

555 BAILEY AVENUE WATER LINE AND PUMP HOUSE

File No. PDA74-043-02

Responses to Comments on the Draft Initial Study/Mitigated
Negative Declaration and Text Changes to the Draft IS/MND

Prepared by
City of San José in consultation with
Environmental Science Associates

October 2021



555 BAILEY AVENUE WATER LINE AND PUMP HOUSE

File No. PDA74-043-02

Responses to Comments on the Draft Initial Study/Mitigated Negative Declaration and Text Changes to the Draft IS/MND

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October 2021

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SECTION 1

Summary of Comments

The 555 Bailey Avenue Water Line Project Draft Initial Study/Mitigation Negative Declaration (IS/MND) was officially circulated for public review for a 20-day review period, from June 4 through June 24, 2021. During the circulation period, the City of San José received two comment letters, from the County of Santa Clara Roads and Airports Department and the Tamien Nation of the Greater Santa Clara County.

In summary, the comments received on the draft IS/MND did not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

CEQA does not require formal responses to comments on an IS/MND, only that the lead agency consider the comments received [CEQA Guidelines §15074(b)]. Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

The following pages contain a list of the agencies and persons that submitted comments on the IS/MND and the City's responses to comments received on the IS/MND. The specific comments have been excerpted from the letters and are presented as "Comment" with each response directly following ("Response"). Copies of the actual letters and emails submitted to the City of San Jose are included in Section 5.

SECTION 2

Agencies and Persons Commenting on the Draft Initial Study/Mitigated Negative Declaration

Comment Received From	Date of Letter	Response on Page
County of Santa Clara Roads and Airports Department	June 22, 2021	3
Tamien Nation of the Greater Santa Clara County	June 14, 2021	3

SECTION 3

Responses to Comments

This memo responds to comments on the Draft IS/MND as they relate to the potential environmental impacts of the project under CEQA. Numbered responses correspond to comments in each comment letter. Copies of the comment letters are attached in Section 5.

Comment Letter 1: County of Santa Clara Roads and Airports Department

Comment 1A

Please have the project provide a Traffic Control Plan (TCP) to County for review if construction trucks use County facilities during construction period.

Response 1A

The project applicant would comply with the County's request if construction would necessitate the use of County roads. However, at this time it is anticipated that construction vehicles would use City of San José streets, primarily Bailey Avenue and state highways (U.S. 101).

The comment does not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. Therefore, no additional response or recirculation of the IS/MND are required.

Comment Letter 2: Tamien Nation of the Greater Santa Clara County

Comment 2A

Thank you for the Notice of Intent to Adopt a Mitigated Negative Declaration on June 4, 2021, 555 Bailey Avenue, west of US 101, in the southern portion of the City of San José. This letter constitutes a formal request for tribal consultation under the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21080.3.1 subdivisions (b), (d) and (e)) for the mitigation of potential project impacts to tribal cultural resource for the above referenced project.

Tamien Nation requests consultation on the following topics checked below, which shall be included in consultation if requested (Public Resources Code section 21080.3.2, subd. (a)):

- Recommended mitigation measures
- Significant effects of the project

Tamien Nation also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2, subd. (a)):

- Type of environmental review necessary
- Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources
- Significance of the project's impacts on tribal cultural resources
- Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:
 - 1) Avoidance and preservation of the resources in place, pursuant to Public Resources Code section 21084.3, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks or other open space, to incorporate the resources with culturally appropriate protection and management criteria;
 - 2) Treating the resources with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resources, including but not limited to the following:
 - a. Protecting the cultural character and integrity of the resource;
 - b. Protection the traditional use of the resource; and
 - c. Protecting the confidentiality of the resource.
 - 3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - 4) Protecting the resource.

Response 2A

Upon receipt of the comment letter from the Tamien Nation, the City of San José initiated consultation with tribal representatives. City staff met virtually with tribal representatives on July 15, 2021. In response to this consultation, the City made certain text changes to the Draft Initial Study/Mitigated Negative Declaration to incorporate tribal representatives into mitigation measures that would be imposed if the project is approved. Please see the revisions to the Draft Initial Study/Mitigated Negative Declaration below; these and other revisions are also included in Section 4 of this document.

Page 57, continuing to page 58, the section entitled, “Mitigation,” is revised as follows (~~strikeouts~~ show deletions and double-underlining shows additions):

Mitigation

Mitigation Measure CUL-1: Cultural Resources Awareness Training.

Prior to issuance of any grading or building permits, a Secretary of the Interior (SOIS)-qualified archaeologist and a Native American representative 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 conduct a training program for all construction and field personnel involved in ground disturbance. On-site personnel shall attend a mandatory pre-project training that shall outline the general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new project personnel before they begin project work. The project applicant shall submit a copy of the training documents to the Director of Planning Building and Code Enforcement or the Director’s designee for review and approval prior to the issuance of any grading or building permits. Documentation confirming the training sessions conducted shall be submitted to the Director of Planning, Building and Code Enforcement or Director’s designee prior start of construction activities.

Mitigation Measure CUL-2: Archaeological Monitoring.

The project applicant shall have a qualified archaeologist and a Native American monitor present during ground-disturbing activities in previously undisturbed soils within 60 meters (200 feet) of a previously recorded archaeological resource. An Archaeological Monitoring Plan (AMP) shall be prepared to guide the monitor. The archaeological monitoring shall be conducted by an archaeologist meeting or under the supervision of an archaeologist meeting the SOIS for Archeology. The Native American monitor shall be 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. A report shall be prepared summarizing the results of the ~~archaeological~~ monitoring. The project applicant shall submit the AMP to the Director of Planning, Building and Code Enforcement or the Director’s designee, prior to issuance of any grading permits for review and approval. A copy of the final summary report shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee within 14 days of completion of construction activities.

Should archaeological resources be inadvertently discovered during project construction activities, ~~the procedures outlined in SCA CUL-1: Subsurface Cultural Resources shall be implemented.~~ the qualified archaeologist, in consultation with a Native American representative 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 undertake an investigation of the find to determine if the resources meet the definition of a historical or archaeological resource and make appropriate recommendations regarding the disposition of

such finds prior to issuance of building permits. The archaeological investigation may:

- Result in findings that the find(s) do not meet the definition of a historical or archaeological resource, in which case no further study or protection is necessary prior to project implementation.
- Result in findings that the find(s) meet the definition of a historical or archaeological resource, in which case avoidance and preservation of any tribal cultural resources in place shall be undertaken if feasible. Avoidance may be accomplished through project redesign, granting of conservation easements for in situ burial, and/or site capping. The archeologist and Native American representative registered with the Native American Heritage Commissions 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 review the project elements to determine ways to protect the cultural and natural context of the resources or to incorporate the resources with culturally appropriate protection and management criteria based on PRC Section 21084.3.

When avoidance is not feasible, the evaluating archaeologist and Native American representative registered shall recommend the best method to avoid adverse impacts. All historic archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center. A report documenting the methods, results, and recommendations of the archaeologist shall be prepared and submitted to the Northwest Information Center. As required under PRC Section 21084.3, protect the confidentiality of the resources. The Tribal Cultural Resources Treatment Plan Report and all pertinent data and results shall be subject to the confidentiality as an exception to the Public Records Act.

The comment does not raise any new issues about the project’s environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. Therefore, no additional response or recirculation of the IS/MND are required.

Comment 2B

Additionally, Tamien Nation would like to receive any cultural resources assessments or other assessments that have been completed on all or part of the project’s potential “area of project effect” (APE), including, but not limited to:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System (CHRIS), including, but not limited to:
 - A listing of any and all known cultural resources have already been recorded on or adjacent to the APE;

- Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
 - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.
2. The results of any archaeological inventory survey that was conducted, including:
- Any report that may contain site forms, site significance, and suggested mitigation measures.

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.

3. The results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.
4. Any ethnographic studies conducted for any area including all or part of the potential APE; and
5. Any geotechnical reports regarding all or part of the potential APE.

Response 2B

The City provided the requested materials to the Tamien Nation representative on July 12, 2021.

The comment does not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. Therefore, no additional response or recirculation of the IS/MND are required.

Comment 2C

We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that "feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts." *Madera Oversight Coalition v. County of Madera* (2011) 199

Cal.App.4th 48, disapproved on other grounds, *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.

Tamien Nation expects to begin consultation within 30 days of your receipt of this letter. Please contact Tamien Nation's lead contact person identified in the attached request for notification.

Response 2C

The comment concerns preservation in place of archaeological resources. Please see the revisions to the Draft Initial Study/Mitigated Negative Declaration provided in Response 2A above; in particular, the second bullet added to Mitigation Measure CUL-2 states, in part that if the archaeological investigation reveals resources that “meet the definition of a historical or archaeological resource, ... avoidance and preservation of any tribal cultural resources in place shall be undertaken if feasible.” (These revisions are also included in Section 4 of this document.)

The comment does not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. Therefore, no additional response or recirculation of the IS/MND are required.

SECTION 4

Revisions to the Draft Initial Study/Mitigated Negative Declaration

The following changes are made to the Draft IS/MND. ~~Strikeouts~~ show deletions and double-underlining shows additions.

Page 55, continuing to page 56, the section entitled, “City of San José Standard Conditions for Approval,” is revised as follows:

City of San José Standard Conditions for Approval

The following conditions of approval in the City’s Standard Conditions for Approval (SCAs) are applicable to the proposed project:

~~SCA-CUL-1: Subsurface Cultural Resources.~~ If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director’s designee and the City’s Historic Preservation Officer shall be notified, and a qualified archaeologist, in consultation with a Native American representative 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 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director’s designee and the City’s Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Refer to Mitigation Measure CUL-2, Archaeological Monitoring, for procedures to be followed in evaluation of prehistoric or historic resources that may be encountered during excavation and/or grading of the site.

~~SCA-CUL-2: Human Remains.~~ If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or

~~disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.~~

~~If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:~~

- ~~a. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.~~
- ~~b. The MLD identified fails to make a recommendation; or~~
- ~~c. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.~~
- ~~d. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius~~

Page 57, the first full paragraph is revised as follows:

The project involves ground disturbing activities, which may have had the potential to disturb archaeological resources. Accordingly, the project shall implement **Mitigation Measure CUL-1: Cultural Resources Awareness Training**, and **Mitigation Measure CUL-2: Archaeological Monitoring**, in addition to the Standard Condition of Approval, ~~SCA-CUL-1: Subsurface Cultural Resources~~ to determine, mitigate, and reduce any potential significant impacts. If any previously unrecorded archaeological resources are identified during project ground disturbing activities and were found to qualify as a historical resource per CEQA Guidelines Section 15064.5 or a unique archaeological resource, as defined in PRC (CEQA) Section 21083.2(g), any impacts to the resource resulting from the project could be potentially significant. Any such potential significant impacts would be reduced to a less than significant level with implementation of **Mitigation Measure CUL-1, Mitigation Measure CUL-2, and the Standard Condition of Approval, ~~Subsurface Cultural Resources A-CUL-1~~**.

Page 57, continuing to page 58, the section entitled, “Mitigation,” is revised as follows:

Mitigation

Mitigation Measure CUL-1: Cultural Resources Awareness Training.

Prior to issuance of any grading or building permits, a Secretary of the Interior (SOIS)-qualified archaeologist and a Native American representative 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 conduct a training program for all construction and field personnel involved in ground disturbance. On-site personnel shall attend a mandatory pre-project training that shall outline the general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new project personnel before they begin project work. The project applicant shall submit a copy of the training documents to the Director of Planning Building and Code Enforcement or the Director’s designee for review and approval prior to the issuance of any grading or building permits. Documentation confirming the training sessions conducted shall be submitted to the Director of Planning, Building and Code Enforcement or Director’s designee prior start of construction activities.

Mitigation Measure CUL-2: Archaeological Monitoring.

The project applicant shall have a qualified archaeologist and a Native American monitor present during ground-disturbing activities in previously undisturbed soils within 60 meters (200 feet) of a previously recorded archaeological resource. An Archaeological Monitoring Plan (AMP) shall be prepared to guide the monitor. ~~The archaeological monitoring shall be conducted by an~~ archaeologist meeting or under the supervision of an archaeologist meeting the SOIS for Archeology. The Native American monitor shall be 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. A report shall be prepared summarizing the results of the ~~archaeological~~ monitoring. The project applicant shall submit the AMP to the Director of Planning, Building and Code Enforcement or the Director’s designee, prior to issuance of any grading permits for review and approval. A copy of the final summary report shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee within 14 days of completion of construction activities.

Should archaeological resources be inadvertently discovered during project construction activities, ~~the procedures outlined in SCA CUL-1: Subsurface Cultural Resources shall be implemented.~~ the qualified archaeologist, in consultation with a Native American representative 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 undertake an investigation of the find to determine if the resources meet the definition of a historical or archaeological resource and make appropriate recommendations regarding the disposition of

such finds prior to issuance of building permits. The archaeological investigation may:

- Result in findings that the find(s) do not meet the definition of a historical or archaeological resource, in which case no further study or protection is necessary prior to project implementation.
- Result in findings that the find(s) meet the definition of a historical or archaeological resource, in which case avoidance and preservation of any tribal cultural resources in place shall be undertaken if feasible. Avoidance may be accomplished through project redesign, granting of conservation easements for in situ burial, and/or site capping. The archeologist and Native American representative registered with the Native American Heritage Commissions 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 review the project elements to determine ways to protect the cultural and natural context of the resources or to incorporate the resources with culturally appropriate protection and management criteria based on PRC Section 21084.3.

When avoidance is not feasible, the evaluating archaeologist and Native American representative registered shall recommend the best method to avoid adverse impacts. All historic archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center. A report documenting the methods, results, and recommendations of the archaeologist shall be prepared and submitted to the Northwest Information Center. As required under PRC Section 21084.3, protect the confidentiality of the resources. The Tribal Cultural Resources Treatment Plan Report and all pertinent data and results shall be subject to the confidentiality as an exception to the Public Records Act.

Page 58, the first full paragraph, discussing CEQA Checklist question V(c), is revised as follows:

- c) **Less than Significant.** Based on the records search and survey results, no human remains are known to exist within the project site, although human remains have been identified near the project site. It is possible that human remains would be encountered during construction of the proposed project. Therefore, the possibility of inadvertent discovery cannot be entirely discounted. In the event of the discovery of human remains during project construction activities, implementation of the Standard Condition of Approval, ~~SCA-CUL-2~~: **Stop Work Following Discovery of Human Remains**, would reduce potential impacts to human remains.

SECTION 5

Copies of Letters Received

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County of Santa Clara

Roads and Airports Department
Planning, Land Development and Survey

101 Skyport Drive
San Jose, CA 95110-1302
(408) 573-2460 FAX 441-0276



June 22, 2021

Adam Petersen

Contract Environmental Team
City of San Jose Planning, Building and Code Enforcement Department
200 East Santa Clara Street, Room 300
San Jose, CA 95113
408.535.1241
adam.petersen@sanjoseca.gov

SUBJECT: Notice of Intent to Adopt a Mitigated Negative Declaration for the 555 Bailey Avenue Water Line and Pump House Project

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Notice of Intent to Adopt a Mitigated Negative Declaration for the 555 Bailey Avenue Water Line and Pump House Project, and is submitting the following comments:

- Please have the project provide a Traffic Control Plan (TCP) to County for review if construction trucks use County facilities during construction period.

If you have any questions or concerns about these comments, please contact me at 408-573-2462 or ben.aghegnehu@rda.sccgov.org

Thank you.





TAMIEN NATION
OF THE GREATER SANTA CLARA
COUNTY
P.O. Box 8053, San Jose, California 95155
(707) 295-4011 tamien@tamien.org

June 14, 2021

Adam Peterson Contract
Environmental Team
City of San Jose Planning, Building
and Code Enforcement Department
200 East Santa Clara Street, Room 300
San Jose, CA 95113
408.535.1241
Adam.Peterson@sanjoseca.gov

RE: Formal Request for Tribal Consultation Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21080.3.1, subds. (b),(d) and (e) 555 Bailey Avenue, west of US 101, in the southern portion of the City of San José

Dear Mr. Peterson:

Thank you for the Notice of Intent to Adopt a Mitigated Negative Declaration on June 4, 2021, 555 Bailey Avenue, west of US 101, in the southern portion of the City of San José. This letter constitutes a formal request for tribal consultation under the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21080.3.1 subdivisions (b), (d) and (e)) for the mitigation of potential project impacts to tribal cultural resource for the above referenced project.

Tamien Nation requests consultation on the following topics checked below, which shall be included in consultation if requested (Public Resources Code section 21080.3.2, subd. (a):

- Alternatives to the project
- Recommended mitigation measures
- Significant effects of the project

Tamien Nation also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2, subd. (a):

- Type of environmental review necessary
- Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources
- Significance of the project's impacts on tribal cultural resources
- Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:

- (1) Avoidance and preservation of the resources in place, pursuant to Public Resources Code section 21084.3, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks or other open space, to incorporate the resources with culturally appropriate protection and management criteria;
- (2) Treating the resources with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resources, including but not limited to the following:
 - a. Protecting the cultural character and integrity of the resource;
 - b. Protection the traditional use of the resource; and
 - c. Protecting the confidentiality of the resource.
- (3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- (4) Protecting the resource.

Additionally, Tamien Nation would like to receive any cultural resources assessments or other assessments that have been completed on all or part of the project's potential "area of project effect" (APE), including, but not limited to:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System (CHRIS), including, but not limited to:
 - A listing of any and all known cultural resources have already been recorded on or adjacent to the APE;
 - Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
 - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.
2. The results of any archaeological inventory survey that was conducted, including:
 - Any report that may contain site forms, site significance, and suggested mitigation measures.

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.

3. The results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.
4. Any ethnographic studies conducted for any area including all or part of the potential APE; and
5. Any geotechnical reports regarding all or part of the potential APE.

We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that “feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts.” *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, disapproved on other grounds, *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.

Tamien Nation expects to begin consultation within 30 days of your receipt of this letter. Please contact Tamien Nation’s lead contact person identified in the attached request for notification.

Quirina Geary
Chairwoman
PO Box 8053
San Jose, CA 95155(707)
295-4011

Please refer to identification number TN–20210604-1 in any correspondence concerning this project. Thank you for providing us with this notice and the opportunity to comment.

Sincerely,



Quirina Geary
Chairwoman

cc: Native American Heritage Commission