

AB 52 Notification: File No: ER22-198

May 25, 2023

Tamien Nation
Chairwoman Quirina Luna Geary
P.O. Box 8053
San José, CA 95155
Qgeary@tamien.org

Jonathan Costillas
Tribal Cultural Resource Officer
P.O. Box 866
Clearlake Oaks, CA 95423
Jcostillas@tamien.org

Dear Ms. Geary and Mr. Costillas,

In response to the verbal notice we received from you on June 17, 2021 and the written notice received June 28, 2021, that in accordance with Public Resources Code Section 21080.3.1 subd (b) you, as the Tamien Nation representatives, request notification of all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report; we are sending you by this notification of the following City of San José project.

- Project File No.:** ER22-198 (Emergency Interim Housing (EIH) Programs Project)
- Project Location:** Citywide
- Project Description:** The proposed project includes the City's EIH programs to provide shelter and safety to individuals displaced in a housing crisis, or a disaster within the City.
- To date, the City has used a variety of Housing and Community Development approved temporary housing units such as tiny homes, portable trailers, tents, and modular buildings.
- It must be noted that many of these projects will not require ground disturbance because they will be constructed quickly in response to an imminent need. To be conservative, the analysis in this Programmatic CEQA document the City is using the option with the greatest massing which is two-story modular buildings, each building containing up to six units.
- No excavation is anticipated, minimal grading and trenching for utilities may occur up to a maximum depth of six feet.

Project Applicant	City of San José
Project Point of Contact	Reema Mahamood, Environmental Project Manager reema.mahamood@sanjoseca.gov , 408.535.6872

The City is preparing a Programmatic Mitigated Negative Declaration supported by an Initial Study for this project. This document includes the City's Standard Permit Conditions for the inadvertent discovery of subsurface resources and human remains, and all future EIH projects would comply with those conditions.

At our meeting on May 18, 2023, Tamien Nation requested notification for all EIH projects. To address that comment, the City has added the following mitigation measure under the Tribal Cultural Resources analysis:

Impact TCR-1: Future projects located within one mile of a creek, or 1,000 feet of a known Tribal Cultural Resource could result in significant impacts to unknown Tribal Cultural Resources from ground disturbance activities during construction.

Proposed Programmatic Mitigation Measure: The following mitigation measures would be implemented by all future Emergency Interim Housing projects when applicable, to reduce significant impacts to currently unknown Tribal Cultural Resources from ground disturbance activities during construction.

Upon identification of an Emergency Interim Housing (EIH) site, the City shall notify Tribal Representatives of Tribes with a traditional or cultural affiliation in the City of San José who have requested consultation under AB 52 for the Emergency Interim Housing Programmatic Mitigated Negative Declaration. Notification shall be made via electronic mail, and such notification shall include a site address, Assessor's Parcel Number(s), a location map, and conceptual site plan (if available). The notification shall also include information on proposed grading and trenching.

Tribal Representatives will have 30 days from the date of the notice to respond and request consultation and/or additional mitigation measures depending on the characteristics of the site and the project. Additional mitigation measures may include, but are not limited to, the following:

- Preparation of an Archaeological Research Treatment Plan (ARTP), which will include guidelines if resources are discovered during site construction.
- Conducting a cultural sensitivity training for construction workers in coordination with a Native American Tribal representative from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the Native American Heritage Commission (NAHC).
- Engaging a Native American Tribal Monitor from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the NAHC to be present during ground disturbing activities.

- Engaging an archaeological monitor to be present during ground disturbance activities.
- The Tribal and archaeological monitors shall report any findings to the Director of Planning, Building and Code Enforcement or the Director's designee immediately upon discovery.

If you would like to consult further with the City on the review of this project, please respond in writing within 30 days of receipt of this letter to the project point of contact noted above. Should the City not receive a response within 30 days, it will be presumed that you have declined consultation.

Please contact me if you have any questions or need additional information.

Sincerely,

Reema Mahamood

Reema Mahamood
Planner III, Environmental Review Team
Department of PBCE, Planning Division