is allocated to the City, DES/General Contractor shall provide City with a quarterly spreadsheet, which includes a list of all subcontractors, agents or affiliates with contracts in excess of the amount set forth above, a description of all applicable work, and the dollar value of such subcontracts or agreements. City or City's consultant may use the information provided it to contact each contractor, subcontractor, agent or affiliate to determine which may qualify to register the jobsite for allocation of the local use tax to the City of Pittsburg.

  (h) The DES will lease seven hundred twenty-seven (727) square feet of office space at 160 East 10th Street, Pittsburg California for One Dollar ($1.00) per square foot plus Common Area Maintenance and its portion of utilities from September 1, 2018 until the earlier of: a) 90 days after the commercial operations date of the Project and DES

establishes an office at the Project site or b) expiration of design review approval.

3. Prior to issuance of a grading or building permit, the Developer shall advise the City Manager in writing of the final tie-line alignment, and all necessary approvals (including but not limited to, easements and encroachment permits). The Developer may elect to utilize City property interests for the construction and operation of the above-ground electric tie line north of the northern boundary of the public right-of-way on Willow Pass Road, if such interests are available. If Developer elects to use utilize such interests the Developer shall enter into an agreement with the City satisfactory to and approved by the City Manager in writing that provides reasonable compensation to the City for the use of such property interests.

4. Prior to issuance of a grading or building permit, the Developer shall submit proof of application for any other permits and/or approvals from other governmental or quasi-governmental agencies having jurisdiction over the Project Site as may be required for construction.

5. Upon approval by the City Planner, the Developer may elect to relocate the proposed substation to that portion of the parcel west of the existing driveway, or immediately east of the existing driveway and west of Building 3. If this portion of the property is utilized, the City Planner reserves the right to require all applicable mitigation measure outlined in Condition of Approval No. 17 be incorporated, along with any other Condition of Approval outlined within this Resolution not already affecting this portion of the property.

6. All tie line towers shall be setback from the center-line of Willow Pass Road, at minimum, a distance equal to the height of the proposed tower or 25 feet from the northern extent of the Willow Pass Road right-of-way, whichever is greater. All towers within 100 feet of the right-of-way shall include landscaping around the base of the tower. All trees removed for tower installation shall be replaced and subject to the City's Tree Preservation Ordinance (PMC Title 18, Article XIX) as applicable.

7. The metal detail on the façade shall be extended above the top of the parapet to assist in visually reducing the perceived mass of each building. Rooftops shall be painted white to create a cool roof effect under any necessary mechanical equipment.

8. The project shall not employ a light source that causes any direct illumination beyond the property lines of the project site (PMC section 18.82.030).

9. The project's operational noise levels shall not exceed 65 dBA beyond the property lines of the project site (PMC section 18.82.040).

10. The project shall not produce an unreasonable, disturbing, or unnecessary emission of odors that cause material distress, discomfort or injury to the average person (PMC section 18.82.045).

11. The Developer shall revise the landscaping plan to provide a row of street trees along the northern frontage of the project with spacing every 40-feet on center. New trees shall be a minimum of 15-gallon in size and final placement, quantity, and species shall be subject to review and approval by the Planning Division prior to issuance of a building permit.

12. The developer shall utilize recycled water for all construction activities, including but not limited to dust control measures, to the maximum extent feasible and if available from Delta Diablo. In the event a recycled water line is extended to the project site prior to issuance of the first building permit issued for the project, the developer shall be required to connect to and utilize recycled water for all landscaping.

13. The developer shall remove all sediment form the existing stormwater detention infrastructure within the City right-of-way south of Willow Pass Road along the project frontage and shall provide new landscaping within the detention area. The developer shall also clean out all existing through-sidewalk cross drains and repair as necessary. The developer shall not be required to resize the detention area or provide any additional through drains. The final landscaping plan shall comply with the provisions outlined in Condition No. 10. Maintenance of this facility shall remain with the City of Pittsburg.

14. Prior to the issuance of a building permit, the Developer shall submit a detailed landscaping and irrigation plan and other documentation as required by the state model water efficient landscaping ordinance or other local water efficient landscaping ordinance in effect at the time the Developer applies for a building permit. Prior to issuance of a certificate of occupancy, the Developer shall complete and submit all certifications confirming that the landscaping and irrigation were installed in compliance with the approved detailed landscaping and irrigation plan, as required pursuant to the applicable ordinance in effect at the time the Developer applies for a building permit.

15. The developer shall consult directly with the Contra Costa County Hazardous Materials Program prior to construction, and if necessary, establish a Hazard Mitigation Plan.

16. The Developer shall comply with Design Review Guidelines, Appendix A, requiring the screening of all utility box transformers, backflow preventers, meters, junction boxes and other outdoor equipment.

17. The Developer shall remove the existing galvanized chain link fence located along the northern property frontage and replace with new vinyl clad chain link fencing. If feasible, the new fence shall be relocated south of the bioretention area along Willow Pass Road. The final design and location of the fencing shall be subject to approval by the City Planner.

18. The project shall be kept in a good state of repair and the project site shall be kept clean and orderly and free of all weeds, litter, debris, and other refuse at all times (PMC section 18.82.050).

19. The Developer shall comply with the following environmental impact mitigation measures which shall be considered the Mitigation Monitoring and Reporting Program.

a) Measure BIO-1: If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Developer shall provide biological, wetlands and jurisdictional waters survey reports accompanying the final tie-line design demonstrating that facilities and access are designed to minimize disturbance to sensitive plants to the extent practical for safe and efficient construction. Reports provided by the Developer shall be prepared by qualified professionals and shall address federal and state jurisdictional waters and potential for occurrence of Soft salty bird's-beak, Bolander's water hemlock, Delta tule pea, Delta mudwort, Mason's lilaeopsis, Suisun marsh aster based on pedestrian transect surveys for the portion of the West Alignment north of Willow Pass Road including final access routes. The project shall be designed to avoid direct impact to soft salty bird's beak and Mason's lilaeopsis, as well as Bolander's water hemlock, Delta tule pea, Delta mudwort, and Suisun marsh aster. If direct impact to soft salty bird's beak and Mason's lilaeopsis cannot be practically avoided, then the Developer shall consult with USFWS and CDFW to develop a plan for transplanting affected individuals to an appropriate adjacent location. The plan shall be subject to review by USFWS and CDFW and approval by the City prior to the issuance of grading or building permits for the tie-line. If direct impact to Bolander's water hemlock, Delta tule pea, Delta mudwort, or Suisun marsh aster cannot be practically avoided, then the Developer shall submit a plan to the City for transplanting, restoring, or preserving these species including success criteria to offset individuals lost at a ratio of no less than 1:1 and shall obtain approval by the City prior to the issuance of grading or building permits for the tie-line. Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to federal or state jurisdictional waters or wetlands, or locations with State or federally listed plants or State Rare plants. Material revisions to the selected final tie-line alignment routing and structure locations shown and described in the Developer's Project Description shall be subject to approval by the Planning Manager.

b) Measure BIO-2: If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Developer shall provide a biological survey report prepared by a qualified professional accompanying the final tie-line design addressing potential for occurrence of salt-marsh harvest mouse. The project shall be designed to avoid any Take of salt-marsh harvest mouse under the State ESA. If impact to salt-marsh harvest mouse habitat cannot be practically avoided, then the Developer shall develop a plan for construction to ensure no State ESA Take during construction, and for restoring or preserving habitat for this species at an area ratio of no less than 3 to 1. The plan shall be subject to review by USFWS and CDFW and approval by the City prior to the issuance of grading or building permits for the tie-line.

c) Measure BIO-3: If the tie-line West Alignment is used, a qualified biologist shall conduct a pre-construction survey for western pond turtles no more than 30 days

prior to construction in suitable aquatic habitats in and adjacent to the West Alignment work area. A combination of visual and trapping surveys may be performed with authorization from the California Department of Fish and Wildlife. If the species is found near any proposed construction areas, impacts on individuals and their habitat shall be avoided to the extent feasible. If occupied habitat can be avoided, an exclusion zone shall be established around the habitat and clearly marked with temporary fencing for avoidance during construction. If avoidance is not possible and the species is determined to be present in work areas, the biologist with approval from CDFW may capture turtles prior to construction activities and relocate them to nearby, suitable habitat a minimum of 300 feet from the work area. Exclusion fencing should then be installed if feasible to prevent turtles from reentering the work area. Project construction shall be monitored by a qualified biologist where construction work is within or adjacent to occupied western pond turtle habitat.

d) Measure BIO-4: If the tie-line West Alignment is used, prior to issuance of grading or building permits for the tie-line, the Developer shall provide a wetlands and jurisdictional waters survey report accompanying the final tie-line design demonstrating that facilities and access are designed to minimize disturbance to waters and wetlands to the extent practical for safe and efficient construction. Reports provided by the Developer shall be prepared by a qualified professional and shall delineate federal and state jurisdictional waters and wetlands, including verification by USACE for federal wetlands, if present. If disturbance to waters of the US and the state including wetlands cannot be avoided, then such disturbance shall not exceed 0.5-acre long term plus 1.3 acres of short term disturbance, and the Developer shall obtain required authorizations from USACE and CDFW prior to construction. Disturbances to wetlands or riparian vegetation shall be mitigated at a ratio of no less than 3:1 for long term impacts.

e) Measure BIO-5: The Developer shall pay HCP/NCCP mitigation fees consistent with HCP/NCCP requirements. If development is phased such fees, shall be paid prior to the issuance of a grading permit for acreage to be disturbed in such phase.

f) Measure CUL-1: Prior to issuance of a grading permit, the Developer shall provide the City with a historical resources survey report prepared by a professional meeting the Secretary of the Interior's Professional Qualification Standards (36 CFR 61) for the electric tie-line easement. If the survey identifies potentially significant cultural resources within the electric tie-line easement, then a tie-line design shall be provided to the City for approval prior to issuance of a grading permit that demonstrates either: (1) no significant resource would be disturbed by tie-line construction; or (2) any significant resource that cannot be practically avoided would be mitigated through photo-documentation and archival research by a qualified historic archaeologist or architectural historian.

g) Measure CUL-2: Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Developer

or its contractor to be observant for the potential occurrence of archaeological resources in the geologic materials encountered, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Developer's representative if such resources are discovered. In the event of a discovery, the Developer or Developer's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified cultural resource specialist. If evaluation by a qualified cultural resource specialist indicates that the discovery may be significant, then excavation in the area shall be continued only as directed by a qualified cultural resource specialist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project, including development of a Research Design and Data Recovery Program if needed to mitigate impacts. If cultural artifacts are collected they shall be cataloged and curated with an appropriate institution. A final monitoring report shall be prepared if significant cultural resources are discovered.

h) Measure CUL-3: Construction shift foremen, excavation equipment operators and other construction workers with responsibility for observing construction excavations shall be trained and instructed by a representative of the Developer or its contractor to be observant for the potential occurrence of paleontological resources when excavating on the Site beneath the depth of existing fill, and shall be instructed and authorized to halt excavation in the area immediately and notify the Project Developer's representative if vertebrate fossils are discovered. In the event of a discovery, the Developer or Developer's representative shall promptly notify the City and work in the area shall cease until the discovery is evaluated by a qualified paleontologist. If evaluation by a qualified paleontologist indicates that the discovery may be significant, then excavation in the area shall be continued only as directed by a qualified paleontologist and in a manner allowing for collection of significant resources and information that may otherwise be affected by the Project. If significant fossils are collected they shall be cataloged and curated with an appropriate institution. A final monitoring report shall be prepared if significant fossils are discovered.

i) Mitigation Measure CUL-4: Construction shift foremen, excavation equipment operators and other construction workers shall be trained and instructed by a representative of the Developer or its contractor to halt work immediately if human remains are observed in the geologic materials encountered. In the event of a discovery, the County coroner shall be notified immediately and work in the area shall cease until the discovery is evaluated and removed in accordance with applicable laws and requirements.

j) Measure NOISE-1: Loud construction work shall be limited to the hours between 8:00 am and 5:00 pm unless otherwise approved by the Planning Manager.

Engineering Conditions:

20. All new electric tie-line equipment south of the northern extent of the Willow Pass Road right-of-way shall be placed underground. The Developer shall also relocate all

existing above-ground power lines between the western boundary of the subject parcel and Enterprise Circle with the exception of the eastern-most power pole, underground.

21. The Developer shall complete the following pavement repair: crack sealing, minimum 1.5 inches of asphalt concrete overly, and thermoplastic re-striping of Willow Pass Road along frontage limits.

22. The Developer shall submit an engineer's estimate to the Engineering Division for review and approval together with the initial engineering plans. The engineer's estimate shall include all costs associated with the site development improvements, excluding those costs associated with the construction of the proposed building structures.

23. The Developer shall repair or replace, as deemed necessary, all broken or uneven sidewalks and through-curb drains along the project frontage.

24. The Developer shall provide an initial payment for review of the grading plans with the first grading plan submittal. These fees are based on the engineer's estimated costs for grading, which shall be submitted with the plans. The grading plan check fee is 2.5% of the cost for grading or may be based upon cubic yards of earth disturbance. Payments of 50% of these total fees are due payable with the initial submittal of plans and Engineer's Cost Estimate. These initial payments will be credited towards the final fees as determined at time of issuance of an engineering permit.

25. The Developer shall pay the grading inspection fee to the Engineering Division at the time the grading permit is issued. The grading inspection fee is 3% of the estimated cost of grading. The grading inspection fee may also be based upon an engineer's City-approved estimate of total cubic yards, according to the current schedule of grading fee charges.

26. The Developer shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Division, for water and sewer service in the amounts in effect when the Developer obtains a Building Permit. The Developer understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City. The FRC shall be paid to the Engineering Department prior to the issuance of a Building Permit.

27. The Developer shall pay an NPDES plan review (SWPPP Plan) fee to the Engineering Division in the amounts in effect when the Developer obtains a grading permit. The Developer understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

28. The Developer shall pay an NPDES inspection deposit (SWPPP Plan) fee to the Engineering Division in the amounts in effect when the Developer obtains a grading

permit. The Developer understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

29. If additional engineering studies are deemed necessary by the City Engineer, i.e. geotechnical, structural, hydraulic, etc., or expedited reviews are requested by the Developer, the Developer shall pay for all costs related to the extra work. The costs may include the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the Developer's engineer.

30. The Developer shall submit five (5) copies of the engineering plans, prepared by a registered civil engineer, to include but not be limited to the following:

    - Grading and Drainage Plan;
    - Utilities Plan;
    - Geotechnical Report
    - Engineer's Estimate
    - Stormwater Pollution Prevention Plan (SWPPP); and
    - Offsite Improvements due to Project Impacts.

31. The geotechnical report submitted pursuant to Condition 22 shall substantiate the design features incorporated into the project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and issuance of any engineering permits.

32. All grading work shall be done in accordance with the provisions of Chapter 15.88 of the Pittsburg Municipal Code.

33. All site development shall comply with Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a Site Development Permit, including but not limited to grading permits, will be required whereby specific engineering requirements will be made as conditions of approval.

34. All public and pedestrian facilities shall be designed in accordance with Title 24, Handicap Access, and the California Department of State Architect's standards for accessibility compliance.

35. Prior to issuance of a grading permit, the Developer shall submit the following to the Engineering Division for review: a Stormwater Pollution Prevention Plan (SWPPP) and a copy of the Notice of Intent (NOI), which was submitted to the State Water Resources Control Board. The SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The SWPPP measures shall also include erosion control measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with the regulations outlined in CASQA Handbook.

36. Submittal of grading and/or building plans shall be consistent with the approved Stormwater Control Plan. The plans shall include drawings and specifications necessary to implement all measures in the approved Stormwater Control Plan. A copy of a completed "Construction Plan C.3 Checklist", as described in the Stormwater C.3 Guidebook, most current edition shall be included. Grading and/or building permits, shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.

37. Equipment and materials containing polychlorinated biphenyls (PCBs) and mercury shall be prohibited. These substances accumulate in fish and may cause serious adverse health effects to people and wildlife that eat fish. The City has an obligation to reduce the discharge and control all potential sources of PCBs and Mercury in the environment as mandated in the City's NPDES Stormwater permit Order No. R2-2015-0049.

38. The Developer shall coordinate with Delta Diablo, in accordance with letter dated March 15, 2018, regarding placement of the proposed Tie-Line poles as follows:

    a. Project design plans for access, structures, and the proposed tie-line improvements that may potentially adversely impact Delta Diablo District wastewater pipelines or access shall be submitted to the District and be subject to its favorable review prior to City issuance of approval of the final tie-line route, any grading permit and the start of construction. Design measures shall include:

        i. Fencing and roadway improvements, and gates shall be designed to allow for optimized District access to existing wastewater pipelines during construction and after completion of construction. Project design shall ensure that access to District existing facilities will not be impeded or compromised from current conditions.
        ii. Grading over District pipelines shall not decrease ground surface cover over existing District pipelines and shall not significantly increase over District pipelines unless approved by the District.
        iii. No structures shall be constructed over existing District pipelines or easements.
        iv. When feasible and practical, all proposed new structures, overhead lines, or underground pipelines shall maintain a minimum of twenty-five feet horizontal distance between the outside edge of the District pipelines and the new improvement. Where not practical, all new improvements shall maintain a minimum of ten feet horizontal distance from the outside edge of the District pipelines.
        v. Crossings of District pipelines shall be at perpendicular angles and be designed such that overhead wires do not impede District safe manway access.

Additional Engineering Exactions

39. The property owner shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2005-1 Community Facilities District (CFD 2005-1) for Public Safety Services, prior to the issuance of any building or engineering permits. Community Facilities District 2005-1 is for Public Safety Services, and the fee will provide funding for an increase of police coverage in the area. The rate of the CFD 2005-1 fee is subject to City Council Resolution No. 05-10342.

40. The property owner shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2017-1 Fire Facilities and Fire Safety and Emergency Services Community Facilities District (CFD 2017-1), prior to the issuance of any building or engineering permits. Community Facilities District 2017-1 is for Fire Facilities and Fire Safety and Emergency Services. The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311.

Standard Conditions

41. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is a conflict between the Standard Conditions of Development and the project-specific conditions identified in this resolution, the specific conditions of this resolution shall govern.

42. The Developer shall comply with all the requirements of the City's Community Development Department, Contra Costa County Fire Protection District (including but not limited to those noted in the letter dated August 8, 2018), and all other applicable local, state and federal agencies. It is the responsibility of the Developer to contact each local, state, or federal agency for requirements that may pertain to this project.

43. Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at Developer's sole cost and expense. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

44. Design review approval will expire on _____, 2021, unless a building permit or grading permit has been issued or a written request for extension is filed with the Planning Division prior to the expiration date and subsequently approved by the City Council. Building or grading permits shall be valid for no more than six months from the date of permit issuance, unless work is commenced and diligently pursued prior to the expiration of the building or grading permit.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner D. Foster, seconded by Commissioner Ward, the foregoing resolution was passed and adopted the 14th day of August, 2018, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES: Coniglio, Fields, D. Foster, S. Foster, Robinson, Ward

NAYES: Linde

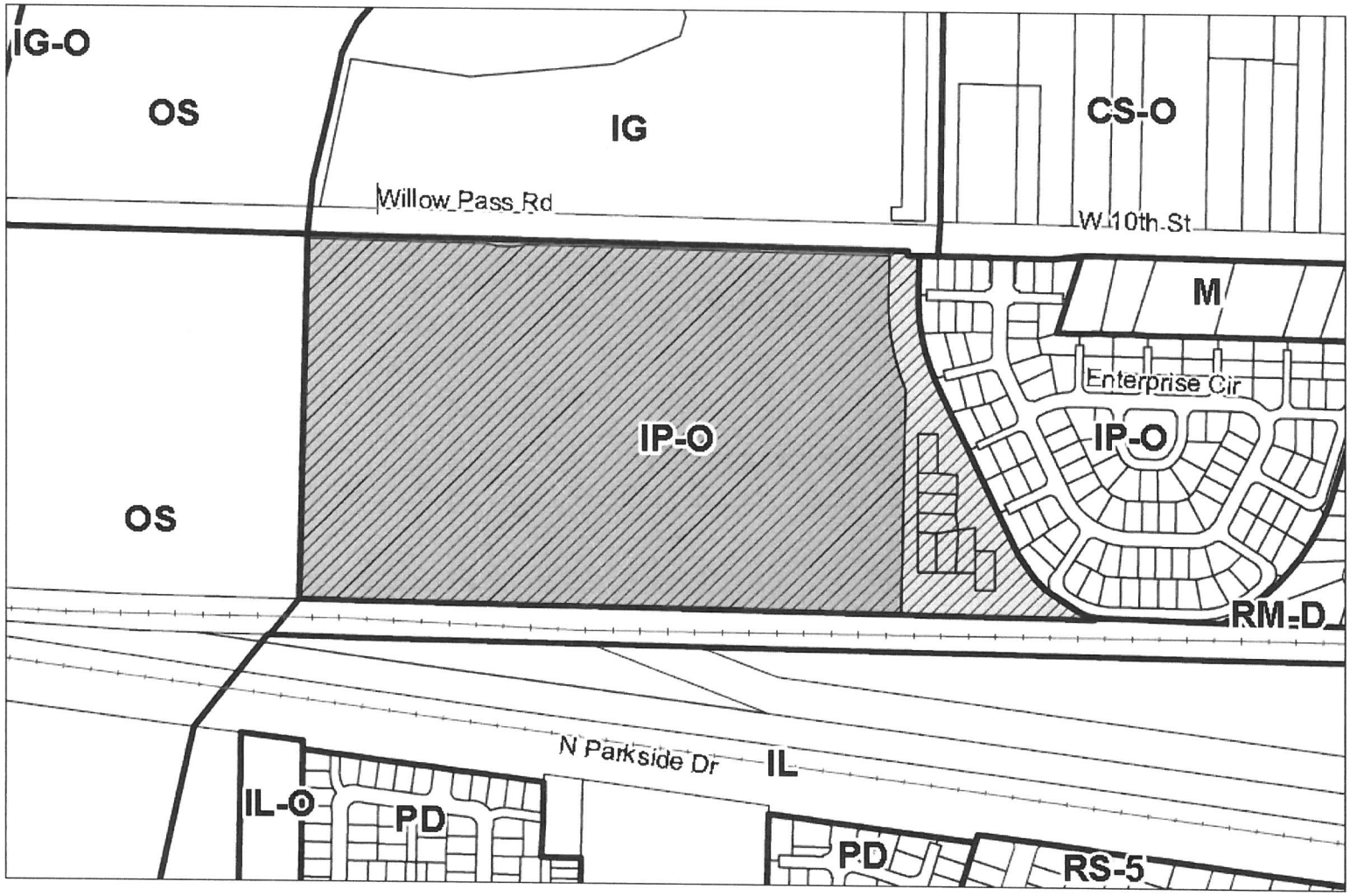
ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. 10095 was adopted by the Planning Commission of the City of Pittsburg on August 14, 2018.

JORDAN DAVIS, AICP, ACTING SECRETARY
PITTSBURG PLANNING COMMISSION

Exhibit A of Resolution No. 10095
OVERLAY ZONING MAP



Legend

Parcels | Affected Parcels | Zoning Districts | IP-O-1 | IP-O-2

0 265 530 1,060 Feet

CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT
August 14, 2018

ITEM: **Consideration of a Resolution Recommending City Council Approval of the Diablo Energy Storage Project, AP-17-1270 (RZ, UP, DR).**

ORIGINATED BY: Kevin Johnson on behalf of Diablo Energy Storage LLC, 5000 Hopyard Road, Suite #480, Pleasanton, CA 94588

SUBJECT: This is a continued public hearing on a request for a recommendation to City Council for: 1) adoption of an amendment to the existing 'Empire Business Park' Overlay Zoning District (Ord. Nos. 07-1284 and 04-1214) to allow a "Major Utility" use subject to a use permit; 2) approval of a use permit for a Major Utility; and 3) design review approval of plans to install an energy storage project in three 60,000 sq. ft. buildings with related accessory equipment and tie-line to an existing PG&E substation. The project site covers a 12-acre portion of the 35-acre Empire Business Park parcel located at 701 Willow Pass Road in the IP-O (Industrial Park Overlay) District. Assessor's Parcel No. 085-280-010.

RECOMMENDATION:

Staff recommends that the Planning Commission review the initial study and proposed mitigated negative declaration (MND) for the project and adopt Resolution No. 10095, recommending that the City Council:

1. Adopt an ordinance amending the existing 'Empire Business Park' Overlay Zoning District (Ord. Nos. 07-1284 and 04-1214) to allow a "Major Utility" use subject to a use permit within the IP-O-2 subdistrict, as shown in Attachment 1, Exhibit A; and

2. Adopt a resolution approving a use permit for a "Major Utility", and granting design review approval for Planning Application No. 17-1270, subject to conditions.

BACKGROUND:

On January 20, 2004, the City Council adopted Ordinance No. 04-1214, which established the existing IP-O District, commonly referred to as the 'Empire Business Park Overlay,' applicable to the property, in order to specify permitted, conditionally permitted, and limited uses for the property, as well as development regulations related to maximum building height, maximum lot coverage, front yard setback, and maximum floor area ratio.

On May 21, 2007, the City Council adopted Ordinance No. 07-1284, in conjunction with a comprehensive zoning code update in order to add “religious assembly,” as a conditionally permitted use in multiple overlay districts.

On July 10, 2018 the Planning Commission held a public hearing to consider this application. At that meeting the Commission raised questions related to public safety, specifically regarding the use of lithium ion batteries and an overhead electric tie-line in proximity to residential uses and voted unanimously to continue the public hearing to the July 24, 2018, meeting. On July 24, 2018, the Commission once again continued the public hearing to August 14, 2018, in order to allow staff and the applicant additional time to address questions and concerns raised by the Commission and conduct additional public outreach.

PROJECT DESCRIPTION:

Existing Conditions: The project site consists of a 12-acre portion of the 35-acre site designated as the Empire Business Park. The site fronts Willow Pass Road to the north and is currently vacant. A dilapidated chain-link fence with a barbed wire top currently runs along the northern and eastern site boundaries. A stormwater detention and treatment basin also runs along the northern property boundary parallel to Willow Pass Road within the City right-of-way; however, this area has been illegally filled by unpermitted dumping, and thus is not adequately retaining or treating stormwater. Lastly, overhead power lines run along the northern property boundary, and are the only remaining overhead lines along this stretch of Willow Pass Road/West 10th Street.

Surrounding Land Uses: The project site is surrounded by a mix of light industrial, utility and low-density residential land uses. Adjacent lands north of Willow Pass Road are industrial in use. The portion of the subject parcel to the south of the project site is developed as an approximately 400,000 square foot commercial warehouse-style structure with associated parking and truck loading docks. Adjacent lands to the east of the site consist of a paved commercial entrance road between the project site and a residential subdivision. Adjacent lands to the west of the site include a paved entrance to the industrial development to the south, a graded undeveloped area, and a high voltage electric transmission line corridor, approximately 900 feet wide, which runs north-south through the City, crossing Willow Pass Road.

See Attachment 4, “Project Location Map and Existing Conditions,” for an overview of surrounding uses.

Proposed Project: The purpose of the project is to receive, store, and discharge electric energy from the California Independent System Operator (CAISO) controlled electric grid, including renewable energy produced by existing solar and wind resources in the region. The preliminary layout and conceptual design details of the project are shown on Attachment 2. The facility would receive energy from the existing grid, including energy from renewable resources and store it onsite within batteries. The energy would then be delivered back to the grid as requested by the CAISO including during peak electric

demand, increasing the efficiency of the grid and reducing the need for power generation plants during these times. Energy discharged from the project would go directly into PG&E infrastructure and be distributed as needed. In accordance with the Large Generator Interconnection Agreement between Diablo Energy Storage, PG&E, and CAISO, the project is authorized to interconnect up to 200 megawatts of storage capacity to the PG&E Pittsburg Substation. It should be noted that the proposed project is not a power plant, as it does not produce electric energy as a solar, wind, or fossil-fuel plant would.

The project consists of three, approximately 60,000 square foot, unmanned buildings which would house advanced energy storage technology (e.g. lithium ion batteries) which, together with related control equipment including inverters, transformers, and an onsite electric substation, would be connected via a new electric tie-in line to the existing PG&E substation located approximately 0.6 miles north of the project site (see Attachment 4). The facility would be unoccupied, as it is designed for full remote operation. The entire project site would be secured with seven-foot-tall fencing consisting of six-foot high chain link with a one-foot high security wire top. A controlled access gate would be located at the project site entrance and a second gate would be located near the northwest corner of the site where an existing road would provide for emergency access.

The three proposed buildings would include a modern design with a combination of natural-colored, tilt-up concrete panels or steel frame construction and horizontal metal paneling in a complementary light stone color. The site plan is organized so that the three buildings would be aligned in an east to west direction; outdoor electrical equipment would be screened from view by the eastern-most building, as shown on Sheet C-6 of the Conceptual Site Plan (Attachment 2). The proposed small substation, including an approximately 24-foot wide by 50-foot high H-frame structure with switches, lightning arrestors and metering equipment, would be placed between buildings one and two on the interior of the site (or further west, as allowed under a proposed condition of approval), and fenced in accordance with electric code requirements. This arrangement of buildings and equipment would effectively screen the outdoor equipment from view from the residential uses and provide some sound attenuation. Though outdoor equipment would be visible from Willow Pass Road, a proposed condition of approval would require trees be planted every 40 feet along the north side of the proposed structures, providing additional screening. The service driveway accessing the rear of the buildings would be located along the southern edge of the project site. The site would be graded to provide bio-retention swales around the outer perimeter of the buildings.

The project includes the construction of an electric tie-line to connect to the existing PG&E substation. The area between the project site and the Pittsburg Substation is extensively developed with industrial and utility infrastructure which influences the choice of feasible routes for the tie-line. Three preliminary tie-line routes (as shown in Attachment 2) have been identified: a) west of the fuel oil tank farm (a distance of 6,700 feet); b) along an existing NRG access road through the fuel oil tank farm (a distance of

3,800 feet); and c) east of the fuel oil tank farm (a distance of 5,800 feet). Portions of the line would be overhead and pursuant to a proposed condition of approval, portions of the line would be placed underground. The above ground portion of the tie-line would include an overhead power line atop poles approximately 77 to 95 feet tall; however, a condition of approval would require the line be placed underground from the project site, as well as north of the Willow Pass Road right-of-way to a point no less than 25 feet north of the Willow Pass Road right-of-way.

Sidewalk, curb, and gutter improvements exist at the site frontage. However, the developer has agreed to conditions of approval that would provide significant frontage improvements along Willow Pass Road, including: 1) a row of street trees placed every 40 feet on center along to help screen the project; 2) removal of sediment and re-landscaping of the existing bioretention basin within the City right-of-way; 3) replacement of the existing chain-link fence with a new vinyl-clad fence; 4) undergrounding of existing PG&E overhead power lines along the project frontage and undergrounding as described in the preceding paragraph; 5) repair or replacement of all damaged sidewalk and storm drains; and 6) pavement repair on Willow Pass Road adjacent to the project frontage.

Construction and equipment installation would be expected to take 6 to 12 months including the buildings, outdoor electrical equipment, and site preparation including storm water controls and landscaping. Construction of each of the three buildings may be phased in response to market demands. If phased, project improvements essential for the entire site such as the connection to the City storm water system, the onsite substation, and the electric tie-line, would be installed in the initial phase. The initial phase would include the first building (eastern most building) and related systems.

GENERAL PLAN/CODE COMPLIANCE:

General Plan: The project site is located in the ‘West Central Subarea’ of the Pittsburg General Plan and would conform to the General Plan policies adopted for this subarea. The project site is designated on the General Plan Land Use map as Business Commercial. This designation is intended to provide sites for a variety of uses including custom manufacturing, limited assembly and light manufacturing. The proposed use, an energy storage project would be consistent with this intent.

General Plan Policy 2-P-77 addresses the project site specifically to, “allow and encourage development of a Business Commercial complex between Willow Pass Road and the BNSF Railroad track, east of the PG&E transmission corridor.” The proposed project would implement the intent of this policy. The project would also provide fiscal benefits to the City of Pittsburg, consistent with the goals of the General Plan Economic Development Element, would add to the infrastructure within the City of Pittsburg.

Zoning: The project site’s base zone is IP-O (Industrial Park Overlay as specified in Ordinance No. 04-1214, and later amended by Ordinance No. 07-1284) District. The

intent of this overlay district is to ensure that compatible uses are allowed as appropriate according to proximity to residential uses. The overlay district is also intended to assist in the redevelopment of vacant and underutilized parcels along Willow Pass Road with business and commercial service uses, and to provide sites for service oriented commercial and light industrial uses in a landscaped setting.

The proposed use (battery storage plus a substation) fits under the zoning ordinance use classification of “major utility” which is defined, in part, to include major power facilities as well as electrical substations. The applicant is requesting an amendment to the existing IP-O District to allow a “Major Utility” subject to approval of a use permit. The proposed tie lines (i.e. overhead power lines) that would connect the project to the existing PG&E Substation are permitted within the IP-O and IG (General Industrial) districts.

Development Regulations. The proposed project complies with the Property Development Regulations set forth in Attachment 5.

Design Guidelines: In 2010, the Planning Commission adopted Resolution No. 9864 amending the City’s Development Review Design Guidelines (DRDGs). The DRDGs provide a framework for the design review of residential, commercial, and industrial projects. The project as proposed complies with DRDGs as set forth in Attachment 6.

Required Findings - Zoning Amendment: In order to recommend approval of a zoning amendment, the Commission must find (in accordance with PMC sections 18.16.020 and 18.48.030) that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;

2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;

3. there is a community need for the change proposed; and

4. the change will be in conformity with the public convenience, general welfare, and good zoning practice.

Required Findings - Limited Overlay District: The procedure for an amendment to an adopted overlay plan is initiated in the same manner as an application for a Zoning Map amendment (in accordance with PMC section 18.74.070). In order to recommend approval of an amendment to the existing limited overlay, the Commission must also find (in accordance with PMC section18.74.060) that the proposed amendment:

1. is necessary because there are special or unique characteristics of the site or improvements that require land use and development regulations that cannot be adequately accommodated or controlled by the base zoning district;

2. conforms to the General Plan; and

3. generally, complies with the land use and development regulations of the base zoning district.

Required Findings - Use Permit: In order to recommend approval of a use permit, the Commission must make findings (PMC section 18.16.040) that the proposed use:

A. is in accord with the objective of this title, the purposes of the land use district in which it is located and is appropriate to the specific location;

B. is not detrimental to the health, safety, and general welfare of the City;

C. will not adversely affect the orderly development of property within the City;

D. will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City;

E. is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;

F. will not create a nuisance or enforcement problem within the neighborhood;

G. will not encourage marginal development within the neighborhood;

H. will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints imposed by law; and

I. is consistent with the City's approved funding priorities.

Required Findings - Design Review: In order to recommend approval of a design review application, the Commission must determine (in accordance with PMC section 18.36.220.B) that:

1. the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;

2. the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;

3. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;

4. the structure is in harmony with proposed developments on land in the general area; and

5. the application conforms with the criteria set forth in any applicable City adopted Design Guidelines.

Environmental: The project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the State CEQA Guidelines, an Initial Study was prepared for the project. Based on the analysis in the Initial Study, the Planning Manager determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, the Notice of Intent to Adopt a Mitigated Negative Declaration was prepared and distributed to the public on February 9, 2018, for a 30-day review and comment period, in accordance with CEQA Guidelines section 15105(b). The review period was extended to March 23, 2018, to accommodate pubic review.

During the public review period, one comment letter was received from Delta Diablo (see Attachment 11). No deficiencies with the environmental analysis were identified by Delta Diablo, so no changes to the initial study were made in response to the letter; however, a condition of approval has been added to the project to address their general concerns about potential construction impacts to existing wastewater pipeline infrastructure.

Public Notice: On or prior to June 30, 2018, notice of the July 10, 2018, public hearing was published in the East County Times; was posted at City Hall and on the “Public Notices” section of the City’s website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, to local service agencies expected to provide services to the facility, and to individuals who had previously filed written request for such notice, in accordance with PMC section 18.14.020 and Government Code sections 65091. At the July 10, 2018 meeting this item was continued to a date certain, July 24, 2017. At the July 24, 2018, meeting the item was once again continued to a date certain, August 14, 2018.

Though not required by law, staff and the applicant have conducted additional public outreach to make the surrounding communities aware of the proposed project. On August 3, 2018, a “Supplemental Notice of Public Hearing,” (Attachment 15) containing additional project information and answers to questions raised during the July 10, 2018 public hearing was mailed to all property owners and current residents of the Harbor Lights and Heritage Pointe Subdivisions. In addition, the supplemental notice was emailed to managers of the respective homeowners’ associations, with a request that the supplemental notice be posted in common areas and forwarded directly to association board members.

ANALYSIS:

Staff believes that the Planning Commission can make all of the necessary findings to recommend approval of the project, subject to conditions. The proposed project would potentially provide a new economic and reliable means of capturing and managing renewable energy, thereby reducing the state and region's reliance of fossil-fueled power plants. In doing so, the project would help stabilize the electric grid and increase the effectiveness of both conventional and renewable energy generation projects. The project would support the achievement of local, state and federal renewable energy goals and state goals for energy storage, reducing emission of greenhouse gases and demand for electrical generation. The project would also provide economic benefits to the City of Pittsburg and the surrounding area through the creation of skilled construction jobs, operation period jobs, and revenues from property and sales taxes. The applicant estimates the project (at full build out) will create 240 jobs during construction, 10 jobs during operations for periodic maintenance and calibration, pay approximately $5 million in property taxes and approximately $0.8 million in sales taxes.

Regional "brownouts" result from PG&E and CAISO needing to reduce power in an area due to straining of the area's electricity system. While the project would not affect the way the PG&E and CALISO respond to brownouts, energy storage facilities, like this project, help PG&E and CAISO reduce strain on the electric grid thus reducing the potential for "brownouts" and can provide local backup power for use when these situations occur, and in the long-term that can be a benefit to local communities.

As previously mentioned, concerns regarding the project were raised during the previous public hearing. These concerns generally centered around public safety, including the safety and specifications of lithium ion batteries as well as potential impacts from overhead power lines, and to a possibly lesser extent, noise and visual impacts associated with the proposed development. The Commission also requested additional information regarding similar projects, their proximity to residential neighborhoods, and their track records for safety in their communities.

In response to the Commission's request, the applicant has submitted detailed information (Attachment 9) regarding the specifications for the batteries, their management system, system layout and fire suppression, major regulatory codes, and standards applicable to the design of the project.

Lithium Ion Batteries and Facilities: Lithium ion batteries are commonly and extensively used technology, and can be found in most, if not all, electric vehicles, as well as in numerous commercial and personal household devices, such as cell phones, laptop computers, cordless power tools, and many other electronic devices which are safely used and stored every day. The project would utilize lithium ion batteries in a stationary (not mobile) application. In a stationary application (i.e. within an enclosed building) the building and related systems must comply with all relevant standards including national electric code and City building codes, including installation of systems to control potential mis-operation of any feature or component of the project including the lithium

ion batteries. The Initial Study (Attachment 8) evaluated the potential impacts of hazardous materials resulting from project operation and concluded there would be no significant impact. The project description and the applicant's response to data requests (Attachments 3 and 9, respectively) provide further detail on lithium ion batteries, the system layout, and fire suppression systems. As noted on page 7 of Attachment 9, "batteries will be enclosed in a building with screened and/or walled off zones in order to isolate the small portion of the system that may be affected from any thermal event. In the case of smoke or fire detection, the system will release a waterless agent such as DuPont FM-200 fire suppression agent to the local area affected and coordinate all air handling and ventilation in the enclosure in accordance with the National Fire Protection Association (NFPA) codes and best practices." It should be noted that all batteries would be required to be maintained within buildings designed and constructed to meet the relevant NFPA and local codes and practices. The eastern-most building would also be located approximately 180 feet from the nearest residence.

The US Department of Energy Global Energy Storage Database lists 39 similar battery storage projects either in operation or approved for construction. The site lists a total of 600 battery storage projects and gives specific details regarding each project. The State of California Energy Commission notes that, "[s]torage is one of several tools that is becoming increasingly important to help manage the grid as California works to transform its energy system to meet its climate goals." In June 2018, San Diego County approved five battery storage projects noting that they would improve grid reliability and integrate more renewables, creating a cleaner, healthier and more sustainable future. Battery storage projects have also been approved recently in Mira Loma and Long Beach, California. The Long Beach project, which when completed will be the largest lithium ion battery storage facility in the world, is located approximately 400 feet from a large residential neighborhood and 1,000 feet from an elementary school.

Fire Protection: The facility would be required to be designed and constructed to comply with all applicable codes in effect at the time of building permit submission. As detailed in Attachment 9, each battery module would be a sealed, finished, and UL listed article installed in battery rack with integrated safety systems to actively monitor current, voltage, and temperature to optimize performance, mitigate potential failures, and prevent upset. Batteries performing out of specification will be immediately taken off line by the automated monitoring system. There would be no venting or release of toxic substances from the individual cells, cell packs, or castings, as the batteries would not be opened for use, maintenance, or other purposes.

The Commission has also previously raised questions regarding the level of input from the Contra Costa County Fire Protection District (CCCFPD) and Contra Costa County Hazardous Materials Programs (HazMat). Staff has reached out to CCCFPD and obtained a letter from the agency (Attachment 12) which notes the project shall be required to comply with section 608 of the California Fire Code for the stationary storage of battery systems, as well as NFPA 855, "Standard for the Installation of Stationary Energy Storage Systems," in addition to general conditions dealing with emergency vehicle access and fire suppression. It should also be noted that prior to issuance of any

building permits, the developer would be required to submit plans to CCCFPD for separate review and approval. The project does not propose utilizing hazardous materials within its operation; however, staff has included a specific condition which would require the developer consult directly with HazMat prior to construction, and, if necessary, establish a Hazard Mitigation Plan.

Noise: A detailed analysis of potential project noise impacts was prepared by LSA Associates (Appendix F of Attachment 8) and includes a discussion of the methodology for measuring noise levels, sound measurements taken around the project site including at the closest residential properties (described above), and the results of a model predicting noise impacts of the project at full operation. The analysis concluded that any potential change in noise levels at residences would be less than significant and imperceptible. The threshold for finding a significant impact would occur has been determined to be an increase in ambient noise levels of 5 dBA L_{eq}. As shown below, noise levels at all points around the project would experience a future noise level increase of less than 5 dBA L_{eq}. It should be noted that a 3.5 dBA L_{eq} increase is barely noticeable and the 2.5 dBA L_{eq} increase predicted is well below this level. The Noise Analysis determined that when the project is in operation the increase in noise to sensitive receptors in the area would be as follows:

1. Residences directly east of project site – 0.5 dBA L_{eq}
2. Residences west of project site – 2.5 dBA L_{eq}
3. Residences south of project site – 0.1 dBA L_{eq}

Electromagnetic Frequencies: The potential cancer risk related to electric and magnetic fields has been studied for several decades. The American Cancer Society (ACS) itself states, “[it’s] not clear exactly how electromagnetic fields…can increase cancer risk…because we are all exposed to different amounts of these fields at different times…” (Attachment 10) ACS notes several large studies looked at the possible effects of extremely low frequency (ELF) magnetic fields on cancer in rats and mice, and notes that most of these studies have found no increase in the risk of any type of cancer, with some studies even finding a reduced risk. Additionally, ACS states studies have generally not found links between ELF exposure and cancer in adults or children, including childhood leukemia.

<u>ACTION REQUIRED</u>:

Move to adopt Resolution No. 10095, recommending City Council approval of: 1) an amendment to the existing Overlay District; 2) a use permit; and 3) design review of plans for the Diablo Energy Storage Project, as conditioned.

<u>ATTACHMENTS</u>:

1. Proposed Resolution No. 10095
1a. Exhibit A – Overlay Zoning Map
2. Project Plans, dated January 12, 2018

3. Project Description
4. Project Location Map and Existing Conditions
5. Development Regulations Consistency Table
6. Design Guidelines Consistency Table
7. Draft Mitigated Negative Declaration
8. Initial Study
9. Applicant Responses to Data Requests, dated July 26, 2018
10. "Power Lines, Electrical Devices and Extremely Low Frequency Radiation" (https://www.cancer.org/cancer/cancer-causes/radiation-exposure/extremely-low-frequency-radiation.html)
11. Delta Diablo Comment Letter, dated March 15, 2018
12. Contra Costa County Fire Protection District Letter, dated August 8, 2018
13. Citizen Comment Letter, dated August 8, 2018
14. Public Hearing Notice & Vicinity Map
15. Supplemental Notice of Public Hearing and Vicinity Map

Prepared by: Joan Lamphier, Consulting Planner

Attachment 6
Applicable Development Review Design Guidelines
Diablo Energy Storage, AP-17-1270 (RZ, UP, DR)

Design Review Guidelines Section IV. Commercial/Industrial	Meets Guideline?
IV.a: Parking areas should be screened from view from any public right-of-way. Parking areas should be broken up to eliminate vast areas of parking especially along street frontages.	**Yes.** No parking areas would be visible from Willow Pass Road to the north of the site.
IV.b: Provisions should be made for permanent shopping cart corrals in retail shopping centers.	**Not applicable.** The project does not involve a retail shopping center.
IV.c: Existing trees on site should be incorporated into the project site design, unless waived by the City Planner or Planning Commission.	**Not Applicable.** There are no trees on the project site.
IV.d: Developer should elect, at least, one of the schemes provided in Appendix #1 for screening all utility box transformers, backflow preventers, meters, and junction boxes.	**Conditionally.** A condition has been added that would require compliance with this guideline.
IV.e: Projects with many buildings (greater than three) should have a variety of building sizes and masses.	**Not Applicable.** There are only three buildings.
IV.f: Continuous horizontal roof lines should be broken up whenever possible. An expanse should not exceed 50 feet in length unless architecture or size dictate a greater expanse.	**Conditionally.** Given the industrial architecture, large building size and significant massing of each building, strict adherence to this guideline would not make sense. However, visual relief could be provided by extending the metal panel siding to project above the top of the existing parapet line as shown in the plans (Sheet A-4).
IV.g: Building entries should be designed as a focal point. They should be designed to set the theme or be the primary feature of the building or commercial center.	**Not Applicable.** The building entries are not highlighted. This facility would be unmanned. The entries are for maintenance purpose only.
IV.h: Building elevations visible from public right-of-ways should be addressed in design review and treated appropriately.	**Yes.** The north elevation of the buildings shows some detail to break up the visual mass of the buildings that face the street.

IV.i: A free-standing structure within an existing commercial or industrial center should be architecturally compatible with the center, including but not limited to materials, colors, and architectural elements.	**Yes.** The building form, colors and material would be compatible with the existing industrial warehouse which is located on the southern portion of the Empire Business Park property.
IV.j: All roof mounted equipment should be screened completely from view from all public right-of-ways. A site-line study may be necessary to determine appropriate screening method.	**Yes**. All roof equipment would be screened by the building parapets.
IV.k: All structures including, but not limited to, 'tilt-up' type structures, should have structural reliefs and articulated entries.	**Yes.** The portion of the buildings that face the side streets (east elevation of Building 1 and west elevation f Building 3) show some detail through scoring of the façade. The entries are not articulated because they are not meant to be used as entrances to the building.
IV.l: Exterior fire escapes, stairs and other appurtenances should be designed or treated as integral parts of the building façade.	**Not Applicable.** There are no exterior stairs or other appurtenances.
IV.m: Downspouts should be designed into the façade of the building the color and materials palette unless architecturally treated.	**Yes.** Downspouts are incorporated into the architecture.
IV.n: Add murals, lattice or some other space-frame type treatment to blank walls visible from public view.	**Yes.** The metal panels on the façade would visually break up the massing of each building. The diagonal orientation of the paneling would maximize this effect.
IV.o: Prototype or 'theme' architecture is discouraged.	**Yes.** The architecture reflects the industrial character of the surrounding area.
IV.p: New or remodeled buildings should be designed to be compatible in design, color and materials with adjacent development.	**Yes.** The color and materials palette reflects the adjacent building to the south of this site.
IV.q: The street-oriented elevations shall be designed so as not to present the appearance of a rear elevation.	**Yes.** The metal scoring of the north elevation would provide some visual interest to the façade.
IV.r: Trash enclosures should include area for collection of recyclables (i.e. space for two 90-gallon containers minimum).	**Not applicable.** There is no onsite waste storage required. When maintenance is done, waste would be removed by the maintenance crew at that time.

Green Building Design Guidelines Section VI.D Commercial/Industrial	
VI.D.1: Roofs should be designed to integrate renewable energy systems and provide a cool urban environment.	**Conditionally.** This is a renewable energy project designed to facilitate the implementation of renewable energy systems, as such, the buildings proposed would not include solar panels; however, building roof tops should be painted white to create a cool roof effect under any necessary mechanical equipment.
VI.D.2: Urban heat island impacts should be minimized.	**Not applicable.** No new parking areas are required/proposed with this project.
VI.D.3: Hardscapes should be constructed with permeable surfaces. Impermeable surfaces may be used if they direct all runoff toward an appropriate permanent infiltration feature.	**Yes.** The project is designed consistent with low impact development standards.
VI.D.4: Design choices should incorporate or prepare for electric vehicle charging or used vegetable oil fueling infrastructure.	**Not Applicable.** This facility wwould be unmanned and therefore no parking is provided for employees.
VI.D.5: Fuel cell technology should be considered where other renewables are infeasible.	**Not Applicable.** This is a renewable energy project designed to facilitate the implementation of renewable energy systems.
VI.D.6: Reclaimed water should be used for as much non-potable water uses as feasible and practical.	**Not Applicable.** Recycled water is not available at this location at this time.
VI.D.7: Large commercial and institutional facilities that are anticipated to employ more than 50 employees should consider providing on-site shops and services for those employees.	**Not Applicable.** There would be no employees at this facility.
VI.D.8: Street side building faces should encourage walking.	**Not Applicable.** The buildings would be set behind a fence to protect the facilities. The landscaping along the property frontage includes a sidewalk (outside of the fenced area) around three sides of the property.
VI.D.9: Secure bicycle parking facilities should be provided for at least 10 percent of expected peak hour trips.	**Not Applicable.** No parking spaces are required/provided since there would be no employees.

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of

ORDINANCE NO. 04-1214

Ordinance Establishing Two IP-O)
(Industrial Park with a Limited Overlay))
Districts on Two Separate Parcels)
Located on the South Side of Willow)
Pass Road Just West of West 10th St.)
"Empire Business Park Rezoning")
(AP-03-46 (RZ)))

The Pittsburg City Council DOES ORDAIN as follows:

SECTION 1.

A. On August 5, 2003, Stan Davis (the "applicant"), filed an application for AP-03-46 (RZ), in accordance with Chapter 18.12 of the Pittsburg Municipal Code, requesting that the Planning Commission recommend City Council approval of 1) rezoning of a 4.22 acre parcel from IP-O (Industrial Park with a Limited Overlay, CC Ord. No. 03-1206) District to a new IP-O (Industrial Park with a Limited Overlay) District resulting in changes to permitted uses, conditionally permitted uses, and limited uses, and 2) rezoning of a 35.95 acre parcel from IP (Industrial Park) district to IP-O (Industrial Park with a Limited Overlay) District resulting in changes in permitted uses, conditionally permitted uses, limited uses, and development regulations related to maximum building height, maximum lot coverage, front yard setback, and maximum floor area ratio. The properties are located on the south side of Willow Pass Road. The 4.22 acre parcel lies between the 35.92 acre parcel (701 Willow Pass Road) and Heritage Pointe Residential Subdivision (Builder's Circle).

B. The potential impacts associated with this project fall under a prior approved Mitigated Negative Declaration. The Commission reviewed and approved the Mitigated Negative Declaration on March 25, 2003 in conjunction with the design review application for Empire Business Park (DR-02-40). The Commission considered and adopted the prior Empire Business Park Mitigated Negative Declaration for the proposed project.

C. On November 25, 2003, the Planning Commission held a public hearing and adopted Resolution No. 9458 recommending that the City Council hold the necessary public hearing to approve AP-03-46 (RZ).

D. Notice of the January 20, 2004 public hearing was published, mailed and posted on January 10, 2004.

E. On January 20, 2004 the City Council held a public hearing on AP-03-46 (RZ) at which time oral and/or written testimony was considered.

SECTION 2. Findings.

The City Council hereby finds that based on all the staff reports and information contained in the Planning and Building Department files on the project, adopted and incorporated here by reference and available for review in the Planning and Building Department located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing that:

A. The prior approved Mitigated Negative Declaration for Empire Business Park (DR-02-40) was prepared in compliance with CEQA, State and City Guidelines. The Council has reviewed and considered the information contained therein in relation to the proposed project. The Council finds that the proposed project does not create any new significant environmental impacts not already discussed and mitigated in the prior Empire Business Park Mitigated Negative Declaration

B. The zoning amendment conforms and is consistent with the objectives, policies, general land uses and programs specified in the General Plan in that they promote large-scale office/business development, emphasize concentrated commercial development, revitalize an underutilized site, encourage private investment and redevelopment along the Willow Pass Road corridor, and actively pursue redevelopment of vacant and underutilized parcels along Willow Pass Road with businesses and service commercial uses.

C. The proposed changes demonstrate a community need in that they help create a turn-key business park that is geared towards luring large-scale commercial and light industrial businesses that will help build the City's economic base. Development of the site will result in increased local employment that could help balance the jobs/housing ratio, result in less traffic commuting to and from the City, and possibly provide opportunities for businesses that could support and benefit the employee population in that area.

D. Adoption of the changes will be in conformity with the public convenience, general welfare in that they:

1. will assist in the creation of a large-scale employment center that separates more intense uses from the residential area with a less intense overlay zone as a buffer (public convenience); and

2. do not allow heavy industrial uses not suitable for a commercial/light industrial business park (general welfare).

E. Adoption of the changes will address economic opportunity areas in Pittsburg in that the General Plan describes "South Willow Pass" as Downtown and South of Willow Pass Road and along Tenth Street. These sites fall in that area and support the land use pattern mentioned for that area, which suggests, "Small business commercial and industrial complexes, with focus on high quality design and accessibility." Parcel A

will encourage small business commercial, and parcel B does and will continue to encourage an industrial complex.

F. Establishment of the overlay districts is supported by the unique location of the business park next to residential uses. The overlay districts would ensure compatible uses are allowed on each site as appropriate according to proximity to residential uses. They also encourage the success of an industrial/business park by helping to create a turn-key process for potential businesses and lay the ground work for the developer's long-range plan for a successful business complex on each site.

G. The overlays conform to the General Plan policies related to that specific area, in that they assist in redevelopment of vacant and underutilized parcels along Willow Pass Road with business and service commercial uses. The overlays generally comply with the land use and development regulations of the base zoning district in that only one parcel (parcel B) requests changes to the development regulations, and there are only minor modifications to the allowable uses related to whether a use is permitted with or without a use permit.

SECTION 3. Approval.

Based on the findings set forth above, this Council hereby adopts:

A. The prior Empire Business Park Mitigated Negative Declaration and finds that the proposed project does not create any new significant environmental impacts not already discussed and mitigated in the Empire Business Park Mitigated Negative Declaration; and

B. this ordinance establishing two separate IP-O Districts as shown on Exhibit A (attached), with modified development regulations and land use regulations as shown on Exhibit B (attached).

SECTION 4. Publication.

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on January 20, 2004, and was adopted and ordered published at a meeting of the City Council held on February 2, 2004, by the following vote:

AYES: Council Member Parent, Kee, Glynn, Beals & Mayor Rios

NOES: None

ABSTAINED: None

ABSENT: None

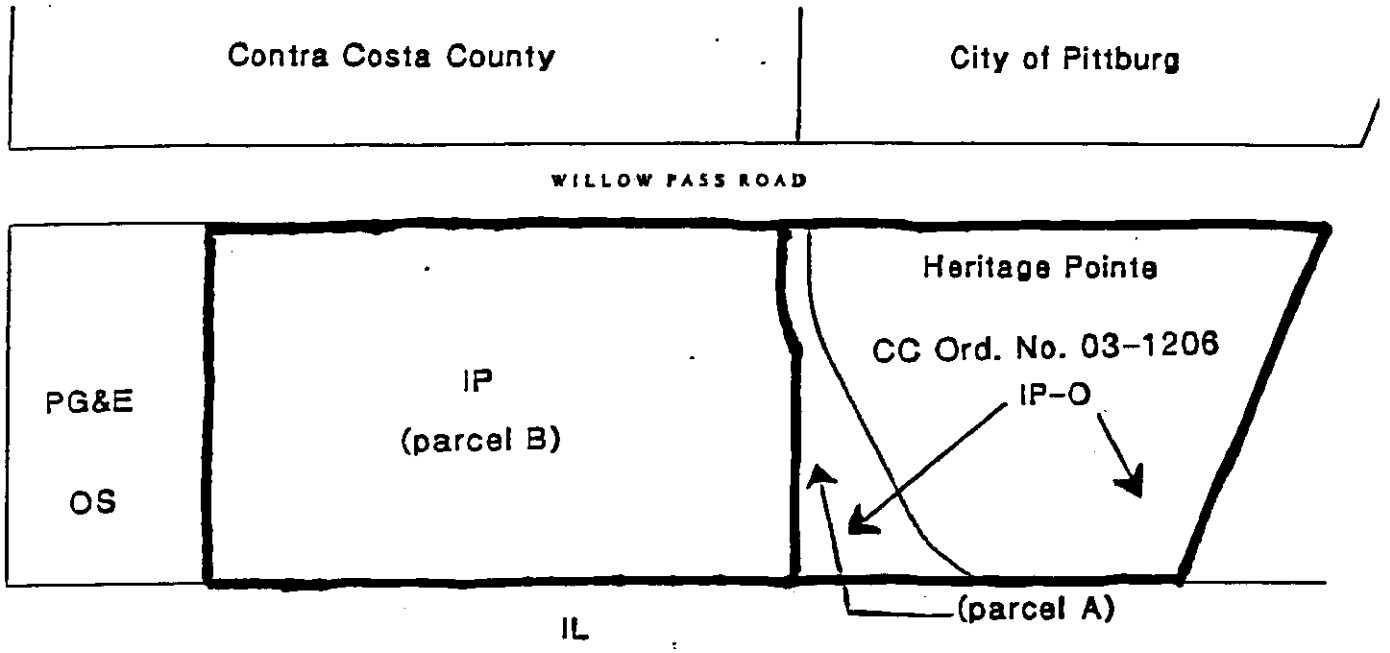
Aleida Rios, Mayor

ATTEST:

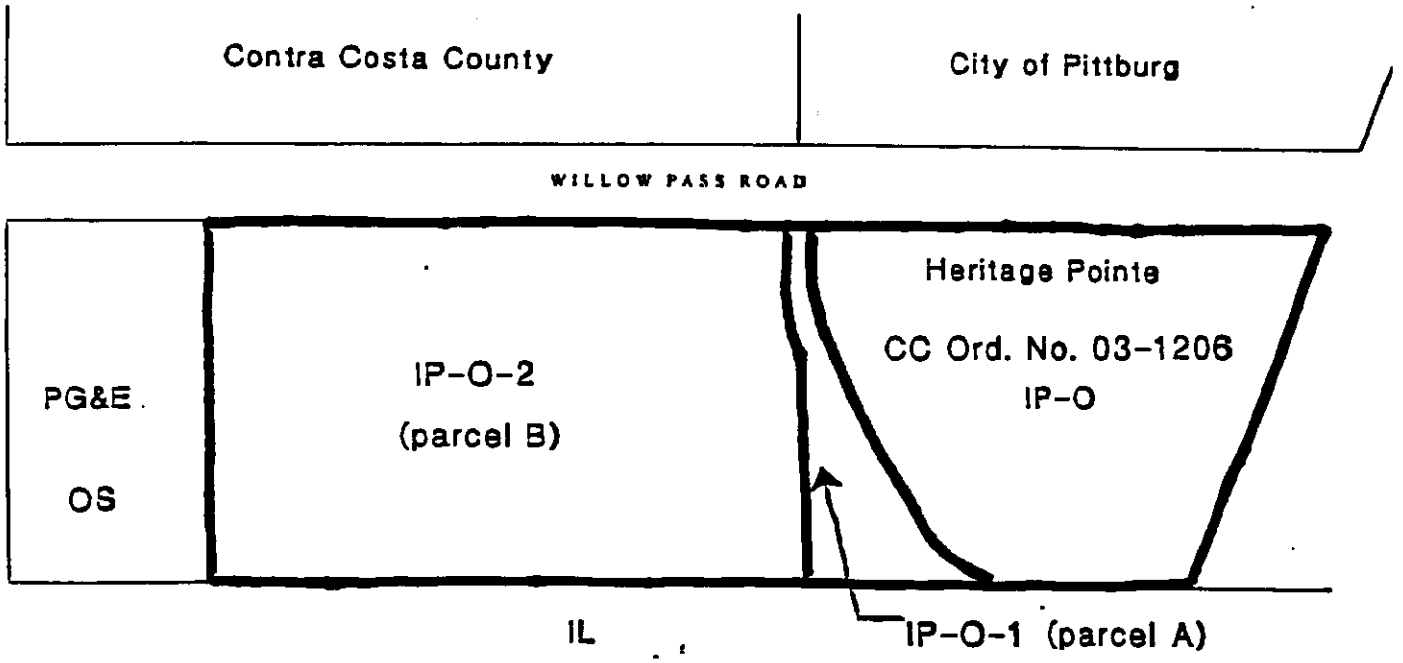
Lillian J. Pride, City Clerk

Ordinance No. 04-1214
Exhibit "A"
Empire Business Park Rezoning. AP-03-46 (RZ)
Existing and Proposed Zoning Map

Existing Zoning Map



Proposed Zoning map



Ordinance No. 04-1214
Exhibit B
EMPIRE BUSINESS PARK REZONING
Land Use and Development Regulations

Land Use Regulations

In the following schedule, the letter "P" designates a permitted use classification. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" that follow. The letter "U" designates use classifications permitted on approval of a conditional use permit (Chapter 18.28). The letter "T" designates temporary use classifications permitted on approval of a temporary activity permit.

P– Permitted
U – Use Permit Required
T – Temporary Activity Permit Required
L – Limited (See Additional Use Regulations)
Z – Zoning Administrator
--- Not Permitted

	Zoning Code	Parcel A	Parcel B
GOVERNMENTAL AND QUASIPUBLIC USES	**IP**	**IP-O-1**	**IP-O-2**
CLUB AND LODGE	U	U	U
COLLEGE, PUBLIC OR PRIVATE	L32	L32	L32
DAY CARE, GENERAL	U	L30	L30
DISPOSAL FACILITY	---	---	---
GOVERNMENT OFFICE	U	U	U
HAZARDOUS WASTE FACILITY:			
Land disposal facility	---	---	---
On-site facility	U	U	U
Single-user off-site facility	U	U	U
Specified hazardous waste facility	---	---	---
Transfer station	U	U	U
HELIPORT	---	---	---
MAINTENANCE AND SERVICE FACILITY	U	U	U
MILITARY INSTALLATION	---	---	---
PARK AND RECREATION FACILITY	U	U	U

	IP	IP-O-1	IP-O-2
PUBLIC PARKING FACILITY	U	U	U
PUBLIC SAFETY FACILITY	U	U	U
PUBLIC TRANSIT TERMINAL	U	U	U
RELIGIOUS ASSEMBLY	---	---	---
UTILITY, MAJOR	---	---	---
UTILITY, MINOR	P	P	P
COMMERCIAL USES			
AMBULANCE SERVICE	U	U	P
ANIMAL SALES AND SERVICE:			
Animal boarding	---	U	U
Animal Grooming	---	U	P
Animal Hospital	---	U	U
Animal Retail Sales	---	U	P
ARTISTS' STUDIOS	P	P	P
BANK AND SAVINGS & LOAN:			
ATM	P	P	P
COMMERCIAL FILMING	U	U	P
COMMERCIAL RECREATION AND ENTERTAINMENT:			
Within a building	L5	L5	L5
COMMUNICATION FACIILITY	P	P	P
EATING AND DRINKING ESTABLISHMENTS:			
Restaurant, full-service	L16	L16	L16
Restaurant, self-service	L16	L16	L16
FOOD AND BEVERAGE SALES:			
Grocery	---	---	U
Specialty food market	L17	---	L17
Food shop	---	---	P
Catering service	P	P	P
FUNERAL AND INTERMENT SERVICE	L18	---	L18
HORTICULTURE, LIMITED	---	---	U
LABORATORIES, LIMITED	P	P	P
LUMBER AND BUILDING MATERIAL YARD	U	U	L22
MAINTENANCE AND REPAIR SERVICE	P	P	P
MARINE SALES AND SERVICE	P	---	U
OFFICE BUSINESS AND PROFESSIONAL	L19	P	P
PERSONAL IMPROVEMENT SERVICES	---	P	---
PRINTING SERVICES:			
Commercial	P	P	P
Limited	---	---	P

	IP	IP-O-1	IP-O-2
RECYCLING COLLECTION FACILITY:			
Reverse vending machine	P	P	P
Recycling facility, small	Z	Z	P
Recycling facility, large	U	U	U
RESEARCH AND DEVELOPMENT SERVICES	P	P	P
RETAIL SALES	---	P	P
RETAIL WAREHOUSE	U	U	P
SCHOOL, COMMERCIAL	U	U	U
VEHICLE/EQUIPMENT SALES AND SERVICES:			
Automobile rental	---	---	P
Automobile repair, limited	---	---	P
Automobile washing	---	---	L20
Service station	---	---	L21
Vehicle/Equipment repair, major	U	U	U
Vehicle Storage	U	U	U
WAREHOUSING AND STORAGE, LIMITED	U	U	L35
INDUSTRIAL USES			
FOOD AND DRUG PROCESSING	U	U	P
INDUSTRIAL SERVICES:			
Boatyard	---	---	---
Contractor	P	P	P
Contractor Yards	U	U	U
Laboratory	U	U	P
Laundry	U	U	U
Processors	---	---	---
Repair/jobbing service	U	U	U
MANUFACTURING:			
Heavy	---	---	---
Limited	U	U	L22
Custom	P	P	P
RESEARCH AND DEVELOPMENT PRODUCTION	U	U	P
TRANSPORTATION/DISTRIBUTION:			
Commercial/personal transport services	U	U	U
Railroad terminal and switchyard	---	---	---
Truck terminal	U	L37	L37

	IP	IP-O-1	IP-O-2
WHOLESALING AND STORAGE:			
Interior operation	L23	L23	P
With exterior storage	U	U	U
ACCESSORY USES			
ACCESSORY USES	P	P	P
Primary live-work residence	---	L36	---
ACCESSORY STRUCTURES:			
Nonresidential accessory structure	P	P	P
Caretaker's quarters	U	L36	P
TEMPORARY USES			
ANIMAL SHOW	T	T	T
CHRISTMAS TREE SALES	T	T	T
CIRCUS AND CARNIVAL	T	T	T
COMMERCIAL FILMING, LIMITED	T	P	P
REAL PROPERTY SALES	P	P	P
RELIGIOUS ASSEMBLY	T	T	T
RETAIL SALES, OUTDOORS	T	T	T
STORAGE, OUTDOOR	T	T	T
TRADE FAIR	T	T	T

ADDITIONAL USE REGULATIONS

L-5 Limited to tennis/racquetball courts or health/fitness clubs/gyms, subject to a use permit.

L-15 Use permit and heliport permit from California Department of Transportation, Division of Aeronautics, are required. No heliport may be located within 1,000 feet or an R district, except for ancillary helipads of a public or quasipublic use.

L-16 Permitted as a secondary use within a building for employee dining.

L-17 Permitted as an ancillary use to wholesale operations.

L-18 Limited to crematories, columbariums or mausoleums.

L-19 Businesses are not permitted that typically provide on-site customer or patient services, such as medical-dental, counseling, real estate or insurance brokerage offices.

L-20 Limited to truck, tractor, trailer or construction equipment washing.

L-21 Limited to stations offering specific services to individual uses within the base zoning district, subject to a use permit.

L-22 Use permit required for exterior activities.

L-23 Use permit required for more than two truck docks.

L-28 Limited to an accessory use only, subject to a use permit.

L-30 Permitted as an ancillary use for employees.

L-32 Use permit required for private institution; public schools permitted.

L-35 Storage related to commercial and business operations is permitted. Personal/self storage ("Mini-storage") requires a use permit.

L-36 Use limited to businesses occupying a minimum of 4,000 sq. ft. of interior ground floor area. Living space must be located above ground floor.

L-37 Use permit required for truck storage, Use permit not requires for distribution of goods.

DEVELOPMENT REGULATIONS	**IP**	**IP-O-1**	**IP-O-2**
PRIMARY BUILDING HEIGHT (max feet)	35	35	40
MAXIMUM LOT COVERAGE (percent)	40	40	60
FRONT YARD SETBACK (feet)	25	25	20 min., 25 or more average
SIDEYARD SETBACK (feet)	10	10	10
SIDEYARD SETBACK (facing street, feet)	25	25	25
REAR YARD (feet)	10	10	10
MAXIMUM FLOOR AREA RATIO (FAR)	0.5	0.5	1.0
MINIMUM LOT AREA (square feet)	15,000	15,000	15,000
MINIMUM LOT WIDTH (feet)	80	80	80
MINIMUM SITE LANDSCAPING (percent)	10	10	10

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the matter of:

Ordinance Amending Pittsburg Municipal Code, Title 18 (Zoning Ordinance) in Conjunction with Phase II of the Comprehensive Zoning Code Update	))))	ORDINANCE NO. 07-1284

The City Council of the City of Pittsburg DOES ORDAIN as follows:

SECTION 1. Recitals.

A. On November 16, 2001, the City Council held a duly noticed public hearing, and following close of the public hearing, adopted a comprehensive amendment to the Pittsburg General Plan (Resolution No. 01-9490).

B. Following the November 2001 adoption of the General Plan, the City began a phased effort to comprehensively amend Pittsburg Municipal Code Title 18 (Zoning Ordinance), in order to align the standards and regulations in the Zoning Ordinance with the revised goals, policies and objectives in the updated General Plan.

C. The first phase of the Zoning Ordinance amendments addressed General Plan Housing Element goals, including addition of provisions for affordable housing and mixed use development. Following duly noticed public hearings held on November 1, 2004, and November 21, 2005, these housing-related amendments and other miscellaneous revisions were adopted by the City Council on November 15, 2004 (Ordinance No. 04-1229), and December 12, 2005 (Ordinance No. 05-1257), respectively.

D. Efforts on Phase II of the comprehensive Zoning Ordinance amendments began after adoption of Ordinance No. 05-1257. The emphases of Phase II were the development standards, regulations, and allowable uses in Part III (Base Districts) of the Zoning Ordinance, with other corresponding amendments proposed to be made to the land use classifications, substandard lot, and nonconforming uses and structures provisions of the zoning code.

E. Between June 2006 and February 2007, Planning staff held seven workshops with the public and/or Planning Commission on draft amendments to the Zoning Ordinance that were intended to implement adopted General Plan policy. Each workshop focused on one component or chapter of the Zoning Ordinance. The industrial chapter, commercial and proposed new mixed use chapter, residential chapter, and nonconforming and substandard lot provisions were each reviewed individually at a public and/or Planning Commission workshop. At each workshop, the public and Commission were invited to offer feedback and direction on the draft amendments.

F. At the November 28, 2006, workshop on proposed amendments to the residential districts in the Zoning Ordinance, the Planning Commission identified three areas of

concern regarding the draft amendments and their corresponding General Plan policies, or, in the case of the draft zoning map, the corresponding General Plan land use designation of specific properties. For these and other potential inconsistencies, the Commission adopted Resolution No. 9681 directing staff to study these three areas of concern, as well as other areas of the City that should be assigned a different land use designation that would stabilize and encourage private reinvestment in existing structures, or that was more consistent with redevelopment objectives and state law. The study was also to include amendments to certain policies pertaining to construction of new multifamily rental units throughout the City.

G. The study initiated by the Planning Commission resulted in the identification of several potential amendments to the Land Use, Downtown, Open Space & Youth & Recreation, Health & Safety, and Housing Elements of the General Plan. After conducting two public hearings on March 13 and March 27, 2007, and prior to considering the proposed amendments to the Zoning Ordinance in this phase, the Planning Commission adopted Resolution No. 9698 recommending that the City Council amend the General Plan as described in Section 3 of that resolution.

H. The comprehensive Zoning Ordinance text amendments, a compilation of each of the components presented to the public and Commission over the course of the past 10 months, are generally summarized into the following 13 categories:

1. Amendments to PMC Chapter 18.08 (Use Classifications) to incorporate updated land use categories that better reflect current industries and technologies;

2. Amendments to PMC Chapter 18.50 (Residential Districts). The text of this PMC chapter is proposed to be revised to include two new small-lot single-family zoning districts, two new residential zoning districts specific to the downtown, and updated land use regulations and development standards for all (existing and proposed) residential districts;

3. Amendments to PMC Chapter 18.52 (Commercial Districts), that include: a) creation of two new commercial zoning districts (Downtown Service Commercial—CS-D District, and Waterfront Commercial—CW District) for the downtown area; b) updated land use regulations and development standards for all commercial districts; and c) development incentives intended to encourage mixed use and pedestrian-oriented buildings and structures;

4. Creation of a new PMC Chapter 18.53 (Mixed Use District) intended to support integrated residential and commercial, high intensity development in the downtown and on sites generally located within a one-half mile radius of existing and planned BART stations;

5. Amendments to PMC Chapter 18.54 (Industrial Districts) that include new land use regulations and development standards for industrial zones, and incentives for inclusion of on-site recreational amenities in industrial developments;

6. Amendments to PMC Chapter 18.60 (Governmental and Quasipublic District), in order to add retail and personal services uses as permitted uses on properties in this district that are not needed for public use and are located in downtown, near transit or an arterial street;

7. Deletion of PMC Section 18.06.075 (Procedures for processing land use entitlement applications) and Chapter 18.61 (Downtown). This section and chapter of the Zoning Ordinance were adopted as interim provisions that afforded the City means to continue to process zoning permit applications: 1) in instances when the General Plan land use designation and zoning district were inconsistent with each other, and 2) for properties located in the downtown, where formal zoning districts had yet to be adopted. With adoption of new zoning districts throughout the City and downtown, as described in the paragraphs above, these interim provisions would become obsolete and can be removed from the Zoning Ordinance;

8. Amendments to the provisions of PMC Chapter 18.76 (Nonconforming Uses and Structures), PMC Chapter 18.84, Article 6 (Aboveground Storage Tanks), and PMC Chapter 18.84, Article 15 (Substandard Lots), in order to afford business and property owners: a) increased flexibility in the maintenance of compatible nonconforming uses and structures; b) standards that are consistent with County ordinances applicable to placement of aboveground tanks for storage of flammable liquid and c) a simpler and more expedient process for building and adding to structures on existing small infill lots;

9. Amendments to the provisions of PMC Chapter 18.78 (Parking), in order to clarify that the parking exemption for the downtown is only applicable in the recently created CP (Pedestrian Commercial) District, and to revise minimum bicycle parking requirements for nonresidential uses and developments with minimum off-street parking requirements that exceed 200 vehicular parking stalls;

10. Amendments to existing overlay districts, in order to add compatible uses or remove incompatible uses within those districts and/or to establish regulations for religious assembly uses that are consistent with other group assembly uses such as schools, clubs and lodges, in compliance with United States Code Title 42, Chapter 21C (Protection of Religious Exercise in Land Use and by Institutionalized Persons Act, "RLUIPA").

11. Amendments to various other chapters of the Zoning Ordinance, in order to correct grammar, ensure consistent internal structure, organization and formatting, and delete references to outdated codes and obsolete administrative titles;

12. Amendment to the zoning map, in order to prezone to HPD (Hillside Planned Development) District and OS (Open Space) District approximately 211 acres, located south of the San Marco Development and just outside City

limits. The proposed zoning district would implement the applicable *Low Density Residential* and *Open Space* General Plan land use designations and would complete the prezoning, initially approved by popular vote in November 2005, of properties located in the hills south of the City;

13. Additional amendments to the zoning map, in order to rezone properties throughout the City to zoning districts that are consistent with the adopted General Plan land use designations, as well as the recommended General Plan land use amendments as listed in the Planning Commission Staff Report, dated March 13, 2007, and entitled, "City-initiated General Plan Amendments in Conjunction with the Phase II Zoning Code Update."

I. Amendments to the General Plan are subject to the California Environmental Quality Act (Public Resources Code (PRC) Section 21080(a)). On March 23, 2007, a Notice of Intent to Adopt a Negative Declaration for this Phase II project was filed with the County Clerk and was posted at City Hall and at the Pittsburg Library, the Planning Director having found that no significant effects upon the environment would occur as a result of this project. The Notice specified the beginning and ending dates of the public review period on the proposed Negative Declaration; a brief description of the project; the location where information on the project and other supporting documentation were available for review; and the date, time and location of the May 7, 2007, Council public hearing on the project. On March 24, 2007, the Notice of Intent was also published in the local newspaper (East County Times) and mailed to individuals and organizations who previously filed written request for such notice, in accordance with State PRC Sections 21092, 21092.2 and 21092.3. No comments on the proposed Negative Declaration were received prior to the end of the comment period on April 20, 2007. On May 21, 2007, by adoption of Resolution No. 07-10779 amending the General Plan in conjunction with this Phase II Zoning Code update, the City Council adopted the Negative Declaration for these zoning amendments.

J. Government Code Section 65854 and 65855 and PMC Section 18.16.020 require that the Planning Commission hold a public hearing and develop a recommendation, with findings, on a proposed zoning ordinance or zoning ordinance amendment. Pursuant to these Government and Pittsburg Municipal Code provisions, on March 13 and March 27, 2007, the Planning Commission held duly noticed public hearings on these proposed amendments to the Zoning Ordinance. The Commission considered public comments received during the public hearing, as well as the proposed Negative Declaration and all evidence before them, and after closing the public hearing, adopted Resolution No. 9699 recommending that the Council amend the Zoning Ordinance and Zoning Map to include the modifications described in the resolution and depicted in the exhibits attached to that resolution.

K. Pursuant to Government Code Section 65856 and PMC Section 18.48.050, prior to adopting an amendment to the Zoning Ordinance, the City Council must hold a noticed public hearing, accept testimony, and then must find that the change proposed is consistent with the objectives, policies, general land uses and programs specified in the General Plan. In addition to the requisite finding of general plan

consistency, and pursuant to PMC Section 18.74.060, the Council must make the following findings in order to approve or amend an overlay district:

1. is necessary because there are special or unique characteristics of the site or improvements that require land use and development regulations that cannot be adequately accommodated or controlled by the base zoning district;

2. conforms to the general plan; and

3. generally complies with the land use and development regulations of the base zoning district.

L. On April 16, 2007, prior to the start of the Council's regular meeting, Planning staff conducted a workshop with the public and Council to present the zoning changes recommended by the Planning Commission under Resolution No. 9699. Copies of Planning Commission Resolution No. 9699—along with the Exhibits A and B to that resolution; the March 27, 2007, Planning Commission Staff Report entitled, "Comprehensive Zoning Code Update: Phase II"; and the "Summary of Applicable General Plan Policies and Suggested Implementation in the Zoning Ordinance" referenced in the Commission Staff Report—were made available to each Council member for review 10 days prior to the workshop. At the workshop, Louis Parsons on behalf of Discovery Builders, requested various text amendments to the draft ordinance, as well as amendments to the RMD (Downtown Medium Density Residential) District, in order to allow smaller lot sizes and taller building heights than what the draft zoning text identified. David Gutridge, a local property owner, also attended the April 16 workshop and requested that the property at 100 Avila Road be assigned a base single-family zoning designation, as opposed to the HPD (Hillside Planned Development) District zoning recommended by the Commission and staff.

M. At the April 16 workshop, the Council as a whole did not express concern with respect to the various text amendments identified by Mr. Parsons, some of which merely clarified the current intent of the code and the relationship between the Zoning Ordinance and General Plan. With regard to the requested amendments to the RMD District and the recommended zoning assignment for 100 Avila Road, staff attending the workshop indicated their willingness to discuss the request and possible options with the developer and property owner, respectively, prior to the May 7 public hearing.

N. On or prior to April 27, 2007, in accordance with Pittsburg Municipal Code Section 18.14.010, a "Notice of Public Hearing" for these Zoning Ordinance amendments was published as a 1/8-page legal advertisement in the East County Times; was posted at City Hall, the Pittsburg Library, and on the City's website; and was mailed via first class mail to individuals who had previously attended a zoning workshop, who had otherwise expressed an interest in the update process, or who had requested to be added to the mailing list for zoning code update announcements.

O. On May 7, 2007, the City Council held a public hearing on this project, at which time additional oral and/or written testimony was considered.

SECTION 2. Findings.

A. Based on the Staff Report entitled, "Comprehensive Zoning Code Update – Phase II," dated May 7, 2007, and based on all the information contained in the Planning Department files on the project, adopted and incorporated here by reference and available for review in the Planning Department located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the May 7, 2007, public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. The Negative Declaration and Initial Study prepared for this project were prepared in compliance with Public Resources Code Section 21000 et seq, and the Council independently reviewed and considered the information contained in the Negative Declaration (attached to this resolution as Exhibit A) prior to adopting this ordinance amending Pittsburg Municipal Code Title 18.

3. The recommended amendments to the existing overlay districts:

   a. are necessary because there are special or unique characteristics of the site or improvements that require land use and development regulations that cannot be adequately accommodated or controlled by the base zoning district. Each overlay district recommended to be amended was established in recognition of site constraints, such as poor visibility from public streets, proximity to existing industrial uses, and lack of public infrastructure to support commercial or residential development. Because in each case, those site constraints are still present, the existing overlay district is recommended to be retained in order to allow continued use of the site as originally envisioned when the overlay district was created. Recommended amendments to these districts would increase the property owners' flexibility in the types of commercial and quasipublic uses that would be allowed;

   b. are consistent with the general plan because of the increased flexibility for establishment of commercial and quasipublic uses in each respective district, in accordance with General Plan Land Use goal 2-G-7;

   c. generally comply with the land use and development regulations of the base zoning district. For the Avila Road overlay district, the recommended revision to the limitation for indoor commercial entertainment and recreation uses maintains consistency with the intent of the base OS (Open Space) District to provide sites for recreational activities, but would eliminate high occupancy uses that are not appropriate given lack of infrastructure and the site's distance to other services. The proposed amendment to the Avila Road

overlay district would expand the land use matrix, however, in order to conditionally permit lower-occupancy recreational and creative arts uses that staff believes can be appropriate given the site's distance from residences. For the Fort Knox overlay district, the recommended addition of recreational vehicle and boat storage as conditionally permitted uses in that district is consistent with the intent of the CO (Office Commercial) District to limit high traffic retail and neighborhood serving commercial uses in that district, and fulfills a city-wide need for storage space for recreational vehicles.

d. are necessary for compliance with federal regulations governing allowances for religious assembly uses (United States Code, Title 42, Chapter 21C).

4. The recommended amendments to Pittsburg Municipal Code Title 18 (Zoning Ordinance) are consistent with the General Plan. The overall objectives of the General Plan encourage efficiency in land use, flexible development standards, economic development incentives that promote business and job creation, and downtown revitalization. To these ends, the recommended zoning text includes new small lot single-family, mixed use and downtown zoning districts that permit denser and more intense development patterns than those currently allowed by the Zoning Ordinance, particularly on infill and underutilized sites within the City. Recommended amendments to development regulations for commercial and industrial properties also allow for more efficient development by increasing maximum allowable FARs and maximum building heights, and recommended amendments to land use regulations offer increased flexibility in the types of uses that are permitted within a district, in some cases providing streamlined processes for zoning approval that eliminate current requirements for public hearings. Recommended amendments to the zoning map correspond to the intents, locations, and density and intensity ranges of the various land use designations depicted in the General Plan Land Use Diagram.

5. The changes in land use regulations recommended in the base districts of the Zoning Ordinance are compatible with the uses authorized in, and the regulations prescribed for, the land use district for which they are proposed. For each land use matrix in the R, C, I, M, OS or GQ Districts, allowable land uses were chosen based on those uses' consistency with the intent and purpose of the respective district, as drafted in the Zoning Ordinance text. For properties recommended to be located in the M District, for example, the allowable uses emphasize retail and residential uses in combination, in order to create an active pedestrian-friendly environment along streets and near transit facilities.

6. There is a community need for the recommended amendments to the Zoning Ordinance. Although the interim provisions in Chapter 18.06 of the current Zoning Ordinance establish a process for reviewing zoning applications and ensuring that each application is consistent with the General Plan policies, the recommended comprehensive amendments would go further in

implementing the General Plan by establishing new zoning districts with definitive regulations to replace "suggested standards" and "guidelines" in the General Plan that can sometimes frustrate developers and property owners. In addition to codifying and formalizing General Plan policy, the recommended amendments would afford conforming status to many substandard lots and nonconforming uses currently in the City; would simplify the process for building or adding to structures on existing small lots; and would expand the parameters under which business and property owners could maintain or expand a nonconforming use. In combination, these recommended provisions would result in increased private investment in properties throughout the City, as business and property owners would have the security of knowing that they would not be "forced out" and could more easily secure financing for structural rehabilitation or property improvements.

7. The recommended amendments to the Zoning Ordinance will be in conformity with the general public welfare and good zoning practice. In addition to improving the quality of established neighborhoods through private reinvestment as described above, the recommended incentives also encourage developers to provide more than the required recreational amenities and affordable and large family rental housing (a special housing need in Pittsburg), in exchange for residential density increases and parkland dedication fee credits. Recommended amendments include incentives for developers to create pedestrian-oriented streetscapes, mixed use environments and private recreational amenities, that in turn have cascading benefits such as decreased automobile dependence, improved air quality, increased opportunities for walking, bicycling and other healthy physical activity, and minimal public expense for maintenance of new recreational facilities. Combined with the efforts to encourage private reinvestment, these incentives are intended to create economically integrated environments that are safe, stable, and that complement their surrounding uses and neighborhoods.

8. The request from Discovery Builders to increase the maximum allowable building height for single-family (attached and detached) houses in the RMD District would be inappropriate, given that the many established neighborhoods of one- and two-story homes are also proposed to be mapped in the RMD District. A maximum building height of 35 feet would allow three-story construction that is not consistent with the existing pattern of development, and so the maximum allowable building height for all single-family (attached and detached) houses should be lowered to 28 feet. However, for that portion of the property that is located south of East Third Street and west of Harbor Street and proposed to be zoned RMD District, taller building heights, established under a limited overlay district, for all single-family houses would be appropriate because there is no established neighborhood on the property with which new construction should conform. Existing development to the west is at a higher elevation, making the requested taller building height visually consistent with that development. The grade differentials and currently undeveloped condition of the site are unique characteristics of the site that support land use regulations that differ

from the base RMD district. However, the development regulations for the property should be written so as to ensure a variety of building heights throughout the development. To the extent that minimum lot size can be reduced without exceeding the maximum allowable density specified for the General Plan land use designation and the RMD District, a reduction in the minimum lot size proposed from 2,500 to 2,200 square feet is consistent with the General Plan and base RMD zoning district, and the increase in maximum allowable building height is within the maximum allowable building height guideline in Table 5-2 of the General Plan. All other development standards would conform to the land use and development regulations of the RMD District.

9. The request from the owner of the property at 100 Avila Road to change the zoning of the property from HPD (Hillside Planned Development) District to a single-family residential district is appropriate. Given the proximity of the property to properties designated *Open Space* and *Hillside Low Density* (north of Avila Road), the most appropriate single-family residential district is the RS 10 (Single-Family Residential – 10,000 square foot minimum lot size) District, which allows a density that complements those two designations. Both the recommended HPD District zoning and the revised RS 10 District zoning are consistent with the *Low Density Residential* General Plan land use designation of the subject property. Although the revised RS 10 District would allow fewer land uses than the recommended HPD District, both zoning districts would allow quality low-density single-family residential development that will help the City to meet its housing goals (General Plan goals 2-G-4 and 2-G-5), and both would be subject to the same hillside performance standards (as those standards are currently drafted) intended to minimize aesthetic, environmental and safety-related impacts of development on the southern hills, consistent with General Plan goal 2-G-8.

SECTION 3. Decision.

Based on the findings set forth above, the Council hereby amends Pittsburg Municipal Code Title 18, in order to incorporate the revisions summarized as follows:

Zoning Ordinance Text Revisions

1. Chapter 18.04 (Purpose and Organization), Chapter 18.06 (Application, Interpretation and Rules of Construction), and Chapter 18.08 (Use Classifications) of Part I of the Zoning Ordinance are amended to read as depicted in Exhibit B to this ordinance;

2. Chapter 18.10 (Planning Agency), Chapter 18.12 (Applications), Chapter 18.14 (Notices and Hearings), Chapter 18.16 (Standards of Review and Findings), Chapter 18.18 (Decisions and Appeals), Chapter 18.28 (Use, Expiration and Revocation of Use Permits, Variances and Temporary Activity Permits), Chapter 18.32 (Zoning Approvals, Permits and Environmental Review), Chapter 18.36 (Design Review), Chapter 18.44 (Development Agreements), Chapter 18.46 (Density Bonus and Housing Incentives), and

Chapter 18.48 (Amendments to Zoning Map and Regulations) of Part II of the Zoning Ordinance are amended to read as depicted in Exhibit C to this ordinance;

3. Chapter 18.50 (Residential Districts), Chapter 18.52 (Commercial Districts), Chapter 18.54 (Industrial Districts), Chapter 18.58 (Open Space District), Chapter 18.60 (Governmental and Quasipublic District), Chapter 18.62 (Planned Development District), and Chapter 18.64 (Temporarily Unclassified District) of Part III of the Zoning Ordinance are amended to read as depicted in Exhibit D to this ordinance. Chapter 18.61 (Downtown District) is deleted from Part III of the Zoning Ordinance. Chapter 18.53 (Mixed Use District) is added to Part III of the Zoning Ordinance;

4. Chapter 18.70 (Interim Study Overlay District), Chapter 18.72 (Master Plan Overlay District), and Chapter 18.74 (Limited Overlay District) of Part IV of the Zoning Ordinance are amended to read as depicted in Exhibit E to this ordinance; and

5. Chapter 18.76 (Nonconforming Uses and Structures), Chapter 18.78 (Off-street Parking and Loading), Chapter 18.80 (Development Standards for All Uses), Chapter 18.82 (Performance Standards for All Uses), Chapter 18.84 Article 4 (Fences and Walls), Chapter 18.84 Article 6 (Hazardous Materials), Chapter 18.84 Article 11 (Outdoor Storage, Display and Service), Chapter 18.84 Article 15 (Substandard Lots), and Chapter 18.86 (Inclusionary Housing) of Part V of the Zoning Ordinance are amended to read as depicted in Exhibit F to this ordinance.

Zoning Map Revisions

6. The Zoning Map is amended to reflect the districts and boundaries as depicted in Exhibit G to this ordinance.

Overlay Zoning Revisions

1. Ordinance No. 04-1214 (Empire Business Park Overlay) is amended, in order to add "Religious Assembly" as a conditionally permitted use in the IP-O-2 (Industrial Park with a Limited Overlay, Area 1) and IP-O-2 (Industrial Park with a Limited Overlay, Area 2) Districts;

2. Ordinance No. 03-1208 (Security Public Storage Overlay) is amended, in order to add "Religious Assembly" as a conditionally permitted use in that IP-O District;

3. Ordinance No. 03-1206 (Heritage Pointe Overlay) is amended, in order to add "Religious Assembly" as a conditionally permitted use in that IP-O District;

4. Ordinance No. 02-1203 (Landmark Missionary Baptist Church Overlay) is amended, in order to add "Religious Assembly" as a permitted use in that IL-O (Limited Industrial with a Limited Overlay) District;

5. Ordinance No. 02-1193 (Mill Creek Development Overlay) is amended, in order to add "Religious Assembly" as an allowed use in that CS-O (Service Commercial with a Limited Overlay) District, subject to limitation L-117, which requires a use permit for facilities capable of accommodating an occupancy of 50 or more seated persons based on Uniform Building Code standards, but otherwise permits the use;

6. Ordinance Nos. 98-1154 and 97-1133 (Fort Knox Storage Overlay) is amended, in order to add "Boat Storage" and "Vehicle Storage" as conditionally permitted uses in those CO-O (Office Commercial with a Limited Overlay) Districts;

7. Ordinance No. 91-1016 (Avila Road Overlay) is amended, in order to modify the limitation for "Commercial Recreation and Entertainment Within a Building" to incorporate the following revisions and so as to read, "Limited to **scale model course, shooting gallery, and** exposition hall for animal shows **and** trade fairs, ~~meetings, live performing arts, and social functions~~ **all subject to a use permit**," and to add "Commercial Filming and Communications" and "Artist Studio" as conditionally permitted uses in that OS-O (Open Space with a Limited Overlay) District; and

8. An overlay district is established for that portion of the property formerly occupied by Johns Manville, located west of Harbor Street and south of East Third Street (Assessor's Parcel No. 073-050-001), and designated *Downtown Medium Density Residential* in the General Plan. The use and development standards for this overlay district shall be those of the RMD District, except that minimum lot size shall be 2,200 square feet, and maximum building height for attached and detached single-family residential units shall be 35 feet for up to 75 percent of all interior lots and 28 feet for all lots with frontage on more than one public or private street and no fewer than 25 percent of all interior lots.

SECTION 4. Severability.

If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance, and this City Council hereby declares that it would have passed the remainder of this ordinance if such invalid portion thereof had been deleted.

SECTION 5. Publication.

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on May 7, 2007, and was adopted and ordered published at a meeting of the City Council held on May 21, 2007, by the following vote:

AYES: Members Evola, Kee, Parent and Mayor Johnson

NOES: None

ABSTAINED: None

ABSENT: Member Casey

Ben Johnson, Mayor

ATTEST:

Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/6/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of a City Council Resolution Approving the 2017-2018 Community Development Block Grant Consolidated Annual Performance and Evaluation Report

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

The Housing and Community Development Act of 1974, as amended, requires all Community Development Block Grant (CDBG) entitlement jurisdictions to prepare and submit a Consolidated Annual Performance and Evaluation Report (CAPER) to the U.S. Department of Housing and Urban Development (HUD) by September 30th of each year. The CAPER is a “report card” that documents how well the City met its goals during the period of July 1, 2017 through June 30, 2018 (Program Year) in helping lower income residents of Pittsburg with a variety of services and improvements utilizing Federal CDBG funds.

FISCAL IMPACT

The CDBG program is a federally funded program. Activities and staffing expenses associated with the program are paid by HUD.

RECOMMENDATION

City Council open the public hearing which considers the 2017-2018 CAPER, receive testimony, close the public hearing, consider the public comments, and adopt the Resolution approving the 2017-2018 CAPER for submission to HUD.

BACKGROUND

HUD regulations require the City to submit the CAPER to report on the CDBG activities and programs undertaken during the Program Year. These activities were previously approved on April 17, 2017, by Resolution 17-13309 in the 2017-2018 Annual Action Plan.

The CAPER provides a concise summary of the federal CDBG funding available and expended in the Program Year. These monies funded activities and programs that address the priority needs and specific objectives identified in the Contra Costa Consortium 2015-2020 Consolidated Plan (2015-2020 Consolidated Plan) and those that met the national community development goals and objectives.

As required, the CAPER consists of specific program narratives, an assessment of annual performance, and an assessment of progress toward meeting goals and objectives contained in the 2015-2020 Consolidated Plan. In addition, the CAPER provides the number of people assisted with CDBG funding in the Program Year, amount of funds budgeted and used for approved activities and programs, and actions by the City to affirmatively further local and Contra Costa County Consortium objectives

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

The preparation of the CAPER consists of an analysis of the year-end reports submitted by the subrecipients. These reports provide a summary of each subrecipient's program goals accomplished, problems encountered, and success stories.

Activities undertaken during the Program Year consist of the following:

• $99,696 was expended by nine (9) agencies funded under the Public Services category. The Public Service activities funded included programs catering to seniors, youth, homeless, battered women and their children, and people without medical insurance to improve accessibility to services for Pittsburg residents. A total of 1,988 low income residents were served.

• $150,000 was expended towards Code Enforcement to help improve declining neighborhoods by addressing property conditions that contribute to blight. A total of 1,110 housing units received code violations and 217 was corrected using CDBG funds.

• $67,844 was expended towards Economic Development activities that provide job training and placement along with programs that assist micro-enterprises. A total of 25 low income residents were served.

• $199,671 was expended towards Infrastructure and Public Facilities improvements that included 534 linear feet of sidewalk replacement and installation of 14 curb ramps in target areas to improve access.

• $24,450 was expended under the Housing Rehabilitation program. A total of 6 applicants went through the review process. However, only one (1) Pittsburg resident received a loan for the renovation of their home. Below are the results of all applicants reviewed:

o 2 applicants failed to provide required documentation to proceed with the program review.
o 1 applicant notified staff that they no longer wanted to participate in the program and cancelled on the day of the initial building inspection.

o 1 applicant incurred an additional lien on her property after the initial building inspection was completed and project was ready to go to bid. Therefore, applicant no longer met program qualifications.
o 1 applicant did not choose a contractor in a timely manner for work to begin in the Program Year.
o 1 applicant received a loan.

- $129,750 was expended for Program Administration and Planning.

The targeted total persons or households to be served were 2,601 during the Program Year. The year-end total number of persons or household served were 3,124 and of those served, 3,124 or 100% were considered low income. CDBG funds allow the City to create a more livable, better functioning, and attractive community for its residents.

As required, the public comment period commenced on August 30, 2018 and ended on September 14, 2018. Copies of the draft 2017-2018 CAPER were made available for review during normal business hours in the City Clerk's office, at the Pittsburg Public Library, and on the City's website. Interested parties were encouraged to send comments on the draft 2017-2018 CAPER during the comment period or attend the public hearing.

ATTACHMENTS: Resolution
Draft 2017-2018 CAPER

Report Prepared By: Melaine Venenciano, Senior Administrative Analyst

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution to	)	
Approving the 2017-2018 Community	)	RESOLUTION NO. 18-
Development Block Grant Consolidated Annual	)	
Performance and Evaluation Report	)	

The Pittsburg City Council DOES RESOLVE as follows:

WHEREAS, the Housing and Community Development Act of 1974, as amended, requires all Community Development Block Grant (CDBG) entitlement jurisdictions to prepare and submit a Consolidated Annual Performance and Evaluation Report (CAPER) to the U.S. Department of Housing and Urban Development (HUD) by September 30th of each year; and

WHEREAS, the CAPER is a “report card” that documents how well the City met its goals during the period of July 1, 2017 through June 30, 2018 (Program Year) in helping lower income residents of Pittsburg with a variety of services and improvements utilizing Federal CDBG funds; and

WHEREAS, the CAPER provides a concise summary of the Federal CDBG funding available and expended in the Program Year; and

WHEREAS, these monies funded activities and programs that address the priority needs and specific objectives identified in the Contra Costa Consortium 2015-2020 Consolidated Plan (2015-2020 Consolidated Plan) and those that met the national community development goals and objectives; and

WHEREAS, the CAPER consists of specific program narratives, an assessment of annual performance, and an assessment of progress toward meeting goals and objectives contained in the 2015-2020 Consolidated Plan; and

WHEREAS, the CAPER provides the number of people assisted with CDBG funding in the Program Year, amount of funds budgeted and used for approved activities and programs, and actions by the City to affirmatively further local and Contra Costa County Consortium objectives; and

WHEREAS, the City complied with public participation requirements by soliciting comments and holding a public hearing on September 17, 2018; and

WHEREAS, the City will submit a final version of the CAPER, incorporating all public comments received to HUD on or before September 30, 2018.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1.
All the recitals above are true and correct and incorporated herein.

Section 2.
The public comment period on the draft CAPER is hereby closed.

Section 3
The City Council hereby approves the CAPER.

Section 4.
The City Manager and/or his designee is hereby authorized to take such further actions as may be necessary or appropriate to carry out the City Council's obligations pursuant to this Resolution.

Section 5.
The City Clerk shall certify to the adoption of this Resolution.

Section 6.
This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of September 2018 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine "Pete" Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/5/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: By Minute Order Appoint Two Committee Members to an Ad Hoc Committee on Commissions and Council Procedures

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

In accordance with the City of Pittsburg "Policies and Procedures for the City Council" adopted by the City Council on September 4, 2001 by Resolution No. 01-9475, the Mayor and Vice-Mayor shall appoint individual Council Members to standing and ad hoc committees. A need currently exists to create an ad hoc committee to review the policies and procedures for the City Council and Commissions.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

By Minute Order, appoint two committee members to the Ad Hoc Committee on Commissions and Council Procedures.

BACKGROUND

Staff has been asked for formation of an ad hoc committee to conduct a review of the "Policies and Procedures of the City Council" as well as the "Handbook for City Advisory Bodies," commission by-laws, procedures and protocols.

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

The Policies and Procedures for City Council were first adopted in 2001. Five amendments were made since adoption, with the last amendment in 2016. All amendments have been incorporated into the current guide.

The Handbook for City Advisory Bodies was adopted by resolution in 2016.

Uniform guidelines for the conduct of City Council and advisory body business facilitates orderly and efficient meeting procedures. A handbook that also addresses general protocols for both Council Members and advisory body members is a valuable reference tool, as well as setting the tone for those that represent the city in various capacities. This ad hoc committee will review and revise the current Council and Commission handbooks to ensure they meet all statutory requirements and review advisory body by-laws, procedures and protocols.

ATTACHMENTS: None

Report Prepared By: Alice E. Evenson, City Clerk

CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES

DATE: September 4, 2018

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL/AGENCY MEMBERS
Dwaine "Pete" Longmire, Mayor/Chair
Sal Evola, Vice-Mayor/Chair
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
Marilyn Craft, Council/Agency Member
VACANT, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS
Joe Sbranti, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Mayor Longmire called the meeting of the City Council to order at 7:12 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening at 6:00 P.M. for Closed Session for the following items:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Section 54956.8):

Property: APN's 095-150-032, 094-080-011, 095-160-001, 095-160-002, 094-090-001, 094-080-002; Negotiators: Joe Sbranti, Garrett Evans; Negotiating Parties: Energy Delivery Solutions LLC; Under negotiation: Both price and terms of payment

2. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG; Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9:

Two (2) cases

3. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG; Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:

Two (2) cases

Mayor Longmire stated there was no reportable action taken in Closed Session.

ROLL CALL

Vice Mayor Evola was absent and excused.

PLEDGE OF ALLEGIANCE

Chief Addington led the Pledge of Allegiance.

CITY MANAGER'S REMARKS

Assistant City Manager Evans reported on upcoming events throughout the city.

CITIZENS REMARKS

Mayor Longmire commented on the recent passing of several national figures, along with also local Peter Aliotti and stated that this meeting would be adjourned in Mr. Aliotti's honor.

Mayor Longmire stated that Item 5 would be continued at the request of the applicant. He asked anyone that wished to speak on this item come forward now.

Scott Roylance, on behalf of William Lyon Homes, stated they asked for a continuance in order to address some items brought up by a neighboring property owner late this afternoon.

Bruce Ohlson, Pittsburg, asked that a bike path on the west side of San Marco under Highway 4 (county property) be included in the project.

PUBLIC HEARING

4. Introduction and Waive First Reading of an Ordinance Amending Title 18 of the Pittsburg Municipal Code Related to Permitting Small Recycling Facilities and Mail Order or Direct Selling Establishments in the M District AP-17-1235 (RZ)

Mayor Longmire opened the Public Hearing.

Nicole Impagliazzo, Community Relations Manager at Mt. Diablo Resource Recovery outlined specifics of the facility's capacity and operation.

Michael Castello, Pittsburg, spoke against adoption of the ordinance.

Wanda Thrower, Pittsburg, Stone Harbor HOA Board member, voiced concerns for the safety of their gated community.

Bruce Ohlson, Pittsburg, spoke in favor of the facility and was happy to see the opening of a small recycling center.

There being no one to speak to the item, Mayor Longmire closed the Public Hearing.

On motion by Mayor Longmire, seconded by Member Banales to introduce and waive first reading of the Ordinance and approved by the following vote:

AYES: Banales, Craft, Longmire
NOES: Killings
ABSENT: Evola

5. Introduction and Waive First Reading of an Ordinance and Consideration of a Resolution Approving the Alves Ranch Project, AP-18-1348 (RZ, SUBD, DR)

This item was removed from the agenda and continued to a date uncertain.

CONSIDERATION

6. Adoption of a City Council Resolution Approving an Option Agreement between the City of Pittsburg and MWF Holdings, LLC for Four City Owned Properties Located at 385 E. 3rd Street, 389 E. 3rd Street, E. 3rd Street, and 495 E. 3rd Street

Bruce Ohlson, Pittsburg, hoped that a connection for bicycles could be made to connect the 8th Street Linear Park to the Great California Delta Trail.

Wolfgang Croskey, Pittsburg, had concerns regarding safety for students moving between a school and sports complex across the street from each other. He was also not in favor of in lieu projects rather than cash.

On motion by Mayor Longmire, seconded by Member Banales to adopt and approved by the following vote:

AYES: Craft, Killings, Longmire
NOES: Banales
ABSENT: Evola

7. Adoption of a City Council Resolution Approving the Use of Business Improvement District Funds by the Pittsburg Chamber of Commerce for Police and Staff Services for the 2018 Seafood and Music Festival

Chris Moreno and Jerad Stager from the Chamber of Commerce gave an oral report on the use of BID funds.

On motion by Member Craft, seconded by Member Banales to adopt and approved by the following vote:

AYES: Banales, Craft, Killings, Longmire
ABSENT: Evola

8. By Minute Order, Consider Commission Appointment to Vacancy on the Housing Authority Commission

On motion by Member Banales, seconded by Member Killings to appoint SL Floyd to the Housing Authority Commission and approved by the following vote:

AYES: Banales, Craft, Killings
ABSTAIN: Longmire
ABSENT: Evola

CONFLICT OF INTEREST STATEMENT

Mayor Longmire stated he would abstain from Item 9 on the Consent Calendar.

COMBINED CITY COUNCIL AND PITTSBURG POWER COMPANY CONSENT CALENDAR

On motion by Member Banales, seconded by Member Craft to adopt the Consent Calendar and approved by the following vote:

AYES: Banales, Craft, Killings, Longmire
ABSENT: Evola

9. Minutes of August 20, 2018

10. Adoption of a Pittsburg Power Company Resolution Approving a Purchase and Sale Agreement, a Loan Agreement, a Promissory Note, and a Deed of Trust and Security Agreement between the Pittsburg Power Company and Natalie Cooper for 615 Railroad Avenue

10. Adoption of a City Council Resolution Approving the Terms and Conditions of Employment for Teamsters Union, Local 856 for the Period July 1, 2018–June 30, 2020.

COUNCIL MEMBER REPORTS/REMARKS

Member Craft attended the Tri Delta Transit meeting where they are pleased with the marketing of the Seafood Festival and the shuttle connectivity from BART and LMC to the downtown area. In the top 10 ridership, Pittsburg's Center Station ranks fourth. She also attended a meeting called for by the business owners at a strip mall on Harbor Street to discuss the homeless issue in that area. Solutions included parking lot lighting and monitored gate closures.

Mayor Longmire commended the Police Department for the StarChase Public Safety Technology Center of Excellence Award in California. Pittsburg was the first agency in California to start using this technology.

ADJOURNMENT

The City Council meeting was adjourned at 8:52 P.M. to September 17, 2018 ***in memory of Peter Anthony Aliotti.***

Respectfully submitted,

Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/4/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of a City Council Resolution Amending City's Conflict of Interest Code

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

Pursuant to the Political Reform Act, every local government is required to conduct a biennial review of its Conflict of Interest Code to determine its accuracy. As part of this year's biennial review, City staff determined that the City's Conflict of Interest Code must be amended to reflect new, reclassified and eliminated employee positions. Adoption of the resolution updating the City's Conflict of Interest Code will ensure that the Code accurately reflects all of the designated positions within the City which are required, by state law, to disclose financial interests.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

Adopt the attached resolution adopting an amended City Conflict of Interest Code.

BACKGROUND

The Political Reform Act requires the City to conduct a biennial review of its Conflict of Interest Code. Upon review, City staff determined that the Code must be amended in order to accurately reflect the addition, reclassification, and deletion of certain City positions.

Section 18730 of Title 2 of the California Code of Regulations contains the terms of a standard Conflict of Interest Code which may be adopted and incorporated by reference as the Conflict of Interest Code of the City. The attached Resolution adopts the Fair Political Practices Commission's standard Conflict of Interest Code and a revised list of designated

positions to reflect the City's current employment structure. The attached Resolution also proposes a required disclosure category for each of the designated positions.

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

Government Code Section 87200 et seq. requires members of the City Council, Planning Commissioners, the City Manager, the City Attorney, City Treasurer and other public officials who manage public investments to disclose certain financial interests annually. The City's Conflict of Interest Code identifies all other positions within the City that participate in the making of governmental decisions. These designated individuals are required to disclose certain financial interests under state law.

Limited organizational changes within certain City departments require the City to amend its Conflict of Interest Code to accurately designate City positions subject to state financial disclosure requirements. The attached Resolution, if adopted, would amend the City's Conflict of Interest Code as required by the Political Reform Act.

ATTACHMENTS: Resolution
Exhibit A
Exhibit B

Report Prepared By: Alice E. Evenson, City Clerk

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Adopting the City's Conflict of Interest Code) RESOLUTION NO. 18-

The City Council of the City of Pittsburg DOES RESOLVE as follows:

WHEREAS, the Political Reform Act requires every local government agency to review its Conflict of interest Code biennially to determine whether or not the Code must be amended; and

WHEREAS, the Pittsburg City Council previously adopted Resolution No. 16-13244, adopting by reference the model Conflict of Interest Code set forth in Section 18730 of Title 2 of the California Code of Regulations; and

WHEREAS, the purpose of this Resolution is to amend the City's Conflict of Interest Code to reflect changed circumstances, including the addition, reclassification, and deletion of positions within the City as required by Government Code Section 87300 *et seq.*; and

WHEREAS, the City Council desires to adopt the model Conflict of Interest Code found in Section 18730 of Title 2 of the California Code of Regulations and designate the list of positions (attached hereto as Exhibit A) as an updated list of City positions that are subject to the filing requirements of the Pittsburg Conflict of Interest Code.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Pittsburg as follows:

Section 1. Rescind Prior Resolutions Adopting a Conflict of Interest Code

Any prior Resolution adopting a Conflict of Interest Code for the City of Pittsburg, including Resolution No. 16-13244, is hereby rescinded.

Section 2. Adoption of Conflict of Interest Code

The Political Reform Act, Government Code Section 81000, *et seq.*, requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard Conflict of Interest Code, which may be incorporated by reference and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

Therefore, the terms of Title 2 of the California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby adopted and incorporated by reference and, along with the attached Exhibit A in which public officials and employees are designated and Exhibit B in which disclosure

categories are set forth, constitute the Conflict of Interest Code of the City of Pittsburg, which is considered the "agency" within the purview of this Code.

The designated officials, employees and consultants, as set forth in Exhibit A, shall be subject to the provisions of the Conflict of Interest Code and their respective disclosure categories.

Section 3. Annual Disclosure Statements

Persons holding designated positions shall file an annual statement no later than April 1st of each year. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year; provided however, that the period covered by an employee's first annual statement shall begin on the effective date of the Code or the date of assuming office, whichever is later.

Section 4. Filing Officer

The City Clerk is the filing official for Council Members, the City Manager, the City Attorney and Planning Commissioners. For the persons holding these positions, the City Clerk accepts the filing, retains a copy and forwards the original to the Fair Political Practices Commission in Sacramento. For all other persons holding designated positions, the City Clerk is the filing officer and retains the statements. The City Clerk shall make the statements available for public inspection and reproduction.

Section 5. Effective Date

This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of September, 2018 by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

_____
Dwaine "Pete" Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

EXHIBIT "A"
CONFLICT OF INTEREST CODE
DESIGNATED POSITIONS
CITY OF PITTSBURG

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
Accountant I and II	I
Administrative Analyst I and II	II
Administrative Officer	I
Administrative Specialist	I
Assistant City Manager	I
Assistant Director of Public Works	I
Assistant Director of Economic Development and Recreation	I
Assistant to the City Manager	II
Business License Coordinator	I
Chief Building Official	I
Chief of Police	I
City Clerk	I (or as required by law)
City Engineer	I
Contract Analyst	I
Crime Analyst	I
Deputy City Clerk	I
Development Manager	I
Director of Community Development	I
Director of Community Services	I
Director of Finance	I
Director of Human Resources	I
Director of Power	I
Director of Public Works	I
Director of Records and Council Services	I
Director of Recreation and Maintenance Services	I
Director of Water Utilities	I
Environmental Affairs Manager	I
Executive Assistant	II
Finance Division Manager	I
Financial Analyst	I
Harbormaster	I
Housing Manager	I
Human Resources Analyst	II
Human Resources Manager	I
Planning Manager	I
Police Captain	I
Police Records Manager	I
Police Services Administrator	I
Power Company Manager	I
Public Works Manager	I
Public Works Superintendent	II, III
Purchasing Analyst	I

Redevelopment Project Manager	I
Senior Administrative Analyst	I
Senior Civil Engineer	I
Senior Human Resources Analyst	I
Senior Planner	I
Utility Supervisor	I
Water Plant Superintendent	I
Water Plant Supervisor	I

CONFLICT OF INTEREST CODE
DESIGNATED POSITIONS
AGENCIES AND COMMISSIONS

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II	
Executive Director	I
General Manager	I
HOUSING COMMISSION	
Appointed Commissioners	I
PITTSBURG POWER COMPANY	
Executive Director	I
Director of Power	I
Power Company Manager	I
Administrative Analyst	II, III
CONSULTANTS (Regardless of Department or Agency)	I
REQUIRED BY STATUTE:	
Council Members	I
Planning Commissioners	I
City Manager	I
City Attorney	I
City Treasurer	I

EXHIBIT "B"
CONFLICT OF INTEREST CODE
DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the Designated Employees must disclose for each disclosure category to which he or she is assigned.

Designated Employees in Category "I" must report:

All investments, business positions in, and income from sources located in or doing business in the City and all interests in real property located in the City, including property located within a two-mile radius of the City or any property owned or used by the City of Pittsburg.

Designated Employees in Category "II" must report:

All investments, business positions in, and sources of income of the type which provide services, supplies, materials, machinery or equipment of the type utilized by the City of Pittsburg.

Designated Employees in Category "III" must report:

All investments, business positions in, and sources of income which are subject to the regulatory, permit or licensing authority of the City of Pittsburg.

Disclosure by Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category (Category I) in the Conflict of Interest Code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. The written determination shall include the basis for this determination and shall be maintained as a public record to the same extent as other disclosures made under the Conflict of Interest Code.

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/4/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Acceptance of a City Council Resolution Approving Revisions to the City's Investment Policy

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

On July 06, 2015, the City Council adopted the most recent Investment Policy for the City of Pittsburg that provides guidelines for the prudent investment of the City's idle funds and outlines the policies for maximizing the efficiency of the City's cash management system. The goal of the City's Investment Policy is to enhance the economic status of the City while protecting its funds.

There are no structural changes to the current Council approved policy, however, there are clarifications and additional specific investment percentage restrictions in the proposed new policy.

FISCAL IMPACT

There is no direct fiscal impact to approving revisions to the City's Investment Policy.

RECOMMENDATION

We recommend that the Pittsburg City Council adopt the attached resolution approving the revisions to the City's Investment Policy.

BACKGROUND

Through Government Code Section 53600 et. seq. the State of California identifies permitted investments for the state and municipalities that minimizes the risk to public funds.

The overall objective of the City's Investment Policy is optimizing yields on investments while protecting the principal. The City's portfolio has been designed in a manner responsive to the public trust and consistent with State law.

On July 1, 2018, the City changed investment advisors to Chandler Asset Management and they like previous financial advisors reviewed our investment policy and made various suggestions for clarification and recent governmental code changes since the last update to our policy in 2015. While there are no major fundamental changes to the existing policy structure, a red-line copy of the changes is being supplied to show the significant changes. The following is a listing of significant changes to the existing policy:

•Throughout nationally recognized statistical rating agency was shortened to NRSRO
•Clarification of the Prudence and Risk Tolerance (Section V)
•Clarification of Eligible Investments and their acceptable investment grades (Section VIII)
•Section IX was changed to Diversification and Risk Management to augment to City's risk management policies and approach of investing.
•Additional Terms were added to the Glossary of Terms

SUBCOMMITTEE FINDINGS

The Finance Subcommittee met on Thursday, August 30, 2017 to review the proposed changes with the City Treasurer and both support making the changes as noted in the revised Investment Policy.

STAFF ANALYSIS

The proposed revisions will clarify, streamline, and further strengthen the City's Investment Policy.

ATTACHMENTS: Resolution
Statement of Investment Policy with Proposed Revisions – Red Line
City of Pittsburg Investment Policy Dated September 17, 2018

Report Prepared By: Brad Farmer, Director of Finance

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Approving the City of Pittsburg Investment Policy Effective September 17, 2018	)))	RESOLUTION NO. 18-

The Pittsburg City Council DOES RESOLVE as follows:

WHEREAS, the State of California passed legislation during the 1995 session requiring all public agencies to adopt a Statement of Investment Policy which pursuant to AB 2853 is now encouraged not mandated; and

WHEREAS, on October 18, 2010 the City Council adopted the City's Investment Policy; and

WHEREAS, on July 6, 2015 the City Council adopted the most recent version of the City's Investment Policy; and

WHEREAS, the purpose of the Investment Policy is to provide guidelines for the prudent investment of the City's idle funds and to outline the policies for maximizing the efficiency of the City's cash management system; and

WHEREAS, the Finance Department is recommending revisions to the City's Investment Policy, a copy of which is attached; and

WHEREAS, the basic premise that continues to underlie the City of Pittsburg's Investment Policy is to ensure that money is always available when needed and, at the same time, repaying the highest and safest return.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1. Findings

A. The recitals set forth above are true and correct statements and are hereby incorporated in conjunction with the respective staff report.

B. That the Statement of Investment Policy attached hereto, is hereby adopted as the City of Pittsburg Investment Policy.

C. That the management of the investment functions is delegated to the Director of Finance.

Section 2. Authorization

The Director of Finance is hereby authorized to manage the investment functions for the City of Pittsburg in accordance with the most current adopted Statement of Investment Policy.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting held on September 17 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine “Pete” Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

CITY OF PITTSBURGINVESTMENT POLICY
(September 17, 2018)

I. Statement of Purpose and Adoption of Policy

It shall be the investment policy of the City of Pittsburg (the "City") that all funds not required for immediate expenditures are invested in compliance with this statement, as well as applicable federal, state and local legislation governing the investment of public funds. Funds shall be invested in a manner that will provide the highest investment return with the appropriate level of security, while meeting the daily cash flow demands of the City.

Safeguards will be set into place to ensure that adequate operating reserves are established and maintained to provide that cash in enough amounts will be available to pay for immediate expenditures as authorized by the City's budget. Funds so maintained will be deposited in a manner best serving the City.

The City has a responsibility to monitor the security of its assets and always maintain a level of quality so that the public at large will have the highest confidence that its best interests are being served.

The purpose of this document is to identify various policies and procedures that enhance opportunities for a systemic investment process. The initial step toward a prudent investment policy is to organize and formalize investment related activities. Related activities, which comprise good cash management, include accurate cash projection, the expeditious collection of revenue, the control of disbursements, cost effective banking relations and a short-term borrowing program, which coordinates working capital requirements and investment opportunities.
The City's Investment Policy shall be adopted by resolution of City Council. The policy shall be reviewed at least annually by the City Treasurer, City Manager and the Finance Director, and any modification must be approved by City Council.

II. SCOPE

It is intended that this policy cover all operating funds and investment activities under the direct authority of the City. These funds are described in the City's Comprehensive Annual Financial Report and include its General Fund, Special Revenue Funds, Enterprise Funds, Trust and Agency Funds, Capital Project Funds and Successor Agency Trust Funds.

The Investment Policy applies to all transactions involving the financial assets and related activities of the foregoing funds. Except for cash held in separate restricted funds, the City will pool cash balances from all funds for investments to maximize earnings and efficiencies concerning investment pricing, safekeeping and administration. Investment income will be allocated to the City's funds based upon

their respective average monthly balances and in accordance with Generally Accepted Accounting Principles (GAAP).

The employee's retirement and deferred compensation funds are not included. Bond proceeds are not covered under this policy and shall be governed by their applicable bond documents. However, if the bond documents are silent in regard to the investment of bond proceeds and reserves, the terms set forth in this policy shall govern the respective investment of bond proceeds.

III. OBJECTIVES AND PERFORMANCE STANDARDS

The overall program shall be designed and managed with a degree of professionalism worthy of the public trust. The City's primary investment objectives, in priority order, shall be:

1. **Safety:** Safety of principal is the foremost objective the City's investment program, followed by liquidity and yield. Investments of the City shall be undertaken in a manner that seeks to ensure the preservation of capital in the City's portfolio. To obtain this objective, the City will diversify its investment by investing funds among a variety of securities offering independent returns and financial institutions. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they are from securities default or erosion of market value. Investment decisions should not incur unreasonable investment risks in order to obtain current investment income.

2. **Liquidity:** The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements, which might be reasonably anticipated. This need for investment liquidity may be tempered to the extent that the City is able to issue short-term notes to meet its operating requirements. Emphasis will be on marketable securities with low sensitivity to market risk. Maturities of investments for which there is limited opportunity for resale shall be staggered to maximize liquidity.

3. **Yield**: The City maintains an active investment strategy and its investment portfolio shall be designed to attain a rate of return which approximates benchmarks to be selected by the City's investment advisory committee throughout budgetary and economic cycles, taking into account the City's investment risk constraints, the cash flow characteristics of the portfolio, and state and local laws, ordinances or resolutions that restricts the investment of funds.

IV. DELEGATION OF AUTHORITY

Pursuant to California Government Code 53607 and the City's Municipal Code, the City Council's management responsibility for the investment program is hereby delegated for a one-year period to the Finance Director who shall be responsible for the investment of idle funds consistent with this investment policy. Subject to review, the City Council may renew the delegation of authority pursuant to this section each year. The Finance Director may delegate these duties to his/her designee upon approval of the City Council. The day-to-day investment decision-

making and execution authority may also be delegated to an investment advisor under the supervision of the Finance Director. The investment advisor shall follow this Policy and such other written instructions as are provided.

V. PRUDENCE AND RISK TOLERANCE

The City recognizes that investment risks of the following can result from issuer defaults, market price changes or various technical complications leading to temporary liquidity:

1. Credit risk is the possibility that deterioration of an issuer's creditworthiness will adversely affect the value of its bonds or that an issuer will not make timely payments of interest or principal on its bonds (default). A decline in a bond issuer's credit rating, or creditworthiness, may cause prices for its outstanding bonds to decline. This shall be mitigated by limiting investments to those allowed under this policy and by diversification.

2. Market or Interest Rate risk, defined as market value fluctuations due to overall changes in market price, shall be mitigated by eliminating the need to sell securities prior to maturity and investing operating funds needed for short-term liquidity primarily in short-term securities, money market funds or similar investment pools, thereby limiting the average maturity of the portfolio. Investment shall be made with that degree of judgment and care, under circumstances then prevailing, which persons or prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the safety of their capital as well as the income to be derived.

The standard of prudence to be used by investment officers shall be the "prudent investor standard" and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the City's investment policy and exercising due diligence shall be relieved of personal liability for an individual security credit risk or market price changes, if deviations from expectations are reported on a timely fashion, and appropriate action is taken to control adverse developments.

VI. INTERNAL CONTROLS

A system of internal controls will be maintained to assure compliance with Federal and State regulations, City Council direction, and prudent cash management procedures.

The controls shall be designed to prevent losses of public funds arising from fraud, employee error, and misrepresentation by third parties, unanticipated changes in financial markets or imprudent actions by employees and officers of the City. Controls deemed most important include: control of collusion, segregation of duties, separating transaction authority from accounting and recordkeeping, custodial safekeeping, clear delegation of authority, specific limitations regarding securities losses and remedial action, written confirmation of telephone transactions, minimizing the number of authorized investment officials, documentation of

transactions and strategies, and code of ethical standards. In addition, whenever possible, pre-formatted wire transfers will be used to transfer funds to pre-authorized accounts.

1. The City Treasurer shall audit and examinee all investments made by the City, or its duly authorized personnel, at those times deemed necessary by him/her and shall in his/her discretion report his/her audit and examination to the City Council.

2. Investment Oversight Committee: Quarterly review of procedures and adherence to this Investment Policy is conducted by the Investment Oversight Committee. The Committee, established by the City Council, is comprised of the City Manager, Finance Director, and City Treasurer.

3. Annual Audit: The City's portfolio is included in the annual review of the City's financial management performed by an outside audit firm.

VII. ETHICS AND CONFLICTS OF INTEREST

Officers and employees involved in the investment process shall not participate in personal business activity that could conflict with proper execution of the investment program or which could impair the ability to make impartial investment decisions. Such employees and investment officials shall disclose any material financial interests in financial institutions that conduct business with the City, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio.

VIII. ELIGIBLE INVESTMENTS

California Government Code Sections 53600 et. seq. provides basic investment limits and guidelines for government entities. Within the investments permitted by the Government Code, the City seeks to further restrict eligible investment to the investments listed below. In the event an apparent discrepancy is found between this policy and the Government Code, the more restrictive parameters will take precedence.

Rating requirements and percentage limitations, where indicated, apply *at the time of purchase*. In the event a security held by the City is subject to a rating change that brings it below the minimum specified rating requirement, the Finance Director shall notify the City Council of the change. The course of action to be followed will then be decided on a case-by-case basis, considering such factors as the reason for the rate drop, prognosis for recovery or further rate drops, and the market price of the security.

Eligible Investments

1. **Securities of the U.S. Government**:

   United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the

payment of principal and interest. There is no limitation as to the percentage of the City's portfolio that may be invested in this category.

2. **Securities of U.S. Government Agencies**
Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There is no limitation as to the percentage of the City's portfolio that may be invested in this category.

3. **California State and Local Agency Obligations**

Obligations of the State of California or any local agency within the state that are general obligation bonds or essential service bonds secured with revenue from a water, sewer, power or electric system, provided that such obligations are rated in one of the top three rating categories by a nationally recognized statistical rating organization (NRSRO.)

4. **Other State Obligations**

Registered treasury notes or bonds of any of the other 49 United States in addition to California, including general obligation bonds or bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by a state or by a department, board, agency or authority of any of the other 49 United States, in addition to California, provided that such obligations are rated in one of the top three rating categories by a NRSRO.

5. **Bankers Acceptances**

Time drafts or bills of exchange that are drawn on and accepted by a commercial bank and brokered to investors in the secondary market. Purchasers are limited to issuers whose short-term debt is rated in the highest short-term rating category by a NRSRO. Banker's acceptances cannot exceed a maturity of 180 days. A maximum of 40% of the City's portfolio may be invested in this category.

6. **Commercial paper**

The City may purchase commercial paper with short-term ratings of "A-1" or the equivalent or higher by a NRSRO. Long-term ratings, if any, must be "A" category or its equivalent or higher by a NRSRO. The entity that issues the commercial paper shall meet all the following conditions in either paragraph (A) or paragraph (B):

(A) The entity meets the following criteria: (i) Is organized and operating in the United States as a general corporation. (ii) Has total assets more than five hundred million dollars ($500,000,000). (iii) Has debt other than

commercial paper, if any, that is rated in the "A" category or its equivalent or higher by a NRSRO

(B) The entity meets the following criteria: (i) Is organized within the United States as a special purpose corporation, trust, or limited liability company. (ii) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond. (iii) Has commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less and not represent more than 10 percent of the outstanding paper of an issuing corporation. A maximum of 25 percent of the City's portfolio may be invested in this category.

7. **Negotiable Certificates of Deposit (NCDs)**

Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state or federally licensed branch of a foreign bank. Purchases are limited to institutions with short-term ratings of "A-1" or its equivalent or higher by a NRSRO; or long-term obligations rated in a category of "A" or its equivalent or higher by a NRSRO. A maximum of 30 percent of the City's portfolio may be invested in this category.

8. **Time Deposits**

The City may invest in non-negotiable time deposits (CDs) that are FDIC insured or fully collateralized in financial institutions located in California, including United States branches of foreign banks licensed to do business in California.

To be eligible for purchase, the financial institution must have received a minimum overall satisfactory rating for meeting the credit needs of California Communities in its most recent evaluation, as provided Government Code Section 53635.2. Purchase are further limited to financial institutions meeting all capital requirements and rated in one of the three highest rating categories by a NRSRO organization. All time deposits must be collateralized in accordance with California Government Code sections 53650 et. seq. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance. The maximum maturity of a time certificate of deposit shall not exceed 1 year. A maximum of 30 percent of the City's portfolio may be invested in this category.

9. **Repurchase Agreements**

The City may enter into repurchase agreements with primary government securities dealers rated in the one of the three highest categories by two NRSROs. Counterparties should also have (i) a short-term credit rating in the highest category; (ii) minimum assets and capital size of $25 billion in assets and $350 million in capital; (iii) five years of acceptable audited financial results; and (iv) a strong reputation among market participants.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities will be acceptable collateral. All securities underlying repurchase agreements must be delivered to the City's custodian bank delivery versus payment or be handled under a properly executed tri-party repurchase agreement. The total market value of all collateral for each repurchase agreement must equal or exceed 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any repurchase agreement with a term of more than one day, the value of the underlying securities must be reviewed on a weekly basis according to market conditions. Since the market value of the underlying securities is subject to daily market fluctuations, the investment in repurchase agreements shall comply if the value of the underlying securities is brought back up to 102 percent no later than the next business day. Market value must also be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to repurchase agreement. The City shall have properly executed a master repurchase agreement with each counter party with which it enters into repurchase agreements. Repurchase agreements are to be used solely as short-term investments not to exceed 90 days. A maximum of 15 percent of the City's portfolio may be invested in this category.

10. **Medium Term Notes**

Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Purchases are limited to securities rated in one of the three highest categories by a NRSRO. A maximum of 30 percent of the City's portfolio may be invested in this category.

11. Asset-Backed Securities

A mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision must be rated in one of the two highest rating categories by a NRSRO and shall be issued by an institution rated in one of the three highest rating categories by a NRSRO. A maximum of 20 percent of the City's portfolio may be invested in this category.

12. **Supranational Securities**

United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years

or less, and eligible for purchase and sale within the United States. Securities eligible for investment under this subdivision must be rated in one of the two highest rating categories by a NRSRO. A maximum of 30 percent of the City's portfolio may be invested in this category.

13. **Money Market Funds**

Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.). To be eligible for purchase, the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of $500,000,000.

A maximum of 20 percent of the City's portfolio may be invested in this category (10 percent limit per fund).

14. **State of California's Local Agency Investment Fund (LAIF)**

The Local Agency Investment Fund was established by the State to enable local agency treasurers to place funds in a pool for investment (California Government Code Section 16429.1 et seq.). The City uses this investment vehicle for short-term liquidity, investment, and yield when rates are declining. Funds are available on demand and interest is paid quarterly. The City may invest up to the maximum permitted by the LAIF.

15. **California Asset Management Program (CAMP)**

Shares of beneficial interest issued by a joint powers authority organized pursuant to Government Code Section 6509.7 that invests the securities and obligations authorized in subdivisions (a) to (n), inclusive, of Government Code Section 53601.

Summary of Investment Requirements[1]

Investment Type	City Minimum Quality Parameters	Code Minimum Quality Parameters	City Maximum % of Portfolio	Code Maximum % of Portfolio	City Maximum Maturity	Code Maximum Maturity

Investment Type	City Minimum Quality Parameters	Code Minimum Quality Parameters	City Maximum % of Portfolio	Code Maximum % of Portfolio	City Maximum Maturity	Code Maximum Maturity
U.S. Treasury Obligations	None	None	None	None	5 Years	5 Years
Federal Agency Obligations	None	None	None	None	5 Years	5 Years
Bankers Acceptances	A-1/P-1	None	40%/5% issuer[2]	40%/ 30% issuer	180 Days	180 Days
State and Local Obligations	"A-" rated obligation	None	30%/5% issuer[2]	None	5 years	5 years
Commercial Paper	"A-1" ST, "A" if LT ratings	"A-1" ST, "A" of LT ratings	25%/5% issuer[2]	25%	270 Days	270 Days
Negotiable Certificates of Deposits	"A-1" ST or "A" LT rated financial institutions	None	30%/5% issuer[2]	30%	5 Years	5 Years
Certificates of Deposit	"A" rated financial institutions	None	30%/5% issuer[2]	None	1 Year	None
Repurchase Agreements	"A" rated primary dealers	None	15%/5% issuer[2]	None	90 Days	1 Year
Medium-Term Notes	A	A	30%/5% issuer[2]	30%	5 Years	5 Years
Asset-backed Securities	"AA" security/"A" rated financial institutions	AA" security/"A" rated financial institutions	20%/5% issuer[2]	20%	5 Years	5 Years
Money Market[3] Funds	Multiple[3]	Multiple[3]	20%/ 10% per fund	20%	N/A	N/A
Local Agency Investment Fund	None	None	Up to LAIF statutory limit[4]	Up to LAIF statutory limit	N/A	N/A
CAMP[5]	None	None	None	None	N/A	N/A
Supranationals	"AA"	"AA"	30%/10% issuer	30%	5 Years	5 Years

Notes:

1. The table is a summary of the key requirements. Additional requirements may apply as listed under this Policy and California Government Code Section 53601.
2. The Policy limits the portfolio's allocation to any one issuer, with the exception of U.S. Treasury securities, Federal Agency securities, supranationals, money market funds, LAIF, and authorized pools, or unless otherwise authorized in this investment policy, to no more than 5 percent of the portfolio.
3. Must receive the highest rating by two of the three largest NRSROs or the fund must retain an investment advisor who is registered with the SEC and has not less than five years experience managing money market funds with assets under management in excess of $500 million.
4. There is a $65 million cap for the City of Pittsburg funds, the LAIF maximum as of July 2018. LAIF limits may change from time to time.
5. CAMP is California Asset Management Program.

IX. DIVERSIFICATION AND RISK MANAGEMENT

To reduce portfolio risk while attaining market average rates, the City's portfolio will be suitably diversified by type and institution. Except for U.S. Treasury securities, Federal Agency securities, supranationals, money market funds, LAIF, and authorized pools, no more than 30 percent of the total portfolio, and less where stated, will be invested in a single security type with no more than 5 percent invested with a single issuer, unless otherwise specified in this investment policy.

The City may elect to sell a security prior to its maturity and record a capital gain or loss to manage the quality, liquidity or yield of the portfolio in response to market conditions or City's risk preferences.
The City further recognizes that certain types of securities, including variable rate securities, securities with principal paydowns prior to maturity, and securities with embedded options, will affect the market risk profile of the portfolio differently in different interest rate environments. The City, therefore, adopts the following strategies to control and mitigate its exposure to market risk:

- The City will maintain a minimum of six months of budgeted operating expenditures in short term investments to provide sufficient liquidity for expected disbursements.

- The maximum percent of callable securities (does not include "make whole call" securities as defined in the Glossary) in the portfolio will be 20%.

- The duration of the portfolio will generally be approximately equal to the duration (typically, plus or minus 20%) of a Market Benchmark, an index selected by the City based on the City's investment objectives, constraints and risk tolerances. Maximum maturities may not exceed five years.

X. MAXIMUM MATURITY

The City's cash management system is fully designed to accurately monitor and forecast revenues and expenditures thus enabling the City to invest funds possible.

To the extent possible, the City will attempt to match investments with anticipated cash flow requirements. Because of inherent difficulties in accurately forecasting cash flow requirements, a portion of the portfolio should be continuously invested in readily available funds

Where this Policy does not specify a maximum remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase agreement, that at the time of the investment has a term remaining to maturity in excess of five years, unless the City Council has granted express authority to make that investment either specifically or as a part of an investment program approved by the City Council no less than three months prior to the investment.

XI. INELIGIBLE INVESTMENTS

Investments not described herein, including but not limited to common stocks and financial futures contracts and options, are prohibited in this fund. As provided in California Government Code Section 53601.6, the City shall not invest any funds in inverse floaters, range notes, mortgage derived interest-only strips or in any security that could result in zero interest accrual if held to maturity. The purchase of any security not listed in Section 8 above, but permitted by the California Government Code, is prohibited unless the City Council approves the investment specifically or as a part of an investment program approved by the City Council.

XII. BANKS AND SECURITIES DEALERS

The Finance Director shall maintain a list of authorized broker/dealers and financial institutions, which are approved for investment purposes. It shall be the City's policy to purchase securities only from those authorized institutions and firms. The City shall annually send a copy of the current investment policy to all dealers approved to do business with the City. Each broker dealer or financial institution that has been authorized by the City shall be required to submit the firm's most recent financial statement. If an investment advisor is used, they may use their own list of approved broker/dealers and financial institutions for investment purposes.

XIII. SAFEKEEPING AND CUSTODY

All security transactions entered by the City shall be conducted on a delivery-versus-payment (DVP) basis. All cash and securities in the City's portfolio, including those that are managed by an investment advisor, shall be held in safekeeping in the City's name by a third-party bank trust department, acting as agent for the City under the terms of a custody agreement executed by the bank and the City. The only exception to the foregoing shall be depository accounts and securities purchases made with: (i) local government investment pools; (ii) time certificates of deposit, and, (iii) money market mutual funds, since the purchased securities are not deliverable. Evidence of each these investments will be held in the Treasury vault. The safekeeping institution shall annually provide a copy of their most recent report on internal controls (Statement of Auditing Standards No. 70, or SAS 70).

XIV. PERFORMANCE STANDARDS

The investment portfolio will be designed to obtain a market-average rate of return during budgetary and economic cycles, considering the City's investment risk constraints and cash flow needs.

XV. REPORTING REQUIREMENTS

A Quarterly Investment report shall be provided to the City Council, City Manager, and Finance Director.

1. A quarterly investment report will be submitted within 60 days following the period being reported to the City Council. Reports of the investment of bond proceeds are issued monthly by the Trustee and are included in the quarterly report of the pooled investment fund. The quarterly investment report shall include information on the following:
   - Type of Investment
   - Issuer
   - Date of Maturity
   - Par and dollar amount invested on all securities
   - Current market value of each security and the source of the valuation
   - Credit quality of each investment, as determined by one or more nationally recognized credit rating services
   - Listing of investment transactions for the quarter being reported upon.
   - Statement that portfolio follows investment policy, or the way the portfolio is not in compliance
   - Statement denoting ability of City to meet its expenditure requirements for the next six months, or provide enough explanation why money is not available

XVI. INVESTMENT POLICY REVIEW

The Finance Director shall periodically submit to the City Council a statement of investment policy outlining any proposed changes, which the City Council must consider at a public meeting.

Glossary of Terms

Accrued Interest: Interest earned but not yet received.

Active Deposits: Funds which are immediately required for disbursement.

Amortization: An accounting practice of gradually decreasing (increasing) an asset's book value by spreading its depreciation (accretion) over a period.

Arbitrage: Transactions by which securities are bought and sold in different markets at the same time for the sake of the profit arising from a yield difference in the two markets.

Asked Price: The price a broker/dealer offers to sell securities.

Average Life: The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund features is expected to be outstanding.

Bankers' Acceptance (BA): A draft or bill of exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Basis Point: One basis point is one hundredth of one percent (.01).

Bid Price: The price a broker/dealer offers to purchase securities.

Bond: A financial obligation for which the issuer promises to pay the bondholder a specified stream of future cash flows, including periodic interest payments and a principal repayment.

Book Entry: The system maintained by the Federal Reserve, by which most money market securities are delivered to an investor's custodial bank. The Federal Reserve maintains a computerized record of the ownership of these securities and records any changes in ownership corresponding to payments made over the Federal Reserve wire (delivery versus payment.)

Book Value: The value at which a debt security is shown on the holder's balance sheet. Book value is acquisition cost less amortization of premium or accretion of discount.

Broker: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not take a position. In the money market, brokers are active in markets in which banks buy and sell money and in interdealer markets.

Callable Bond: A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

Call Price: The price at which an issuer may redeem a bond prior to maturity. The price is usually at a slight premium to the bond's original issue price to compensate the holder for loss of income and ownership.

Call Risk: The risk to a bondholder that a bond may be redeemed prior to maturity.

Cash Sale/Purchase: A transaction which calls for delivery and payment of securities on the same day that the transaction is initiated.

Certificate of Deposit (CD): A time deposit with a specific maturity evidenced by a Certificate. Large-denomination CDs are typically negotiable.

Collateral: Securities, evidence of deposit or other property, which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

Commercial Paper: A short-term, unsecured, and negotiable promissory note with a fixed maturity of no more than 270 days. By statute, these issues are exempt from registration with the U.S. Securities and Exchange Commission.

Comprehensive Annual Financial Report (CAFR): The official annual financial report for public sector entities/companies. It includes five combined statements and basic financial statements for each individual fund and account group prepared in conformity with Generally Accepted Accounting Principles (GAAP).

Convexity: A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

Coupon: The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

Credit Analysis: A critical review and appraisal of the economic and financial conditions or of the ability to meet debt obligations.

Credit Risk: The risk to an investor that an issuer will default in the payment of interest and/or principal on a security and a loss will result.

Current Yield: The interest paid on an investment expressed as a percentage of the current price of the security.

Custodian: A bank or other financial institution that keeps custody of stock certificates and other assets.

Dealer: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his or her own account.

Debenture: A bond secured only by the general credit of the issuer.

Defeased Bond Issues: Issues that have sufficient money to retire outstanding debt when due so that the agency is released from the contracts and covenants in the bond document.

Delivery versus Payment: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free delivery). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

Derivative: Securities that are based on, or derived from, some underlying asset, reference date, or index.

Discount: The difference between the cost of a security and its value at maturity when quoted at lower than face value.

Diversification: Dividing investment funds among a variety of securities offering independent returns.

Duration: A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate, and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

Face Value: The principal amount owed on a debt instrument. It is the amount on which interest is computed and represents the amount that the issuer promises to pay at maturity.

Fair Value: The amount at which a security could be exchanged between willing parties, other than in a forced or liquidation sale. If a market price is available, the fair value is equal to the market value.

Federal Farm Credit Bank (FFCB): Government-sponsored institution that consolidates the financing activities of the Federal Land Banks, the Federal Intermediate Credit Banks and the Banks for Cooperatives. Its securities do not carry direct U. S. Government guarantees.

Federal Funds Rate: The rate of interest at which Federal funds are traded. This rate is considered the most sensitive indicator of the direction of interest rates, as it is currently pegged by the Federal Reserve through open-market operations.

Federal Home Loan Banks (FHLB): Government sponsored wholesale banks, which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac): Established in 1970 to help maintain the availability of mortgage credit for residential housing. FHLMC finances these operations by marketing guaranteed mortgage certificates and mortgage participation certificates. Its discount notes and bonds do not carry direct U.S. Government guarantees.

Federal National Mortgage Association (FNMA): FNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (H.U.D.). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

Federal Open Market Committee (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

Federal Reserve System: The central bank of the U.S., which consists of seven-member Board of Governors, 12 regional banks, and about 5,700 commercial banks that are members.

Fitch IBCA, Inc. (Fitch): One of the three best-known rating agencies in the United States, the others being Moody's Investment Service, Inc. and Standard and Poor's Corporation.

Government Accounting Standards Board (GASB): A standard-setting body, associated with the Financial Accounting Foundation, which prescribes standard accounting practices for governmental units.

Government National Mortgage Association (GNMA or Ginnie Mae): Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by FHA or VA mortgages. The term pass-through is often used to describe Ginnie Maes.

Government Securities: An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See "Treasury Bills, Notes, and Bonds."

Guaranteed Investment Contracts (GICS): An agreement acknowledging receipt of funds, for deposit, specifying terms for withdrawal, and guaranteeing a rate of interest to be paid.

Inactive Deposits (Idle Funds): Funds not immediately needed for disbursement.

Investment-Grade Obligations: An investment instrument suitable for purchase by institutional investors under the prudent person rule. Investment-grade is restricted to those obligations rated BBB or higher by a rating agency.

Interest Rate Risk: The risk of gain or loss in market values of securities due to changes in interest-rate levels. For example, rising interest rates will cause the market value of portfolio securities to decline.

Inverse Floating Rate Note: A debt security with an interest rate stated as a fixed rate minus an index. This calculation causes the rate on the inverse floater to move in the opposite direction of general interest rates. This instrument generally performs well in a declining interest rate environment but will lose value if rates rise.

Liquidity: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between the bid and asked prices is narrow and reasonable size can be done at those quotes.

Local Agency: County, City, City and County, including a chartered city or county, school district, community college district, public district, or any public or municipal corporation.

Local Agency Investment Fund (LAIF): An investment pool managed by the California State Treasurer. Local government units, with consent of the governing body of that agency, may voluntarily deposit surplus funds for the purpose of investment. Interest earned is distributed by the State Controller to the participating governmental agencies on a quarterly basis.

Make whole call: A type of call provision on a bond that allows the issuer to pay off the remaining debt early. Unlike a call option, with a make whole call provision, the issuer makes a lump sum payment that equals the net present value (NPV) of future coupon payments that will not be paid because of the call. With this type of call, an investor is compensated, or "made whole."

Mark-to-market: The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Risk: Systematic risk of a security that is common to all securities of the same general class (stocks, bonds, notes, money market instruments) and cannot be eliminated by diversification (which may be used to eliminate non-systematic risk).

Market Value: The price at which a security is trading and could presumably be sold.

Master Repurchase Agreement: A written contract covering all future transactions between the parties to repurchase agreements and reverse repurchase agreements that establish each person's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity: The date upon which the principal or stated value of an investment becomes due and payable.

Medium Term Notes: Instruments issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States.

Modified Duration: A measure of exposure to market risk of a security or a portfolio. It is the percent change in the price of a security (portfolio) or a 100-basis point change in the security's (portfolio's) yield.

Money Market: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptance, etc.) are issued and traded.

Money Market Mutual Fund: Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repos and federal funds).

Moody's: Moody's Investment Service, Inc. One of the three best-known rating agencies in the United States, the others being Standard and Poor's Corporation (S&P) and Fitch IBCA, Inc. (Fitch).

National Association of Securities Dealers (NASD): A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

NATIONAL RECOGNIZED STATISTICAL RATING ORGANIZATION (NRSRO):
A rating organization designated by the SEC as being nationally recognized, such as Moody's Investor Service, Inc. (Moody's), Standard & Poor's (S&P), and Fitch Ratings (Fitch).

Net Asset Value: The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets, which includes securities, cash, and any accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio. [(Total assets) - (Liabilities)] / (Number of shares outstanding)

Negotiable Certificate of Deposit: A large denomination certificate of deposit, which can be sold in the open market prior to maturity.

Nominal Yield: The stated rate of interest that a bond pays its current owner, based on par value of the security. It is also known as the "coupon," "coupon rate," or "interest rate."

New Issue: Term used when a security is originally "brought" to market.

Note: A written promise to pay a specified amount to a certain entity on demand or on a specified date.

Open Market Operations: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the Federal Open Market Committee, (FOMC), to influence the volume of money and credit in

the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit: Sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

Par Value: The amount of principal that must be paid at maturity. Also referred to as the face amount of a bond, normally quoted in $1,000 increments per bond.

Portfolio: Collection of securities held by an investor.

Premium: The amount by which the price paid for a security exceeds the security's par value.

Primary Dealer: A group of government securities dealers that submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities, broker/dealers, banks and a few unregulated firms.

Principal: The face value or par value of a debt instrument, or the amount of capital invested in a given security.

Prospectus: A legal document that must be provided to any prospective purchaser of a new securities offering registered with the SEC that typically includes information on the issuer, the issuer's business, the proposed use of proceeds, the experience of the issuer's management, and certain certified financial statements (also known as an "official statement").

Prudent Investor Standard: An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the state, the so-called legal list. In other states, the trustee may invest in a security if it is one that would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

Purchase Date: The date in which a security is purchased for settlement on that or a later date.

Range Note: A debt security with a varied interest payment that depends on the number of days the designated index falls within (or in some cases outside) an established range of interest rates. Should rates move beyond the range on either end, the investor faces the risk of a reduced or zero interest payment for the applicable interest period.

Rate of Return: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

Rating Agency: Nationally recognized credit rating agency such as Fitch, Moody's or S&P.

Rating Category: A credit rating assignment by a Rating Agency shall mean (a) with respect to any long-term rating category, all ratings designated by a particular letter or

combination of letters, without regard to any numerical modifier, plus or minus sign or other modifier, and (b) with respect to any short-term or commercial paper rating category, all ratings designated by a particular letter or combination of letters and taking into account any numerical modifier, but not any plus or minus sign or other modifier.

Repurchase Agreement (RP or Repo): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement and the terms of the agreement are structured to compensate the buyer for this. Dealers use RP extensively to finance their positions. Exception: when the Fed is said to be doing RP, it is lending money, which is increasing bank reserves.

Reverse Repurchase Agreement (Reverse Repo): A counter party (e.g. investment dealer) buys the securities from the holder of securities (e.g. the Agency) with an agreement to sell them back at a fixed date. The counter party in effect lends the seller, (e.g. the Agency) money for the period of the agreement with terms of the agreement structured to compensate buyer.

Safekeeping: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

Secondary Market: A market for the repurchase and resale of outstanding issues following the initial distribution.

Securities: Investment instruments such as notes, bonds, stocks, money market instruments and other instruments of indebtedness of equity.

Sec Rule 15C3:1: See Uniform Net Capital Rule.

Securities and Exchange Commission: Agency created by Congress to protect investors in securities transactions by administering securities legislation.

Settlement Date: The date on which a trade is cleared by delivery of securities against funds.

Serial Bond: A bond issue, usually of a municipality, with various maturity dates scheduled at regular intervals until the entire issue is retired.

Sinking Fund: Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

Spread: The difference between two figures or percentages. It may be the difference between the bid (price at which a prospective buyer offers to pay) and asked (price at which an owner offers to sell) prices of a quote, or between the amount paid when bought and the amount received when sold.

Standard and Poor's Corporation (S&P): One of the three best-known rating agencies in the United States, the others being Moody's Investment Service, Inc. and Fitch IBCA, Inc. (Fitch).

Strip (Bonds): Brokerage-house practice of separating a bond into its principal and interest, which are then sold as zero-coupon bonds.

Supranationals: Multi-national organizations whereby member states transcend national boundaries or interests to share in the decision making to promote economic development in member countries.

Swap: An agreement between two parties (known as counterparties) where one stream of future interest payments is exchanged for another based on a specified principal amount.

Term Bond: Bonds comprising a large part or all of a particular issue, which come due in a single maturity. The issuer usually agrees to make periodic payments into a sinking fund for mandatory redemption of term bonds before maturity.

Time Certificate of Deposit: A non-negotiable certificate of deposit, which cannot be sold prior to maturity.

Total Return: The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. (Price Appreciation) + (Dividends paid) + (Capital gains) = Total Return

Treasury Bills: A noninterest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months or one year.

Treasury Bonds: Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

Treasury Notes: Medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

Trustee or trust company or trust department of a bank: A financial institution with trust powers which acts in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the bond contract.

Underwriter: A dealer which purchases a new issue of municipal securities for resale.

Uniform Net Capital Rule: Securities and Exchange Commission requirement that member firms as well as nonmember broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

U.S. Government Agencies: Instruments issued by various U.S. Government Agencies most of which are secured only by the credit worthiness of the agency.

U.S. Treasury Obligations: Debt obligations of the United States Government sold by the Treasury Department in the forms of Bills, Notes, and Bonds. Bills are short-term obligations that mature in 1 year or less and are sold based on a rate of discount. Notes are obligations that mature between 1 year and 10 years. Bonds are long-term obligations that generally mature in 10 years or more.

Weighted Average Maturity (WAM): The average maturity of all the securities that comprise a portfolio that is typically expressed in days or years.

Yield: The rate of annual income returns on an investment, expressed as a percentage. (a) Income Yield is obtained by dividing the current dollar income by the current market price for the security. (b) Net Yield or Yield to Maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

Yield to Maturity: The rate of income returns on an investment, minus any premium or plus any discount, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond, expressed as a percentage.

Yield Curve: A graphic representation that shows the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity.

Zero-coupon Securities: Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.

CITY OF PITTSBURGINVESTMENT POLICY
(September 17, 2018)

I. Statement of Purpose and Adoption of Policy

It shall be the investment policy of the City of Pittsburg (the "City") that all funds not required for immediate expenditures are invested in compliance with this statement, as well as applicable federal, state and local legislation governing the investment of public funds. Funds shall be invested in a manner that will provide the highest investment return with the appropriate level of security, while meeting the daily cash flow demands of the City.

Safeguards will be set into place to ensure that adequate operating reserves are established and maintained to provide that cash in enough amounts will be available to pay for immediate expenditures as authorized by the City's budget. Funds so maintained will be deposited in a manner best serving the City.

The City has a responsibility to monitor the security of its assets and always maintain a level of quality so that the public at large will have the highest confidence that its best interests are being served.

The purpose of this document is to identify various policies and procedures that enhance opportunities for a systemic investment process. The initial step toward a prudent investment policy is to organize and formalize investment related activities. Related activities, which comprise good cash management, include accurate cash projection, the expeditious collection of revenue, the control of disbursements, cost effective banking relations and a short-term borrowing program, which coordinates working capital requirements and investment opportunities.
The City's Investment Policy shall be adopted by resolution of City Council. The policy shall be reviewed at least annually by the City Treasurer, City Manager and the Finance Director, and any modification must be approved by City Council.

II. SCOPE

It is intended that this policy cover all operating funds and investment activities under the direct authority of the City. These funds are described in the City's Comprehensive Annual Financial Report and include its General Fund, Special Revenue Funds, Enterprise Funds, Trust and Agency Funds, Capital Project Funds and Successor Agency Trust Funds.

The Investment Policy applies to all transactions involving the financial assets and related activities of the foregoing funds. Except for cash held in separate restricted funds, the City will pool cash balances from all funds for investments to maximize earnings and efficiencies concerning investment pricing, safekeeping and administration. Investment income will be allocated to the City's funds based upon

their respective average monthly balances and in accordance with Generally Accepted Accounting Principles (GAAP).

The employee's retirement and deferred compensation funds are not included. Bond proceeds are not covered under this policy and shall be governed by their applicable bond documents. However, if the bond documents are silent in regard to the investment of bond proceeds and reserves, the terms set forth in this policy shall govern the respective investment of bond proceeds.

III. OBJECTIVES AND PERFORMANCE STANDARDS

The overall program shall be designed and managed with a degree of professionalism worthy of the public trust. The City's primary investment objectives, in priority order, shall be:

1. **Safety:** Safety of principal is the foremost objective the City's investment program, followed by liquidity and yield. Investments of the City shall be undertaken in a manner that seeks to ensure the preservation of capital in the City's portfolio. To obtain this objective, the City will diversify its investment by investing funds among a variety of securities offering independent returns and financial institutions. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they are from securities default or erosion of market value. Investment decisions should not incur unreasonable investment risks in order to obtain current investment income.

2. **Liquidity:** The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements, which might be reasonably anticipated. This need for investment liquidity may be tempered to the extent that the City is able to issue short-term notes to meet its operating requirements. Emphasis will be on marketable securities with low sensitivity to market risk. Maturities of investments for which there is limited opportunity for resale shall be staggered to maximize liquidity.

3. **Yield**: The City maintains an active investment strategy and its investment portfolio shall be designed to attain a rate of return which approximates benchmarks to be selected by the City's investment advisory committee throughout budgetary and economic cycles, taking into account the City's investment risk constraints, the cash flow characteristics of the portfolio, and state and local laws, ordinances or resolutions that restricts the investment of funds.

IV. DELEGATION OF AUTHORITY

Pursuant to California Government Code 53607 and the City's Municipal Code, the City Council's management responsibility for the investment program is hereby delegated for a one-year period to the Finance Director who shall be responsible for the investment of idle funds consistent with this investment policy. Subject to review, the City Council may renew the delegation of authority pursuant to this section each year. The Finance Director may delegate these duties to his/her designee upon approval of the City Council. The day-to-day investment decision-

making and execution authority may also be delegated to an investment advisor under the supervision of the Finance Director. The investment advisor shall follow this Policy and such other written instructions as are provided.

V. PRUDENCE AND RISK TOLERANCE

The City recognizes that investment risks of the following can result from issuer defaults, market price changes or various technical complications leading to temporary liquidity:

1. Credit risk is the possibility that deterioration of an issuer's creditworthiness will adversely affect the value of its bonds or that an issuer will not make timely payments of interest or principal on its bonds (default). A decline in a bond issuer's credit rating, or creditworthiness, may cause prices for its outstanding bonds to decline. This shall be mitigated by limiting investments to those allowed under this policy and by diversification.

2. Market or Interest Rate risk, defined as market value fluctuations due to overall changes in market price, shall be mitigated by eliminating the need to sell securities prior to maturity and investing operating funds needed for short-term liquidity primarily in short-term securities, money market funds or similar investment pools, thereby limiting the average maturity of the portfolio. Investment shall be made with that degree of judgment and care, under circumstances then prevailing, which persons or prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the safety of their capital as well as the income to be derived.

The standard of prudence to be used by investment officers shall be the "prudent investor standard" and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the City's investment policy and exercising due diligence shall be relieved of personal liability for an individual security credit risk or market price changes, if deviations from expectations are reported on a timely fashion, and appropriate action is taken to control adverse developments.

VI. INTERNAL CONTROLS

A system of internal controls will be maintained to assure compliance with Federal and State regulations, City Council direction, and prudent cash management procedures.

The controls shall be designed to prevent losses of public funds arising from fraud, employee error, and misrepresentation by third parties, unanticipated changes in financial markets or imprudent actions by employees and officers of the City. Controls deemed most important include: control of collusion, segregation of duties, separating transaction authority from accounting and recordkeeping, custodial safekeeping, clear delegation of authority, specific limitations regarding securities losses and remedial action, written confirmation of telephone transactions, minimizing the number of authorized investment officials, documentation of

transactions and strategies, and code of ethical standards. In addition, whenever possible, pre-formatted wire transfers will be used to transfer funds to pre-authorized accounts.

1. The City Treasurer shall audit and examinee all investments made by the City, or its duly authorized personnel, at those times deemed necessary by him/her and shall in his/her discretion report his/her audit and examination to the City Council.

2. Investment Oversight Committee: Quarterly review of procedures and adherence to this Investment Policy is conducted by the Investment Oversight Committee. The Committee, established by the City Council, is comprised of the City Manager, Finance Director, and City Treasurer.

3. Annual Audit: The City's portfolio is included in the annual review of the City's financial management performed by an outside audit firm.

VII. ETHICS AND CONFLICTS OF INTEREST

Officers and employees involved in the investment process shall not participate in personal business activity that could conflict with proper execution of the investment program or which could impair the ability to make impartial investment decisions. Such employees and investment officials shall disclose any material financial interests in financial institutions that conduct business with the City, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio.

VIII. ELIGIBLE INVESTMENTS

California Government Code Sections 53600 et. seq. provides basic investment limits and guidelines for government entities. Within the investments permitted by the Government Code, the City seeks to further restrict eligible investment to the investments listed below. In the event an apparent discrepancy is found between this policy and the Government Code, the more restrictive parameters will take precedence.

Rating requirements and percentage limitations, where indicated, apply *at the time of purchase*. In the event a security held by the City is subject to a rating change that brings it below the minimum specified rating requirement, the Finance Director shall notify the City Council of the change. The course of action to be followed will then be decided on a case-by-case basis, considering such factors as the reason for the rate drop, prognosis for recovery or further rate drops, and the market price of the security.

Eligible Investments

1. **Securities of the U.S. Government**:

   United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the

payment of principal and interest. There is no limitation as to the percentage of the City's portfolio that may be invested in this category.

2. **Securities of U.S. Government Agencies**
Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There is no limitation as to the percentage of the City's portfolio that may be invested in this category.

3. **California State and Local Agency Obligations**

Obligations of the State of California or any local agency within the state that are general obligation bonds or essential service bonds secured with revenue from a water, sewer, power or electric system, provided that such obligations are rated in one of the top three rating categories by a nationally recognized statistical rating organization (NRSRO.)

4. **Other State Obligations**

Registered treasury notes or bonds of any of the other 49 United States in addition to California, including general obligation bonds or bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by a state or by a department, board, agency or authority of any of the other 49 United States, in addition to California, provided that such obligations are rated in one of the top three rating categories by a NRSRO.

5. **Bankers Acceptances**

Time drafts or bills of exchange that are drawn on and accepted by a commercial bank and brokered to investors in the secondary market. Purchasers are limited to issuers whose short-term debt is rated in the highest short-term rating category by a NRSRO. Banker's acceptances cannot exceed a maturity of 180 days. A maximum of 40% of the City's portfolio may be invested in this category.

6. **Commercial paper**

The City may purchase commercial paper with short-term ratings of "A-1" or the equivalent or higher by a NRSRO. Long-term ratings, if any, must be "A" category or its equivalent or higher by a NRSRO. The entity that issues the commercial paper shall meet all the following conditions in either paragraph (A) or paragraph (B):

(A) The entity meets the following criteria: (i) Is organized and operating in the United States as a general corporation. (ii) Has total assets more than five hundred million dollars ($500,000,000). (iii) Has debt other than

commercial paper, if any, that is rated in the "A" category or its equivalent or higher by a NRSRO

(B) The entity meets the following criteria: (i) Is organized within the United States as a special purpose corporation, trust, or limited liability company. (ii) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond. (iii) Has commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Eligible commercial paper shall have a maximum maturity of 270 days or less and not represent more than 10 percent of the outstanding paper of an issuing corporation. A maximum of 25 percent of the City's portfolio may be invested in this category.

7. **Negotiable Certificates of Deposit (NCDs)**

Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state or federally licensed branch of a foreign bank. Purchases are limited to institutions with short-term ratings of "A-1" or its equivalent or higher by a NRSRO; or long-term obligations rated in a category of "A" or its equivalent or higher by a NRSRO. A maximum of 30 percent of the City's portfolio may be invested in this category.

8. **Time Deposits**

The City may invest in non-negotiable time deposits (CDs) that are FDIC insured or fully collateralized in financial institutions located in California, including United States branches of foreign banks licensed to do business in California.

To be eligible for purchase, the financial institution must have received a minimum overall satisfactory rating for meeting the credit needs of California Communities in its most recent evaluation, as provided Government Code Section 53635.2. Purchase are further limited to financial institutions meeting all capital requirements and rated in one of the three highest rating categories by a NRSRO organization. All time deposits must be collateralized in accordance with California Government Code sections 53650 et. seq. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance. The maximum maturity of a time certificate of deposit shall not exceed 1 year. A maximum of 30 percent of the City's portfolio may be invested in this category.

9. **Repurchase Agreements**

The City may enter into repurchase agreements with primary government securities dealers rated in the one of the three highest categories by two NRSROs. Counterparties should also have (i) a short-term credit rating in the highest category; (ii) minimum assets and capital size of $25 billion in assets and $350 million in capital; (iii) five years of acceptable audited financial results; and (iv) a strong reputation among market participants.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities will be acceptable collateral. All securities underlying repurchase agreements must be delivered to the City's custodian bank delivery versus payment or be handled under a properly executed tri-party repurchase agreement. The total market value of all collateral for each repurchase agreement must equal or exceed 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any repurchase agreement with a term of more than one day, the value of the underlying securities must be reviewed on a weekly basis according to market conditions. Since the market value of the underlying securities is subject to daily market fluctuations, the investment in repurchase agreements shall comply if the value of the underlying securities is brought back up to 102 percent no later than the next business day. Market value must also be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to repurchase agreement. The City shall have properly executed a master repurchase agreement with each counter party with which it enters into repurchase agreements. Repurchase agreements are to be used solely as short-term investments not to exceed 90 days. A maximum of 15 percent of the City's portfolio may be invested in this category.

10. **Medium Term Notes**

Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Purchases are limited to securities rated in one of the three highest categories by a NRSRO. A maximum of 30 percent of the City's portfolio may be invested in this category.

11. Asset-Backed Securities

A mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision must be rated in one of the two highest rating categories by a NRSRO and shall be issued by an institution rated in one of the three highest rating categories by a NRSRO. A maximum of 20 percent of the City's portfolio may be invested in this category.

12. **Supranational Securities**

United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years

or less, and eligible for purchase and sale within the United States. Securities eligible for investment under this subdivision must be rated in one of the two highest rating categories by a NRSRO. A maximum of 30 percent of the City's portfolio may be invested in this category.

13. **Money Market Funds**

Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.). To be eligible for purchase, the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of $500,000,000.

A maximum of 20 percent of the City's portfolio may be invested in this category (10 percent limit per fund).

14. **State of California's Local Agency Investment Fund (LAIF)**

The Local Agency Investment Fund was established by the State to enable local agency treasurers to place funds in a pool for investment (California Government Code Section 16429.1 et seq.). The City uses this investment vehicle for short-term liquidity, investment, and yield when rates are declining. Funds are available on demand and interest is paid quarterly. The City may invest up to the maximum permitted by the LAIF.

15. **California Asset Management Program (CAMP)**

Shares of beneficial interest issued by a joint powers authority organized pursuant to Government Code Section 6509.7 that invests the securities and obligations authorized in subdivisions (a) to (n), inclusive, of Government Code Section 53601.

Summary of Investment Requirements[1]

Investment Type	City Minimum Quality Parameters	Code Minimum Quality Parameters	City Maximum % of Portfolio	Code Maximum % of Portfolio	City Maximum Maturity	Code Maximum Maturity

Investment Type	City Minimum Quality Parameters	Code Minimum Quality Parameters	City Maximum % of Portfolio	Code Maximum % of Portfolio	City Maximum Maturity	Code Maximum Maturity
U.S. Treasury Obligations	None	None	None	None	5 Years	5 Years
Federal Agency Obligations	None	None	None	None	5 Years	5 Years
Bankers Acceptances	A-1/P-1	None	40%/5% issuer[2]	40%/ 30% issuer	180 Days	180 Days
State and Local Obligations	"A-" rated obligation	None	30%/5% issuer[2]	None	5 years	5 years
Commercial Paper	"A-1" ST, "A" if LT ratings	"A-1" ST, "A" of LT ratings	25%/5% issuer[2]	25%	270 Days	270 Days
Negotiable Certificates of Deposits	"A-1" ST or "A" LT rated financial institutions	None	30%/5% issuer[2]	30%	5 Years	5 Years
Certificates of Deposit	"A" rated financial institutions	None	30%/5% issuer[2]	None	1 Year	None
Repurchase Agreements	"A" rated primary dealers	None	15%/5% issuer[2]	None	90 Days	1 Year
Medium-Term Notes	A	A	30%/5% issuer[2]	30%	5 Years	5 Years
Asset-backed Securities	"AA" security/"A" rated financial institutions	AA" security/"A" rated financial institutions	20%/5% issuer[2]	20%	5 Years	5 Years
Money Market[3] Funds	Multiple[3]	Multiple[3]	20%/ 10% per fund	20%	N/A	N/A
Local Agency Investment Fund	None	None	Up to LAIF statutory limit[4]	Up to LAIF statutory limit	N/A	N/A
CAMP[5]	None	None	None	None	N/A	N/A
Supranationals	"AA"	"AA"	30%/10% issuer	30%	5 Years	5 Years

Notes:

1. The table is a summary of the key requirements. Additional requirements may apply as listed under this Policy and California Government Code Section 53601.
2. The Policy limits the portfolio's allocation to any one issuer, with the exception of U.S. Treasury securities, Federal Agency securities, supranationals, money market funds, LAIF, and authorized pools, or unless otherwise authorized in this investment policy, to no more than 5 percent of the portfolio.
3. Must receive the highest rating by two of the three largest NRSROs or the fund must retain an investment advisor who is registered with the SEC and has not less than five years experience managing money market funds with assets under management in excess of $500 million.
4. There is a $65 million cap for the City of Pittsburg funds, the LAIF maximum as of July 2018. LAIF limits may change from time to time.
5. CAMP is California Asset Management Program.

IX. DIVERSIFICATION AND RISK MANAGEMENT

To reduce portfolio risk while attaining market average rates, the City's portfolio will be suitably diversified by type and institution. Except for U.S. Treasury securities, Federal Agency securities, supranationals, money market funds, LAIF, and authorized pools, no more than 30 percent of the total portfolio, and less where stated, will be invested in a single security type with no more than 5 percent invested with a single issuer, unless otherwise specified in this investment policy.

The City may elect to sell a security prior to its maturity and record a capital gain or loss to manage the quality, liquidity or yield of the portfolio in response to market conditions or City's risk preferences.
The City further recognizes that certain types of securities, including variable rate securities, securities with principal paydowns prior to maturity, and securities with embedded options, will affect the market risk profile of the portfolio differently in different interest rate environments. The City, therefore, adopts the following strategies to control and mitigate its exposure to market risk:

- The City will maintain a minimum of six months of budgeted operating expenditures in short term investments to provide sufficient liquidity for expected disbursements.

- The maximum percent of callable securities (does not include "make whole call" securities as defined in the Glossary) in the portfolio will be 20%.

- The duration of the portfolio will generally be approximately equal to the duration (typically, plus or minus 20%) of a Market Benchmark, an index selected by the City based on the City's investment objectives, constraints and risk tolerances. Maximum maturities may not exceed five years.

X. MAXIMUM MATURITY

The City's cash management system is fully designed to accurately monitor and forecast revenues and expenditures thus enabling the City to invest funds possible.

To the extent possible, the City will attempt to match investments with anticipated cash flow requirements. Because of inherent difficulties in accurately forecasting cash flow requirements, a portion of the portfolio should be continuously invested in readily available funds

Where this Policy does not specify a maximum remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase agreement, that at the time of the investment has a term remaining to maturity in excess of five years, unless the City Council has granted express authority to make that investment either specifically or as a part of an investment program approved by the City Council no less than three months prior to the investment.

XI. INELIGIBLE INVESTMENTS

Investments not described herein, including but not limited to common stocks and financial futures contracts and options, are prohibited in this fund. As provided in California Government Code Section 53601.6, the City shall not invest any funds in inverse floaters, range notes, mortgage derived interest-only strips or in any security that could result in zero interest accrual if held to maturity. The purchase of any security not listed in Section 8 above, but permitted by the California Government Code, is prohibited unless the City Council approves the investment specifically or as a part of an investment program approved by the City Council.

XII. BANKS AND SECURITIES DEALERS

The Finance Director shall maintain a list of authorized broker/dealers and financial institutions, which are approved for investment purposes. It shall be the City's policy to purchase securities only from those authorized institutions and firms. The City shall annually send a copy of the current investment policy to all dealers approved to do business with the City. Each broker dealer or financial institution that has been authorized by the City shall be required to submit the firm's most recent financial statement. If an investment advisor is used, they may use their own list of approved broker/dealers and financial institutions for investment purposes.

XIII. SAFEKEEPING AND CUSTODY

All security transactions entered by the City shall be conducted on a delivery-versus-payment (DVP) basis. All cash and securities in the City's portfolio, including those that are managed by an investment advisor, shall be held in safekeeping in the City's name by a third-party bank trust department, acting as agent for the City under the terms of a custody agreement executed by the bank and the City. The only exception to the foregoing shall be depository accounts and securities purchases made with: (i) local government investment pools; (ii) time certificates of deposit, and, (iii) money market mutual funds, since the purchased securities are not deliverable. Evidence of each these investments will be held in the Treasury vault. The safekeeping institution shall annually provide a copy of their most recent report on internal controls (Statement of Auditing Standards No. 70, or SAS 70).

XIV. PERFORMANCE STANDARDS

The investment portfolio will be designed to obtain a market-average rate of return during budgetary and economic cycles, considering the City's investment risk constraints and cash flow needs.

XV. REPORTING REQUIREMENTS

A Quarterly Investment report shall be provided to the City Council, City Manager, and Finance Director.

1. A quarterly investment report will be submitted within 60 days following the period being reported to the City Council. Reports of the investment of bond proceeds are issued monthly by the Trustee and are included in the quarterly report of the pooled investment fund. The quarterly investment report shall include information on the following:
   - Type of Investment
   - Issuer
   - Date of Maturity
   - Par and dollar amount invested on all securities
   - Current market value of each security and the source of the valuation
   - Credit quality of each investment, as determined by one or more nationally recognized credit rating services
   - Listing of investment transactions for the quarter being reported upon.
   - Statement that portfolio follows investment policy, or the way the portfolio is not in compliance
   - Statement denoting ability of City to meet its expenditure requirements for the next six months, or provide enough explanation why money is not available

XVI. INVESTMENT POLICY REVIEW

The Finance Director shall periodically submit to the City Council a statement of investment policy outlining any proposed changes, which the City Council must consider at a public meeting.

Glossary of Terms

Accrued Interest: Interest earned but not yet received.

Active Deposits: Funds which are immediately required for disbursement.

Amortization: An accounting practice of gradually decreasing (increasing) an asset's book value by spreading its depreciation (accretion) over a period.

Arbitrage: Transactions by which securities are bought and sold in different markets at the same time for the sake of the profit arising from a yield difference in the two markets.

Asked Price: The price a broker/dealer offers to sell securities.

Average Life: The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund features is expected to be outstanding.

Bankers' Acceptance (BA): A draft or bill of exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Basis Point: One basis point is one hundredth of one percent (.01).

Bid Price: The price a broker/dealer offers to purchase securities.

Bond: A financial obligation for which the issuer promises to pay the bondholder a specified stream of future cash flows, including periodic interest payments and a principal repayment.

Book Entry: The system maintained by the Federal Reserve, by which most money market securities are delivered to an investor's custodial bank. The Federal Reserve maintains a computerized record of the ownership of these securities and records any changes in ownership corresponding to payments made over the Federal Reserve wire (delivery versus payment.)

Book Value: The value at which a debt security is shown on the holder's balance sheet. Book value is acquisition cost less amortization of premium or accretion of discount.

Broker: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not take a position. In the money market, brokers are active in markets in which banks buy and sell money and in interdealer markets.

Callable Bond: A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

Call Price: The price at which an issuer may redeem a bond prior to maturity. The price is usually at a slight premium to the bond's original issue price to compensate the holder for loss of income and ownership.

Call Risk: The risk to a bondholder that a bond may be redeemed prior to maturity.

Cash Sale/Purchase: A transaction which calls for delivery and payment of securities on the same day that the transaction is initiated.

Certificate of Deposit (CD): A time deposit with a specific maturity evidenced by a Certificate. Large-denomination CDs are typically negotiable.

Collateral: Securities, evidence of deposit or other property, which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

Commercial Paper: A short-term, unsecured, and negotiable promissory note with a fixed maturity of no more than 270 days. By statute, these issues are exempt from registration with the U.S. Securities and Exchange Commission.

Comprehensive Annual Financial Report (CAFR): The official annual financial report for public sector entities/companies. It includes five combined statements and basic financial statements for each individual fund and account group prepared in conformity with Generally Accepted Accounting Principles (GAAP).

Convexity: A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

Coupon: The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

Credit Analysis: A critical review and appraisal of the economic and financial conditions or of the ability to meet debt obligations.

Credit Risk: The risk to an investor that an issuer will default in the payment of interest and/or principal on a security and a loss will result.

Current Yield: The interest paid on an investment expressed as a percentage of the current price of the security.

Custodian: A bank or other financial institution that keeps custody of stock certificates and other assets.

Dealer: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his or her own account.

Debenture: A bond secured only by the general credit of the issuer.

Defeased Bond Issues: Issues that have sufficient money to retire outstanding debt when due so that the agency is released from the contracts and covenants in the bond document.

Delivery versus Payment: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free delivery). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

Derivative: Securities that are based on, or derived from, some underlying asset, reference date, or index.

Discount: The difference between the cost of a security and its value at maturity when quoted at lower than face value.

Diversification: Dividing investment funds among a variety of securities offering independent returns.

Duration: A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate, and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

Face Value: The principal amount owed on a debt instrument. It is the amount on which interest is computed and represents the amount that the issuer promises to pay at maturity.

Fair Value: The amount at which a security could be exchanged between willing parties, other than in a forced or liquidation sale. If a market price is available, the fair value is equal to the market value.

Federal Farm Credit Bank (FFCB): Government-sponsored institution that consolidates the financing activities of the Federal Land Banks, the Federal Intermediate Credit Banks and the Banks for Cooperatives. Its securities do not carry direct U. S. Government guarantees.

Federal Funds Rate: The rate of interest at which Federal funds are traded. This rate is considered the most sensitive indicator of the direction of interest rates, as it is currently pegged by the Federal Reserve through open-market operations.

Federal Home Loan Banks (FHLB): Government sponsored wholesale banks, which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac): Established in 1970 to help maintain the availability of mortgage credit for residential housing. FHLMC finances these operations by marketing guaranteed mortgage certificates and mortgage participation certificates. Its discount notes and bonds do not carry direct U.S. Government guarantees.

Federal National Mortgage Association (FNMA): FNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (H.U.D.). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

Federal Open Market Committee (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

Federal Reserve System: The central bank of the U.S., which consists of seven-member Board of Governors, 12 regional banks, and about 5,700 commercial banks that are members.

Fitch IBCA, Inc. (Fitch): One of the three best-known rating agencies in the United States, the others being Moody's Investment Service, Inc. and Standard and Poor's Corporation.

Government Accounting Standards Board (GASB): A standard-setting body, associated with the Financial Accounting Foundation, which prescribes standard accounting practices for governmental units.

Government National Mortgage Association (GNMA or Ginnie Mae): Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by FHA or VA mortgages. The term pass-through is often used to describe Ginnie Maes.

Government Securities: An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See "Treasury Bills, Notes, and Bonds."

Guaranteed Investment Contracts (GICS): An agreement acknowledging receipt of funds, for deposit, specifying terms for withdrawal, and guaranteeing a rate of interest to be paid.

Inactive Deposits (Idle Funds): Funds not immediately needed for disbursement.

Investment-Grade Obligations: An investment instrument suitable for purchase by institutional investors under the prudent person rule. Investment-grade is restricted to those obligations rated BBB or higher by a rating agency.

Interest Rate Risk: The risk of gain or loss in market values of securities due to changes in interest-rate levels. For example, rising interest rates will cause the market value of portfolio securities to decline.

Inverse Floating Rate Note: A debt security with an interest rate stated as a fixed rate minus an index. This calculation causes the rate on the inverse floater to move in the opposite direction of general interest rates. This instrument generally performs well in a declining interest rate environment but will lose value if rates rise.

Liquidity: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between the bid and asked prices is narrow and reasonable size can be done at those quotes.

Local Agency: County, City, City and County, including a chartered city or county, school district, community college district, public district, or any public or municipal corporation.

Local Agency Investment Fund (LAIF): An investment pool managed by the California State Treasurer. Local government units, with consent of the governing body of that agency, may voluntarily deposit surplus funds for the purpose of investment. Interest earned is distributed by the State Controller to the participating governmental agencies on a quarterly basis.

Make whole call: A type of call provision on a bond that allows the issuer to pay off the remaining debt early. Unlike a call option, with a make whole call provision, the issuer makes a lump sum payment that equals the net present value (NPV) of future coupon payments that will not be paid because of the call. With this type of call, an investor is compensated, or "made whole."

Mark-to-market: The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Risk: Systematic risk of a security that is common to all securities of the same general class (stocks, bonds, notes, money market instruments) and cannot be eliminated by diversification (which may be used to eliminate non-systematic risk).

Market Value: The price at which a security is trading and could presumably be sold.

Master Repurchase Agreement: A written contract covering all future transactions between the parties to repurchase agreements and reverse repurchase agreements that establish each person's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity: The date upon which the principal or stated value of an investment becomes due and payable.

Medium Term Notes: Instruments issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States.

Modified Duration: A measure of exposure to market risk of a security or a portfolio. It is the percent change in the price of a security (portfolio) or a 100-basis point change in the security's (portfolio's) yield.

Money Market: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptance, etc.) are issued and traded.

Money Market Mutual Fund: Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repos and federal funds).

Moody's: Moody's Investment Service, Inc. One of the three best-known rating agencies in the United States, the others being Standard and Poor's Corporation (S&P) and Fitch IBCA, Inc. (Fitch).

National Association of Securities Dealers (NASD): A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

NATIONAL RECOGNIZED STATISTICAL RATING ORGANIZATION (NRSRO):
A rating organization designated by the SEC as being nationally recognized, such as Moody's Investor Service, Inc. (Moody's), Standard & Poor's (S&P), and Fitch Ratings (Fitch).

Net Asset Value: The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets, which includes securities, cash, and any accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio. [(Total assets) - (Liabilities)] / (Number of shares outstanding)

Negotiable Certificate of Deposit: A large denomination certificate of deposit, which can be sold in the open market prior to maturity.

Nominal Yield: The stated rate of interest that a bond pays its current owner, based on par value of the security. It is also known as the "coupon," "coupon rate," or "interest rate."

New Issue: Term used when a security is originally "brought" to market.

Note: A written promise to pay a specified amount to a certain entity on demand or on a specified date.

Open Market Operations: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the Federal Open Market Committee, (FOMC), to influence the volume of money and credit in

the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit: Sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

Par Value: The amount of principal that must be paid at maturity. Also referred to as the face amount of a bond, normally quoted in $1,000 increments per bond.

Portfolio: Collection of securities held by an investor.

Premium: The amount by which the price paid for a security exceeds the security's par value.

Primary Dealer: A group of government securities dealers that submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities, broker/dealers, banks and a few unregulated firms.

Principal: The face value or par value of a debt instrument, or the amount of capital invested in a given security.

Prospectus: A legal document that must be provided to any prospective purchaser of a new securities offering registered with the SEC that typically includes information on the issuer, the issuer's business, the proposed use of proceeds, the experience of the issuer's management, and certain certified financial statements (also known as an "official statement").

Prudent Investor Standard: An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the state, the so-called legal list. In other states, the trustee may invest in a security if it is one that would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

Purchase Date: The date in which a security is purchased for settlement on that or a later date.

Range Note: A debt security with a varied interest payment that depends on the number of days the designated index falls within (or in some cases outside) an established range of interest rates. Should rates move beyond the range on either end, the investor faces the risk of a reduced or zero interest payment for the applicable interest period.

Rate of Return: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

Rating Agency: Nationally recognized credit rating agency such as Fitch, Moody's or S&P.

Rating Category: A credit rating assignment by a Rating Agency shall mean (a) with respect to any long-term rating category, all ratings designated by a particular letter or

combination of letters, without regard to any numerical modifier, plus or minus sign or other modifier, and (b) with respect to any short-term or commercial paper rating category, all ratings designated by a particular letter or combination of letters and taking into account any numerical modifier, but not any plus or minus sign or other modifier.

Repurchase Agreement (RP or Repo): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement and the terms of the agreement are structured to compensate the buyer for this. Dealers use RP extensively to finance their positions. Exception: when the Fed is said to be doing RP, it is lending money, which is increasing bank reserves.

Reverse Repurchase Agreement (Reverse Repo): A counter party (e.g. investment dealer) buys the securities from the holder of securities (e.g. the Agency) with an agreement to sell them back at a fixed date. The counter party in effect lends the seller, (e.g. the Agency) money for the period of the agreement with terms of the agreement structured to compensate buyer.

Safekeeping: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

Secondary Market: A market for the repurchase and resale of outstanding issues following the initial distribution.

Securities: Investment instruments such as notes, bonds, stocks, money market instruments and other instruments of indebtedness of equity.

Sec Rule 15C3:1: See Uniform Net Capital Rule.

Securities and Exchange Commission: Agency created by Congress to protect investors in securities transactions by administering securities legislation.

Settlement Date: The date on which a trade is cleared by delivery of securities against funds.

Serial Bond: A bond issue, usually of a municipality, with various maturity dates scheduled at regular intervals until the entire issue is retired.

Sinking Fund: Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

Spread: The difference between two figures or percentages. It may be the difference between the bid (price at which a prospective buyer offers to pay) and asked (price at which an owner offers to sell) prices of a quote, or between the amount paid when bought and the amount received when sold.

Standard and Poor's Corporation (S&P): One of the three best-known rating agencies in the United States, the others being Moody's Investment Service, Inc. and Fitch IBCA, Inc. (Fitch).

Strip (Bonds): Brokerage-house practice of separating a bond into its principal and interest, which are then sold as zero-coupon bonds.

Supranationals: Multi-national organizations whereby member states transcend national boundaries or interests to share in the decision making to promote economic development in member countries.

Swap: An agreement between two parties (known as counterparties) where one stream of future interest payments is exchanged for another based on a specified principal amount.

Term Bond: Bonds comprising a large part or all of a particular issue, which come due in a single maturity. The issuer usually agrees to make periodic payments into a sinking fund for mandatory redemption of term bonds before maturity.

Time Certificate of Deposit: A non-negotiable certificate of deposit, which cannot be sold prior to maturity.

Total Return: The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. (Price Appreciation) + (Dividends paid) + (Capital gains) = Total Return

Treasury Bills: A noninterest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months or one year.

Treasury Bonds: Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

Treasury Notes: Medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

Trustee or trust company or trust department of a bank: A financial institution with trust powers which acts in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the bond contract.

Underwriter: A dealer which purchases a new issue of municipal securities for resale.

Uniform Net Capital Rule: Securities and Exchange Commission requirement that member firms as well as nonmember broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

U.S. Government Agencies: Instruments issued by various U.S. Government Agencies most of which are secured only by the credit worthiness of the agency.

U.S. Treasury Obligations: Debt obligations of the United States Government sold by the Treasury Department in the forms of Bills, Notes, and Bonds. Bills are short-term obligations that mature in 1 year or less and are sold based on a rate of discount. Notes are obligations that mature between 1 year and 10 years. Bonds are long-term obligations that generally mature in 10 years or more.

Weighted Average Maturity (WAM): The average maturity of all the securities that comprise a portfolio that is typically expressed in days or years.

Yield: The rate of annual income returns on an investment, expressed as a percentage. (a) Income Yield is obtained by dividing the current dollar income by the current market price for the security. (b) Net Yield or Yield to Maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

Yield to Maturity: The rate of income returns on an investment, minus any premium or plus any discount, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond, expressed as a percentage.

Yield Curve: A graphic representation that shows the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity.

Zero-coupon Securities: Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/5/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of a City Council Resolution to Create a Master Pay Schedule as Required by California Public Employees' Retirement System

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

To comply with CalPERS' interpretation of the requirements of Code of Regulations section 570.5 by affirming the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule. The single master salary schedule will be submitted to Council for approval each time any single MOU or compensation plan is brought to the City Council for approval.

FISCAL IMPACT

The affirmation of previously approved separate pay schedules as a single master pay schedule has no fiscal impact to the City for preparation or distribution, as the actions already occurred.

RECOMMENDATION

The City Council adopt a resolution creating and affirming the City of Pittsburg's master pay schedule for all employee classifications, so the City is in compliance with the requirements of the California Code of Regulations section 570.5 and the California Public Employees' Retirement System (CalPERS) relating to publically available pay schedules for purposes of determining the amount of "compensation earnable" pursuant to Government Code Sections 20630, 20636, and 20636.1.

BACKGROUND

CalPERS, pursuant to their interpretation of California Code of Regulations section 570.5, recommends all CalPERS employers to maintain their compensation levels in one publicly available document, approved and adopted by the governing body, which must meet all of the following requirements:

•Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
•Identifies the position title for every employee position;
•Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
•Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
•Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
•Indicates an effective date and date of any revisions;
•Is retained by the employer and available for public inspection for not less than five years; and
•Does not reference another document in lieu of disclosing the pay rate.

Currently, the City attaches salary schedule information by represented bargaining group to the memorandum of understanding (MOU) governing each bargaining group, and for unrepresented employees includes such salary information in compensation plans approved by City Council. Following City Council approval of these various salary schedules, the approved schedules are incorporated into one master salary schedule. However, this master salary schedule has customarily not been approved by Council as a single document, even though it contains the collective salary information derived from individual MOUs which have been approved by Council. As such, the recommendation to list compensation levels for all positions on one document duly approved and adopted by the Council has not been satisfied consistent with CalPERS' interpretation of California Government Code of Regulations section 570.5.

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

The adoption of the resolution will comply with CalPERS' interpretation of the requirements of Code of Regulations section 570.5 by affirming the single master pay schedule already on the City's website representing all previously approved actions on the individual classifications of the pay schedule.

ATTACHMENTS: Resolution, Salary Schedule

Report Prepared By: Griselda Clift, Senior Human Resources Analyst

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Affirming Previously Adopted Employee Pay)
And Listing all Employee Compensation Levels) RESOLUTION NO. 18-
On a Publicly Available Master Pay Schedule)

The Pittsburg City Council DOES RESOLVE as follows:

WHEREAS, the California Public Employees' Retirement System (CalPERS), has requested all CalPERS employers list their compensation levels on one document, approved and adopted by the governing body, in accordance with California Code of Regulations section 570.5, and meeting all of the following requirements thereof:

- Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identifies the position title for every employee position;
- Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicates an effective date and date of any revisions;
- Is retained by the employer and available for public inspection for not less than five years; and
- Does not reference another document in lieu of disclosing the pay rate; and

WHEREAS, the City now desires to affirm previously approved compensationlevels for all bargaining groups and all compensation plans of the City of Pittsburgin one publicly available master pay schedule;

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1. The recitals set forth above are true and correct statements and are hereby incorporated.

Section 2. The City Council adopt this Resolution affirming previously approved compensation levels for all bargaining groups and all compensation plans of the City of Pittsburg in one publicly available master pay schedule.

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the17th day of September 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine “Pete” Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

CITY OF PITTSBURG
SALARY SCHEDULE 07/1/2018
FY18/19

CLASSIFICATION	RANGE	START	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	UNIT
Account Clerk (Part 1 of 2)	109	07/01/18	3,719	3,905	4,100	4,305	4,520			AFSCME
*Maximum with incentives									4,570	
Account Clerk (Part 2 of 2)	170	07/01/18	4,266	4,479	4,703	4,938	5,185			AFSCME
*Maximum with incentives									5,235	
Accountant I	350	07/01/18	5,639	5,921	6,217	6,528	6,854			MPC
*Maximum with incentives									6,904	
Accountant II	500	07/01/18	6,312	6,628	6,959	7,307	7,672			MPC
*Maximum with incentives									7,722	
Accounting Technician	220	07/01/18	4,981	5,230	5,492	5,767	6,055			AFSCME/MPC
*Maximum with incentives									6,105	
Administrative Analyst I	390	07/01/18	5,826	6,117	6,423	6,744	7,081			MPC
*Maximum with incentives									7,131	
Administrative Analyst II	700	07/01/18	6,746	7,083	7,437	7,809	8,199			MPC
*Maximum with incentives									8,249	
Administrative Assistant (Part 1 of 2)	100	07/01/18	3,711	3,897	4,092	4,297	4,512			AFSCME
*Maximum with incentives									4,562	
Administrative Assistant (Part 2 of 2)	160	07/01/18	4,297	4,512	4,738	4,975	5,224			AFSCME/MPC
*Maximum with incentives									5,274	
Administrative Officer	860	07/01/18	9,137	9,594	10,074	10,578	11,107			MPC
*Maximum with incentives									11,157	
Administrative Specialist	290	07/01/18	5,324	5,590	5,870	6,164	6,472			MPC
*Maximum with incentives									6,522	
Assistant City Engineer	920	07/01/18	10,272	10,786	11,325	11,891	12,486			MPC
*Maximum with incentives									12,536	
Assistant City Manager	950	07/01/18	14,384				18,356			Sr. Exec Team
Assistant Director of Economic Development and Recreation	887	07/01/18	10,439				12,687			Mgmt Group
Assistant Director of Finance	887	07/01/18	10,439				12,687			Mgmt Group
Assistant Director of Public Works	895	07/01/18	11,195	11,755	12,343	12,960	13,608			MPC
*Maximum with incentives									13,658	
Assistant Planner	450	07/01/18	6,212	6,523	6,849	7,191	7,551			MPC
*Maximum with incentives									7,979	
Assistant to the City Manager	835	07/01/18	10,027				12,187			Mgmt Group
Associate Planner	740	07/01/18	7,191	7,551	7,929	8,325	8,741			MPC
*Maximum with incentives									9,228	
Building Inspection Supervisor	810	07/01/18	8,755	9,193	9,653	10,136	10,643			MPC
*Maximum with incentives									11,225	
Business Development Manager	860	07/01/18	9,137	9,594	10,074	10,578	11,107			MPC
*Maximum with incentives									11,157	
Business License Coordinator	315	07/01/18	5,500	5,775	6,064	6,367	6,685			AFSCME
*Maximum with incentives									6,735	
Chief Building Official	895	07/01/18	11,195	11,755	12,343	12,960	13,608			MPC
Chief of Police	955	07/01/18	14,656				18,528			Sr. Exec Team
*Maximum with incentives									22,512	
City Attorney	943	07/01/18					15,417			Contract
City Clerk							470			Elected Official
City Council							500			Elected Official

***Please see Benefit Matrix for education incentives, holiday pay and shift differential.** Council Approved on: 8/6/18; 8/20/18; 9/17/18

CITY OF PITTSBURG
SALARY SCHEDULE 07/1/2018
FY18/19

CLASSIFICATION	RANGE	START	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	UNIT
City Council -- member of a different governing board										
if serving on Tri Delta Transit		$100 per meeting		visit www.TriDeltaTransit.com						
if serving on Delta Diablo Sanitation District		$209 per meeting			visit ddsd.org					
City Engineer	935	7/1/2018	11,176				13,583			Mgmt Group
City Manager	960	7/1/2018					22,017			Contract
City Treasurer							470			Elected Official
Civil Engineer I	510	07/01/18	6,494	6,819	7,160	7,518	7,894			MPC
*Maximum with incentives									8,339	
Civil Engineer II	780	07/01/18	7,519	7,895	8,290	8,705	9,140			MPC
*Maximum with incentives									9,647	
Combination Building Inspector	520	07/01/18	6,522	6,848	7,190	7,549	7,926			AFSCME
*Maximum with incentives									7,976	
Community Outreach Coordinator	315	07/01/18	5,500	5,775	6,064	6,367	6,685			AFSCME
*Maximum with incentives									6,735	
Community Relations Manager	700	07/01/18	6,746	7,083	7,437	7,809	8,199			MPC
*Maximum with incentives									8,249	
Community Services Specialist	258	07/01/18	5,184	5,443	5,715	6,001	6,301			AFSCME
*Maximum with incentives									6,351	
Compliance Principal	830	07/01/18	8,261	8,674	9,108	9,563	10,041			MPC
*Maximum with incentives									10,593	
Contract Analyst	390	07/01/18	5,826	6,117	6,423	6,744	7,081			MPC
*Maximum with incentives									7,131	
Crime Analyst	700	07/01/18	6,746	7,083	7,437	7,809	8,199			MPC
*Maximum with incentives									8,249	
Customer Service Representative	95a	07/01/18	3,372	3,541	3,718	3,904	4,099			AFSCME
*Maximum with incentives									4,149	
Deputy City Clerk	330	07/01/18	5,590	5,870	6,164	6,472	6,796			MPC
*Maximum with incentives									6,846	
Development Manager	890	07/01/18	10,272	10,786	11,325	11,891	12,486			MPC
*Maximum with incentives									12,536	
Director of Community Development	940	07/01/18	12,300				15,547			Sr. Exec Team
Director of Community Services	940	07/01/18	12,300				15,547			Sr. Exec Team
Director of Finance	940	07/01/18	12,300				15,547			Sr. Exec Team
Director of Human Resources	940	07/01/18	12,300				15,547			Sr. Exec Team
Director of Public Works	945	07/01/18	13,292				16,158			Sr. Exec Team
Director of Records and Council Services	8351	07/01/18	10,027				12,187			Sr. Exec Team
Director of Recreation and Maintenance Services	920	07/01/18	11,176				13,583			Mgmt Group
Director of Water Utilities	935	07/01/18	12,792				15,547			Mgmt Group
Electrician	420	07/01/18	6,011	6,312	6,628	6,959	7,307			Teamsters
*Maximum with incentives									7,892	
Electrician Apprentice	200	07/01/18	4,801	5,041	5,293	5,558	5,836			Teamsters
*Maximum with incentives									6,128	
Engineering Analyst	820	07/01/18	7,809	8,199	8,609	9,039	9,491			MPC
*Maximum with incentives									9,541	
Engineering Technician I	310	07/01/18	5,444	5,716	6,002	6,302	6,617			AFSCME
*Maximum with incentives									6,667	

***Please see Benefit Matrix for education incentives, holiday pay and shift differential.** Council Approved on: 8/6/18; 8/20/18; 9/17/18

CITY OF PITTSBURG
SALARY SCHEDULE 07/1/2018
FY18/19

CLASSIFICATION	RANGE	START	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	UNIT
Engineering Technician II	460	07/01/18	6,304	6,619	6,950	7,297	7,662			AFSCME
*Maximum with incentives									7,712	
Environmental Affairs Manager	890	07/01/18	10,272	10,786	11,325	11,891	12,486			MPC
*Maximum with incentives									12,536	
Environmental Health Specialist	470a	07/01/18	6,243	6,555	6,883	7,227	7,588			AFSCME
*Maximum with incentives									7,638	
Equipment Mechanic	270	07/01/18	5,310	5,576	5,855	6,148	6,455			Teamsters
*Maximum with incentives									6,971	
Equipment Shop Supervisor	530	07/01/18	6,601	6,931	7,278	7,642	8,024			MPC
*Maximum with incentives									8,074	
Executive Assistant	400	07/01/18	5,871				7,136			Mgmt Group
Executive Secretary to the Chief of Police	330	07/01/18	5,590	5,870	6,164	6,472	6,796			MPC
*Maximum with incentives									6,846	
Finance Division Manager	855	07/01/18	8,985	9,434	9,906	10,401	10,921			MPC
*Maximum with incentives									10,971	
Financial Analyst	580	07/01/18	7,083	7,437	7,809	8,199	8,609			MPC
*Maximum with incentives									8,659	
GIS Coordinator	760	07/01/18	7,328	7,694	8,079	8,483	8,907			MPC
*Maximum with incentives									8,957	
Harbormaster	830	07/01/18	8,261	8,674	9,108	9,563	10,041			MPC
*Maximum with incentives									10,091	
Housing Inspector	315	07/01/18	5,500	5,775	6,064	6,367	6,685			AFSCME
*Maximum with incentives									6,735	
Housing Manager	855	07/01/18	8,985	9,434	9,906	10,401	10,921			MPC
*Maximum with incentives									10,971	
Housing Specialist	210	07/01/18	4,898	5,143	5,400	5,670	5,954			AFSCME
*Maximum with incentives									6,004	
Human Resources Analyst	700	07/01/18	6,746	7,083	7,437	7,809	8,199			MPC
*Maximum with incentives									8,249	
Human Resources Manager	890a	07/01/18	10,027				12,187			Mgmt Group
Human Resources Specialist	330	07/01/18	5,590	5,870	6,164	6,472	6,796			MPC
*Maximum with incentives									6,846	
Lead Community Services Specialist	415	07/01/18	6,001	6,301	6,616	6,947	7,294			AFSCME
*Maximum with incentives									7,344	
Lead Marina Services Worker	320	07/01/18	5,558	5,836	6,128	6,434	6,756			Teamsters
*Maximum with incentives									7,094	
Lead Police Records Clerk	255	07/01/18	5,225	5,486	5,760	6,048	6,350			AFSCME
*Maximum with incentives									6,400	
Lead Public Works Superintendent	885	07/01/18	10,685	11,219	11,780	12,369	12,987			MPC
*Maximum with incentives									13,037	
Maintenance Assistant	95	07/01/18	3,372	3,541	3,718	3,904	4,099			Teamsters
*Maximum with incentives									4,304	
Maintenance Lead Worker - Env. Services/Fac. Util.	320	07/01/18	5,558	5,836	6,128	6,434	6,756			Teamsters
*Maximum with incentives				**Maximum incentive of 8% MLW -Fac/Util & 5% MLW-Env. Services**					7,296	
Maintenance Worker I - Env. Services/Fac. Util.	140	07/01/18	4,148	4,355	4,573	4,802	5,042			Teamsters
*Maximum with incentives				**Maximum incentive of 8% MWII -Fac/Util & 5% MWII-Env. Services**					5,445	

***Please see Benefit Matrix for education incentives, holiday pay and shift differential.** Council Approved on: 8/6/18; 8/20/18; 9/17/18

CITY OF PITTSBURG
SALARY SCHEDULE 07/1/2018
FY18/19

CLASSIFICATION	RANGE	START	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	UNIT
Maintenance Worker II - Env. Services/Fac. Util.	200	07/01/18	4,801	5,041	5,293	5,558	5,836			Teamsters
*Maximum with incentives									6,303	
Marina Maintenance Worker	140	07/01/18	4,148	4,355	4,573	4,802	5,042			Teamsters
*Maximum with incentives									5,294	
Office Assistant	95a	07/01/18	3,372	3,541	3,718	3,904	4,099			AFSCME
*Maximum with incentives									4,149	
Payroll Specialist	330	07/01/18	5,590	5,870	6,164	6,472	6,796			MPC
*Maximum with incentives									6,846	
Permit Technician	260	07/01/18	5,253	5,516	5,792	6,082	6,386			AFSCME
*Maximum with incentives									6,436	
Pest Control Specialist	470	07/01/18	6,243	6,555	6,883	7,227	7,588			Teamsters
*Maximum with incentives									7,967	
Planning Manager	890	07/01/18	10,272	10,786	11,325	11,891	12,486			MPC
*Maximum with incentives									12,536	
Planning Technician	260	07/01/18	5,253	5,516	5,792	6,082	6,386			AFSCME
Police Captain	650	07/01/18	12,419	13,040	13,692	14,377	15,096	15,850		PMG
*Maximum with incentives and holiday pay									20,050	
Police Evidence Technician	260	07/01/18	5,253	5,516	5,792	6,082	6,386			AFSCME
*Maximum with incentives									6,436	
Police Lieutenant	640	07/01/18	10,827	11,368	11,937	12,533	13,160	13,818		PMG
*Maximum with incentives and holiday pay									17,480	
Police Officer	600	07/01/18	5,906	6,201	6,511	6,837	7,178	7,537	7,914	POA
Police Officer (Continuation of Steps)	600	07/01/18						8,310 (H)	8,725 (I)	POA
*Maximum with incentives, holiday pay and grave shift differential									12,782	
Police Records Clerk (Part 1 of 2)	110	07/01/18	3,898	4,093	4,298	4,513	4,739			AFSCME
									4,789	
Police Records Clerk (Part 2 of 2)	180	07/01/18	4,512	4,738	4,975	5,224	5,485			AFSCME
									5,535	
Police Records Supervisor	540	07/01/18	6,590	6,920	7,266	7,629	8,010			MPC
									8,060	
Police Sergeant	625	07/01/18	8,389	8,809	9,249	9,711	10,197	10,707		POA
*Maximum with incentives, holiday pay and grave shift differential									15,686	
Police Services Administrator	830	07/01/18	8,261	8,674	9,108	9,563	10,041			MPC
*Maximum with incentives									10,091	
Power Company Manager	920a	07/01/18	11,176				13,583			Mgmt Group
*Maximum with incentives									13,583	
Property and Evidence Coordinator	410	07/01/18	5,999	6,299	6,614	6,945	7,292			AFSCME
*Maximum with incentives									7,342	
Public Works Superintendent	880	07/01/18	9,230	9,691	10,176	10,685	11,219			MPC
*Maximum with incentives									11,269	
Public Works Supervisor	530	07/01/18	6,601	6,931	7,278	7,642	8,024			MPC
*Maximum with incentives									8,074	
Purchasing Analyst	720	07/01/18	7,037	7,389	7,758	8,146	8,553			MPC
*Maximum with incentives									8,603	
Records Specialist	330	07/01/18	5,590	5,870	6,164	6,472	6,796			AFSCME
*Maximum with incentives									6,846	

***Please see Benefit Matrix for education incentives, holiday pay and shift differential.** Council Approved on: 8/6/18; 8/20/18; 9/17/18

CITY OF PITTSBURG
SALARY SCHEDULE 07/1/2018
FY18/19

CLASSIFICATION	RANGE	START	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	UNIT
Recreation Coordinator	230	07/01/18	5,055	5,308	5,573	5,852	6,145			AFSCME
*Maximum with incentives									6,195	
Recreation Supervisor	550	07/01/18	6,603	6,933	7,280	7,644	8,026			MPC
*Maximum with incentives									8,076	
Redevelopment Project Manager	820	07/01/18	7,809	8,199	8,609	9,039	9,491			MPC
*Maximum with incentives									9,541	
Senior Administrative Analyst	820	07/01/18	7,809	8,199	8,609	9,039	9,491			MPC
*Maximum with incentives									9,541	
Senior Civil Engineer	860	07/01/18	9,137	9,594	10,074	10,578	11,107			MPC
*Maximum with incentives									11,157	
Senior Combination Building Inspector	760	07/01/18	7,328	7,694	8,079	8,483	8,907			MPC
*Maximum with incentives									8,957	
Senior Financial Analyst	790	07/01/18	8,200	8,610	9,040	9,492	9,967			MPC
*Maximum with incentives									10,017	
Senior Human Resources Analyst	820	07/01/18	7,809	8,199	8,609	9,039	9,491			MPC
*Maximum with incentives									9,541	
Senior Planner	840	07/01/18	8,326	8,742	9,179	9,638	10,120			MPC
*Maximum with incentives									10,676	
Senior Redevelopment Project Manager	860	07/01/18	9,137	9,594	10,074	10,578	11,107			MPC
*Maximum with incentives									11,157	
Sweeper Operator	140	07/01/18	4,148	4,355	4,573	4,802	5,042			Teamsters
*Maximum with incentives									5,294	
Utility Billing Supervisor	540	07/01/18	6,590	6,920	7,266	7,629	8,010			MPC
*Maximum with incentives									8,060	
Utility Lineworker	200	07/01/18	4,801	5,041	5,293	5,558	5,836			Teamsters
*Maximum with incentives									6,128	
Utility Supervisor	810	07/01/18	8,755	9,193	9,653	10,136	10,643			MPC
*Maximum with incentives									10,693	
Utility Technician I	705	07/01/18	6,794	7,134	7,491	7,866	8,259			Teamsters
*Maximum with incentives									8,672	
Utility Technician II	805	07/01/18	7,711	8,097	8,502	8,927	9,373			Teamsters
*Maximum with incentives									9,842	
Water Instrument/Maintenance Technician I	480	07/01/18	7,040	7,392	7,762	8,150	8,558			Teamsters
*Maximum with incentives									8,986	
Water Instrument/Maintenance Technician II	750	07/01/18	8,150	8,557	8,985	9,434	9,906			Teamsters
*Maximum with incentives									10,401	
Water Maintenance Mechanic I	480	07/01/18	7,040	7,392	7,762	8,150	8,558			Teamsters
*Maximum with incentives									8,986	
Water Maintenance Mechanic II	750	07/01/18	8,150	8,557	8,985	9,434	9,906			Teamsters
*Maximum with incentives									10,401	
Water Plant Apprentice Operator	200	07/01/18	4,801	5,041	5,293	5,558	5,836			Teamsters
*Maximum with incentives									6,128	
Water Plant Operator	560	07/01/18	7,071	7,425	7,796	8,186	8,595			Teamsters
*Maximum with incentives									9,755	
Water Plant Superintendent	883	07/01/18	9,692	10,177	10,686	11,220	11,781			MPC
*Maximum with incentives									12,231	

***Please see Benefit Matrix for education incentives, holiday pay and shift differential.** Council Approved on: 8/6/18; 8/20/18; 9/17/18

CITY OF PITTSBURG
SALARY SCHEDULE 07/1/2018
FY18/19

CLASSIFICATION	RANGE	START	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	STEP G	UNIT
Water Plant Supervisor	810	07/01/18	8,755	9,193	9,653	10,136	10,643			MPC
*Maximum with incentives									11,935	
Water Quality Analyst I	380	07/01/18	6,198	6,508	6,833	7,175	7,534			Teamsters
*Maximum with incentives									7,911	
Water Quality Analyst II	710	07/01/18	7,462	7,835	8,227	8,638	9,070			Teamsters
*Maximum with incentives									9,524	
SEASONAL CLASSIFICATIONS										
Expert Consultant	0910	03/16/15	30.00				100.00			n/a
High School Intern	0550	01/01/18					11.00			n/a
Intern (college-level)	0510	01/01/18	12.50		14.00		15.50		17.00	n/a
Maintenance Aide	0530	01/01/18	11.21	11.78	12.37	13.03	13.74	14.48	15.25	16.06 (H) | 16.92 (I)
Maintenance Helper	0520	01/01/18					11.00			n/a
Police Officer Trainee	6009	07/01/18	28.39	20% less than Police Officer Step A						n/a
Recreation Leader I	0550	01/01/18					11.00			n/a
Recreation Leader II	0560	01/01/18	11.50		12.00		12.50			n/a
Recreation Leader III	0570	06/17/13	13.00	14.00	15.00	16.00	17.00	18.00	19.00	20.00 (H)

***Please see Benefit Matrix for education incentives, holiday pay and shift differential.** Council Approved on: 8/6/18; 8/20/18; 9/17/18

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/5/2018

TO: Mayor and Council Members

FROM: Alice E. Evenson, City Clerk

SUBJECT: Adoption of an Ordinance Amending Title 18 of the Pittsburg Municipal Code Related to Permitting Small Recycling Facilities and Mail Order or Direct Selling Establishments in the M District AP-17-1235 (RZ)

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

On September 4, 2018, the City Council held a duly noticed public hearing to consider a zoning text amendment to add “small recycling facility” and “mail order or direct selling establishment,” as conditionally permitted uses in the M (Mixed Use) District.

FISCAL IMPACT

There is no fiscal impact on the City from the proposed ordinance. Standard business license fees would be collected on an annual basis for businesses in the City of Pittsburg.

RECOMMENDATION

City Council move to adopt Ordinance No. 18-1452 amending Title 18 Zoning, of the Pittsburg Municipal Code to add “small recycling facility” and “mail order or direct selling establishment,” as conditionally permitted uses in the M (Mixed Use) District.

BACKGROUND

The public hearing for this item was held before the City Council on September 4, 2018. After the close of the public hearing, the Council moved to introduce, waive further reading, and pass to second reading an Ordinance amending Title 18, Zoning, to add “small recycling facility” and “mail order or direct selling establishment,” as defined by PMC sections 18.08.080(27)(b) and 18.08.080(26)(e), as conditionally permitted uses in the M (Mixed Use) District.

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

After introducing an ordinance, the City Council must approve the action by adopting the ordinance by a majority vote at a subsequent meeting. The ordinance becomes effective 30 days after the date of its adoption.

ATTACHMENTS: 1. Proposed Ordinance

Report Prepared By: Cathy Munneke, Contract Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance of the City of Pittsburg Amending Title 18 of the PittsburgMunicipal Code as It Relates to Permitting for Small Recycling Facilities and Mail Order or Direct Selling Establishments inthe M District, AP-17-1235 (RZ)	))))))	ORDINANCE NO. 18-1452

The City Council of the City of Pittsburg DOES ORDAIN as follows

SECTION 1. Recitals

A. This is a proposal initiated by Mt. Diablo Resource Recovery to consider an amendmentto Title 18, "Zoning," of the Pittsburg Municipal Code (PMC) in order to facilitatea small recycling facility and mail order or direct selling in the M (Mixed Use) District, subject to limitations.

B. On March 5, 2015, a proposal was presented to the Land Use Subcommittee by the applicant to request input on the potential use of the site as a recycling center which would include warehousing of reusable items with a retail component.The Subcommittee concurred with staff's recommended approach that the business owner submit a request for a zoning code amendment to allow a recycling facility ancillary to a secondhand clothing and appliance store within the M District, subject to approval of a use permit. During this meeting the Subcommitteevoiced concerns about safety, security, outdoor storage/debris, and noise.Specific recommendations were made to address each of these issues and the applicant was in agreement with all Subcommitteerecommendations discussed.

C. On April 3, 2017, the applicant filed Zoning Text Amendment AP-17-1235 for the project. The project concept was modified from its 2015 iteration to include a "small recycling facility" and "mail order or direct selling establishment" (rather than a "secondhand clothing and appliance store") in order to better match the best fit land use classification as defined in PMC section 18.08.080.The proposal includes a zoning text amendment to allow both uses in the M District, but only in areas north of California Avenue and east of Harbor Street, subject to use permit approval.

D. On April 10, 2017, the revised concept was presented to the Land Use Subcommitteefor consideration.During this meeting, the Subcommitteecontinued to be supportive of the process as proposed by staff; however, the Subcommitteeraised some additional concerns related to grocery carts that could accumulate in the area, scavengers picking through garbage bins in the nearby neighborhoods, and they suggested the zoning text amendment be limited to the commercial areas north of California Avenue east of Harbor Street.The applicant agreed to suggested operational conditions, including a limit on the days and hours of operation to minimize any nearby scavenging.

E. On June 13, 2017, the Planning Commission held a public hearing to consider the proposed zoning textamendment related to “small recycling facilities” and “mail order and direct selling” in the M District. Following close of the public hearing, the Planning Commission voted 5-0, with twoabsent, to recommend City Council approval of the amendment as presented by staff.

F. On July 17, 2017, the City Council held a public hearing to consider the proposed zoning textamendment. Following close of the public hearing,the City Council voted 2-1 to continue the public hearing to the August 7, 2017, City Council meeting. On August 7, 2017, the item was continued to the August 21, 2017, City Council meeting. On August 21, 2017, the item was continued to a date uncertain to allow the applicant time to meet with the neighbors to address concerns.

G. On May 8, 2018, the applicant held an informational meeting and invited residents of the neighboring Stone Harbor subdivision to tour the site and discuss the project.

H. On July 18, 2018, the project was once again brought before the Subcommittee to provide an update on the applicant’s outreach efforts and discuss potential conditions of approval related to the potential use permit application. During this meeting, Councilmembers Craft and Banales, as well as Commissioner Robinson, voiced their concerns regarding noise resulting from the recycling component. The applicant stated that recyclables would be collected in smaller containers within the existing building and proposed that the bins could be taken from the site by bin trucks, which are smaller trucks with a forklift like attachment, which would eliminate much of the noise resulting from recyclable materials being dumped into a standard truck bed. Councilmember Banales recommended a condition be added to address where the trucks would be loaded, and how trucks and other clients would enter the parking area of the facility.

I. Before adoption of an ordinance, the City Council shall make findings that the proposed regulation is consistent with the policies of the general plan and the notice and hearing provisions of PMC Title 18, in accordance with PMC section 18.48.030.

J. On or prior to August10, 2018, notice of the August20, 2018, public hearing to consider this application was posted at City Hall and on the ‘public notices’ page of the City’s website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times); and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65091.

K. On August 20, 2018, the City Council voted 3-0 to continue this item to the September 4, 2018, City Council meeting.

L. On September 4, 2018, the City Council held a continued public hearing on the proposed zoning text amendments, at which time oral and/or written testimony was considered.

SECTION 2. <u>Findings</u>

A. Based on the City Council Staff Report entitled, “Introduction and Waive First Reading of an Ordinance Amending Title 18 of the Pittsburg Municipal Code as it Relates to Permitting for Small Recycling Facilities and Mail Order or Direct Selling Establishments in the M District, AP 17-1235” and based on all the information contained in the Planning Division files, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

2. This project is exempt from the requirements of the California Environmental Quality Act under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The amendmentproposed is procedural in nature and consistent with the General Plan land use designations for the sites in question.

3. The proposed amendment is consistent with the objectives, policies, general land uses and programs in the General Plan as thenew uses are allowable uses within the Mixed Use General Plan land use designation that is applicable to all M District designated sites north of California Avenue and east of Harbor Street.

4. The proposed land use regulations are compatible with uses and regulations of the land use district for which they are proposed, in that they will provide the community with additional recycling and retail options while still providing site development and operational controls through the use permit process to ensure that new businesses do not become a nuisance for the surrounding neighbors, nor the City as a whole.

5. There is a community need for the change proposed as the proposed project fulfills the community’s need for environmentally beneficial recycling options and keeping usable items out of the landfill, while further promoting the general welfare of the City by supporting the City’s recycling goals by diverting useable items from the waste stream.

6. The change will be in conformity with the public convenience as it would provide residents with additional easily accessible recycling and retail options within the M (Mixed Use) District designated areas located north of California Avenue and east of Harbor Street.

SECTION 3. Decision.

A. Based on the findings and the authority set forth above, the City Council hereby amendsTitle 18 of the PMC, as identified below:

1. The schedule in PMC section 18.53.020 is amended to add the following land use category under the “Recycling collection facility” heading, as follows (new text shown with underlines):

Recycling collection facility	
Reverse vending machine	P
Recycling facility, small	L-148

2. PMC section 18.53.020 "M District – Additional Use Regulations," Limitation L-148, is amended to read as follows (new text shown with underlines):

   "Permitted above ground floor level, except for small recycling facilities. Use permit required for any establishment occupying the ground floor level of a building constructed on a lot with frontage on Railroad Avenue, or California Avenue east of Harbor Street. Otherwise, prohibited."

SECTION 4.Severability

If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5.Effective Date

This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 6.Publication

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Pittsburg held on September 4, 2018, and was adopted and ordered published at a meeting of the City Council held on September 17, 2018, by the following vote:

AYES:
NAYES:
ABSTAIN:
ABSENT:

_____
Dwaine "Pete" Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/6/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of a City Council Resolution to Award FY 2018/19 Purchase Contract for Bulk Renewable Diesel

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

The City has various departments that require large quantities of diesel fuel to carry out their responsibilities and to maintain operations. Staff solicited cost proposals from vendors that provide Renewable Diesel and after reviewing the proposal received, recommends award of the contract to provide Renewable Diesel for FY 2018/19 to Western States Oil/Spartan Tank Lines of San Jose, California.

FISCAL IMPACT

The cost for purchase of Bulk Renewable Diesel fuel supplies for Fiscal Year 2018/19 is estimated to be $70,000 for Fleet Maintenance and $225,000 for the Marina, for a total purchase contract of $295,000. Funding has been included in the FY 2018/19 operating budgets for Public Works Fleet Maintenance and Marina.

RECOMMENDATION

City Council adopt a resolution to award purchase contract for Renewable Diesel fuel to Western States Oil/Spartan Tank Lines of San Jose, California, and authorize the Finance Director to execute an open (blanket) purchase order to furnish Renewable Diesel fuel supplies for various City departments for Fiscal Year 2018/19.

BACKGROUND

The Public Works Department is responsible for the operations and maintenance of the City's vehicle and equipment fleet of about 190 predominantly gas-powered cars, trucks, and other equipment, including generators for the City water system. The City also has responsibility for marina operations. These departments require large quantities of fuel to

carry out their responsibilities, including fuel for the operation of fleet vehicles and for resale at the Marina. On occasion, the Marina staff may need to order resale oil products for diesel and two-stroke motors.

Periodically, the City invites proposals from various fuel vendors for prices in the form of Cost per Gallon plus a mark-up for delivery, overhead, and other costs. The vendor is required to obtain and deliver fuel supplied by the "Rack Supplier" with the lowest price currently available. Cost proposals from vendors generally give a price that is over the "rack" rate over the lowest available price, and the City pays the combined total per gallon.

In August 2018, Staff distributed a request for quotations for Bulk Renewable Diesel fuel to vendors. One vendor responded prior to the September 5, 2018 deadline.

Staff is recommending approval of a Bulk Renewable Diesel fuel purchase contract for a period of one year through October 1, 2019 with two one (1) year renewal options. The diesel supply contract provides fuel at three (3) locations: at the Corporation Yard for refueling City vehicles and equipment; at the Marina for resale to the general public and Marina tenants, and at the Water Treatment Plant for stationary equipment.

SUBCOMMITTEE FINDINGS

N/A

STAFF ANALYSIS

Staff affirms that Western States Oil/Spartan Tank Lines is a qualified firm for Bulk Renewable Diesel supply services through October 1, 2019. Western States Oil/Spartan Tank Lines will be responsible for supplying fuel (Renewable Diesel and Renewable Diesel-Red) and delivering bobtail or truck and trailer loads to three(3) City locations and quantities listed in the RFQ: Corporation Yard, 357 East 12th Street (2,000 gallons renewable diesel); Water Treatment Plant and Facilities (100 gallons diesel red, various size tanks); Marina, 51 East Marina Boulevard (10,000 gallons renewable diesel red).

The first site is operated on a "keep full" requirement that allows the vendor to make deliveries at times and in quantities to maintain fuel availability at all times. Staff will place orders for fuel at the Marina and the Water Treatment Plant as they are needed.

ATTACHMENTS: Resolution
Western States Oil/Spartan Tank Lines RFQ and Response
Agreement for FY 2018/19 Fuel Supply

Report Prepared By: Hilario J. Mata, Assistant Public Works Director

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorization of FY 2018/19 RenewableFuel)
Diesel Fuel Supply Purchase Contract for) RESOLUTION NO. 18-
Fleet Maintenance, and the Marina)

The PITTSBURG City Council DOES RESOLVE as follows:

WHEREAS, the Public Works Department is responsible for the operations and/or maintenance of the City's vehicle and equipment fleet, which consists of about 190 cars and trucks, plus other equipment; and

WHEREAS, the City's purchasing policy requires that all contracts and purchases of supplies, general services or professional services $50,001and over be formally bid; and

WHEREAS, the City solicited bids that were due September 5, 2018, from various Vendorsfor providing Bulk Renewable Diesel fuel at three(3) different locations; and

WHEREAS,Western States Oil/Spartan Tank Lines, was the low bidder for Bulk Renewable Diesel supply services.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1. Findings

A. The recitals set forth above are true and correct statements and are hereby incorporated.

B. This proposal is accepted and awarded toWestern States Oil/Spartan Tank Lines, of San Jose, California, for the delivery of renewable diesel fuel supplies to meet the needs of the City.

Section 2. Authorization

A. The Finance Director is authorized and directed to execute an open purchase agreement for fuel supplies withWestern States Oil/Spartan Tank Lines of San Jose, California, for an amount not to exceed $295,000.

B. The City Manager is authorized to increase the maximum purchasing limits on any purchase order previously approved by the City Council within the adopted annual budget limitations of the Public Works and MarinaDepartments.

C. The Finance Director is authorized and directed to increase the maximum purchasing limits on the listed purchase orders approved by the City Council if authorized for increase by the City Manager and there are sufficient budgeted funds in respective gasoline accounts.

Section 3.

This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of September 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine "Pete" Longmire, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Spartan Tank Lines STL 1790 S.Tenth St. San Jose. *p. 408-292-1041* CA. 95112

Marketing & Transporting Motor Fuels in Northern California Since 1960

August 30, 2018

To Whom it Concerns,

Spartan Tank Lines hereby submits this guarantee supply letter along with a Intertek Analysis Report showing that our Neste My meets and exceeds all requirements in 5.5 Fuel Types in RFQ 09-05.

Spartan Tank Lines is the only authorized marketer/distributor in the 9 counties around the Bay Area that can market Neste My Renewable.

Spartan Tank Lines will allocate required gallons to City of Pittsburg's renewable needs on an annual basis as requested in RFQ 09-05

Robert Brown
Special Project Manager

Spartan Tank Lines STL 1790 S.Tenth St. San Jose, CA. 95112

Marketing & Transporting Motor Fuels in Northern California Since 1960

August 30, 2018

To Whom it Concerns,

Western States Oil/Spartan Tank Lines was founded by Tom Lopes in July, 1956 for Western States Oil and 1960 for Spartan Tank Lines.
Both companies are now owned by both Tom's sons Steve and Jeff Lopes.

Both companies have grown by supplying the largest contractors and trucking firms in the Bay Area along with some of the largest cities in the Bay Area including the City of San Francisco , San Jose and many others around the Bay.

Both companies pride them selves for being a leader in environmentally clean fuels.

WSO and STL were the first companies to introduce a B20 blend to the Bay Area and the only oil company that had its own tolling program.
We had yellow grease collected in San Francisco and surrounding bay area that was turned into bio diesel and returned to SF Muni for fueling their buses.

Currently WSO/STL is the only authorized distributor of Neste My Renewable Diesel in 9 counties surrounding the bay area.

WSO/STL is also now the only marketer distributor in the United States that has completed a closed loop collection of yellow grease and returning it back as Neste My Renewable Diesel.

Inclosing WSO/STL would love to have the City of Pittsburg as a valuable customer and provide the only reliable sourced renewable diesel in the Bay Area.

Robert Brown
Special Project Manager

spartantanklines.com

BID WORKSHEET
RFQ 09-05
BULK RENEWABLE DIESEL

The specifications set forth in this RFQ are the specific requirements for RENEWABLE DIESEL for the City of Pittsburg at bid. The failure of the bidder to complete the Bid Worksheet, as provided will result in the rejection of the bid.

TRAILER LOAD	TANK LOCATION	DIFFERENTIAL (+) OR (-)
Renewable Diesel	Below Ground	+ .40
Renewable Red Dye Diesel	Above Ground	+.08999

The City is exempt from Federal Excise Tax and shall not be included in price.

NAME OF BIDDER Western States Oil / Spartan Tank Lines Inc.
BUSINESS ADDRESS (No P.O. Box) 1790 S 10th ST.
CITY, STATE, ZIP San Jose, CA. 95112
TELEPHONE NO: (408) 292-1041 **FAX NO:** (408) 293-2093
YOUR NAME and TITLE Robert Brown Spec Proj Mang.
YOUR SIGNATURE [signature] **DATE:** 8/30/18

Questionnaire
The Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder who has a proprietary interest in the Bidder, ever been disqualified, removed or otherwise prevented from bidding on, or completing a federal, state or local government project because of violation of a law of safety regulation?

YES _____ NO ✓

If YES, explain the circumstances in the following space:

_____

(Attach additional sheet, if necessary.)

Statement
The Bidder hereby states, under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Bidder within the immediately preceding two (2) year period due to the Bidder's failure to comply with an order of a federal court which orders the Bidder to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

Bidders are cautioned that making false certification may subject the certifier to criminal prosecution.

NONCOLLUSION AFFIDAVIT

(Public Contract Code Section 7106)

In accordance with Public Contract Code Section 7106 the bidder declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly , sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association,

organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid."

Note: The above Noncollusion Affidavit is part of the proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this noncollusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Inspection of Site Statement

I have, either by personal examination or other means of my choice, inspected the site of the proposed work and to my satisfaction am aware of the actual conditions that exist at the site of the proposed work which may affect the work involved in this Contract and the conditions thereof.

General Prevailing Wage Rates Statement

The State of California General Prevailing Wage Rates are hereby incorporated into these Contract Specifications by this reference.

If awarded the Contract, I/we will not pay less than the latest General Prevailing Wage Rates of the State of California (including any and all amendments thereto) to each employee working in connection with this Contract.

Workmen's Compensation Insurance Statement

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workmen's Compensation or to undertake self-insurance in accordance which the provisions of that code. If awarded the Contract, I will comply with such provisions and provide the City of Pittsburg with a certificate (satisfactory to the City) verifying same before commending the work of this Contract.

City Business License Statement

If awarded this Contract, I, and each subcontractor employed in connection with this Contract, either has, or will obtain, a City of Pittsburg Business License prior to commencing any work under this Contract.

intertek
caleb brett

Report of Analysis

Client:	Neste US, Inc.	**Client Reference Number:**	
Job Location:	TransMontaigne	10241676 - Nave Polaris B/L 22-03-18	
Our Reference Number:	US410-0016822		
Lab Reference Number:	2018-SANF-000472		

Sample ID:	**2018-SANF-000472-085**	**Date Taken:**	17-Apr-18
Sample Designated As:	Neste Renewable Diesel	**Date Submitted:**	17-Apr-18
Vessel/Location:	NAVE POLARIS	**Date Tested:**	17-Apr-18
Representing:	Tank 5319 Equal UML Composite After Discharge		

Method	Test	Result	Unit	Spec Limit
ASTM D4052	Density @ 15°C	780.0	kg/m³	770 - 790
ASTM D4052	API Gravity at 60 deg F	49.8	°API	Min 30
ASTM D5453	Sulfur	< 1.0	mg/kg	Max 5
ASTM D613	Cetane Number	>74.8		Min 70
ASTM D93	Procedure Used	A		
ASTM D93	Corrected Flash Point	76.5	°C	Min 54
ASTM D93	Corrected Flash Point	170	°F	Min 130
ASTM D524	Ramsbottom Carbon Res. (10% Dist.)	0.03	Wt %	Max 0.1
ASTM D482	Ash	< 0.001	Wt %	Max 0.001
ASTM D6304	Procedure	A		
ASTM D6304	Water Content	39	mg/kg	Max 200
EN 12662	Filtration Result	Complete		
EN 12662	Total Contamination	< 6.0	mg/kg	Max 10
ASTM D130	Copper Corrosion @ 50°C (122°F)/3 hr	1a		1a, 1b
ASTM D2274	Adherent Insolubles	5	g/m³	
ASTM D2274	Total Insolubles	6	g/m³	Max 25
ASTM D3242	Acid Number	0.002	mg KOH/g	Max 0.01
ASTM D445	Kinematic Viscosity @ 104 °F/ 40 °C	2.943	mm²/s	2.0 - 4.0
ASTM D86	50% Recovery	536.7	°F	
ASTM D86	90% Recovery	558.7	°F	Max 608
ASTM D86	Final Boiling Point	588.8	°F	Max 626
ASTM D86	50% Recovery	280.4	°C	
ASTM D86	90% Recovery	292.6	°C	Max 320
ASTM D86	Final Boiling Point	309.3	°C	Max 330
ASTM D2500	Cloud Point	-26	°C	Max -18
ASTM D2500	Cloud Point	-14.8	°F	Max 0.0
ASTM D2624	Temperature	21.0	°C	
ASTM D2624	Electrical Conductivity	222	pS/m	50 - 250
ASTM D1500	ASTM Color	<0.5		Max 2.5
ITM 1017	Visual Observation	Undyed		Undyed
ASTM D5186	Monoaromatics by SFC	< 1.0	mass %	
ASTM D5186	Polynuclear Aromatics by SFC	< 0.5	mass %	
ASTM D5186	Total Aromatics by SFC	0.0	mass %	

Signed: _____ Date: 4/18/2018

Intertek
Dzmitry Kupchyn, Intertek

6050 Egret Court, Benicia, California 94510, USA
Tel: +1 707 746 0556

LIST OF REFERENCES:

CITY & COUNTY OF SAN FRANCISCO
1800 JEROLLD AVE
SAN FRANCISCO, CA 94124
DELIVERED TO VARIOUS ENTITIES INCLUDING MUNI
CONTACT: HOWARD TEVELSON
PHONE: 415-554-6740

CITY OF SAN JOSE
1661 SENTER ROAD
SAN JOSE, CA 95112
CONTACT: NORA JACKSON
PHONE: 408-975-7279
Email: nora.howard@sanjose.ca.gov

CITY OF SANTA CRUZ
809 CENTER STREET RM 101
SANTA CRUZ, CA 95050
CONTACT: ELIZABETH MILWEE
PHONE: 831-420-5085

CITY OF OAKLAND
7101 EDGE WATER BLDG #2
OAKLAND, CA 94621
CONTACT: LEONDA ADDISON
PHONE: 510-615-5491
Email: laddison@Oaklandca.gov

City of Pittsburg
Bulk Renewable Diesel
for Fiscal Year 2018-19

THIS AGREEMENT, made and entered into this 17th day of September, 2018 by and between the **City of Pittsburg**, hereinafter referred to as "City" and Hunt and Sons, Incorporated, hereinafter referred to as "Vendor".

WITNESSETH:

ARTICLE 1 – For and in consideration of the payment and agreements hereinafter mentioned, to be made and performed by said City, Vendor agrees with City, at his own cost and expense, to do all the work and furnish all the materials, except such as are mentioned in the Specifications to be furnished by City, necessary to construct and complete in good, workmanlike and substantial matter the work described in accordance with the Contract Specifications set forth in the City of Pittsburg's Request for Quotes for Bulk Renewable Diesel for fiscal year 2018-19, which said Specifications are hereby specifically referred to, and by such reference made a part hereof.

ARTICLE 2– City hereby employs Vendor to provided the materials and to do the work according to the terms and conditions herein contained and referred to, for the contract price stated herein, an hereby promises to pay the same at the time, in the manner and upon the conditions set forth herein; and said parties for themselves, their heirs, executors and administrators.

ARTICLE 3 – Vendor agrees to receive and accept the prices set forth in the attached Exhibit "A" as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this Contract; also for any loss or damage arising out of the nature of the work aforesaid, or from any action of the elements, or from any prosecution of the work, until it is accepted by the City of Pittsburg and for all expenses incurred by or in consequence of the suspension of discontinuance of work; and for well and faithfully completing the work, and the whole thereof in the manner and according to the Contract Specifications, and the requirements of the City.

ARTICLE 4 – By my signature hereunder, as Vendor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contact.

ARTICLE 5 – It is further expressly agreed by and between the parties hereto that the Notice of Bid and Contract Specifications are essential parts of this Contract and are specifically referred to, and by such reference, made a part hereof. In the event of any

conflict in the provisions thereof, the terms of said documents shall control each over the other, in the following order:

1. Permits from other agencies as required
2. Contract Change Orders and Supplemental Agreements
3. Addenda
4. Contractor's Bid Proposal
5. Special Provisions
6. Reference Specifications

The Specifications and other contract documents will govern the work. The contract documents are intended to be complementary and cooperative and to describe and provide for a complete project.

ARTICLE 6 – The work described in the Contract shall begin October 1, 2018, and shall be continue for the duration specified in the Proposal Specifications.

IN WITNESS WHEREOF, the City and the Contract have caused the names of said parties to be affixed hereto, the day and year first above written.

CITY OF PITTSBURG:	CONTRACTOR:
_____	_____
Joe Sbranti CITY MANAGER	BY:
ATTEST:	ATTEST:
_____	_____
Alice E. Evenson CITY CLERK	BY:

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

DATE: 9/6/2018

TO: Chair and Agency Members

FROM: Joe Sbranti, Executive Director

SUBJECT: Adoption of a Resolution Authorizing the Executive Director to Execute a Sublease Agreement Between the Pittsburg Arts and Community Foundation, Inc. and David Doyal for 51 Marina Boulevard, Suite C.

MEETING DATE: 9/17/2018

EXECUTIVE SUMMARY

Pittsburg Arts and Community Foundation (Foundation) and David Doyal, doing business as Bottle & Barrel Tap & Wine Bar (Sublessee), propose to enter into a sublease agreement (Sublease Agreement). The Foundation desires to lease One Thousand Six Hundred Sixty-Two (1,662) square feet of interior space within the Plaza Marina Building and Seven Hundred Sixty-Four (764) square feet of outdoor dining terrace, known as 51 Marina Boulevard, Suite C ("Premises") to Sublessee and Sublessee desires to lease the Premises from the Foundation. The term for the Sublease commences on November 1, 2018 and expires on January 31, 2021.

FISCAL IMPACT

The Sublease Agreement between the Foundation and the Sublessee would result in revenue of $1,504 per month or $18,048 annually, beginning November 1, 2018. This rent amount is based on Sixty-Two Cents ($0.62) per square foot for 2,426 square feet for the first two lease years. In addition, the Sublessee will be responsible for paying all janitorial and utility expenses related to its occupancy of the Premises, and its pro rata share of common area maintenance (CAM) costs of $718 per month or $8,616 annually.

Terms of the Sublease Agreement include a rent escalation of 3% after two years, and CAM charges will be adjusted annually as determined by the Foundation's property management operating costs

RECOMMENDATION

Staff recommends that the Foundation Board of Directors adopt the Resolution approving the Sublease Agreement and authorize the Executive Director to take further actions as necessary to carry out the intent of the Sublease Agreement.

BACKGROUND

The Foundation is a nonprofit, 501(c)(3) corporation formed for the purpose of lessening the burdens of government, and improving the quality of life in Pittsburg by fostering civic pride, combating blight, providing affordable housing, and promoting arts, literacy, and education.

On April 19, 2010, the Foundation adopted a Five Year Organizational Plan, Operating Budget, and 5 Year Financial Plan, which included Property Management & Maintenance of various properties within the within the Redevelopment Agency's Project Area to revitalize Pittsburg's blighted properties.

On January 18, 2011, by City Resolution 11-11584 and Foundation Resolution 11-022, the City and the Foundation entered into a Master Lease Agreement for the Plaza Marina property under which the Foundation assumed responsibility for the property's management and maintenance, and for subleasing the property to various tenants.

In February 2018, the former tenant occupying the Premises vacated and the Premises was taken over by the Foundation. The Premises is currently being operated as the Marina Galleria where artwork and jewelry are sold in addition to hosting various entertainment events sponsored by the Foundation.

SUBCOMMITTEE FINDINGS

The Sublease Agreement proposal was discussed at the Foundation Subcommittee meeting on June 25, 2018.

STAFF ANALYSIS

The Premises provides an ideal location for a Beer and Wine Bar. The occupancy of the Premises by the Sublessee would continue to stimulate the economic development of the waterfront and would provide a variety of live entertainment options for residents and visitors.

The Sublessee is a silent partner of CreAsian Bistro and has over 20 years of experience in owning and operating restaurants. The Sublessee is committed to working with the Foundation and will continue to allow artwork and jewelry to be displayed at the Premises. The Sublessee is required to obtain a Use Permit from the City's Planning Division and that must be approved by the Planning Commission. If the Planning Commission denies the Use Permit the Sublease Agreement will be determined null and void.

ATTACHMENTS: Resolution
Sublease Agreement

Report Prepared By: Janis Glover, Program Manager

BEFORE THE PITTSBURG ARTS AND COMMUNITY FOUNDATION

In the Matter of:

A Resolution Authorizing the Executive Director	)	
To Execute a Sublease Agreement Between the	)	
Pittsburg Arts andCommunity Foundation and	)	RESOLUTION NO.
David Doyal for 51 Marina Boulevard, Suite C	)	

The Pittsburg Arts and Community Foundation DOES RESOLVE as follows:

WHEREAS, the Pittsburg Arts and Community Foundation (Foundation) is a nonprofit, 501(c)(3) corporation formed for the purpose of lessening the burdens of government, and improving the quality of life in Pittsburg by fostering civic pride, combating blight, providing affordable housing, and promoting arts, literacy, and education. All actions, budgets, projects, and programs that the Foundation engages in or approves must be reasonably related to, or in furtherance of the Foundation's charitable purposes as stated in the Articles of Incorporation, as amended on March 1, 2010; and

WHEREAS, on April 19, 2010, the Foundation adopted a Five Year Organizational Plan, Operating Budget, and 5 Year Financial Plan, which included Property Management & Maintenanceof various properties within the within the Redevelopment Agency's Project Area to revitalize Pittsburg's blighted properties; and

WHEREAS, on January 18, 2011, by City Resolution 11-11584 and Foundation Resolution 11-022, the City and the Foundation entered into a Master Lease Agreement for the Plaza Marina property under which the Foundation assumed responsibility for the property's management and maintenance, and for subleasing the property to various tenants; and

WHEREAS,the former tenant occupying 51 Marina Boulevard, Suite C ("Premises") vacated and the Premises was taken over by the Foundation. The Premises is currently being operated as the Marina Galleria where artwork and jewelry are sold in addition to hosting various entertainment events sponsored by the Foundation.

WHEREAS, David Doyal doing business as Bottle & Barrel Tap & Wine Bar (Sublessee) approached the Foundation regarding the operation of a beer and wine bar. Sublessee is a silent partner of CreAsian Bistro and has over 20 years of experience in owning and operating restaurants. Sublessee is committed to working with the Foundation and will continue to allow artwork and jewelry to be displayed at the Premises; and

WHEREAS, the Foundation desires to lease the Premises, which consists of One Thousand Six Hundred Sixty-Two (1,662) square feet of interior space and Seven Hundred Sixty-Four (764) square feet of outdoor dining terraceto Sublessee and Sublessee desires to lease the Premises from the Foundation; and

WHEREAS, the term of the Sublease Agreement commences on November 1, 2018expires on January 31, 2021; and

WHEREAS, the Sublease Agreement would result in revenue for the Foundation of $1,504 per month or $18,048 annually, beginning November 1, 2018; and

WHEREAS, in addition, the Sublessee will be responsible for paying all janitorial and utility expenses related to its occupancy of the Premises, and its pro rata share of common area maintenance (CAM) costs of $718.00 per month or $8,616 annually; and

WHEREAS, the terms of the Sublease Agreement include a rent escalation of 3% after two years, and CAM charges will be adjusted yearly as determined by the Foundation's property management operating costs; and

WHEREAS, the Sublessee's use of the Premisesincreases the vitality of the City's waterfront and would provide a variety of live entertainment options for residents and visitors; and

WHEREAS, the Foundation has duly considered all terms and conditions of the proposed Sublease Agreement and has determined that it is consistent with the stated purposes of the Foundation.

NOW, THEREFORE, the Board of Directors of the Pittsburg Arts and Community Foundation finds and determines as follows:

Section 1.
The Foundation hereby finds and determines that the above recitals are true and correct and have served as the basis, in part, for the findings and actions of the Foundation set forth below.

Section 2.
The Foundation hereby authorizes the Executive Director to executethe Sublease Agreement. The Secretary of the Foundation is authorized and directed to attest thereto. A copy of the Sublease Agreement when executed will be placed on file in the office of the Foundation Secretary.

Section 3.
The Executive Director of the Foundation is hereby authorized to execute such further documents and take such further actions as may be necessary or appropriate to carry out the Foundation's obligations under the Sublease Agreement and may make minor amendments if necessary.

Section 4.
The Foundation Secretary shall certify to the adoption of this Resolution.

Section 5.
This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Pittsburg Arts and Community Foundation at a regular meeting on the 17th day of September2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Dwaine “Pete” Longmire, Chair

ATTEST:

_____
Alice E. Evenson, Secretary

SUBLEASE AGREEMENT
DAVID DOYAL

THIS SUBLEASE (this "**Agreement**"), dated as of September 17, 2018(the "**Effective Date**"), isentered into by and between the Pittsburg Arts andCommunity Foundation, Inc.,a California 501(c)(3)non-profitcorporation("**PACF**"),and David Doyal, an individual(**"Sublessee"**) doing business as Bottle & Barrel Tap & Wine Bar. PACF and Sublessee are collectively referred to in this Agreement as the "**Parties**."

RECITALS

A. The City of Pittsburg ("City") is the owner of fee title tothe real property locatedat 51 Marina Boulevard, also known as County Assessor's Parcel Number 085-071-044,asmore particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "**Property**").

B. Pursuant to City Council Resolution 11-11584 and PACF Resolution 11-022, City and PACFentered into that certain master lease dated January 18, 2011and expires January31, 2021(the "**Master Lease**"), attached as Exhibit B hereto and incorporated in this Agreement by this reference, pursuant to which the Cityconveyed to PACF leasehold interest in the Property ("**Plaza Marina Building**").

C. PACF desires to lease approximately One Thousand SixHundred Sixty-Two (1,662) square feet of interior space within the Plaza Marina Building and Seven Hundred Sixty-Four (764) square feet of outdoordining terrace, known as 51 Marina Boulevard, Suite C, as more particularly described in Exhibit C, attached hereto and incorporated herein by this reference (the "**Premises**") to Sublessee, and Sublessee desires to lease the Premises from PACF.

D. Sublessee intends to sublease the Premises for use as a beer and wine bar with limited food service (the "**Business**").

E. The Pittsburg Arts and Community Foundation Board of Directors ("**PACF Board**") authorized PACF to sublease the Premises to Sublessee on the terms and conditions set forth herein on September 17, 2018.

NOW, THEREFORE, in consideration of themutualcovenants setforthherein, and for good and valuable consideration,the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS; INCORPORATION OF RECITALS; MASTER LEASE AND PRIOR RIGHTS

1.1 Definitions. For purposesof this Agreement, the following terms shall have the meanings set forth in this Section. Additional definitions are set forth in the Recitals and

the text of this Agreement.

(a) "Applicable Laws" is defined in Section 4.3. (b) "Base Rent" is defined in Section 2.3.2.

(c) "Building and Common Area Costs" is defined in Section 2.4.1.(b)

(d) "Business" is defined in Recital F;

(e) "Claims" is defined in Section 3.2.

(f) "Commencement Date" is defined in Section 2.3.1

(g) "Common Areas" is defined in Section 5.3.1 (a)

(h) "Force Majeure" is defined in Section 14.1.

(i) "Hazardous Materials" is defined in Section 6.5.1.

(j) "Hazardous Materials Laws" is defined in Section 6.5.2.

(k) "Impositions" is defined in Section 3.1.

(l) "Improvements" is defined in Section 4.1.

(m) "Indemnities" is defined in Section 3.2.

(n) "Lease Year" means the twelve-month period beginning on February 1 and ending on January 31 during the Term.

(o) "Operating Costs" is defined in Section 2.7

(p) "Premises" is defined in Recital Eand described in Exhibit C.

(q) "Rent" is defined in Section 2.3.

(r) "Sublessee's Monthly Operating Costs Payment" is defined in Section 2.7.

(s) "Sublessee's Share of Operating Costs" is defined in Section 2.7.

(t) "Security Deposit" is defined in Section 2.4.

(u) "Term" is defined in Section 2.2.

1.2 Incorporation of Recitals. The Parties acknowledge the truth of the Recitals set forth above, and all such Recitals are hereby incorporated into this Agreement.

1.3 Master Lease; Prior Rights. This Agreement is subject and subordinate to the prior and continuing rights and obligations of PACF as described in the Master Lease, a copy of which is attached hereto as Exhibit B. This Agreement is madesubject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances,liens, andclaims of title that may affect the Premises in effect as of the Effective Date.

ARTICLE II
SUBLEASE; TERM; RENT; SECURITY DEPOSIT

2.1 Agreement to Lease Premises. Subject to, and upon, the terms and conditions set forth in this Agreement, the PACF hereby subleases the Premises to Sublessee and Sublessee hereby subleases the Premises from the PACF. Sublessee acknowledges that the PACF has made no representation or warranty regarding the condition of the Premises, or the suitability or fitness of the Premises for the conduct of the Business except as specifically stated in this Agreement.

2.2 Term of Agreement.

2.2.1 Initial Term. The term of this Agreement **("Term")** commences on the Commencement Date and unless sooner terminated as provided herein expires on January31, 2021. Upon execution of this Agreement, Sublessee may take possession of the Premises after all permits have been granted. In no event may this Agreement extend beyond the term of the Master Lease.

(a) The Sublessee is required to obtain a Use Permit from the City's Planning Division and that must be approved by the Planning Commission. If the Planning Commission denies the Use Permit, this Agreement will be determined null and void.

2.2.2 Sublease Extension Term.There is no extension provision extendingthis Agreement beyond the date of the expiration of the Master Lease. If the Master Lease is extended, then PACF and Sublessee may negotiate and consider entering into an extended term. If the Master Lease is not extended, then the City and the Sublessee may negotiate and consider a new lease agreement. Extending this Agreement with PACF or entering into a new lease agreement with PACF or the City must be mutually agreed uponin writing and the Sublessee must not be in default.

2.3 Rent.

2.3.1 Commencement of Rent. Sublessee shall commence paying Base Rent on the "**Commencement Date**" of November 1, 2018.Commencing on the first day of the month following the Commencement Date, Sublessee shall pay Base Rent as set forth in Section 2.3.2 of this Agreement.

2.3.2 Base Rent. Throughout the Term of this Agreement, Sublessee shall

paybase rent **("Base Rent"),** without deduction, offset, prior notice ordemand in thefollowing amounts for the following time periods:

Period	Monthly Indoor Base RentAmount
November 1, 2018-October 31, 2019	$1504/Month (approximately $0.62/SF)
November 1, 2019-October 31, 2020	$1504/Month (approximately $0.62/SF)
November 1, 2020-January 31, 2021	$1553/Month (approximately $0.64/SF)

2.3.4 Additional Rent. As additional Rent, Sublessee shall pay and discharge when due,all Impositions described in Article III,Sublessee's Monthly Operating Costs Payments described in Section 2.7, all insurance premiums, all City fees and charges and all otherliabilities andobligations Sublessee assumes or agrees to pay or undertake pursuant to this Agreement (the **"AdditionalRent"**and together with Base Rent, **"Rent").**

2.3.5 Payment of Rent. Rent is due and payable on the first day of each month to the PACF at the address shown in Section 14.4(iv) or such other place as the PACF may designate in writing.

2.3.6 Rent Credit. PACF will not provide any Rent Credit.

2.4 Security Deposit. Upon execution of this Agreement, Sublessee shall pay to the PACF a security deposit in an amount equal to amount TwoThousand Five Hundred Dollars ($2,500.00) (the **"Security Deposit").** Provided thatSublessee is not in default under thisAgreement,the PACF shallreturntheSecurity Depositto Sublessee upon termination of this Agreement.The PACF has no obligation to pay or earn interest on the Security Deposit.

2.5 Use of Security Deposit. If Sublessee is in default with respect to any provision of this Agreement, the PACF may,but has no obligationto, use the Security Deposit or any portion of the Security Deposit to cure such default or to compensate the PACF for any damage or reasonable expense sustained by thePACF and resulting from such default, but only after providing Sublesseewith an opportunity to cure such default pursuant to the provisions of Section 13.2. The PACF shall provide Sublessee with evidence of damages incurred as a result of a default by Sublessee. If this Agreement has not been terminated as aresult of such default, Sublessee, on demand from the PACF, shall promptly restore the Security Deposit to the full amount required under Section 2.4.

2.6 Late Fee.Sublessee hereby acknowledges that late paymentof Rent by Sublessee to PACF will cause PACFto incur costs not contemplated by this Agreement, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, personnel costs, and late charges which may be imposed on PACF by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent due from the Sublessee is not received

by lessor on the date such installment of Rent is due, Sublessee shall pay to PACF a late charge equal to ten percent (10%) of such overdue Rent. PACF and Sublessee hereby agree that such late charge represents a fair and reasonable estimate of the cost PACF shall incur by reason of late payment by Sublessee. Acceptance of such late charge by PACF shall in no event constitute a waiver of Sublessee's default by with respect to such overdue amount, nor prevent PACF from exercising any of the other rights and remedies granted hereunder.

If Sublessee is late in the payment of Rent two (2) times or more during any Lease Year, then PACF may, in addition to all other rights and remedies, require Rent for the remainder of the Term to be paid quarterly (three (3) months) in advance.

2.7 Common Area Maintenance Charges

2.7.1 Sublessee's Share of Operating Costs. In addition to all other sums due under this Agreement,Sublessee shall pay to lessor, in the manner and at the times set forth in this Section, Sublessee's Share of Operating Costs (as defined in Section 2.7.1.(c)) for each Lease Year or other fiscal year that may be established by PACF during the Term.

(a) The phrase "Operating Costs" means the sum of Building and Common Area costs.

(b) The term "**Building and Common Area Costs**" means all costs and expenses of every kind and nature whatsoever as may be paid or incurred by PACF, related entities, or third parties in operating, managing, insuring, repairing and maintaining the Buildings and/or the Common areas in the Plaza Marina Building, computed in accordance with generally accepted accounting principles consistently applied or such other method of accounting as may be adopted by PACF.

(c) "**Sublessee's Share of Operating Costs**" will be determined by multiplying total Operating Costs by the fraction calculated by dividing total square feet of the Premises by the total square feet of retail/commercial ground floor space of the Plaza Marina Building.

(d) Sublessee shall pay to PACF, on the first day of each month during the Term, an amount equal to Sublessee's estimated Share of Operating Costs for the Lease Year in question, divided by the number of months (full or partial) in such Lease Year ("**Sublessee's Monthly Operating Costs Payment"**). Payment of Sublessee's Monthly Operating Costs will commence on the Commencement Date. The Initial Sublessee's Monthly Operating Costs payment is Seven Hundred Eighteen Dollars($718) per month.

(e) Annual Adjustments. Within ninety (90) days following the end of each Lease Year, or within a reasonable time thereafter, lessor shall prepare and deliver to Sublessee a statement setting forth the calculation of Sublessee's actual Share of Operating Costs for the previous Lease Year. Within thirty (30) days after receipt of the statement of Sublessee's actual Share of Operating Costs, Sublessee shall pay to PACF, or PACF shall credit against the next Monthly Operating Costs Payment due from Sublessee, as the case may be, the difference between Sublessee's actual Share of Operating Costs for the preceding Lease Year and the amount of Sublessee's Monthly Operating Costs Payments paid by Sublessee during such Lease Year; except, PACF shall pay Sublessee any excess at the time PACF furnishes the statement to Sublessee in connection with the final adjustment of Operating Costs for the last Lease Year, provided Sublessee is not in default under any provisions of this Agreement.

ARTICLE III
TAXES, ASSESSMENTS AND OTHER CHARGES

3.1 Impositions. Throughout the Term, Sublessee shall pay prior to delinquency, all real property taxes, possessory interest taxes, license and permit fees, sales, use or occupancy taxes, assessments whether general or special, ordinary or extraordinary, unforeseen, as well as foreseen, of any kind or nature whatsoever, pertaining to the Premises or part thereof, including but not limited to (i) any assessment, levy, imposition or charge in lieu of or in substitution for real estate taxes, and (ii) any assessment for public improvements or benefitswhich is assessed, levied, or imposed upon or which becomes due and payable and a lien upon (a) the Premises or any part thereof or any personal property, equipment or other facility used in the operation thereof, (b) the rent or income received by Sublessee from subtenants or licensees, (c) any use or occupancy of the Premises or part thereof, or (d) this transaction or any document to which Sublessee is a party creating or transferring an estate or interest in the Premises or part thereof. All of the foregoing are hereinafter referred to as "**Impositions**."

3.1.1 Installments. If by law any Imposition is payable, or may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Sublessee may pay thesame together with any accrued interest on the unpaid balance of such Imposition in installments as the same respectively become due and before any fine or penalty may be added thereto for the nonpayment of any such installment and interest. Any Impositions relating to tax years that are only partially included in the Term of this Agreement shall be prorated between Sublessee and the PACF.

3.1.2 Evidence of Payment.Upon request by the PACF, Sublessee shall furnish, in form satisfactory to the PACF, evidence of payment prior to delinquency of all Impositions payable by Sublessee.

3.2 Sublessee Right to Contest. Sublessee has the right before any delinquency occurs to contest or object to the amount or validity of any Imposition by appropriate legal proceedings, but such right may not be deemed or construed in any way as relieving, modifying or extending the covenant to pay of Sublessee any such Imposition at the time

and in the manner required by law. Any such contest shall be conducted in accordance with and subject to the requirements of all Applicable Laws (as defined in (Section 4.3) and otherwise in a manner that does not subject the PACF's title to the Premises to foreclosure or forfeiture. Sublessee shall indemnify, defend, and hold PACF and the City and theirelected and appointed officers, officials, employees, agents and representatives (all of the foregoing, collectively the **"Indemnities")** harmless from and against all liabilities, losses, damages, fines, deficiencies, penalties, claims, demands, suits, actions, causes of action, legal or administrative proceedings, judgments, costs and expenses (including without limitation reasonable attorneys' fees and court costs) (all of the foregoing, collectively **"Claims;')** arising as a result of or in connection with any such contest brought by Sublessee. During any contest of an Imposition, Sublessee shall (by payment of disputed sums, if necessary) prevent any advertisement of tax sale, foreclosure of, or any divesting of the PACF's title, reversion -or other interest in the Premises. Upon final determination of the amount or validity of any Imposition contested pursuant to this Section 3.2, Sublessee shall immediately pay such Imposition and all costs and expenses relating to such challenge.

3.3 Sublessee Duty to File. Sublessee has the duty of making or filing any declaration, statement or report which may be necessary or advisable in connection with the determination, equalization, reduction or payment of any Imposition which is or which may become payable by Sublessee under the provisions of this Article III, and shall notify the PACF in writing upon making such filing, declaration, statement or report, and the PACF is not be responsible for the contents of any such declaration, statement or report; provided however, the PACF shall cooperate with Sublessee in connection with the foregoing, including joinder in any application pertaining thereto to the extent required under Applicable Law, all at no cost to the PACF.

ARTICLE IV
ALTERATIONS AND NEW CONSTRUCTION

4.1 Changes and Alterations. During the Term of this Agreement, Sublessee shall not make any change, alteration or addition to the Premises (collectively, the **"Improvements")** that would materially alter the function or exterior appearance of the Premises, without the prior written consent of the· PACF. Except as otherwise set forth in this Agreement, all Improvements and Alterations may be made at the sole cost and expense of Sublessee and must comply with all of the following:

(a) The Improvements and Alterations may not materially impair the value or structural integrity of the Premises.

(b) The Improvements and Alterations must be necessary for the operation of the Business.

(c) No Improvements or Alterations may be undertaken until Sublessee has obtained all required permits and authorizations of any federal, state or local government or departments or subdivisions of any of them, having jurisdiction.

(d) The Improvements and Alterations must be made in a good and workmanlike manner and in accordance with all applicable permits and all Applicable Laws.

(e) During the construction of any Improvements in, to or of, the Premises, or the permitted demolition or new construction or any restoration, Sublessee shall comply with the insurance requirements set forth in Section 8.2, which policy or policies by endorsement thereto, if not then covered, will also insure any change, alteration or addition or new construction, including all materials and equipment incorporated in, on or about the Premises.

(f) Prior to commencement of any construction, change, alteration or repair, Sublessee shall deliver to the PACF not later than ten (10) business days written notice of the proposed work, a general description of the proposed work and sufficient information to permit the PACF to post a notice of no responsibility on the Premises.

4.2 No Right toDemolish. Notwithstanding any other provisions of this Article IV, Sublessee has no right to demolish the Improvements or Alterations, once built, unless Sublessee shall have received the prior written approval of the PACF.

4.3Compliance with Laws. Sublessee shall carry out the construction of the Improvements in conformity with all applicable state and federal laws and regulations, including without limitation, all applicable state and federal labor laws and standards, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, et *seq.,* California Government Code Section 4450, et *seq., California* Government Code Section 11135, *et seq.,* and the Unruh Civil Rights Act, California Civil Code Section 51, *et seq.* Sublessee shallcomply with all City ordinances and regulations relating to the conduct of construction, including without limitation, all City ordinances and regulations relating to noise, construction hours, and maintenance of the construction site. All of the foregoing state, federal and local laws, regulations and ordinances are hereafter referred to as the **"Applicable Laws."**

4.4 Rights of Access. The PACF has the right of access to the Premises during normal construction hours for purposes of assuring compliance with this Agreement, so long as the PACFcomplies with all safety rules and does not unreasonably interfere with the progress of construction of the Improvements. The PACF shall give Sublessee reasonable advance notice prior to exercising its rights pursuant to this Section 4.4 except in the event of emergency in which case notice shall not be required.

4.5 Indemnity. To the fullest extent allowed by law, Sublessee shall defend (with counsel reasonably acceptable to the PACF) indemnify and hold harmless the Indemnities from and against any and all present and future Claims arising during the term of this Agreement from or in connection with the failure to comply with all Applicable Laws relating to the operation or maintenance of the Premises or the Improvements by Sublessee, or the activities or performance of Sublessee under this Agreement, whether such activity or performance is by Sublessee or by anyone directly or indirectly employed

by or contracted with by Sublessee and whether such Claim shall be discovered before or after lease termination. Obligations ofSublessee under this Section 4.5 do not extend to Claims to the extent they arise as a result of the indemnities' gross negligence or willful misconduct.

At its sole discretion, the PACF may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve Sublessee of any obligation imposed by this Agreement. The PACF shall notify Sublessee promptly of any claim, action or proceeding and cooperate fully in its defense.

Sublessee agrees to defend, indemnify and hold harmless the indemnities from any claim, action or proceeding against the indemnities, arising solely out of the acts or omissions of the PACF in the performance of this Agreement. At its sole discretion, the PACF may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve the PACF of any obligation imposed by this Agreement. The PACF shall notify Sublessee promptly of any claim, action or proceeding and cooperate fully in the defense.

4.6 Mechanic's Liens. Subject to the right to contest the same prior to payment, Sublessee agrees to keep the Premises free and clear of all mechanics' liens and other liens on account of work done by or for a Party. Sublessee shall indemnify, defend (with counsel reasonably acceptable to the PACF) and hold the Indemnities harmless from and against all liability, loss, damages, costs and expenses (including reasonableattorney's fees) incurred by or brought against the PACF for claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished to the PACF or persons claiming under it. In the event any lien is recorded, Sublessee shall, within twenty (20) days following such recordation, cause such lien to be removed of record by bonding or otherwise.

ARTICLE V
MANAGEMENT, USE AND OPERATION OF THE PROPERTY

5.1 Permitted Uses. Sublessee may use the Premises for the Business described in Recital D and with proper permits and licenses and for no other purposes without the prior written consent of the PACF. Sublessee shall not use or permit the Premises to be used in whole or in part during the Term for any purpose other than as permitted pursuant to this Agreement or by the written consent of the PACF.

5.2 Nondiscrimination. Sublessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and thisAgreementis made and accepted upon and subject to the following conditions:that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926,12946.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the, use, occupancy, tenure or enjoyment of the premises herein leased nor shall Sublessee himself or herself, or any

person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection of employees or vendees in the Premises herein leased.

5.3 Maintenance, Repair and Inspection of the Premises

5.3.1 Common Areas.

(a) The term **"CommonAreas"**means all areas and facilities outside of the boundaries of the Premises and within the exterior boundaries of the Plaza Marina Building that are provided and designated by PACF, in its sole discretion, from time to time, for the general use and convenience of Sublessee and its Authorized Representatives and invitees, and of other Sublessees and occupants of the Plaza Marina Building and their respective Authorized Representatives and invitees. Common Areas include, without limitation, pedestrian walkways, patios, landscaped areas, sidewalks, service corridors, restrooms, stairways, elevators, lobbies, decorative walls, plazas, fountains, waterscapes, malls, throughways, loading areas, refuse collection areas, ramps and parking areas to the extent such areas and facilities are located at the Plaza Marina Building.

(b) PACF grants to Sublessee and its Authorized Representatives and invitees the nonexclusive right to use the Common Areas with others who are entitled to use the Common Areas, subject to PACF's rights set forth in Section 5.3.1(c).

(c) Subject to the last paragraph of this Section 5.3.1 (c), PACF may reduce, or change in any manner the Common Areas as PACF, in its sole discretion, shall decide. PACF shall also have, without limitation, the right to:

(i) Establish and enforce reasonable rules and regulations applicable to Sublessee concerning the maintenance, management, use and operation of the Common Areas;

(ii) Close, if necessary, parts of the Common Areas to whatever extent may be legally sufficient in the opinion of PACF's counsel to prevent dedication of any of the Common Areas or the accrual of any rights of any person or of the public to the Common Areas;

(iii) Close temporarily parts of the Common Areas for maintenance, repair and renovation purposes; and

(iv) Select an outside entity (which may be a related entity) to maintain and operate the Common Areas, if at any time PACF determines that the best interests of the Plaza Marina Building will be served by having the Common Areas maintained and operated by any such outside entity.

Notwithstanding the provisions of this Section 5.5.1(c), in exercising its rights hereunder, PACF shall provide reasonable visibility of and access to and from the Premises.

(d) Parking. Sublessee has the nonexclusive use, in common with the PACF,of the non-reserved public automobile parking areas and driveways. Sublessee agrees to cause its employees to park their automobiles in accordance with PACF's parking rules and regulations as established from time to time. Sublessee hereby acknowledges that certain public events held in the Pittsburgdowntown area mayaffect parking availability and vehicular access to the premises from time to time.

5.4 Repair, Maintenance and Inspection of the Premises.

5.4.1 PACF's Repair Obligations.PACF shall, subject to the casualty provisions of Article IX, maintain: (a) the Common Areas; (b) roofs (excluding interior ceilings), foundations, and exterior walls at the Plaza Marina Building (excluding all doors, plate glass, storefronts, display and other windows); and (c) plumbing, pipes and conduits locatedin and servingthe Common Areas; and (d) heating and air conditioning units servicing the Common Areas. On demand, Sublessee shall reimburse PACF for all costs and expenses incurred by PACFwhich are required to make any repair to the Premises and/or other parts of the Plaza Marina Building in connection with or resulting from (i) any alteration or modification to the Premises or to the Plaza Marina Building equipment performed by, for or because ofSublessee or to special equipment or systems installed by, for or because of Sublessee, (ii) the installation, use or operation of Sublessee's property, fixtures and equipment,(iii) the moving of Sublessee's property into or out of the Plaza Marina Building or in and about the Premises, (iv) Sublessee's use or occupancy of the Premises in violation of Article V or in a manner not contemplated by the parties at the time of execution of this Agreement(e.g., subsequent installment of special use rooms), or (v) the acts or omissions of Sublessee or Sublessee's Authorized Representatives, invitees, sublessees, and/or licensees, all of which shall be solely Sublessee's obligation.

5.4.2 Sublessee's Repair Obligations. Subject to the casualty provisions of Article IX and PACF's obligations pursuant to Section 5.4.2, Sublessee, at Sublessee's expense, shall maintain the Premises in good order, condition and repair, including, without limitation, the following: interior surfaces of walls and ceilings; floors; wall and floor coverings; interior and exterior windows and plate glass; window coverings; doors; locks on closing devices; window casements and frames; plumbing and electrical systems within and servicing the Premises (including replacement of light bulbs and tubes); exterior entrances; heating and air conditioning,and all switches, fixtures and equipment located within the Premises. Upon receipt of reasonable notice from Sublessee, PACF shall perform, at the expense of Sublessee all repairs and maintenance to plumbing, pipes and electrical wiring located within walls, above ceiling surfaces and below floor surfaces resulting from the use of the Premises by Sublessee. PACF shall be responsible for any plumbing, pipes, electrical wiring, switches, fixtures or equipment located in the Premises but serving another Sublessee. Sublessee shall, at Sublessee's expense, immediatelyreplace all broken or damaged glass with like-kind glass. Sublessee shall keep all areas immediately adjoining the Premises free from trash, litter and obstructions resulting from Sublessee's business at the Premises.

Sublessee recognizes that the use of chemicals and/or maintenance techniques are

potentially harmful to the Premises or the Plaza Marina Building, and consequentlySublessee's use of such chemicals or maintenance techniques shall be subject toPACF's prior written approval.

The failure of Sublessee to maintain the Premises in accordance with this Agreement shall, in the PACF's discretion, be grounds for termination of this Agreement pursuant to Article XIII.

5.4.3 Sublessee's Maintenance Obligations. Sublessee shall pay all costs and expenses including, if applicable, without limitation, all amounts attributable to, paid or incurred in connection with the ownership, operation, repair, restoration, maintenance and management of the Premises; real property taxes; rent taxes; gross receipt taxes (whether assessed against the PACF or assessed against Sublessee and collected by the PACF, or both); water and sewer charges; insurance premiums; utilities; refuse disposal; lighting (including outside lighting);; security; and janitorial services.

(b) Garbage. Sublessee, at its sole costs, shall store in sealed steel containers or other approved containers and cause to be removed daily all wet or moist garbage, refuse and trash. Sublessee shall remove garbage from Premises in such a manner that it does not leave residue on the Common Areas.

(c) Odors. Sublessee shall not permit foul or offensive odor to emanate from any garbage and trash containers within the Premises, and shall immediately take steps to abate any such odor. Nothing shall be prepared, manufactured or mixed in the Premises which emits any odors into the Plaza Marina Building.

(d) Warranties. Sublessee shall provide PACF with copies of all warranty information for all fixtures and equipment installed on the Premises. In addition, Sublessee shall provide proof of maintenance of all such fixtures and equipment in accordance with warranty requirements on an annual basis at the end of each Lease Year. Failure to maintain the fixtures and equipment in accordance with warranty requirements will become an Event of Default under Article XIII of this Agreement.

5.4.4 Inspection. At any time during the Term, upon reasonable advance notice and during normal business hours, the PACF may conduct interior and/or exterior inspections of the Premises to confirm that it is being properly maintained as required herein. Following its inspection, the PACF may deliver to Sublessee written notification of any portions of the Premises which the PACF has determined are not being properly maintained, and Sublessee shall promptly prepare and deliver to the PACF the proposed plan for remedying the indicated deficiencies of Sublessee. The failure of Sublessee to deliver a remedial plan and to complete remedial work within a reasonable time as determined by the PACF in its reasonable discretion shall be a default under this Agreement pursuant to Article XIII.

The failure of the PACF to inspect or to notify Sublesseeof any deficiency shall not be a waiver of default or of the PACF's right to enforce the maintenance and. repair

obligations of Sublessee. Sublessee shall defend (with counsel reasonably acceptable to the PACF), indemnify and hold the Indemnities harmless from and against any and all Claims arising out of the failure of Sublessee to fully and timely fulfill its obligations to maintain and repair the Premises as required hereunder.

5.5 PACF's Right to Perform SublesseeObligations. If following notice and the expiration of any applicable cure period as set forth in Section 13.2.1, Sublessee fails to perform its obligations to maintain the Premises in accordance with the standards set forth in this Agreement, the PACF shall have the right, but not the obligation, to perform such work upon delivery of written notice to Sublessee, and Sublessee shall reimburse the PACF for all expenditures the PACF incurs in connection with such work togetherwith interest thereon at the Default Rate specified in Article XIII. The PACF's election to undertake such obligation shall not operate as a waiver of any other right or remedy the PACF may have pursuant to this Agreement.

5.6 PACF Not Obligated to Perform Repairs. Notwithstanding any contrary provision herein, the PACF shall not be obligated to make any repairs, alterations, additions, improvements or betterments to the Premises during the term of this Agreement nor shall the PACF be obligated to maintain or operate the Premises.

5.7 Compliance with Laws. Sublessee, at its sole cost and expense, shall comply with all Applicable Laws pertaining to the use, operation, and management of the Premises. Sublessee shall not itself use the Premises for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the Building or the Premises which would result in a nuisance or a violation of law. Sublessee shall use its best efforts to not permit any permittees, licensees, guests or invitees to use the Premises for any unlawful purpose or perform, permit or suffer any act of omission or commission upon or about the building or the Premises which would result in a nuisance or a violation of law.

5.8 Sublessee Right to Contest. Sublessee shall have the right to contest by appropriate proceedings, in the name of Sublessee, and without cost or expense to the PACF, the validity or application of any Applicable Law. If compliance with any Applicable Law may legally be delayed pending the prosecution of any such proceeding without the incurrence of any lien, charge or liability against the Premises or the interest of Sublessee therein, and without subjecting Sublessee or the PACF to any liability, civil or criminal, for failure so to comply therewith, Sublessee may delay compliance therewith until the final determination of such proceeding. Sublessee shall indemnify, defend (with counsel approved by the PACF), protect and hold the Indemnities harmless from and against all Claims arising in connection with any such contest brought by Sublessee. The foregoing indemnity obligation shall survive the expiration or earlier termination of this Agreement.

5.9 Financial Reports. Sublessee will provide, if requested by PACF, an annual audited financial statement for the previous fiscal year on the anniversary of the Commencement Date.

5.10 Maintenance of Licenses and Permits: Legal Compliance. Sublessee will, and will cause Business to, preserve and maintain the existence of their respective

licenses, rights, franchisesand privilegesin the jurisdiction of their formationand all authorizations, consents, approvals, orders, licenses, permits, or exemptions from or registrations with, any governmental agency that are necessary for the transaction of business. Sublessee agrees to comply with all federal, state and local rules, statutes, ordinances and laws which apply to the conduct of its businessactivities and the construction, improvement and maintenance of its property. Sublessee further agrees to notify PACF in writing within ten (10) days of its receipt of service or notice in any administrative or judicial proceeding in which Sublessee is named as a party that isrelated to the occupation· or use of the Premises, or that is related to the licensing of Sublessee or any guarantor, including any petitions, complaintsor administrative proceedings to amend, modify, counsel, revoke, diminish or otherwise affect any licenses or authorities currently granted to, or in the possession of, Sublessee including, but not limited to, business licenses. All repairs and Improvements tothe Premises must be performed by licensed and bonded contractors.

5.11 Payment for City Services. Tenant shall reimburse City for any costs incurred by City to provide additional personnel or services (including, but not limited to, police services, and public works services) that are, in City's sole discretion, (i) directly related to Sublessee's use of the Premises and (ii) beyond the number of City personnel or type of service normally provided by City. The charge for such reimbursement will be calculated based on the actual cost of materials, supplies and direct expenses, plus reimbursement for the cost of City personnel at an hourly rate as reflected in the City's Master Fee Schedule adopted by the City Council.

ARTICLE VI
CONDITION OF THE PREMISES; ENVIRONMENTAL MATTERS

6.1 Condition of the Premises.

6.1.1 AS-IS Condition.Sublessee will lease the Premises in its "AS IS" condition as such condition exists as of the Possession Date.

6.1.2 No Representations. Sublessee acknowledges that except as expressly set forth herein, the PACF makes no representations or warranties expressed or implied regarding the condition of the Premises or the fitness or suitability thereof for the purposes of Sublessee, including but not limited to, the condition of the soil, its geology, topography, the presence or absence of fill, the presence or absence of Hazardous Materials, drainage, flood zone designation, or compliance with Hazardous Materials Laws, and no patent or latent defect or deficiency in the condition of the Premises shall affect the rights of Sublessee or the PACF hereunder. Sublessee shall rely solely on its own independent investigation and judgment as to all matters relating to the Land. Sublessee acknowledges and agrees that prior to the Effective Date it has made such investigations of the Premises, including without limitation such inquiries of governmental agencies, soils testing, tests and inspections as Sublessee deemed necessary to determine the condition of the Premises, and has approved all such characteristics and conditions and shall lease the Premises in its condition as of the Effective Date "AS-IS" "WHERE-IS" AND WITH ALL FAULTS. Sublessee further acknowledges that the PACF has made available all data and information on the Premises available to the PACF, but

without warranty or representation by the PACF as to the completeness, correctness or validity of such data and information, except as otherwise set forth in this Agreement.

6.2 Sublessee's Covenants. Throughout the Term, Sublessee hereby covenants and agrees that

(a) The Premises, and the use and operation thereof, shall be in compliance with all Hazardous Materials Laws, and Sublessee shall not cause or permit the Premises or any portion thereof to be in violation of any Hazardous Materials Laws.

(b) Sublessee shall not permit the Premises or any portion thereof to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials nor shall Sublessee permit the presence or release of Hazardous Materials in, on, under, about or from the Premises with the exception of materialscustomarily used in construction, operation, use or maintenance of Business facilities,provided such materials are used, stored and disposed of in compliance with HazardousMaterials Laws.

(c) Upon receiving knowledge of the same, Sublessee shall immediately advise the PACF in writing of: (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Sublessee, the Premises or the Plaza Marina Building pursuant to any applicable Hazardous Materials Laws; (ii) any and all complaints, claims, citations, demands, inquiries, reports, or notices made or threatened by any third party against Sublessee, the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials; (iii) the presence or release of any Hazardous Materials in, on, under, about or from the Premises or the Plaza Marina Building; or (iv) the discovery of any occurrence or condition, by Sublessee, on any real property adjoining or in the vicinity of thePlaza Marina Building classified as "Border Zone Property" under the provisions of California Health and Safety Code, Sections 25220 *et seq.,* or any regulation adopted in connection therewith, that may in any way affect the Premises pursuant to any Hazardous Materials Laws or cause it or any part thereof to be designated as Border Zone Property. The matters set forth in the foregoing clauses (i) through (iv) are hereinafter referred to as **"Hazardous MaterialsClaims."** The PACF shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claim, and to have its reasonable attorney's fees in connection therewith paid by Sublessee.

(d) Without the PACF's prior written consent, which shall not be unreasonably withheld, Sublessee shall not take any remedial action in response to the presence of any Hazardous Materials in, on, under, or about the Premises or thePlaza Marina Building (other than in emergency situations or as required by governmental agencies having jurisdiction in which case the PACF agrees to provide its consent), nor enter into any settlement agreement, consent decree, or other compromise with respect to any Hazardous Materials Claim.

(e) If the presence of any Hazardous Material on the Premises results in any contamination of thePlaza Marina Building in violation of Hazardous Materials Laws, except to the extent such contamination is caused by the City or the PACF, Sublessee

shall promptly take all actions at its sole expense as are necessary to remediate the Premises as required by law; provided that Sublessee first obtains PACF approval of such actions, which approval may be withheld in the PACF's reasonable discretion. All costs and expenses of any Remedial Work shall be paid by Sublessee, it being understood that the PACF shall incur no cost, expense or liability in connection with any Remedial Work. The PACF shall have the right, but no obligation, to join arid participate in, as a party if it so elects at the PACF's cost, any legal proceedings or actions initiated in connection with any Hazardous Material Claims. For purposes of this Agreement, **"Remedial Work"** means all investigation, testing, analysis, monitoring, restoration, abatement,detoxification, containment, handling, treatment, removal, storage, decontamination, clean-up, transport, disposal or other ameliorative work or responseaction required by (i) any Hazardous Materials Laws, (ii) any order or request of any federal, state or local governmental agency, or (iii) any judgment, consent decree, settlement or compromise with respect to any and all enforcement, clean-up, removal, remedial or other governmental or regulatory actions or agreements or orders threatened, instituted, or completed pursuant to any Hazardous Materials Laws or any actions, proceedings or claims by such entities or third parties relating to or arising out of the breach of any Hazardous Materials Laws or the presence or release of any Hazardous Material in, on, under or from the Premises or the Plaza Marina Building.

6.3 Release of Claims. Sublessee hereby waives releases and discharges forever the Indemnities from all present and future Claims Sublessee may have arising directly or indirectly from the presence or alleged presence of Hazardous Materials on, under, in or about the Premises.

Sublessee is aware of and familiar with the provisions of Section 1542 of the CaliforniaCivil Code which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS/HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM/HER MUST HAVE MATERIALLY AFFECTED HIS/HER SETILEMENT WITH THE DEBTOR.

As such relates to this Section 6.3, Sublessee hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

_____
Sublessee Initials

6.4 Environmental Indemnity. Sublessee shall indemnify, defend (with counsel reasonably acceptable to the PACF) and hold the Indemnities harmless from and against all Claims arising during the Term and resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, transport, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from the Premises during the Term, (ii) the failureof Sublessee, orthe employees, agents, contractors, subcontractors, licensees, permittees, or any person acting on behalf of any of Sublessee to comply with

Hazardous Materials Laws, or (iii) the breach by Sublessee of any of its covenants contained in this Article VI. The foregoing indemnity shall further apply to any residual contamination in, on, under or about the Premises or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws and shall include, without limitation, any Claims arising in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work ordered by a court or required by any federal, state, or local governmental agency or politicalsubdivision. This Section 6.4 shall survive the expiration or earlier termination of thisAgreement.

6.5 Definitions.

6.5.1 Hazardous Materials. As used herein, **"Hazardous Materials"** means any substance, material, or waste which is or becomes regulated by any local, state or federal authority, agency or governmental body, including any material or substance which is: (i) defined as a "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter Presley-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material", "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety .Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) friable asbestos; (vii) polychlorinated biphenyls; (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (ix) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317); (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42U.S.C. §6901, et *seq.* (42 U.S.C. §6903); or (xi) defined as "hazardous substances"pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, et seq., as the foregoing statutes and regulations now exist or may hereafter be amended.

6.5.2 HazardousMaterials Laws. As used herein **"Hazardous Materials Laws"** means all federal, state and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials, including without limitation, the laws, statutes and regulations cited in the preceding Section 6.5.1, as any of the foregoing may be amended from time to time.

Article VIII
TENANT IMPROVEMENTS

7.1 Construction of Tenant Improvements.

7.1.1 Approval of Tenant Improvements.The Sublessee must receive written approval from the PACF prior to the construction of any tenant improvements that affect the Premises or the exterior of the building. Prior to expending any funds for the acquisition, installation and/or construction of any tenant improvements, Sublessee hereby agrees to submit to PACF the plans, specifications, bid(s), and cost estimates for the undertaking of the tenant improvements.

7.1.2. Permits. Sublessee shall comply with all applicable building and design review permits and any other required state, county, or City approvals **("Permits").**

7.2 Prevailing Wages. To the full extent required by all applicable state and federal laws, rules and regulations, if any, Sublessee and its contractors and agents shall comply with California Labor Code Section 1720 et seq. and the regulations adopted pursuant thereto **("Prevailing Wage Laws"),** and are responsible for carrying out the requirements of such provisions. If applicable, Sublessee shall submit to PACF a plan for monitoring payment of prevailing wages and shall implement such plan at the sole expense of Sublessee.

Sublessee shall indemnify, defend (with counsel approved by PACF) and hold the Indemnities harmless from and against all Claims which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781) or the requirement of competitive bidding in the construction of the tenant improvements, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Sublessee related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that PACF does not and will not waive any rights against Sublessee that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by PACF, or deposit by Sublessee to PACF of any of the insurance policies described in this Agreement. The provisions of this Section 7.2 survive the expiration or earlier termination of this Agreement. The indemnification obligations of Sublessee as set forth in this Section shall not apply to Claims arising from the gross negligence or willful misconduct of the indemnities.

ARTICLE VIII
INDEMNITY AND INSURANCE

8.1 Indemnity. To the fullest extent permitted by law, Sublessee shall indemnify, defend (with counsel reasonably acceptable to the PACF) and hold the Indemnities harmless from and against any and all Claims arising during the Term and arising from or in connection with any of the following: (i) the operation or management of theBusiness on the Premises, (ii) any work or thing done on or in the Premises, (iii) any condition of

any alteration or addition constructed by Sublessee on the Premises, (iv) any breach or default by Sublessee in the performance of any covenant or agreement to be performed by Sublessee pursuant to the terms of this Agreement, (v) any negligence of Sublessee, or any of its agents, contractors, subcontractors, employees, or licensees, (vi) any accident, injury or damage caused to any person occurring during the Term in or on the Premises, and (vii) the furnishing of labor or materials by Sublessee or its contractors, subcontractors, employees, or agents. In the event any such action or proceeding is brought against the PACF,by reason of any such Claim, Sublessee, upon notice from the PACF, covenants to defend such action or proceeding by counsel reasonably satisfactory to the PACF. If an insurer under insurance required to be maintained by Sublessee hereunder shall undertake to defend the PACF under a reservation of rights with respect to ultimate coverage and the PACF shall reasonably deem it necessary to retain independentcounsel with respect to such matter, Sublessee shall pay the reasonable fees of such counsel. The obligations of Sublessee under this Article VIII do not apply to any Claim or other matter to the extent such arises as a result of the gross negligence or willful misconduct of the indemnities. This Section shall survive the expiration or earlier termination of this Agreement.

8.2 Insurance Requirements. Sublessee shall procure, at its sole expense, and maintain in full force and effect during the Term, the following insurance naming the PACF as additional insured and/or loss payee:

a. Comprehensive General Liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of the Premises and the Business with a policy limit of at least Two Million Dollars ($2,000,000) per occurrence.

b. Sublessee shall maintain property insurance covering all risks of loss including floor (if required) for 100% replacement value of the Premises, the fixtures and any Improvements, naming the PACF as loss payee as its interests may appear.

c. Workers' compensation insurance that complies with the statutory requirements of the State of California.

d. Automobile liability insurance for owned, hired and non-owned vehicles, with a combined single limit of at least One Million Dollars ($1,000,000).

e. Within five (5) days of the Effective Date, Sublessee shall furnish PACF with certificates of insurance in form acceptable to PACF evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. The certificates shall contain a statement of obligations on the part of the carrier to notify the PACF of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination or non-renewal.

f. If any insurance policy or coverage required hereunder is canceled or reduced, Sublessee shall, within fifteen (15) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of

cancellation or reduction, file with PACF a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, PACF may, without further notice and at its option, procure insurance coverage at Sublessee's expense, and Sublessee shall promptly reimburse PACF for such expense upon receipt of billing from PACF.

g. If Sublessee undertakes the construction of the Improvements pursuant to Article VII, Sublessee shall ensure that its general contractor carries liability, property damage, workers' compensation, and builder's risk insurance throughout construction of the Improvements, naming the indemnities as additional insured's and otherwise in compliance with all requirements set forth in this Section 8.2.

ARTICLE IX
DAMAGE AND DESTRUCTION

9.1 Damage or Destruction. In the event of any damage to or destruction of the Premises during the Term, the PACF shall elect by written notice delivered to Sublessee within sixty (60) days following the date of the occurrence of the damage toeither remove the Premises or restore and rebuild the Premises as nearly as possible to their condition immediately prior to such damage or destruction, subject to any restrictions imposed by changes in any Applicable Law. If the PACF elects to restore the Premises, the PACF shall commence diligently and continuously to carry out such rebuilding to full completion as soon as possible and shall commence reconstruction of the Premises within the earlier of ninety (90) days following the date of occurrence of the damage or the date upon which insurance proceeds are made available for such work. Upon the occurrence of damage or destruction, all insurance proceeds paid in respect of such damage or destruction shall be applied to the payment of the costs of the restoration and rebuilding required to be performed by the PACF pursuant to this Agreement. If the PACF does not elect to restore the Premises and the PACF does not exercise its right to terminate this Agreement pursuant to Section 13.3 within one hundred twenty (120) days following the date of the occurrence of the damage, then at the PACF's option, this Agreement will terminate upon delivery of written notice to Sublessee. If the PACF elects to restore the Premises, the PACF shall confer with Sublessee regarding the design and plans for such restoration of the Premises.

9.2 Notice Required.In the event of materialdamage to or destructionof the Premises, or any part thereof, Sublessee shall promptly give the PACF notice of such occurrence and take all actions reasonably required to protect against hazards caused by such damage or destruction. For purposes of this Article IX, damage or destruction shall be deemed to be material if the estimated cost to repair equals or exceeds Fifty Thousand Dollars ($50,000).

9.3 PACF's Right to Terminate. Notwithstanding any contraryprovision of this Article IX, the PACF has the option to terminate this Agreement and be relieved of the obligation to restore the Premises where all or substantially all of the Premises are substantially damaged or destroyed and such damage or destruction resulted from a cause not insured against by Sublessee and/or the PACF nor required to be insured against by Sublessee

and/or the PACF under this Agreement.

ARTICLE X
LANDLORD'S RIGHT TO PERFORM SUBLESSEE'S COVENANTS

If Sublessee fails at any time to pay any Imposition or other charge payable by Sublessee to a third party as required under this Agreement, or to comply with the requirements set forth in Section 8.2 pertaining to insurance, or to make any other payment or perform any other act on its part to be made or performed hereunder within the time permitted by this Agreement, then the PACF, after thirty (30) days' written notice toSublessee and without waiving or releasing Sublessee from any obligation of Sublessee hereunder, may (but is not required to): (i) pay such Imposition or other charge payable by Sublessee; (ii) pay for and maintain the insurance policies required pursuant to this Agreement, or (iii) make such other payment or perform such other act on the part of Sublessee to be made or performed under this Agreement; and the PACF may enter upon the Premises for such purpose and take all such action thereon as may be reasonably necessary therefore.

All sums paid by the PACF and all costs and expenses incurred by the PACF in connection with any such payment or the performance of any such act (together with interest thereon at the Default Rate from the respective dates of the PACF's making of each such payment) shall constitute additional Rent payable by Sublessee under this Agreement and shall be paid by Sublessee to the PACF on demand. The **"Default Rate"** shall mean interest calculated at an annual rate equal to the lesser of twelve percent (12%) or the maximum rate of interest permitted by law.

ARTICLE XI
MORTGAGES

11.1 Non-Subordination of Fee. The PACF will not subordinate its leasehold interest in the Premises or its right to rent payments hereunder or any other right of the PACF under this Agreement. Except as expressly set forth in this Agreement, Sublessee may not mortgage its interest in the Premises. Notwithstanding anything to the contrary, the PACF has no obligation to encumber or otherwise subordinate its fee interest in the Premises to Sublessee.

11.2 Estoppel Certificates. Sublessee shall, within ten (10) days after receipt of a request from PACFor any lender of PACF, execute, acknowledge and deliver to PACF or such lender either a statement in writing or a three party agreement among PACF, Sublessee and such lender (a) certifying that this Agreementis unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified is in full force and effect) and the date to which Rent is paid in advance, if any, (b) acknowledging that there are not, to Sublessee's knowledge, any uncured defaults on the part of PACF under this Lease, or specifying such defaults if any are claimed, and (c) specifying any further information and agreeing to such notice provisions and other matters reasonably requested by PACF or such lender. Any such statement may be conclusively relied upon by a prospective purchaser or lender of the Premises. Sublessee's failure to deliver such statement within ten (10) days will

constitute a default under this Lease. If Sublessee fails to deliver the statement within the ten (10) days, Sublessee irrevocably constitutes and appoints PACF as its special attorney-in-fact to execute and deliver the statement to any third party.

ARTICLE XII
ASSIGNMENT, TRANSFER, SUBLETTING; NONDISTURBANCE AND ATTORNMENT

12.1 Restrictions on Transfer. Assignment and Encumbrance. Sublessee has no right to sell, transfer, sublet, assign, encumber, hypothecate or otherwise convey **("Transfer")** its leasehold interest hereunder or any portion of its interest in the Premises, the fixtures, any Improvements or this Agreement voluntarily, involuntarily, by operation of law, or otherwise without the prior written approval from PACF.

12.2 No Involuntary Transfers. No interest of Sublessee in this Agreement, the Premises or part thereof is assignable or transferable: (i) pursuant to any voluntary or involuntary proceeding under federal or state bankruptcy or insolvency law; (ii) pursuant to any assignment of the assets of Sublessee for the benefit of its creditors; or (iii) pursuant to any order of attachment, garnishment, receivership, or similar action.

Any transfer described in this Section 12.2 constitutes an Event of Default under this Agreement by Sublessee, and PACF has the right to terminate this Agreement pursuant to Article XIII as a result of any such transfer taking place, in which case this Agreement shall not be treated as an asset of Sublessee.

12.3 No disturbance. Provided that Sublessee is not in default under this Agreement, the possession, use and enjoyment of the Premises by Sublessee will not be interfered with, disturbed or diminished, or otherwise affected in any manner as a result of any act or omission of PACF, or any exercise of any remedies under this Agreement. Sublessee shall ensure that its possession, uses and enjoyment of the Premises does not interfere with, disturb or diminish or otherwise affect in any manner any other tenants in the Building.

ARTICLE XIII
DEFAULT, REMEDIES AND TERMINATION

13.1 Event of Default. Sublessee will be in default under this Agreement upon the occurrence of any of the following events of default (each, an **"Event of Default"):**

(a) Payment of Base Rent. Sublessee fails to pay Base Rent when due and Sublessee fails to cure such default within three (3) business days;

(b) Other Monetary Obligations. Sublessee at any time is in default hereunder as to any monetary obligation other than Base Rent (including without limitation, the obligation of Sublessee to pay Sublessee's Monthly Operating Costs Payment, and the obligation of Sublessee to pay taxes and assessments due on the Premises or part thereof, subject to the right of Sublessee to contest such charges pursuant to Section 3.2), and such default continues for thirty (30) days after the date upon which the PACF shall have given Sublessee a Notice of Default (as defined in

Section 13.2.1);

(c) Insurance. Sublessee fails to obtain and maintain any insurance required pursuant to Section 8.2 of this Agreement, and Sublessee fails to cure such default within ten (10) days following receipt of Notice of Default;

(d) Abandonment. Sublessee abandons the Premises and ceases to use it for the purposes authorized hereby for a period of ninety (90) days or more or as established pursuant to Section 1951.3 of the California Civil Code except when prevented by Force Majeure;

(e) Transfer. A voluntary or involuntary Transfer of all or any portion of the Sublessee hold interest of Sublessee in this Agreement occurs in violation of the provisions of Article XII;

(f) Non-Monetary Obligations. Sublessee defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 13.1, and unless a shorter cure period is specified for such default, the default continues for thirty (30) days after the date upon which the PACF has given written notice of the default to Sublessee; provided however, if the default is of a nature that it cannot be cured within thirty (30) days, an Event of Default shall not arise hereunder if Sublessee commences to cure the default within thirty (30) days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than one hundred and eighty (180) days after receipt of a Notice of Default;

(g) Bankruptcy. Sublessee files a voluntary petition in bankruptcy or files any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or seeks or consents to or acquiesces in theappointment of any trustee, receiver or liquidator of Sublessee or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof, or makes any general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due;

(h) Reorganization. A court of competent jurisdiction enters an order, judgment or decree approving a petition filed against Sublessee seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree remains unvacated and unstayed for an aggregate of sixty (60) days from the first date of entry thereof, or any trustee receiver or liquidator of Sublessee or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof is appointed without the consent or acquiescence of Sublessee and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, such sixty (60) day period to be extended in all cases during any period of a bona fide appeal diligently pursued by Sublessee;

(i) Attachment. A writ of execution or attachment or any similar process is issued or levied against all or any part of the interest of. Sublessee in the Premises and such execution, attachment or similar process is not released, bonded, satisfied, or vacated or stayed within sixty (60) days after its entry or levy, such sixty (60) day period to be extended during any period of a bona fide appeal diligently pursued by Sublessee;

j) Liens. The failure of Sublessee to satisfy the requirements of Section 4.6 within the time periods specified therein;

k) Removal of PACF Equipment. Sublessee removes PACF Equipment in violation of Section 4.5 of this Agreement.

13.2 Notice and Opportunity to Cure.

13.2.1 Notice of Default. Upon the occurrence of a default hereunder, the non-defaulting party shall deliver a notice to the nonperforming party (the**"Notice of Default"),** stating the nature of the obligation which such nonperforming party has failed to perform, and stating the applicable period of time, if any, permitted to cure the default.

13.2.2 Failure to Give Notice; No Waiver. Failure to give, or delay in giving, the Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. No failure or delay by either party in asserting any rights and remedies as to any breach shall operate as a waiver of any breach or of any such rights or remedies. Delay by either party in asserting any of its rights and remedies shall not deprive such party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.

13.3 Remedies Upon Default.

13.3.1 PACF's Remedies. Upon the occurrence of any Event of Default and in addition to any and all other rights or remedies of the PACF hereunder and/or provided by law, the PACF has the right to terminate this Agreement and the possessory rights of Sublessee hereunder, in accordance with applicable law to re-enter the Premises and take possession of the Premises and of the fixtures and any Improvements, and except as otherwise provided herein, to remove all persons and property there from, and to store such property at the risk of Sublessee and for the account of Sublessee, and Sublessee shall have no further claim thereon or hereunder. The PACF's re-entry or taking of possession of the Premises may not be construed as an election on the PACF's part to terminate this Agreement unless the PACF has given written notice of such intention to Sublessee. In no event shall this Agreement be treated as an asset of Sublessee after any final adjudication in bankruptcy except at the PACF's option so to treat the same but no trustee, receiver, or liquidator of Sublessee shall have any right to disaffirm this Agreement.

13.3.2 Remedies Upon Abandonment. If Sublessee should default under this Agreement and abandon the Premises, the PACF may, at its option, enforce all of its

rights and remedies under this Agreement, including the right to recover the rent as it becomes due hereunder. Additionally, the PACF is entitled to recover from Sublessee all costs of maintenance and preservation of the Premises, and all costs, including attorneys' and receiver's fees incurred in connection with the appointment of and performance by a receiver to protect the Premises and the PACF's interest under this Agreement.

13.3.3 PACF Right to Continue Lease. In the event of any default, if Sublessee fails after receipt of a Notice of Default to cure the default within the time period set forth in this Agreement, under this Agreement by Sublessee (and regardless of whether or not Sublessee has abandoned the Premises), this Agreement does not terminate (except by an exercise of the PACF's right to terminate under Section 13.3.1) unless the PACF makes such election by the giving of any notice (including, without limitation, any notice preliminary or prerequisite to the bringing of legal proceedings in unlawful detainer) to terminate the right to possession held by Sublessee. For so long as this Agreement continues in effect, the PACF may enforce all of the PACF's rights and remedies under this Agreement, including, without limitation, the right to recover all rent and other monetary payments as they become due hereunder. For the purposes of this Agreement, the following shall not constitute termination of the right to possession held by Sublessee: (a) acts of maintenance or preservation or efforts to relit the Premises; or (b) the appointment of a receiver upon initiative of the PACF to protect the PACF interest under this Agreement.

13.3.4 Right to Injunction; Specific Performance. In the event of a default by Sublessee under this Agreement, the PACF shall have the right to commence an action against Sublessee for damages, injunction and/or specific performance. The failure, for any reason, of Sublessee to comply with a court-ordered injunction or order for specific performance shall constitute a breach under this Agreement.

13.3.5 Right to Receiver. Following the occurrence of an Event of Default, if Sublessee fails after receipt of a Notice of Default to cure the default within the time period set forth in this Agreement, the PACF, at its option, may have a receiver appointed to take possession of the interest of Sublessee in the Premises with power in the receiver (a) to administer the interest in the Premises held by Sublessee, (b) to collect all funds available in connection with the operation of the Premises, and (c) to perform all other acts consistent with the obligations of Sublessee under this Agreement, as the court deems proper.

13.4 Remedies Cumulative. No remedy specified in this Article XIII shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy provided hereunder or now or hereafter existing at law or in equity or by statute, and every power and remedy provided by this Agreement may be exercised from time to time and as often as occasion may arise or as may be deemed expedient, subject to any limitations set forth herein.

1.3.5 No Election of Remedies. The rights given in this Article XIII to receive collect or sue for any rent or rents, moneys or payments, or to. enforce the terms, provision's and conditions of this Agreement, or to prevent the breach or nonobservance thereof, or the exercise of any such right or of any other right or remedy hereunder or otherwise

granted or arising, shall not in any way affect or impair or toll the right or power of the PACF upon the conditions and subject to the provisions in this Agreement to terminate the right of possession held by Sublessee because of any default in or breach of any of the covenants, provisions or conditions of this Agreement beyond the applicable cure period.

13.6 Survival of Obligations. Nothing herein shall be deemed to affect the right of the PACF under Article VIII of this Agreement to indemnification for liability arising prior to the termination of this Agreement for personal injuries or property damage, nor shall anything herein be deemed to affect the right of the PACF to equitable relief where such relief is appropriate. No expiration or termination of the Term by operation of law, or otherwise, and no repossession of the Improvements or any part thereof shall relieve Sublessee of its previously accrued liabilities and obligations hereunder, all of which shall survive such expiration, termination or repossession.

ARTICLE XIV
GENERAL PROVISIONS

14.1 Force Majeure; Extension of Times of Performance. Subject to the limitations set forth below, performance by either Party shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or omissions of the other Party, acts or failures to act of any public or governmental agency or entity (other than the Parties which shall not excuse delay in performance), or any other cause beyond the affected Party's reasonable control (all of the foregoing **"Force Majeure").** An extension of time for any such cause shall be for the period of the enforced delay and ·shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Party within ten (10) days of receipt of the notice. Neither Party shall unreasonably withhold consent to an extension of time pursuant to this Section.

Times of performance under this Agreement may also be extended in writing by the mutual agreement of Sublessee and the PACF (acting in the discretion of its Executive Director unless he or she determines in his or her discretion to refer such matter to the governing boardof the PACF). Each Party expressly assumes the risk of such adverse economic or market · changes and/or financial inability, whether or not foreseeable as of the Effective Date.

14.2 PACF's Right to Enter the Premises. The PACF and its agents may enter the Premises from time to time with reasonable notice, except in the case of emergency in which case no notice shall be required, to inspect the same, to post notices of no responsibility and similar notices, and to discharge the obligations of Sublessee as stated

hereunder when Sublessee has failed to do so within a reasonable time after written notice from the PACF.

14.3Representations of PACF and Sublessee.

14.3.1 Sublessee hereby represents and warrants that all of the following are true and correct as of the Effective Date:

(a) Sublessee has taken all requisite action in connection with the execution of this Agreement and the undertaking of the obligations set forth herein. This Agreement constitutes the legally valid and binding obligation of Sublessee, enforceable against Sublessee in accordance with its terms, except as it may be affected by bankruptcy, insolvency or similar laws or by legal or equitable principles relating to or limiting the rights of contracting parties generally; and

(b) The execution of this Agreement and the acceptance of the obligations set forth herein do not violate any court order or ruling binding upon Sublessee or any provision_ of any indenture, agreement or other instrument to which Sublessee is a party or may be bound. Neither the entry into nor the performance ofthis Agreement will violate, be in conflict with or constitute a default under any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, judgment, order or other agreement, charge, right or interest applicable to Sublessee.

14.3.2 PACF hereby represents and warrants that all of the · following are true and correct as of the Effective Date:

(a) The PACF has taken all requisite action in connection with the execution of this Agreement and the undertaking of the obligations set forth herein. This Agreement constitutes the legally valid and binding obligation of the PACF, enforceable against the PACF in accordance with its terms, except as it may be affected by bankruptcy, insolvency or similar laws or by legal or equitable principles relating to or limiting the rights of contracting parties generally; and

(b) The execution of this Agreement and the acceptance of the obligations set forth herein do not violate any court order or ruling binding upon the PACF or any provision of any indenture, agreement or other instrument to which the PACF is a party or may be bound. Neither the entry into nor the performance of this Agreement will violate, be in conflict with or constitute a default under any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, judgment, order or other agreement, charge, right or interest applicable to the PACF.

14.4Miscellaneous.

14.4.1 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent

permitted by law.

14.4.2 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account; in which case notice is effective on delivery if delivery is confirmed by the delivery service; or

(iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered tohave been received on the next business day if it is received after 5:00 p.m. recipient's time or on a no business day.

PACF: Pittsburg Arts and Community Foundation, Inc.
65 Civic Avenue
Pittsburg, CA 94565
Attention: Executive Director
Telephone:(925) 252-4877
Facsimile: (925) 252-4851

With copy to: Donna Mooney
Board Counsel
65 Civic Avenue
Pittsburg, CA 94565

Sublessee: **David Doyal**
DBA_____
_____

14.4.3 Captions; Construction. The section headings and captionsused herein are solely for convenience and shall not be used to interpret this Lease. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree that since both Parties have participated in the negotiation and drafting of this Agreement with the· advice of counsel, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

14.4.4 Successors and Assigns. Subject to the restrictions on transfer set forth in Article XII, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. Any reference in this Agreementto a specifically named Party shall be deemed to apply to any permitted successor and assign of such Party who has acquired an interest in compliance with this Agreement asif in every case so expressed.

14.4.5 Short Form of Lease. A memorandum of lease will be executed by the Parties and recorded in the Official Records of Contra Costa County upon the request of either Party.

14.4.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Contra Costa County, California or in the Federal District Court for the Northern District of California.

14.4.7 Attorney's Fees. If either Party commences an action against the other to enforce any obligation contained herein, or to interpret any provision hereof, the prevailing party shall be entitled to recover from the other Party reasonable counsel fees, costs and necessary disbursements, as determined by the court having jurisdiction over the action.

14.4.8 Indemnity Includes Defense Costs. In any case where either Party is obligated under an express provision of this Lease, to indemnify and to save the other Party harmless from any damage or liability, the same shall be deemed to include defense of the indemnities by the indemnitor, such defense to be through legal counsel reasonably acceptable to the indemnities.

14.4.9 No Third-Party Beneficiaries; Disclaimer of Partnership. Lender/Sublessee Relationship. Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties any rights or remedies hereunder. The relationship of the parties under this Agreement is solely that of landlord and tenant, and it is expressly understood and agreed that the PACF does not as a result of this Agreement in any way nor for any purpose become a partner of Sublessee or a joint venturer with Sublessee in the conduct of business or otherwise by Sublessee. This Agreement is not intended to,and shall not be construed to create the relationship of principal and agent, partnership, joint venture, or association as between the PACF and Sublessee. It is further expressly understood and agreed that this Agreement is not intended to, and shall not be construed to create the relationship of lender and borrower, and the PACF does not, solely as a result of this Agreement, become a lender to Sublessee.

14.4.10 Entire Agreement. This Agreement, together with Exhibits A through Cwhich by this reference is hereby incorporated herein, contains the entire agreement between the Parties relative to the transactions covered hereby. Allprevious correspondence, communications, discussions, agreements,understandingsor proposals and acceptances thereof between the Parties or their representatives, whether oral or written, are deemed to have been integrated into and superseded by this Agreement and are of no further force and effect except as expressly provided in this Agreement.

14.4.11 Waiver; Modification. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any subsequent breach of the same or any other covenant or provision hereof. No waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the waiving party. This Agreement may be amended or modified only by a written instrument executed by the Parties.

The Executive Director, in his/her sole discretion, may make minor amendments to this Agreement. A minor amendment shall be any modification that does not make a substantive change, modification or deviation in the terms of this Agreement or any Exhibits or Schedules attached hereto ("Minor Amendment"). Minor Amendments shall include, but are not limited to, the times for performance, square footage available for lease; changes in maintenance responsibilities, and improvements to the Premises.

Minor Amendments may be approved by the prior written consent of the Executive Director. The Executive Director's determination as to the status of any Minor Amendment is final. The Executive Director also may, at his/her discretion, determine that a Minor Amendment shall be reviewed and acted upon by the Board of Directors and not by the Executive Director. No provision of this Sublease may be amended except by a mutual agreement in writing signed by the parties hereto or their respective successors in interest.

14.4.12 Time is of the Essence. Time is of the essence of this Agreement and of each provision hereof.

14.4.13 Counterparts.This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

14.4.14 Action by the Parties. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the PACF in its capacity as landlord hereunder is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the PACF's Executive Director or by any person who shall have been designated by the Executive Director, without further approval by the PACF Board of Directors unless the Executive Director determines in his or her discretion that such matter requires consideration by the PACF Board.

14.4.15 Non-Liability of Officials. Employees and Agents. No member, official, employee or agent of the PACF or the City shall be personally liable to Sublessee or its successors in interest in the event of any default or breach by the PACF or for any amount which may become due to Sublessee or the permitted successors in interest of Sublessee pursuant to this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives in the City of Pittsburg, State of California, as of the date first written above.

PITTSBURG ARTS AND COMMUNITYFOUNDATION,
a California 501(c)(3) Nonprofit Corporation

By:_____
Executive Director

ATTEST:

By:_____
Board Secretary

REVIEWED AS TO FORM

_____
Board Counsel

DAVID DOYAL
an Individual

By:_____

Title:_____Owner_____

LIST OF EXHIBITS

A: Property
B: Master Lease Agreement
C: Premises

EXHIBIT A

Legal Description of the Property

PARCEL MAP WAIVER 08-01

That certain Parcel of land situate in the City of Pittsburg, County of Contra Costa, State of California, Lot 2 and Lot 3 of "Official Map of Marina View", filed on October 5, 1968, in Book 124 of Maps, at Page 41, said County Recorder's Office and a portion of Marina Boulevard as said street is shown on said map (124M41) and described in Document No. 2008-0023740, recorded on FEBRUARY 5, 2008 Contra Costa County Official Records, more particular described as follows:

PARCEL 1

COMMENCING at the most southwesterly corner of said Lot 2; thence along westerly boundary line of said Lot 2 North 17°46'36" East 201.97 feet to the **TRUE POINT OF BEGINNING**; thence leaving said westerly boundary line North 72°06'24" West 3.85 feet to a point on a non-tangent curve concave westerly and having a radius of 242.00 feet, a radial line of said curve from said point bears North 77°02'00" West; thence along said curve northerly 135.97 feet through a central angle of 32°11'33"; thence non-tangent from said curve North 65°42'43" East 91.53 feet to a point on a non-tangent curve concave northeasterly and having a radius of 33.00 feet, a radial line of said curve from said point bears South 83°54'27" East; thence along said curve southerly and southeasterly 55.27 feet through a central angle of 95°57'50"; thence non-tangent from said curve South 17°38'57" West 162.04 feet; thence North 72°06'24" West 58.89 feet to the **POINT OF BEGINNING**.

CONTAINING 0.32 Acres, more or less.

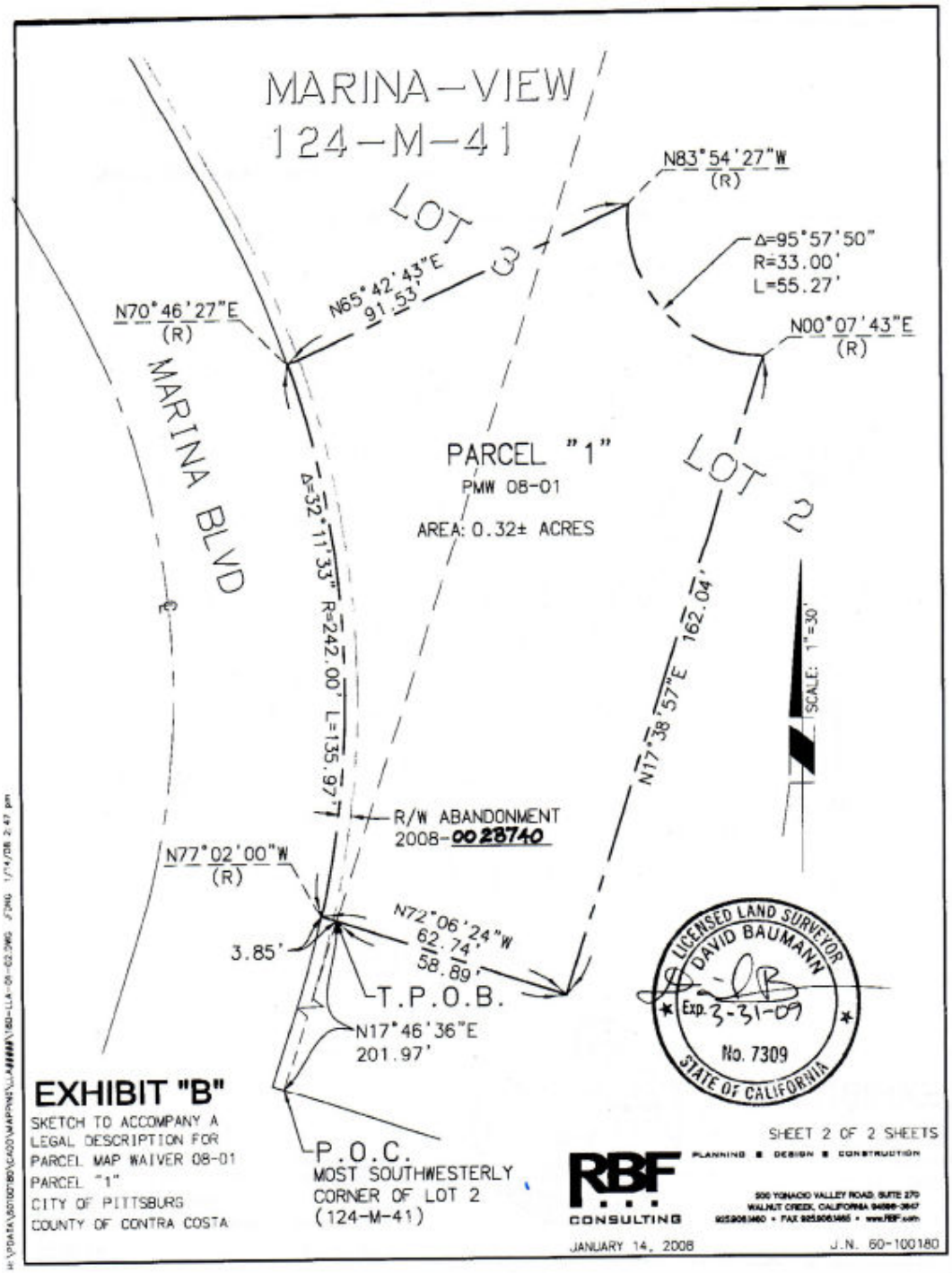
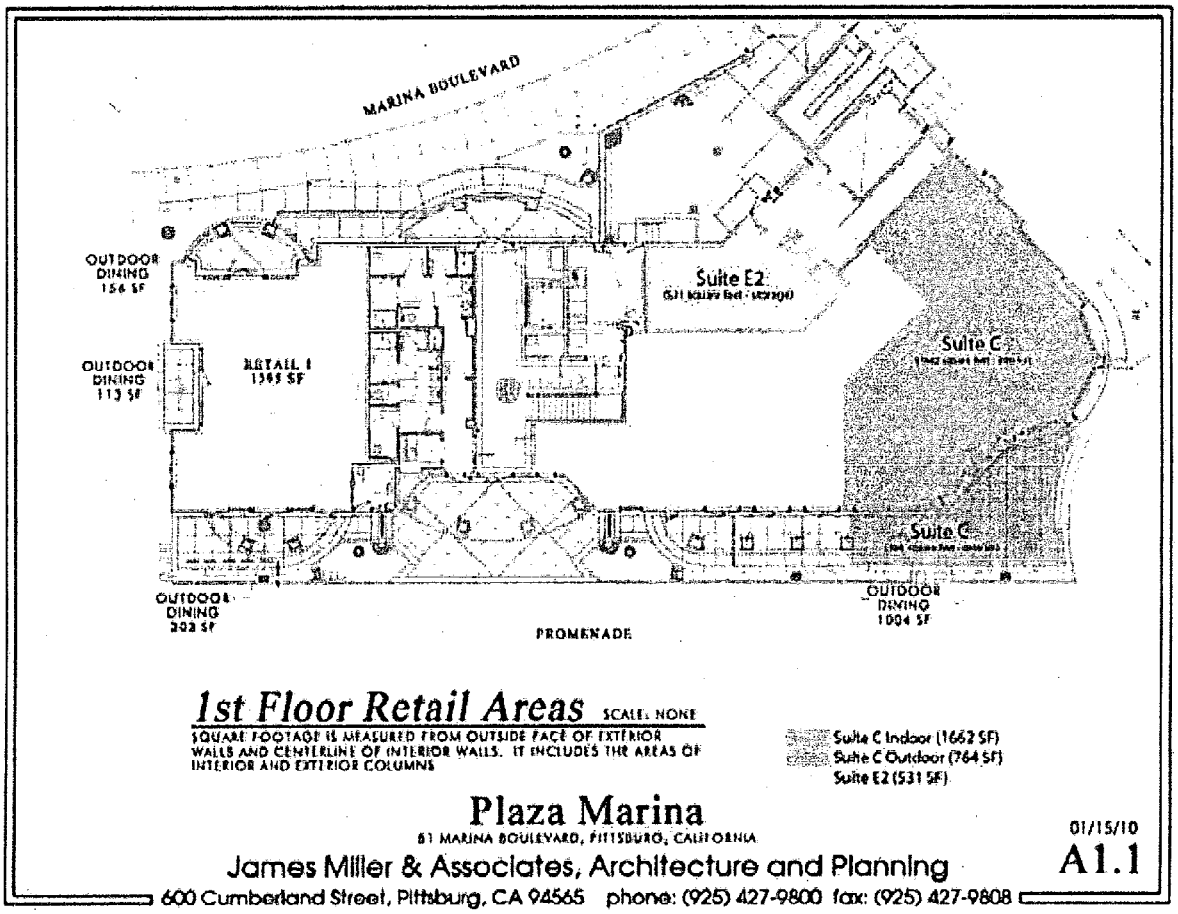

MARINA-VIEW
124-M-41
LOT 3
N83°54'27"W
(R)
Δ=95°57'50"
R=33.00'
L=55.27'
N00°07'43"E
(R)
N65°42'43"E
91.53'
N70°46'27"E
(R)
MARINA BLVD
PARCEL "1"
PMW 08-01
AREA: 0.32± ACRES
LOT 2
Δ=32°11'33" R=242.00' L=135.97'
N17°38'57"E 162.04'
SCALE: 1"=30'
R/W ABANDONMENT
2008-0028740
N77°02'00"W
(R)
N72°06'24"W
62.74'
58.89'
3.85'
T.P.O.B.
N17°46'36"E
201.97'
P.O.C.
MOST SOUTHWESTERLY
CORNER OF LOT 2
(124-M-41)
LICENSED LAND SURVEYOR
DAVID BAUMANN
Exp. 3-31-09
No. 7309
STATE OF CALIFORNIA
EXHIBIT "B"
SKETCH TO ACCOMPANY A
LEGAL DESCRIPTION FOR
PARCEL MAP WAIVER 08-01
PARCEL "1"
CITY OF PITTSBURG
COUNTY OF CONTRA COSTA
SHEET 2 OF 2 SHEETS
RBF
CONSULTING
PLANNING ■ DESIGN ■ CONSTRUCTION
JANUARY 14, 2008
J.N. 60-100180

EXHIBIT B

Master Lease

(Separate Document)

EXHIBIT C

Premises