

| | |
|---------------------------|--------------|
| DOCKET 06-AFC-6 | |
| DATE | JUL 1 0 2008 |
| RECD. | JUL 1 6 2008 |

1 MICHAEL LAWSON #48172
 MAUREEN CONNEELY #154534
 2 maureen.conneely@hayward-ca.gov
 Office of the City Attorney
 3 City of Hayward
 City Hall, 4th Floor
 4 777 B Street
 Hayward, CA 94541
 5 Telephone: (510) 583-4450
 6 Fax: (510) 583-3660

7 PILLSBURY WINTHROP SHAW PITTMAN LLP
 RONALD E. VAN BUSKIRK #64683
 8 MICHAEL S. HINDUS # 88647
 DIANA J. GRAVES # 215089
 9 TODD W. SMITH #235566
 diana.graves@pillsburylaw.com
 10 50 Fremont Street
 Post Office Box 7880
 11 San Francisco, CA 94120-7880
 Telephone: (415) 983-1000
 12 Facsimile: (415) 983-1200
 13 Attorneys for City of Hayward
 14

15 **STATE OF CALIFORNIA**
 16 **State Energy Resources**
Conservation And Development Commission

17 _____
 18 In the Matter of: }
 19 }
 20 APPLICATION FOR CERTIFICATION }
 FOR THE EASTSHORE ENERGY }
 21 CENTER }
 22 _____

Docket No. 06-AFC-6
 DECLARATION OF STEVE JOLLY

23
 24
 25
 26
 27
 28

1 **Declaration of Steve Jolly**

2 I, Steve Jolly, declare as follows:

3 1. I am the Administrative Analyst for City of Hayward Fire Department (“HFD”),
4 reporting directly to the Fire Chief. My official address is Hayward City Hall, 777 B Street,
5 Hayward, CA 94541-5007. I have held this position since 1985. My responsibilities
6 include budget preparation, contract support for the neighboring Fairview Fire Protection
7 District, and inspection and testing of the Opticom traffic preemption system. I have
8 personal knowledge of the facts stated in this declaration, and if called as a witness, I could
9 and would testify thereto.

10 2. I am submitting this declaration pursuant to the Notice of Supplemental Evidentiary
11 Hearing issued June 20, 2008 by Commissioner and Presiding Member Jeffrey D. Byron in
12 the matter of the Application for Certification for the Eastshore Energy Center in Hayward
13 by Tierra Energy. The Eastshore Energy Center (“EEC”), as proposed, would be located at
14 25101 Clawiter Road in the City of Hayward (“City”).

15 **Background**

16 3. In September 2006, Eastshore Energy, LLC submitted an Application for
17 Certification (06-AFC-6) to the California Energy Commission (“CEC”) for approval of a
18 115 megawatt intermediate/peaker power plant to be located in the City of Hayward
19 (“City”).

20 4. On October 4, 2006, the CEC notified the City of the proposed project and
21 requested City’s participation in the review of the project as it related to compliance with
22 the laws, ordinances, regulations and standards (“LORS”) controlling development in the
23 City.

24 5. On August 17, 2007, the CEC Staff released its Preliminary Staff Assessment
25 (“PSA”) of the EEC. The “Worker Safety and Fire Protection” section of the PSA (pp.
26 4.14-1 – 4.14-18) identified, *inter alia*, a potential cumulative impact on the “fire and
27 emergency service capabilities of the HFD.” (PSA at p. 4.14-13). To address this impact,
28 CEC Staff proposed Condition of Certification WORKER SAFETY-6, which provided:

1 “The project owner shall enter into negotiations and a contract with the [HFD] on the
2 amount of fees and timing of payment the project owner will provide for mitigation of
3 project specific and cumulative impacts associated with providing fire, EMS, and hazardous
4 materials release response for the Eastshore Energy Center. The funds shall be sufficient to
5 provide for an improvement to the “Opticom” system used by the [HFD] and any other
6 appropriate mitigation negotiated by the parties.”

7 6. On November 9, 2007, the CEC Staff released its Final Staff Assessment (“FSA”)
8 of the EEC. The FSA deleted Condition of Certification WORKER SAFETY-6 concerning
9 funding improvements to HFD’s Opticom system due to the lack of available information
10 on the cost of improving the Opticom System.

11 7. The Notice of Supplemental Evidentiary Hearing directed that the record would be
12 reopened for the limited purpose of taking evidence on three issues, including as relevant
13 here the following: “**WORKER SAFETY AND FIRE PROTECTION.** No mitigation is
14 proposed to address Staff’s preliminary finding that the *project’s incremental effect on fire*
15 *and emergency response would be cumulatively considerable.* Although the [HFD] did not
16 provide information on the costs of upgrading Opticom, the HFD’s failure to respond does
17 not obviate the project’s potential cumulative impact on HFD services. We believe this
18 impact must be mitigated. The Applicant, Staff and City of Hayward are directed to draft a
19 Condition of Certification to resolve this issue.”

20 **Cost of Opticom Improvements**

21 8. I have obtained an estimate from Republic ITS for the improvements to HFD’s
22 Opticom system necessary to ensure adequate fire and emergency service capabilities in the
23 event the EEC is approved and constructed. A true and correct copy of the Republic ITS
24 estimate is attached hereto as Exhibit A. Republic ITS estimates the cost for improving
25 HFD’s Opticom system as \$189,350.00, plus an additional \$48,000.00 for interconnect
26 work.

27 9. The Republic ITS estimate identifies and provides the cost of certain improvements
28 that are not necessary. For the Harder & West Harder intersection, Republic ITS assumed

1 the need for basic installation of the Opticom system. However, Harder and West Harder
2 will only require installation of an Opticom "relay" at an estimated cost of \$2,000.00. For
3 the D & Grand, D & Meek, D & Winton and Winton and Soto intersections, Republic ITS
4 again assumed the need for basic installation the Opticom system. These intersections do
5 not require basic installation, however, and will only require interconnection work at an
6 estimated cost of \$48,000.00. I prepared a revised estimate, based on the cost estimates
7 from the Republic ITS estimate, reflecting the actual necessary work and costs for
8 improving HFD's Opticom system. The total cost for the improvements to HFD's Opticom
9 system necessary to ensure adequate fire and emergency service capabilities in the event the
10 EEC is approved and constructed is \$149,350.00, inclusive of the interconnection fee. A
11 true and correct copy of my revised estimate is attached hereto as Exhibit B.

12 **Proposed Condition of Certification**

13 10. Based on the aforementioned cost estimates for improving HFD's Opticom system,
14 the City proposes the following Condition of Certification: "The project owner shall pay a
15 fee to the City of Hayward in the amount of \$149,350.00 to fund improvements to the
16 Hayward Fire Department's Opticom system."

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct. Executed July 10, 2008 at Hayward, California.

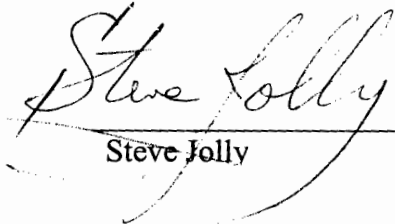
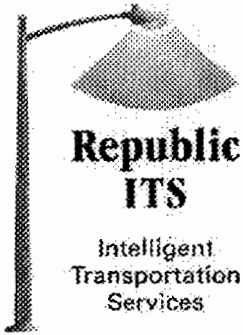
19
20
21 
22 Steve Jolly
23
24
25
26
27
28

EXHIBIT A



July 8, 2008

Mr. Steve Jolly
 Administrative Analyst
 City of Hayward
 777 B Street
 Hayward, CA 94541

Job Name: **TURNKEY OPTICOM INSTALLATION PROJECT**
 Job Location(s): **Various**

Mr. Jolly:

We offer to perform the following work based on our standard the terms and conditions:

Per your request, this proposal is to furnish and install a turn-key emergency pre-emption system (3M Opticom Brand) at the referenced locations. Republic to furnish and install required detectors, discriminators cards, and cabling within the existing conduit system at each location. Includes traffic control and cabinet modification work.

| <i>Intersection Name</i> | <i>Cost Proposal</i> | <i>Estimated Caltrans Fees</i> | <i>Not to Exceed</i> |
|--|----------------------|--------------------------------|----------------------|
| Industrial & Tennyson | \$ 16,250.00 | \$ - | \$ 16,250.00 |
| Industrial & Sleepy Hollow (Caltrans) | \$ 18,550.00 | \$ 5,000.00 | \$ 23,550.00 |
| Industrial & Cryer (Caltrans) | \$ 18,550.00 | \$ 5,000.00 | \$ 23,550.00 |
| Industrial & Depot | \$ 18,000.00 | \$ - | \$ 18,000.00 |
| Harder & West Harder | \$ 18,000.00 | \$ - | \$ 18,000.00 |
| West Winton & Saklan | \$ 18,000.00 | \$ - | \$ 18,000.00 |
| D& Grand* | \$ 18,000.00 | \$ - | \$ 18,000.00 |
| D& Meek* | \$ 18,000.00 | \$ - | \$ 18,000.00 |
| D& Winton* | \$ 18,000.00 | \$ - | \$ 18,000.00 |
| Winton & Soto* | \$ 18,000.00 | \$ - | \$ 18,000.00 |
| | | SUBTOTAL | \$ 189,350.00 |

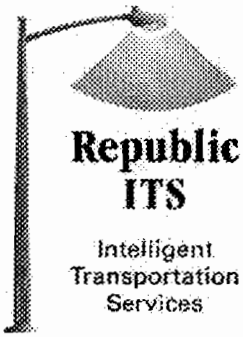
*does not include interconnect costs.

Interconnect Work:

Design & build interconnect system such that intersections (*) will pre-empt each other using wireless technology. **ADD \$ 48,000.00**

EXCLUSIONS:

- Concrete or conduit repair work.
- Permits.



PAGE 2 OF 2
July 8, 2008
STEVE JOLLY - OPTICOM INSTALLATION VARIOUS LOCATIONS
HAYWARD, CA

This offer shall expire 90 days from the date hereof and may be withdrawn by us at any time prior thereto with or without notice. This offer supersedes any prior offers, commitment or orders, contains all terms, conditions and warranties and when accepted, constitutes the entire contract between the parties. The resulting contract shall not be modified except by formal written amendment. This offer shall be accepted by delivery to us of a copy of this offer duly signed by you in the space provided.

The foregoing offer is hereby accepted this _____ day of _____, 2008.
CITY OF HAYWARD

REPUBLIC ITS

Robert Asuncion, T.E.
Operations Manager

By: _____
Title: _____

EXHIBIT B

EASTSHORE ENERGY CENTER

FOLDER OPTICOM 2008
VER 7/8/2008 III

OPTICOMS 2008

| <i>INTERSECTION</i> | <i>SERVES STATION(S)</i> | | <i>ESTIMATED COST</i> |
|--|------------------------------|-------------------------------|---------------------------|
| INDUSTRIAL / TENNYSON | 4 | BASIC INSTALL 3 DIRECTIONS | \$ 16,250 |
| INDUSTRIAL / SLEEPY HOLLOW | 4 | BASIC INSTALL 4 DIRECTIONS | \$ 23,550 |
| INDUSTRIAL / CRYER / 92 OFF RAMP | 1, 2, 4 | BASIC INSTALL 4 DIRECTIONS | \$ 23,550 |
| INDUSTRIAL / DEPOT | 1, 2, 4 | BASIC INSTALL 4 DIRECTIONS | \$ 18,000 |
| HARDER / WEST HARDER | 2 | RELAY | \$ 2,000 |
| WEST WINTON / SAKLAN | 1 | BASIC INSTALL 4 DIRECTIONS | \$ 18,000 |
| D / GRAND D / MEEK D / WINTON WINTON / SOTO | 1 | INTERCONNECT | \$ 48,000 |
| | | | |
| TOTAL ONE TIME COSTS | | | \$ 149,350 |

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION
FOR THE EASTSHORE ENERGY CENTER
IN CITY OF HAYWARD
BY TIERRA ENERGY

Docket No. 06-AFC-6

PROOF OF SERVICE
(Revised 4/21/2008)

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 06-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

Greg Trewitt, Vice President
Tierra Energy
710 S. Pearl Street, Suite A
Denver, CO 80209
greg.trewitt@tierraenergy.com

Harry Rubin, Executive Vice President
RAMCO Generating Two
1769 Orvietto Drive
Roseville, CA 95661
hmrenergy@msn.com

COUNSEL FOR APPLICANT

Jane Luckhardt, Esq.
Downey Brand Law Firm
555 Capitol Mall, 10th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

APPLICANT'S CONSULTANTS

David A. Stein, PE
Vice President
CH2M HILL
155 Grand Avenue, Suite 1000
Oakland, CA 94612
dstein@ch2m.com

INTERESTED AGENCIES

Jennifer Scholl
Senior Program Manager
CH2M HILL
610 Anacapa Street, Suite B5
Santa Barbara, CA 93101
jscholl@ch2m.com

Larry Tobias
CA Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
ltobias@caiso.com

INTERVENORS

Greg Jones, City Manager
Maureen Conneely, City Attorney
City of Hayward
777 B Street
Hayward, California 94541
greg.jones@hayward-ca.gov
michael.sweeney@hayward-ca.gov
maureen.conneely@hayward-ca.gov
david.rizk@hayward-ca.gov

*** Pillsbury Winthrop Shaw Pittman LLP.**

Att: Diana Graves, Esq
Att: Michael Hindus, Esq
Att: Todd Smith
50 Fremont Street
San Francisco, CA 94120
diana.graves@pillsburylaw.com
michael.hindus@pillsburylaw.com
ronald.vanbuskirk@pillsburylaw.com
* todd.smith@pillsburylaw.com

Paul N. Haavik
25087 Eden Avenue
Hayward, CA 94545
lindampaulh@msn.com

James Sorensen, Director
Alameda County Development Agency
Att: Chris Bazar & Cindy Horvath
224 West Winton Ave., Rm 110
Hayward CA 94544
james.sorensen@acgov.org
chris.bazar@acgov.org
cindy.horvath@acgov.org

Charlotte Lofft & Susan Sperling
Chabot College Faculty Association
25555 Hesperian Way
Hayward, CA 94545
clofft@chabotcollege.edu
ssperling@chabotcollege.edu

Law Office of Jewell J. Hargleroad
Jewell J. Hargleroad, Esq
1090 B Street, No. 104
Hayward, CA 94541
jewellhargleroad@mac.com

Jay White, Nancy Van Huffel,
Wulf Bieschke, & Suzanne Barba
San Lorenzo Village Homes Assn.
377 Paseo Grande
San Lorenzo, CA 94580
jwhite747@comcast.net
slzvha@aol.com
wulf@vs-comm.com
suzbarba@comcast.net

Richard Winnie, Esq.
Alameda County Counsel
Att: Andrew Massey, Esq.
1221 Oak Street, Rm 463
Oakland, CA 94612
richard.winnie@acgov.org
andrew.massey@acgov.org

Libert Cassidy Whitmore
Att: Laura Schulkind, Esq.
Att: Arlin B. Kachalia, Esq.
153 Townsend Street, Suite 520
San Francisco, CA 94107
lschulkind@lcwlegal.com
akachalia@lcwlegal.com

Robert Sarvey
501 W. Grantline Rd
Tracy, CA, 95376
Sarveybob@aol.com

ENERGY COMMISSION

Jeffrey D. Byron
Commissioner and Presiding Member
jbyron@energy.state.ca.us

Susan Gefter, Hearing Officer
sgefter@energy.state.ca.us

Bill Pfanner, Project Manager
bpfanner@energy.state.ca.us

Caryn Holmes, Staff Counsel
cholmes@energy.state.ca.us

Public Adviser
pao@energy.state.ca.us

DECLARATION OF SERVICE

I, Michael Wilson declare that on JULY 10, 2008, I ^{sent} ~~deposited~~ copies of the attached Declaration of Steve Jolly in the United States mail at _____, with first-class postage thereon fully prepaid and addressed to those identified on the ~~Proof of Service~~ list above.

OR

Transmission via electronic mail was consistent with the requirements of the California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

Michael Wilson