DOCKETED	
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Project Title:	Bowers Backup Generating Facility
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Notice of Preparation of a Draft Environmental Impact Report

In accordance with California Code of Regulations, title 14, section 15082, California Energy Commission (CEC) staff has prepared this Notice of Preparation (NOP) to inform the Office of Planning and Research (OPR) and each responsible and trustee agency that an Environmental Impact Report (EIR) will be prepared for the Bowers Backup Generating Facility (BBGF) (22-SPPE-01) and the Bowers Data Center proposed in the city of Santa Clara.

The BBGF is planned as part of the Bowers Data Center (BDC), and together these constitute the "project" under the California Environmental Quality Act (CEQA). Specifically, the project would include a four-story data center building, emergency backup generating facilities, a new 72 mega volt-ampere electrical substation, switchgear and distribution cabling to interconnect the generators to their respective portion of the building, surface parking, landscaping, and utility pipeline connections. The CEC is requesting your agency's comments regarding the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the EIR. Your agency will need to use the EIR prepared by CEC when considering your permit or other approval for the proposed project.

Small Power Plant Exemption (SPPE) Process

The CEC has the exclusive authority to certify all thermal power plants (50 megawatts (MW) and greater) and related facilities proposed for construction in California. Applicants proposing to construct thermal power plants between 50 and 100 MW may obtain an exemption from the CEC's jurisdiction and proceed with local permitting rather than CEC certification. The CEC can grant an exemption if it finds that the proposed facility would not create a substantial adverse impact on the environment or energy resources (Pub. Resources Code, § 25541). Public Resources Code, section 25519(c) designates the CEC as lead agency, in accordance with CEQA, for all facilities seeking this exemption. The CEC will not be approving the construction of the project, only determining whether the project can be exempted from the CEC jurisdiction.

The CEC staff has begun its review of the application and will prepare an EIR for public review. At the conclusion of the evaluation and opportunity for public review and comment regarding the project, a decision will be made by the CEC at a noticed business meeting on whether the application meets the requirements of Public Resources Code, section 25541. Should the exemption to the CEC jurisdiction be granted, the applicant would then need to secure the appropriate entitlements and permits from the relevant local, regional, state, and

federal agencies to construct and operate the proposed project. The CEC's regulations setting forth the SPPE process are primarily located in California Code of Regulations, title 20, sections 1936 and 1940-1942.

Response to Notice of Preparation

Pursuant to the NOP rule in the CEQA Guidelines (Cal. Code Regs, tit. 14, § 15082(b)) each responsible and trustee agency and the OPR shall provide the CEC with specific detail about the scope and content of the environmental information related to the responsible or trustee agency's area of statutory responsibility that must be included in the draft EIR. At a minimum, the response shall identify:

- the significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the OPR will need to have explored in the draft EIR; and
- whether the agency will be a responsible agency or trustee agency for the project.

This response is due to the CEC within 30 days of receipt of the NOP. Staff requests your comments **by March 10, 2023**. If a responsible or trustee agency, or the OPR fails by the end of the 30-day period to provide CEC with either a response to the notice or a well-justified request for additional time, CEC staff will presume that none of those entities have a response to make.

You may submit comments electronically. To use CEC's electronic commenting feature, go to CEC's webpage for this proceeding, cited below, click on the "Submit eComment" link, and follow the instructions in the online form. Be sure to include the project name in your comments. Once filed, you will receive an email with a link to them and the comments will be part of the proceeding's public record.

Project Webpage, Subscription, and Contact Information

CEC maintains a website for this project at: https://www.energy.ca.gov/powerplant/reciprocating-engine/bowers-backup-generating-facility. The SPPE application and related project documents are viewable by clicking the "Docket Log (22-SPPE-01)" link located near the upper right corner of the project webpage. The direct link to the project docket log is: https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-SPPE-01.

To receive electronic notices of all project-related activities and documents related to the exemption evaluation, go to CEC's subscription page https://www.energy.ca.gov/subscriptions under "Power Plants Licensing and

Projects" and check the "Bowers Backup Generating Facility (BBGF)" box under "Projects Under Review".

If you have any questions or need additional information on how to participate in CEC's review of the proposed project, please contact Ann Crisp, Project Manager, by email to ann.crisp@energy.ca.gov.

Project Description

The proposed project would occupy a site encompassing 5.12 acres located at 2805 Bowers Avenue in the city of Santa Clara. The project site has a General Plan land use designation of High Intensity Office/R&D and is zoned Light Industrial. The project site is currently developed with an approximately 55,000 square foot two-story office building and associated paved surface parking. The project site is generally bound to the north by an existing one-story office building, to the east by a material testing laboratory and a one-story office building, to the south by an existing Silicon Valley Power (SVP) substation (Uranium Substation), and to the west by Bowers Avenue. Parcels near the project site consist primarily of commercial and industrial land uses to the north, east and west, and residential uses to the southeast. Land uses to the west include the Central Expressway, approximately 625 feet north of the project site. The closest sensitive receptors (a residential area) to the project site are residences approximately 500 feet south, southwest and southeast of the project boundary. The closest school is the Bracher Elementary School and is located approximately 1,400 feet southeast of the project boundary. The Norman Y. Mineta San José International Airport is located approximately 1.87 miles east of the site.

The project would include the data center building, emergency backup generating facilities, a new 72 mega volt-ampere electrical substation, switchgear and distribution cabling to interconnect the generators to their respective portion of the building, surface parking, landscaping, and utility pipeline connections. The project would include an approximately 2,600-foot-long recycled water pipeline extension within the public right-of-way along Bowers Avenue and Walsh Avenue. The applicant proposes to remove 48 trees on-site. New landscaping is proposed that would consist of 69 trees, large and medium shrubs, and groundcovers along the property boundaries, building perimeters, and stormwater treatment facilities, as well as landscape beds distributed throughout the parking facilities. Additionally, the applicant proposes to construct

stormwater treatment areas consisting of bioretention areas. The stormwater treatment areas would be located along the perimeter of the project site.

The project's generating facility would include Tier 4 compliant diesel-fired emergency backup generators to provide up to 72 MW of backup emergency generation to the BDC, if electricity cannot be supplied by the utility, SVP. Specifically proposed are 32 3-MW primary emergency generators. The sole purpose of the backup generating facilities is to provide electrical power to support the data center campus operations in the event of loss of electrical service from the local electric utility provider, SVP.

Potential Environmental Effects

The EIR will analyze the reasonably foreseeable direct, indirect, and cumulative effects of the proposed project in the topic areas specified in Appendix G of the CEQA Guidelines, plus environmental justice (EJ).

Based on its analysis to date and prior experience evaluating other data centers in industrial settings, staff has identified that the proposed project would likely have no or less-than-significant impacts in the environmental topic areas of aesthetics, agriculture and forestry resources, energy and energy resources, mineral resources, population and housing, public services, recreation, utilities and service systems, and wildfire.

The CEC staff is still conducting information gathering activities, including any information provided by other agencies in response to this notice that can inform the CEC's environmental review. The following environmental topic areas could have potentially significant impacts that could be reduced to less than significant with mitigation, as feasible. It is anticipated that the following topics will be analyzed further in the EIR.

Air Quality

The proposed project would be located in the city of Santa Clara in the San Francisco Bay Area Air Basin (SFBAAB), under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The SFBAAB is in non-attainment for ozone and particulate matter (PM) federal and state ambient air quality standards. The backup diesel generators proposed for the project could result in potentially significant impacts due to ozone precursors (oxides of nitrogen [NOx] and reactive organic gases). These impacts could be fully offset through the permitting process with the BAAQMD.

The project's construction emission from construction activities (fugitive dust) and heavy-duty construction equipment and vehicles (diesel PM) could have a

potentially significant cumulatively considerable net increase of a criteria pollutant(s) for which the SFBAAB is in non-attainment under an applicable federal or state ambient air quality standard. This impact could be mitigated with BAAQMD best management practices.

Project operations may have a potentially significant impact on sensitive receptors due to the exposure of substantial pollutant concentrations of criteria pollutants and toxic air contaminants. Mitigation would be identified to reduce potentially significant impacts, if needed.

Biological Resources

The proposed project site is in an urban area and does not support native vegetation communities or other sensitive habitats. The area is not expected to support sensitive plants or wildlife. The applicant identified 61 existing trees of which 47 are proposed to be removed. The removal of trees could have a potentially significant impact if it would conflict with local policies or ordinances for tree preservation and tree replacement. This impact could be reduced with satisfactory provisions for the replacement of trees and protections for trees to remain on site. Construction activities, such as the removal of trees and vegetation, that occur during the breeding season of protected birds, including raptors, which is generally considered to occur from February to August, could have a potentially significant impact through direct and indirect disturbance to nesting birds. These impacts could be reduced with the incorporation of avoidance measures, such as conducting nesting bird surveys and establishing a construction-free buffer zone around any active nests. Construction activities, such as demolition of existing buildings and removal of trees, could have a potentially significant impact on protected bat species through the destruction of active bat roosts, if present. These impacts could be reduced with the incorporation of avoidance measures, such as conducting bat roost surveys and implementing exclusion measures, if present. The CEC staff is working to develop mitigation that would reduce these potential impacts to biological resources.

Cultural and Tribal Cultural Resources

Based on preliminary information, two archaeological resources have been identified in the project study area: P-43-000019 (CA-SCL-134/H) and the informally documented resource C-169, which are thought to be two portions of the same Native American habitation and burial site. Consultation with California Native American tribes is in progress to identify any additional cultural resources and potential impacts. Ground disturbance proposed as part of the project could encounter and damage buried resources that meet CEQA's criteria for historical, unique archaeological, or tribal cultural resources. The resulting impacts would

likely be significant under CEQA. There are also at least seven parcels adjacent to the project site or the proposed recycled water line extension alignment that contain buildings or structures that are 45 years or older. Staff is waiting for the applicant to evaluate the eligibility for listing on the California Register of Historical Resources or as a local landmark (Data Request 23, TN#247096). Without evaluations of these resources staff is unable to analyze any potential effects to significant built environment cultural resources. Although the applicant has proposed nine project design measures to reduce the severity of cultural or tribal cultural resource impacts, at this time, there is not enough information to conclude whether the project would result in significant impacts to cultural or tribal cultural resources and whether they could be mitigated to less than significant. Mitigation measures would be proposed to reduce potentially significant impacts to less than significant, if feasible.

Geology and Soils (Paleontology)

The project site is in the Santa Clara Valley, an area known to have scientifically significant but widespread or intermittent fossil discoveries. Surficial sediment at the project site is generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils. However, Pleistocene age (2.6 million to 11,700 years before present) sediments may also be present at or near the surface. Although unlikely, paleontological resources could be encountered during construction requiring earth moving, such as grading, trenching for utilities, excavation for foundations, and installation of support structures where native soil would be disturbed. If paleontological resources are discovered, construction could have potentially significant direct or indirect impacts due to the destruction of a unique paleontological resource. The applicant proposed measures to address potential impacts associated with the discovery of paleontological resources during construction**.** The CEC staff will evaluate if these measures would reduce impacts to less than significant levels and craft mitigation measures, as necessary.

Greenhouse Gas Emissions

The project could result in potentially significant greenhouse gas (GHG) emissions from three categories of activities: direct emissions from construction, direct emissions from the testing and maintenance of the backup diesel generators, and indirect emissions from the data center's miscellaneous operations. The CEC staff expects that the potentially significant temporary direct emissions from construction could be mitigated by using best management practices (BMPs) and that the potentially significant direct emissions from testing and maintenance would be below relevant significance thresholds. Additionally, the project applicant has proposed to obtain electricity from SVP, which would

allow the project to reduce the indirect GHG emissions associated with the data center's electricity use. The CEC staff will evaluate the indirect emissions from the project's data center's electricity use and assess whether mitigation is necessary and what options are available.

Hazards and Hazardous Materials

The project site is in an area with properties of varying current business and industrial uses and that had former industrial and agricultural uses. Based on Phase I Environmental Site Assessment conducted for the project site in February 2021 (included in project application), the site has a history of agricultural use. The presence of unknown soil or groundwater contamination has not been ruled out for the project site. There is also the potential for migration of vapor-phase contamination from an adjacent property to the south. The demolition of existing buildings and site infrastructure and construction of project components could encounter contaminated soil or groundwater. Demolition of the 1970s era buildings and infrastructure may encounter asbestos containing material and lead based paint.

The project would use hazardous materials during project construction (including demolition activities), and operation. Spills or leaks of hazardous materials that will be used and stored at the project site during project construction, such as fuels for construction equipment and vehicles, and small amounts of lubricants and solvents could occur due to project construction activities. During operation, a large quantity of diesel fuel, totaling approximately 182,400 gallons for all the generators, would be stored in integrated fuel tanks within each generator package. Approximately 6,400 gallons of urea or diesel exhaust fluid, used as part of the diesel engine combustion process, would be stored in tanks in the ground level generator enclosure, one tank for each pair of stacked generators. Spills or leaks of diesel fuel or diesel exhaust fluid could occur during refueling or due to damage to the tanks.

The project construction or operation could result in potentially significant environmental impacts due to encountering contaminated soil or groundwater and hazardous materials (lead based paint and asbestos containing materials) during construction or spills from diesel fuel or diesel exhaust fluid during operation. Staff will review the applicant proposed measures (**PD HAZ-1.1** through **PD HAZ-1.4** and **PD HAZ-2**) to determine whether they are sufficient to reduce potentially significant impacts to less than significant. Staff may craft mitigation measures if the applicant's measures are not sufficient.

Hydrology and Water Quality

The proposed project would disturb approximately 5.12 acres of land and be subject to construction-related stormwater permit requirements of California's National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit) administered by the State Water Resources Control Board (SWRCB). Prior to any ground-disturbing construction activity, the project owner would be required to comply with the Construction General Permit, which includes preparation of a Stormwater Pollution Prevention Plan (SWPPP). With implementation of the construction SWPPP, redevelopment of the site would not cause a substantial degradation in the quality, or an increase in the rate or volume, of stormwater runoff from the site during construction. The applicant proposes specific BMPs to address water quality degradation due to construction related stormwater runoff as part of **PD-HYD-1.1**. The CEC staff will evaluate if these measures would reduce impacts from construction-related water quality impacts to less than significant and propose additional mitigation measures, as necessary.

Noise

The noise levels associated with construction could be potentially significant but could be mitigated via the implementation of a construction noise plan. The temporary intermittent noise impacts associated with the yearly testing of the emergency generators, as well as the likelihood for increased noise levels resulting from project operation could be potentially significant. If potentially significant impacts on sensitive receptors are identified, CEC staff would draft mitigation, including noise attenuation and other measures to reduce impacts.

Transportation

The proposed project could have potentially significant impacts from vehicle miles travelled (VMT). The project-generated VMT per employee (15.95) is greater than the City of Santa Clara's threshold of 14.14 VMT per employee for industrial uses. Implementation of applicant's proposed measure **PD-TRN-1.1** could satisfy the City's VMT mitigation requirements. CEC staff will evaluate if these measures would reduce impacts from VMT to less than significant and propose mitigation measures, as necessary.

Alternatives

The EIR will consider a reasonable range of potentially feasible alternatives to the project. In addition to a no project alternative, the EIR will likely consider

fuel cell technology, battery storage, alternative fuels (renewable diesel and biodiesel), and natural gas internal combustion engines.

Environmental Justice

The CEC staff has determined the presence of an EJ population within the vicinity of the project site using currently available decennial Census and California Department of Education data. The CEC staff will analyze whether the project would result in any potentially significant disproportionate impacts to the EJ population.

Responsible Agencies

The CEC has identified the Bay Air Quality Management District (BAAQMD) and City of Santa Clara as responsible agencies for this project. The project will require the following approvals and permits, if exempted:

- BAAQMD – authority to construct and permit to operate
- City of Santa Clara – General Plan Amendment, Conditional Use Permit, and Architectural Review and approval

Trustee Agencies

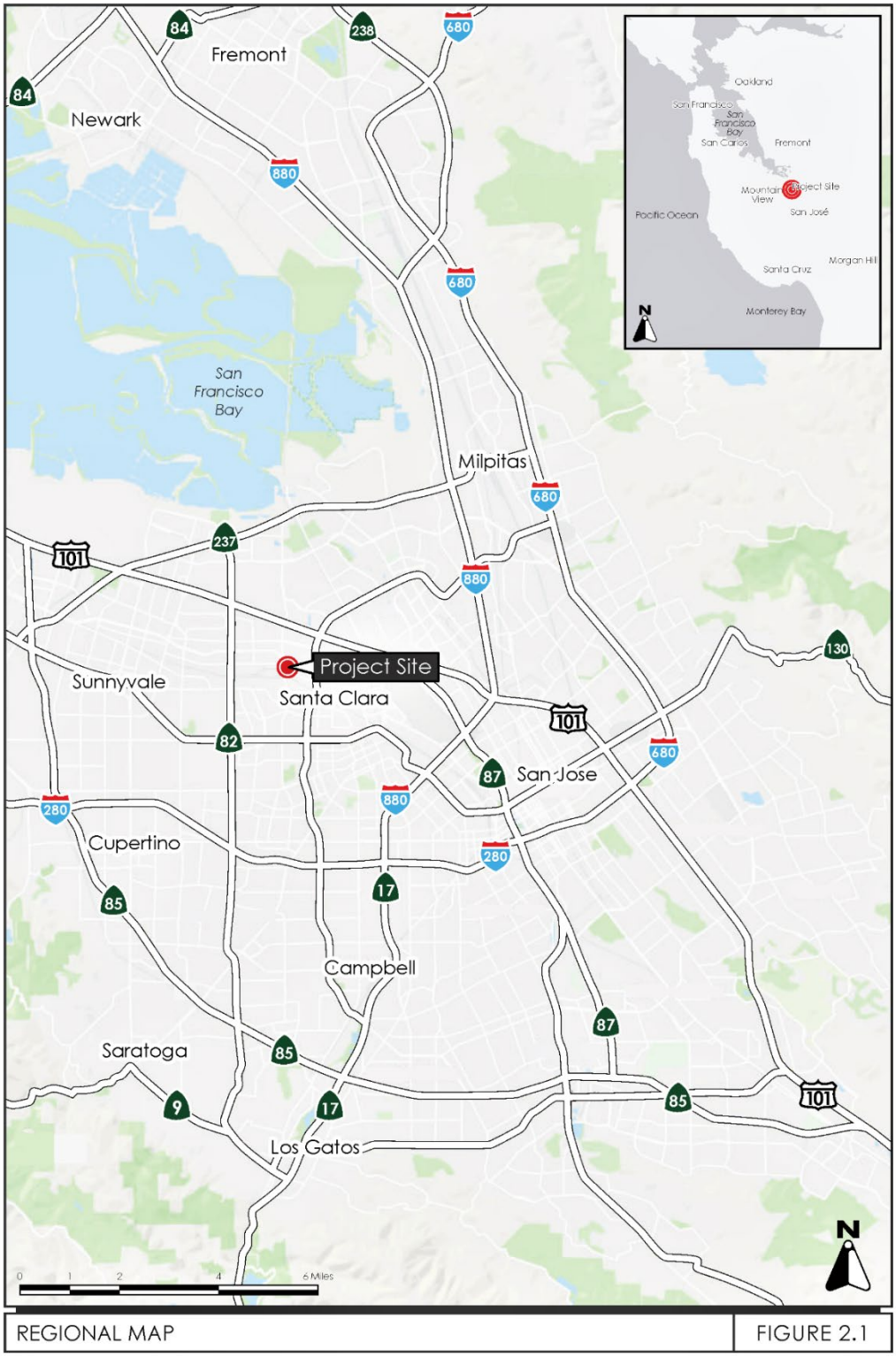
The CEC has identified the California Department of Fish and Wildlife as a trustee agency for this project.

Scoping Meeting(s)

The CEC staff has determined that the project is not a project of statewide, regional, or areawide significance pursuant to the California Code of Regulations, title 14, section 15206, and, thus, does not intend to hold a scoping meeting. Please note, however, that pursuant to the provisions of the California Code of Regulations, title 14, section 15082(c), a responsible agency, a trustee agency, OPR, or a project applicant may request one or more meetings between representatives of the agencies involved to assist the lead agency in determining the scope and content of the environmental information that the responsible agency or trustee agency may require. Requests for such a meeting should be directed to the CEC staff Project Manager, Ann Crisp, at the email listed above.

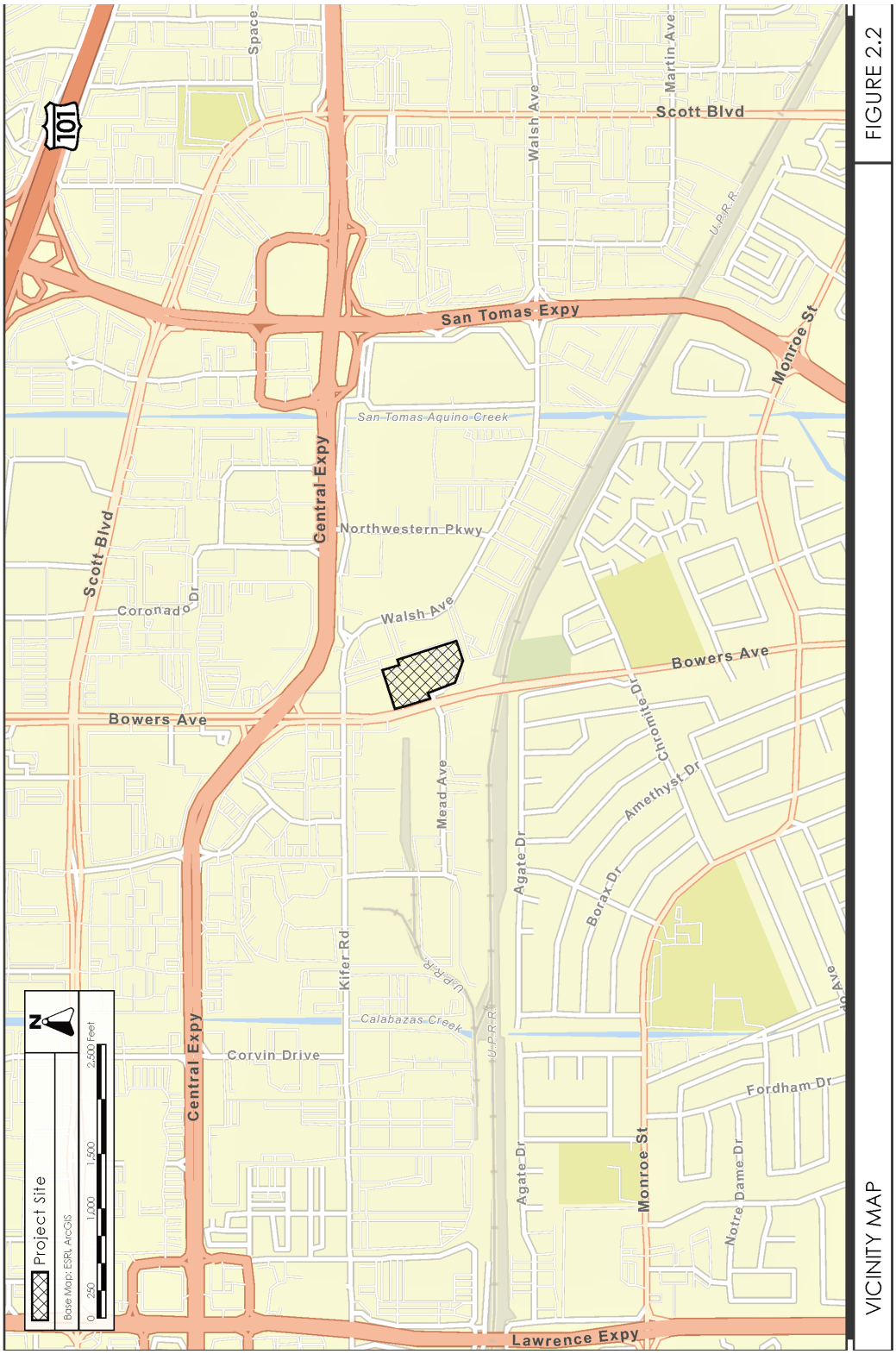
Attachments (from the SPPE application):

Regional Map (Figure 2.1)
Vicinity Map (Figure 2.2)
Aerial Photograph and Surrounding Land Uses (Figure 2.3)
Site Plan (Figure 2.4)

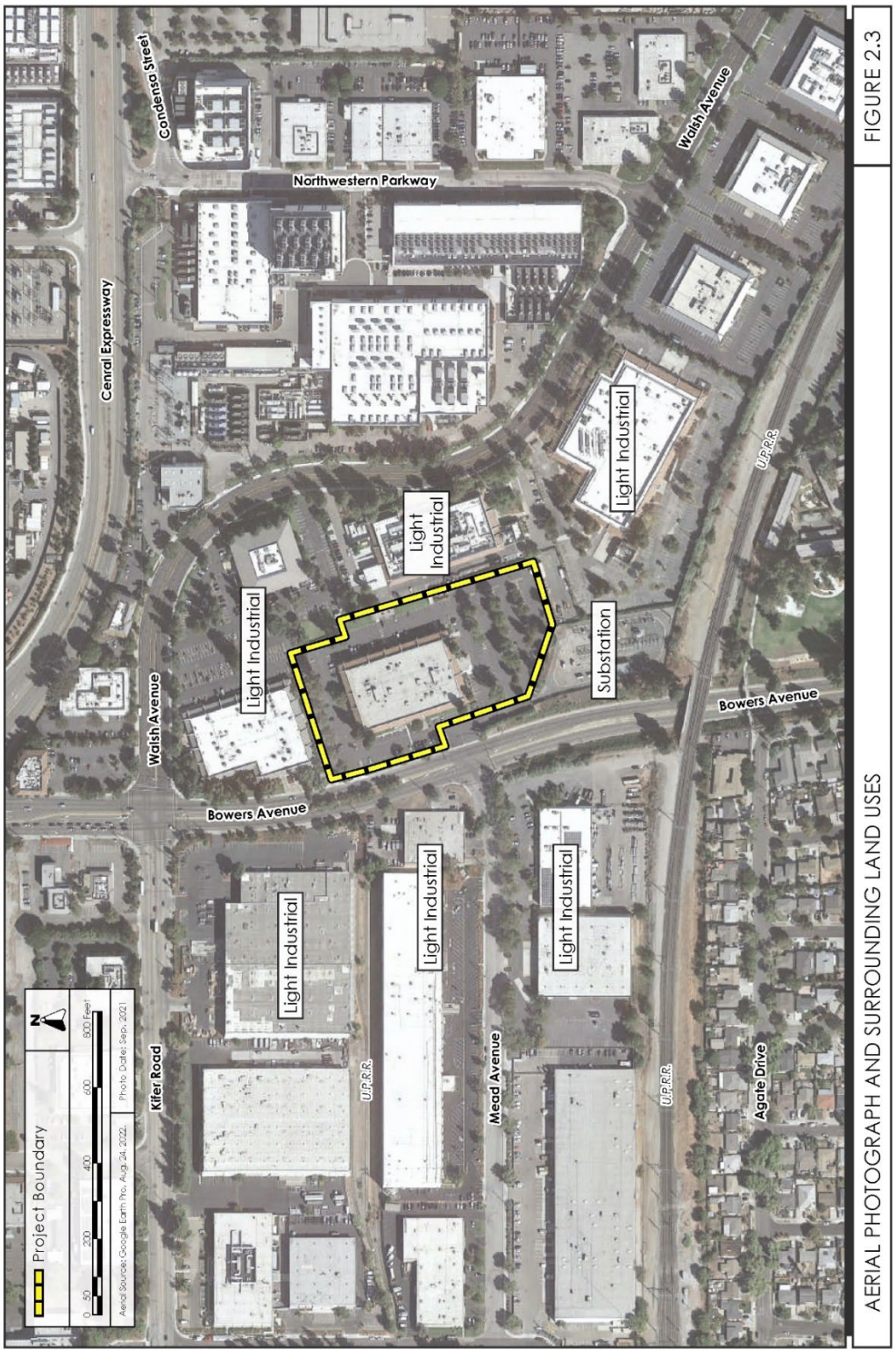


REGIONAL MAP | FIGURE 2.1

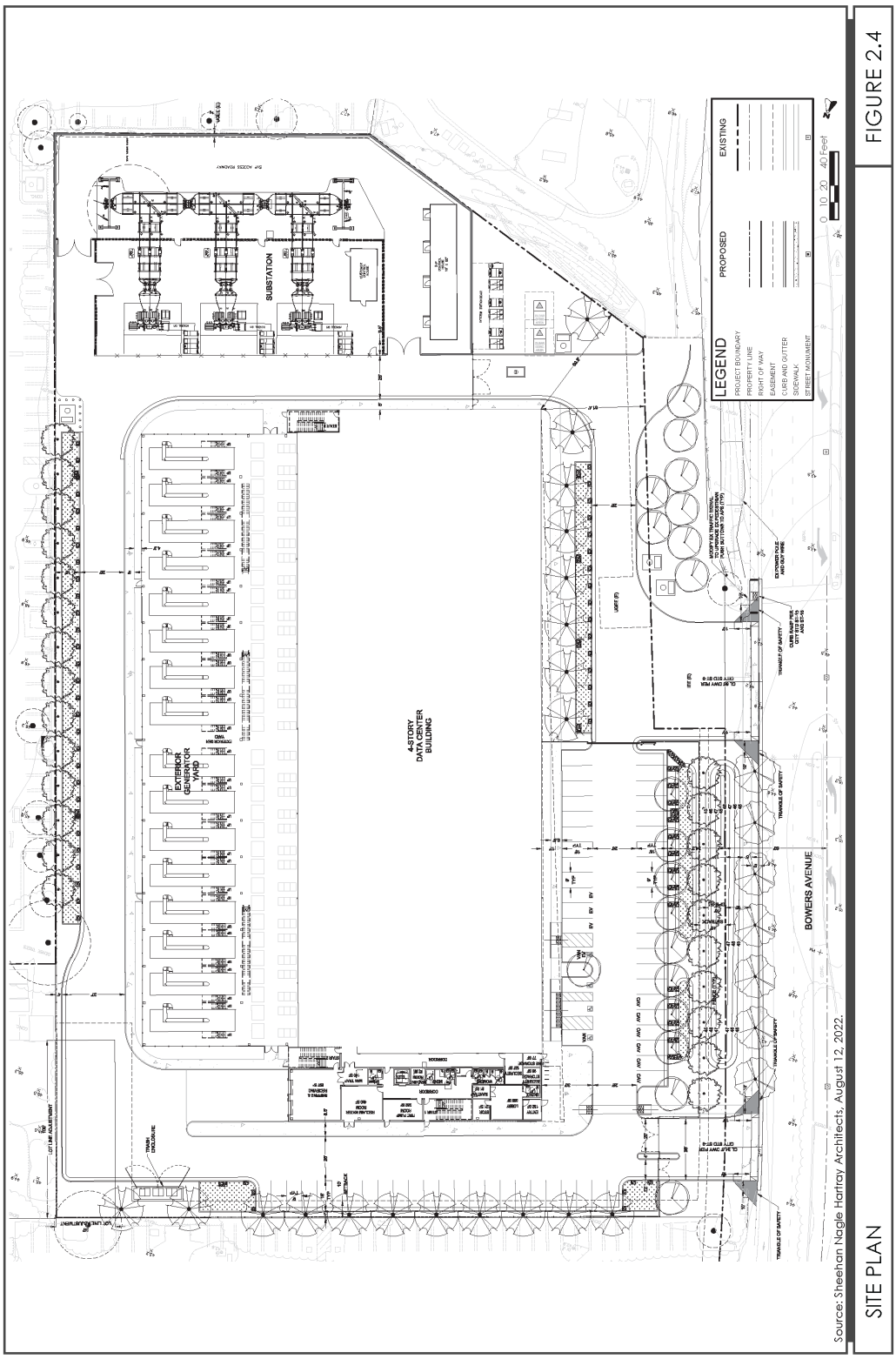
Regional Map (Figure 2.1)



Vicinity Map (Figure 2.2)



Aerial Photograph and Surrounding Land Uses (Figure 2.3)



Site Plan (Figure 2.4)