

Final Environmental Impact Report  
**210 Baypointe Residential Project**

Prepared by



CITY OF  
**SAN JOSE**

CAPITAL OF SILICON VALLEY

In Consultation with



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ENVIRONMENTAL CONSULTANTS & PLANNERS

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Appendix A: Draft EIR Comment Letters

## **SECTION 1.0 INTRODUCTION**

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This document, together with the Draft Environmental Impact Report (EIR), constitutes the Final EIR for the 210 Baypointe Residential Development Project.

### **1.1 PURPOSE OF THE FINAL EIR**

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by the City in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

- (1) The Final EIR has been completed in compliance with CEQA;
- (2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final EIR prior to approving the project; and
- (3) The Final EIR reflects the lead agency's independent judgment and analysis.

### **1.2 CONTENTS OF THE FINAL EIR**

CEQA Guidelines Section 15132 specify that the Final EIR shall consist of:

- a) The Draft EIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
- d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

### **1.3 PUBLIC REVIEW**

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final EIR and all documents referenced in the Final EIR are available for public review at the office of the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, Third Floor, San José, California on weekdays during normal business hours. The Final EIR is also available for review on the City's [Active EIRs](#) website.

## **SECTION 2.0     DRAFT EIR PUBLIC REVIEW SUMMARY**

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The Draft EIR for the 210 Baypointe Residential Development Project, dated May 2023, was circulated to affected public agencies and interested parties for a 45-day review period from May 31<sup>st</sup>, 2023 to Monday, July 17<sup>th</sup>, 2023. The City undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability (NOA) of the Draft EIR was published on the City’s website and in the San José Mercury News and Post Record on May 31<sup>st</sup>, 2023;
- Notification of the availability of the Draft EIR was mailed to project-area residents and other members of the public who had indicated interest in the project;
- The Draft EIR was uploaded to the State Clearinghouse on May 31<sup>st</sup>, 2023, as well as sent to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft EIR); and
- Copies of the Draft EIR were made available at the Dr. Martin Luther King Jr. Library (150 East San Fernando Street, San José, CA 95112) and the Alviso Branch Library (505 N First street, San José, CA 95002).

## **SECTION 3.0 DRAFT EIR RECIPIENTS**

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CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The NOA for the Draft EIR was sent to owners and occupants adjacent to the project site and to adjacent jurisdictions. The following agencies received a copy of the Draft EIR from the City or via the State Clearinghouse:

- California Air Resources Board (ARB)
- California Department of Fish and Wildlife, Bay Delta Region 3 (CDFW)
- California Department of Parks and Recreation, California Department of Transportation, District 4 (DOT)
- California Native American Heritage Commission (NAHC)
- California Regional Water Quality Control Board, San Francisco Bay Region 2 (RWQCB)
- Department of Toxic Substances Control
- Housing & Community Development
- Office of Historic Preservation
- S.F. Bay Conservation & Development Committee

Copies of the NOA for the Draft EIR were sent by email and Newsflash to Native American Tribal Contacts, adjacent jurisdictions and organizations, businesses, and individuals who have requested all City notices.

## **SECTION 4.0      RESPONSES TO DRAFT EIR COMMENTS**

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In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of San José on the Draft EIR.

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to the specific comments directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft EIR are listed below. No comments were received from federal or state agencies, organizations, businesses, or individuals.

<b><u>Comment Letter and Commenter</u></b>	<b><u>Page of Response</u></b>
Regional and Local Agencies.....	5
A. Santa Clara Valley Transportation Authority (VTA) (dated July 17, 2023).....	5
B. Valley Water (dated July 6, 2023).....	7
C. Pacific Gas and Electric Company (PG&E) (dated June 1, 2023).....	9

## REGIONAL AND LOCAL AGENCIES

### A. Santa Clara Valley Transportation Authority (VTA) (dated July 17, 2023)

**Comment A.1:** : VTA appreciates the opportunity to comment on the Draft Environmental Impact Report for the Baypointe Residential project. VTA has reviewed the document and has the following comments:

#### Pedestrian Accommodations

VTA supports the pedestrian improvements shown in the Local Transportation Analysis (LTA) report, including providing marked crosswalks between the proposed development and Casa Verde Street; these will improve pedestrian access to the retail and services along Tasman Drive west of Zanker Road. VTA also supports the recommendation in the LTA for the project to contribute to enhanced crosswalks to the future park across Baypointe Parkway.

VTA recommends that the City consider providing improved signage, pavement markings, and other traffic calming features at the intersection of Tasman Drive and Baypointe Parkway at the crossings to the pork chop islands, as these crossings are part of the walking route between the proposed development and the elementary / middle / high school complex on Zanker Road south of Tasman Drive.

**Response A.1:** The comment from VTA concerns the pedestrian accommodations recommended by the LTA and additional pedestrian improvement measures. The VTA recommendation for the project to provide improved signage, pavement markings, and other traffic calming features will be included in the administrative record and will be provided to decision makers for further consideration. This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

#### Comment A.2: Bicycle Accommodations

VTA supports the recommendation in the LTA for the project to provide a fair-share contribution toward the future Class IV separated bikeway improvements that are planned along Baypointe Parkway. VTA also recommends that vehicular parking locations be reviewed along the private drive on the south side of the project site to ensure appropriate visibility and safety for cyclists.

**Response A.2:** The comment from VTA concerns the payment of fair share bicycle path fees and suggests improvements to parking locations. The VTA recommendation for the project to review vehicular parking locations along the private drive for cyclist visibility and safety will be included in the administrative record and provided to decision makers for further consideration. This comment does not raise any issues about the adequacy of the Draft EIR; therefore, no further response is required.

#### Comment A.3: Project Land Use

VTA supports the proposed land use intensification described in the Draft EIR, with the inclusion of apartments as well as some townhomes. VTA staff is aware that per recent media reports, the developer has requested preliminary review of a concept that would only include townhouses,

reducing the project density by about two-thirds. VTA recommends that the City discourage the applicant from proceeding with the lower-density project, as it would result in under-utilization of this site close to several transit routes, restaurants, and services.

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at 408-321-5830 or [lola.torney@vta.org](mailto:lola.torney@vta.org).

**Response A.3:** The comment from VTA concerns the potential for the project to change to a lower density design. The project is moving forward as originally designed; therefore, the project would not result in under-utilization of this site. This comment does not raise any issues about the adequacy of the Draft EIR and no further response is required.



**B. Valley Water (dated July 6, 2023)**

**Comment B.1:** : The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (EIR) for the Baypointe Residential Development Project at 210 Baypointe Parkway in San Jose.

Based on our review, we have the following comments:

1. On page 101, the discussion under “Water Resources Protection Ordinance and District Well Ordinance” needs to be replaced with the following text:

“Valley Water operates as a flood protection agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. In accordance with Valley Water’s Water Resources Protection Ordinance, any work within Valley Water’s fee title right of way or easement or work that impacts Valley Water’s facilities requires the issuance of a Valley Water permit. Under Valley Water’s Well Ordinance 90-1, permits are required for any boring, drilling, deepening, refurbishing, or destroying of a water well, cathodic protection well, observation well, monitoring well, exploratory boring (45 feet or deeper), or other deep excavation that intersects with the groundwater aquifers of Santa Clara County.”

**Response B.1:** The commenter provided updated language for the Valley Water “Water Resources Protection Ordinance and District Well Ordinance”. The text on Page 101 will be revised as described in Section 5.0 of this document.

**Comment B.2:** 2. According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 06085C0062J, effective February 19, 2014, a portion of the site is in Flood Zone X, an area with a 0.2% annual chance flood hazard, and the remainder of the site is in Flood Zone AH, a special flood hazard area with a base flood elevation of 12 feet. The discussion on page 104, under “Floodplain Designation” needs to be revised to note that Zone X is an area of 0.2% chance flood, not 2% and should note the base flood elevation for Zone AH is 12 feet.

**Response B.2:** The commenter provided a correction in the percentage for chance of flood in Zone X and depth of base flood elevation for the Zone AH flood zone. The text on Page 104 will be revised as described in Section 5.0 of this document.

**Comment B.3:** 3. On page 101, the discussion under “2021 Groundwater Management Plan” makes reference to both Valley Water and the District. References to “the District” should be replaced with “Valley Water” for consistency with our new name throughout the document.

**Response B.3:** The commenter provides a text change request to revise the name of the Water District to Valley Water. The text on Page 101 will be revised as described in Section 5.0 of this document.

**Comment B.4:** 4. According to Valley Water records, there are no wells found within the property boundaries. While Valley Water has records for most wells located in the County, it is always possible that a well exists that is not in Valley Water’s records. If previously unknown wells are

found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. For more information, please call Valley Water's Well Ordinance Program Hotline at (408) 630-2660.

**Response B.4:** The comment provides clarification that there are no wells identified on-site and states the process for discovery of unknown wells during construction. The comment does not raise issues about the adequacy of the Draft EIR; therefore, no further response is required.

**Comment B.5:** 5. Valley Water does not have any right of way or facilities at the project site; therefore, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for the proposed project.

If you have any questions about the comments, please feel free to contact me. This project has been assigned to Valley Water File 34839.

**Response B.5:** The commenter states that there are no Valley Water facilities or right of way within the project site. The comment does not raise issues about the adequacy of the Draft EIR; therefore, no further response is required.

**C. Pacific Gas and Electric Company (PG&E) (dated June 1, 2023)**

**Comment C.1:** Thank you for submitting the H22-037 ER22-234 plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: [https://www.pge.com/en\\_US/business/services/building-and-renovation/overview/overview.page](https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page).
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

**Response C.1:** The commenter states that they will review the plans provided for the project for consistency with PG&E facilities. The requirements for PG&E will be passed along to decision makers and the project applicant for future coordination. The comment does not raise issues about the adequacy of the Draft EIR; therefore, no further response is required.

**Comment C.2:** There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf>

1. Standby Inspection: A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.

2. Access: At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

3. Wheel Loads: To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. Grading: PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.

5. Excavating: Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 24 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [ $24/2 + 24 + 36/2 = 54$ ] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 24 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible ( $90^{\circ} \pm 15^{\circ}$ ). All utility lines crossing the gas pipeline must have a minimum of 24 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line ‘kicker blocks’, storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E’s ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4’) in height at maturity may be planted within the easement area.

11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.

**Response C.2:** The commenter provides a process and guidelines for working around gas facilities during construction on the project site. The comment does not raise issues about the adequacy of the Draft EIR; therefore, no further response is required.

**Comment C.3:** It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "RESTRICTED USE AREA – NO BUILDING."

2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.

3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.

4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 10 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.

5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.

6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E

facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.

7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.

8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 ([http://www.cpuc.ca.gov/gos/GO95/go\\_95\\_startup\\_page.html](http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html)) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

**Response C.3:** The commenter provides a process and guidelines for working around electrical facilities during construction on the project site. The comment does

not raise issues about the adequacy of the Draft EIR; therefore, no further response is required.



## SECTION 5.0 DRAFT EIR TEXT REVISIONS

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### 5.1 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the 210 Baypointe Residential Development Project Draft EIR dated May 2023. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Summary, Page vii: MM CUL-1.: Treatment Plan shall be **REVISED** as follows:

If required pursuant to MM CUL-1.2, a qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall prepare and implement a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to implementation of the plan. The plan shall be fully implemented prior to the issuance of building permits ~~activities~~. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Monitoring schedules and individuals
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information)
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Security approaches or protocols for finds.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. Once implementation of the Treatment Plan is complete, no further mitigation is required on the project site.

Section 3.5.2.1, Page 57: MM CUL-1.: Treatment Plan shall be **REVISED** as follows:

If required pursuant to MM CUL-1.2, a qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall prepare and implement a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to implementation of the plan. The plan shall be fully

implemented prior to the issuance of building permits activities. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Monitoring schedules and individuals
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information)
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Security approaches or protocols for finds.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. Once implementation of the Treatment Plan is complete, no further mitigation is required on the project site.

Section 3.10.1.1, Page 101: Subheading Water Resources Protection Ordinance and District Well Ordinance will be **REVISED** as follows:

~~Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.~~ Valley Water operates as a flood protection agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. In accordance with Valley Water's Water Resources Protection Ordinance, any work within Valley Water's fee title right of way or easement or work that impacts Valley Water's facilities requires the issuance of a Valley Water permit. Under Valley Water's Well Ordinance 90-1, permits are required for any boring, drilling, deepening, refurbishing, or destroying of a water well, cathodic protection well, observation well, monitoring well, exploratory boring (45 feet or deeper), or other deep excavation that intersects with the groundwater aquifers of Santa Clara County.

Section 3.10.1.1, Page 101: Subheading 2021 Groundwater Management Plan will be **REVISED** as follows:

The 2021 Groundwater Management Plan (GWMP) describes the Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local

sources and the other half comes from imported sources. Imported water includes the Valley Water's District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by Valley Water's ~~the District's~~ comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.<sup>56</sup>

Section 3.10.1.2, Page 104: Subheading 2021 Floodplain Designation will be **REVISED** as follows:

The project site is within the Flood Hazard Zones X and AH. The AH Flood Zone is a special flood hazard area with flood depths of one to three feet with base flood elevation modeled by FEMA. The base flood for the AH Zone covering the project site is 12 feet. Flood Zone X is defined as an area with a ~~two~~ 0.2 percent annual chance of flooding with a depth less than one foot or with drainage areas of less than one square mile.<sup>58</sup>

**Appendix A: Draft EIR Comment Letters**

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July 17, 2023

City of San José Department of Planning, Building, and Code Enforcement  
200 E. Santa Clara St., 3<sup>rd</sup> Floor  
San José, CA 95113

Attn: Kara Hawkins

By Email: [kara.hawkins@sanjoseca.gov](mailto:kara.hawkins@sanjoseca.gov)

Dear Kara,

VTA appreciates the opportunity to comment on the Draft Environmental Impact Report for the Baypointe Residential project. VTA has reviewed the document and has the following comments:

#### Pedestrian Accommodations

VTA supports the pedestrian improvements shown in the Local Transportation Analysis (LTA) report, including providing marked crosswalks between the proposed development and Casa Verde Street; these will improve pedestrian access to the retail and services along Tasman Drive west of Zanker Road. VTA also supports the recommendation in the LTA for the project to contribute to enhanced crosswalks to the future park across Baypointe Parkway.

VTA recommends that the City consider providing improved signage, pavement markings, and other traffic calming features at the intersection of Tasman Drive and Baypointe Parkway at the crossings to the pork chop islands, as these crossings are part of the walking route between the proposed development and the elementary / middle / high school complex on Zanker Road south of Tasman Drive.

#### Bicycle Accommodations

VTA supports the recommendation in the LTA for the project to provide a fair-share contribution toward the future Class IV separated bikeway improvements that are planned along Baypointe Parkway. VTA also recommends that vehicular parking locations be reviewed along the private drive on the south side of the project site to ensure appropriate visibility and safety for cyclists.

#### Project Land Use

VTA supports the proposed land use intensification described in the Draft EIR, with the inclusion of apartments as well as some townhomes. VTA staff is aware that per recent media reports, the developer has requested preliminary review of a concept that would only include townhouses, reducing the project density by about two-thirds. VTA recommends that the City discourage the applicant from proceeding with the lower-density project, as it would result in under-utilization of this site close to several transit routes, restaurants, and services.

Thank you again for the opportunity to review this project. If you have any questions, please do not

hesitate to contact me at 408-321-5830 or [lola.torney@vta.org](mailto:lola.torney@vta.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Lola Torney', written in a cursive style.

Lola Torney  
Transportation Planner III

SJ2212

## CPRU File 34839, File Nos. ER22-234 and H22-037 - 210 Baypointe Residential Project

Matthew Sasaki <MSasaki@valleywater.org>

Thu 7/6/2023 10:49 AM

To:Hawkins, Kara <Kara.Hawkins@sanjoseca.gov>

[External Email]

Hi Kara,

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (EIR) for the Baypointe Residential Development Project at 210 Baypointe Parkway in San Jose.

Based on our review, we have the following comments:

1. On page 101, the discussion under “Water Resources Protection Ordinance and District Well Ordinance” needs to be replaced with the following text:

“Valley Water operates as a flood protection agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. In accordance with Valley Water’s Water Resources Protection Ordinance, any work within Valley Water’s fee title right of way or easement or work that impacts Valley Water’s facilities requires the issuance of a Valley Water permit. Under Valley Water’s Well Ordinance 90-1, permits are required for any boring, drilling, deepening, refurbishing, or destroying of a water well, cathodic protection well, observation well, monitoring well, exploratory boring (45 feet or deeper), or other deep excavation that intersects with the groundwater aquifers of Santa Clara County.”

2. According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 06085C0062J, effective February 19, 2014, a portion of the site is in Flood Zone X, an area with a 0.2% annual chance flood hazard, and the remainder of the site is in Flood Zone AH, a special flood hazard area with a base flood elevation of 12 feet. The discussion on page 104, under “Floodplain Designation” needs to be revised to note that Zone X is an area of 0.2% chance flood, not 2% and should note the base flood elevation for Zone AH is 12 feet.
3. On page 101, the discussion under “2021 Groundwater Management Plan” makes reference to both Valley Water and the District. References to “the District” should be replaced with “Valley Water” for consistency with our new name throughout the document.
4. According to Valley Water records, there are no wells found within the property boundaries. While Valley Water has records for most wells located in the County, it is always possible that a well exists that is not in Valley Water’s records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. For more information, please call Valley Water’s Well Ordinance Program Hotline at (408) 630-2660.
5. Valley Water does not have any right of way or facilities at the project site; therefore, in accordance with Valley Water’s Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for the proposed project.

If you have any questions about the comments, please feel free to contact me. This project has been assigned to Valley Water File 34839.

Thank you,

**MATT SASAKI**

Pronouns: he/him

Assistant Engineer II

Community Projects Review Unit

[msasaki@valleywater.org](mailto:msasaki@valleywater.org)

Tel. (408) 630-3776

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118

[www.valleywater.org](http://www.valleywater.org)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.





June 1, 2023

Kara Hawkins  
City of San Jose  
200 East Santa Clara St, 3<sup>rd</sup> Flr  
San Jose, CA 95113

Ref: Gas and Electric Transmission and Distribution

Dear Kara Hawkins,

Thank you for submitting the H22-037 ER22-234 plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: [https://www.pge.com/en\\_US/business/services/building-and-renovation/overview/overview.page](https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page).
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team  
Land Management

## Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf>

1. **Standby Inspection:** A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
2. **Access:** At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
3. **Wheel Loads:** To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. **Grading:** PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.
5. **Excavating:** Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 24 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch



wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [ $24/2 + 24 + 36/2 = 54$ ] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 24 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible ( $90^\circ \pm 15^\circ$ ). All utility lines crossing the gas pipeline must have a minimum of 24 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.



11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.

## Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as **"RESTRICTED USE AREA – NO BUILDING."**
2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.
4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 10 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.
5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.



8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 ([http://www.cpuc.ca.gov/gos/GO95/go\\_95\\_startup\\_page.html](http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html)) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.