

**IS/MND Response to Comments
State Clearinghouse No. 2025070235
September 2025**

1190 ROBERTS AVENUE RESIDENTIAL DEVELOPMENT PROJECT

City of San José

Prepared for:

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APPENDICES

APPENDIX A: COMMENT LETTERS RECEIVED

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1. Introduction

This document includes a compilation of all public comments received on the 1190 Roberts Avenue Residential Development Project (project) Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse No. 2025070235) during the public circulation period. Pan-Cal Corporation (project applicant) is seeking approval from the City of San José (City) for residential development (proposed project) that includes eight detached single-family residential units on an approximately 1.09-acre lot located at 1190 Roberts Avenue in San José, California.

1.1 PROJECT LOCATION

The project site includes one parcel located at 1190 Roberts Avenue (APN 477-11-001), near the intersection of Roberts Avenue and Le Compte Place, in San José, Santa Clara County, California (project site). The city of San José is surrounded by the unincorporated Santa Clara County to the east and south, city of Morgan Hill to the south, city of Santa Clara to the west, and city of Milpitas to the north. The project site contains one single-family residence. The project site is bounded by Roberts Avenue to the west and residential properties to the east, north, and south.

1.2 PROPOSED PROJECT

The proposed project would include two components: (1) the rezoning of the project site parcel, and (2) the construction of a new residential development at 1190 Roberts Avenue. Proposed development at the project site would include eight new single-family residences with private garages and on-site driveway parking spaces that would accommodate up to two cars each. The project site would include a new private residential street that would be accessible via Roberts Avenue.

1.3 INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

An Initial Study (IS) was prepared for the project and concluded that there will be less-than-significant impacts on the environment with the incorporation of mitigation measures; therefore, a mitigated negative declaration (MND) was prepared for the project. Based on the information in the IS/MND, the City determined that the project, with the implementation of mitigation measures, would not result in any potentially significant environmental impacts.

Under the California Environmental Quality Act (CEQA), a lead agency is not required to prepare formal responses to comments on an MND. However, CEQA requires the City to have adequate information on the record explaining why the comments do not affect the conclusion of the MND that there are no

1. Introduction

potentially significant environmental effects. In the spirit of public disclosure and engagement, the City, as the lead agency, has responded to all comments submitted on the MND during the public review period, which began July 8, 2025, and ended July 28, 2025.

1.4 DOCUMENT FORMAT

This document is organized as follows:

Chapter 1, Introduction. This section describes CEQA requirements and content of this document. Additionally, this section describes the public engagement that was conducted for the project.

Chapter 2, Response to Comments. This section provides a list of commenters on the IS/MND, the comments received, and responses to those comments.

Chapter 3, Revisions to the IS/MND. This section contains minor revisions and/or clarifications to the IS/MND.

1.5 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204(b) outlines parameters for submitting comments on negative declarations, and reminds persons and public agencies that the focus of review and comment of MNDs should be on the proposed findings that the project will not have a significant effect on the environment. If the commenter believes that the project may have a significant effect, they should: (1) identify the specific effect, (2) explain why they believe the effect would occur, and (3) explain why they believe the effect would be significant.

CEQA Guidelines Section 15204(c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.”

CEQA Guidelines Section 15204(d) states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” CEQA Guidelines Section 15204(e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

Finally, CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or requested by commenters. When responding to comments, lead agencies need only respond to potentially significant environmental issues and do not need to provide all information requested by reviewers, as long as a good-faith effort at full disclosure is made in the environmental document.

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1.6 PUBLIC ENGAGEMENT

Pursuant to CEQA Guidelines Sections 15072 and 15073, after preparation of an IS, the City determined that an MND would be appropriate for the project and circulated a Notice of Intent (NOI) to Adopt an MND. The public review period for the IS/MND was from July 8, 2025 to July 28, 2025, pursuant to CEQA Guidelines Section 15073(a). Public notification of the IS/MND was satisfied by sending the NOI to State and local agencies.

Additionally, copies of the IS/MND and NOI were made available for review at the following locations:

- Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street
- Tully Community Branch Library located at 880 Tully Road

The documents can also be accessed online at the following link:

[https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/1190-roberts-avenue-residential-development-project.](https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/1190-roberts-avenue-residential-development-project)

1. Introduction

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2. Response to Comments

This section provides all written comments received on the circulated MND and the City’s responses to each comment. Comment letters and specific comments within those letters are assigned a number for reference purposes.

The following is a list of all comment letters received on the circulated MND during the 20-day public review period, which began July 8, 2025, and ended July 28, 2025.

Number Reference	Commenter	Date of Comment
1	The Amah Mutsun Tribal Band of San Juan Bautista and AMTB	July 8, 2025
2	Ohlone Indian Tribe	July 11, 2025
3	Pacific Gas and Electric Company	July 10, 2025
4	Santa Clara Valley Water District	July 24, 2025
5	Pacific Gas and Electric Company	July 30,2025

1. THE AMAH MUTSUN TRIBAL BAND OF SAN JUAN BAUTISTA AND AMTB, JULY 8, 2025

Comment 1-1

It is our pride and privilege to be of service for any Native American Cultural Resource Monitoring, Consulting and/ or Sensitivity Training you may need or require. We take our Heritage and History seriously and are diligent about preserving as much of it as we can. Construction is a constant in the Bay Area and with that new discoveries are bound to happen. If you choose our services, we will gladly guide all personnel through proper procedures to safely protect and preserve: Culture, Heritage, and History.

Response 1-1

This comment offers the commenter’s services related to tribal cultural resource monitoring, consulting, and sensitivity training and does not address the adequacy of the analysis in the IS/MND. Therefore, no response is required.

2. Responses to Comments

Comment 1-2

It is highly recommended, if not previously done, to search through Sacred Lands Files (SLF) and California Historical Resource Information Systems (CHRIS) as well as reaching out to the Native American Heritage Commission (NAHC) In order to determine whether you are working in a Cultural and/ or Historic sensitivity.

Response 1-2

As discussed in Section 4.5, *Cultural Resources*, and Section 4.18, *Tribal Cultural Resources*, of the IS/MND, a Cultural Resources Report was prepared for the proposed project that included a SLF and CHRIS search, and presents findings that no cultural or historical resources were found on-site.

Comment 1-3

If you have received any positive cultural or historic sensitivity within 1 mile of the project area here are A.M.T.B Inc's and Amah Mutsun Tribal Band of San Juan Bautista's recommendations:

- All Crews, Individuals and Personnel who will be moving any earth be Cultural Sensitivity Trained.
- A Qualified California Trained Archaeological Monitor is present during any earth movement.
- A Qualified Native American Monitor is present during any earth movement.

If further Consultation, Monitoring or Sensitivity Training is needed please feel free to contact A.M.T.B. Inc. or Myself Directly.

Response 1-3

As discussed in Response 1-2, no cultural or historical resources were found on-site. Additionally, the proposed project would be required to comply with the City's Standard Permit Conditions described in Section 4.5, *Cultural Resources*, on page 4-30 and 4-31 of the IS/MND, for cultural subsurface resources and human remains, as well as with the mitigation measures for cultural awareness training and monitoring (see Mitigation Measures TCR-1 and TCR-2 in Section 4.18, *Tribal Cultural Resources*). Compliance with these requirements would reduce the proposed project's impact to potentially uncover and damage or destroy unknown tribal cultural resources to a less-than-significant level.

Comment 1-4

The comment is an attachment to the comment letter. The attachment provides a cost sheet for monitoring services for the year 2025.

2. Responses to Comments

Response 1-4

The attachment does not contain any comments on the substance of the IS/MND. Therefore, no further response is required.

2. OHLONE INDIAN TRIBE, JULY 11, 2025

Comment 2-1

Tribal Cultural Resources Sensitivity Training. The project sponsor, in consultation with any Cultural Resources Team if one is available, shall retain the services of an Ohlone Native American representative and/or archeological consultant from the Qualified List of Archeological Consultants to provide cultural sensitivity and archeological awareness training to all work crews who will be involved in ground disturbing activities at the project site. The training shall inform all project contractors, subcontractors and work crew members to be on the alert for evidence of the presence of potential tribal cultural resource(s), of how to identify the evidence of such a resource(s), and of stop work, resource protection, and notification requirements in the event of suspected discovery of a tribal cultural resource by construction crew members.

Stop Work and Notification Upon Discovery. Should any indication of a tribal cultural resource be encountered during any soils-disturbing activity of the project, the project Head Foreperson and/or project sponsor shall immediately notify tribe and shall immediately suspend any soils-disturbing activities in the vicinity of the discovery until the Cultural Monitor and a qualified archeological consultant from the Qualified Archeological Consultants List have assessed the find and the respective parties have determined whether and what additional measures should be undertaken.

Preservation in Place. In the event of the discovery of a tribal cultural resource, the cultural resource team (if one is present on job), the project sponsor, the archeological consultant, and the Ohlone representative shall consult to determine whether preservation in place would be feasible and effective in preserving the values represented by the resource. The archeological consultant, in consultation with the Ohlone representative, shall document the find to current professional standards. The tribe may also require that the project sponsor immediately implement a site security program if the resource is at risk from vandalism, looting, or other damaging actions.

If it is determined that preservation-in-place of the tribal cultural resource would be both feasible and effective, the archeological consultant shall prepare a Resource Preservation Plan (RPP) in consultation with the Ohlone representative, for review, which shall be implemented by the project sponsor during construction.

2. Responses to Comments

If it is determined that preservation in place would not be feasible or effective, then archeological assessment and treatment shall be implemented and in consultation with the Ohlone representative, as detailed below.

Archeological Treatment. If it is determined, in consultation with the Ohlone representative and the project sponsor, determines that preservation-in-place of the tribal cultural resources is not a sufficient or feasible option to preserve the values represented by the resource, then the archeological consultant, in consultation with the Ohlone representative, shall conduct archeological assessment to determine the significance of the find and determine whether it retains sufficient integrity to warrant additional treatment. If the tribal cultural resource is determined to be a significant archeological resource, the archeological consultant, in consultation with the Ohlone representative, shall recommend appropriate archeological treatment to preserve the data and values of the tribal cultural resource, which may include archeological data recovery. Data recovery shall be implemented in consultation with the Ohlone representative and shall include appropriate analyses and reporting. If an archeological interpretive, monitoring, and/or testing program is required, it shall be consistent with Standard guidelines for such programs and shall be implemented immediately.

Human Remains and Funerary Objects. The treatment of any human remains, and funerary objects discovered during any soils disturbing activity shall comply with applicable State laws, including Section 7050.5 of the Health and Safety Code and Public Resources Code 5097.98. If human remains or suspected human remains are encountered during construction, the contractor and project sponsor shall ensure that ground-disturbing work within 50 feet of the remains is halted immediately and shall arrange for the protection in place of the remains until appropriate treatment and disposition have been agreed upon and implemented in accordance with this section. The project sponsor shall immediately notify the Medical Examiner of the County in which the job resides and the Tribe of the find. In the event of the Medical Examiner's determination that the human remains are Native American in origin, the Medical Examiner will notify the California State Native American Heritage Commission (NAHC) within 24 hours and all provisions of Public Resources Code 5097.98 will be followed.

Interpretive Program. If it is determined, in consultation with Ohlone representative and the project sponsor, determines that preservation-in-place of the tribal cultural resource is not a sufficient or feasible option, the project sponsor, in consultation with local Native American representatives, shall prepare a Cultural Resources Public Interpretation Plan (CRPIP) to guide the interpretive program. The CRPIP shall be submitted for review and approval prior to implementation of the program. The interpretive program may but is not limited to artist installations, preferably by local Native American artists, oral histories with local Native Americans, cultural displays, educational panels, or other interpretive elements agreed upon by the sponsor, and Ohlone Native American representatives, and shall include an on-site acknowledgement that the project is built on traditional Ohlone land. The plan shall identify, as appropriate, proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long-term maintenance

2. Responses to Comments

program. Upon approval of the CRPIP and prior to project occupancy, the interpretive program shall be implemented by the project sponsor. The project sponsor shall work with the tribal representative to identify the scope of work by the tribal representative to fulfill the requirements of this mitigation measure, which may include participation in preparation and review of deliverables (e.g., plans, interpretive materials, artwork). Tribal representatives shall be compensated for their work as identified in the agreed upon scope of work.

Response 2-1

The comment states requirements for the protection of cultural and tribal cultural resources, including cultural sensitivity training to workers, stop work and notification procedures if tribal cultural resources are found, and expert consultation for how to protect, preserve or treat the resources. Section 4.18, Tribal Cultural Resources, of the IS/MND outlines the mitigation measures that would be implemented in the event tribal cultural resources were found during ground-disturbing activities. Further, Section 4.5, Cultural Resources, outlines the Standard Permit Condition if any human remains are found during any field investigations, grading, or other construction activities. Please also see Response 1-3.

3. PACIFIC GAS AND ELECTRIC COMPANY, JULY 10, 2025

Comment 3-1

Thank you for submitting the **1190 Roberts Avenue Residential Development** project plan 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.

Response 3-1

This comment letter indicates that PG&E is reviewing project plans to determine if the proposed project is adjacent or within PG&E property or easements, and provides attachments with additional information. This comment does not address the adequacy of the analysis in the IS/MND, and no further response is necessary.

Comment 3-2

Below is additional information for your review:

2. Responses to Comments

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/account/servicerequests/building-and-renovation.html>.
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.

Response 3-2

This comment provides additional information for PG&E's plan review process. This comment does not address the adequacy of the analysis in the IS/MND, and no further response is necessary.

Comment 3-3

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 3-3

This comment provides requirements for a California Public Utilities Commission (CPUC) filing if any proposed uses are within the PG&E fee strip or easement. As discussed in Section 4.19, *Utilities and Services Systems*, the project would be required to detail the exact locations for all utility connections, and utility plans would be subject to review by the City. This comment does not address the adequacy of the analysis in the IS/MND, and no further response is necessary.

2. Responses to Comments

4. SANTA CLARA VALLEY WATER DISTRICT, JULY 24, 2025

Comment 4-1

Valley Water has reviewed the Notice of Intent to Adopt an Initial Study and Mitigated Negative Declaration (IS/MND) for the 1190 Roberts Avenue Residential Development Project in San Jose, received on July 8, 2025. Per our review, we have the following comments:

1. **Section 4.10 Hydrology and Water Quality - Topic (a) - Pg 4-55:** The Regional Water Quality Control Board (RWQCB) Municipal Regional Permit (MRP) was re-issued on May 11, 2022, and becomes effective on July 1, 2023. Discussions in the MND/IS should note consistency with the new MRP. If the project qualifies for coverage under the old MRP, the discussion should clearly note that and explain why it is covered under the old MRP. Please include the effective date of July 1, 2023, in the text.

Response 4-1

Page 4-55 in Section 4.10. *Hydrology and Water Quality*, of the IS/MND accurately provides the provisions under the MRP, in addition to standard best management practices required during construction. This comment requests that the effective date for the RWQCB MRP be included in the text of the IS/MND. The text in impact discussion (a) on page 4-55 of the IS/MND has been revised accordingly, as shown in Chapter 3 of this document. The requested addition of the effective date does not change the analysis or conclusions of the IS/MND.

Comment 4-2

2. **Section 4.10 Hydrology and Water Quality – Topic (c) - Discussion (iv) - Footnote 52 –Pg 4-59:** According to the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Map (FIRM) 06085C0216H, effective on May 18, 2009, the project site is located within Zone D, which is defined as an area of undetermined but possible flood hazard. Please revise Footnote 52 to include the FEMA FIRM number and the effective date.

Please also reflect this comment for Footnote 53 on Pg 4-60.

Response 4-2

This comment requests that the FEMA Flood Insurance Rate Map (FIRM) number and effective date be stated in the footnote that identifies the project site as a Flood D zone. Section 4.10. *Hydrology and Water Quality*, page 4-59 of the IS/MND, accurately states that the project site is in a Flood D zone. The requested addition of the FIRM number and effective date would not change the conclusions reached by the IS/MND, therefore no revisions to the IS/MND are necessary.

2. Responses to Comments

Comment 4-3

3. **Section 4.10 Hydrology and Water Quality – Topic (d) - Pg 4-60:** The document states that “the project is not in a reservoir flood zone or dam inundation zone”. However, according to Valley Water records, the project site is located within the Leroy Anderson Dam inundation zone. The document should be revised for accuracy and should consider any potential impacts from this addition.

Response 4-3

The comment states that the IS/MND incorrectly states that the project site is not within an inundation zone and states that based on Valley Water records the project site is within the Leroy Anderson Dam inundation zone. The text in impact discussion (d) on page 4-60 of the IS/MND has been revised accordingly, as shown in Chapter 3 of this document. As stated on page 4-60 in Section 4.10. *Hydrology and Water Quality*, of the IS/MND, in the event of an emergency, Valley Water maintains Emergency Action Plans with procedures for damage assessment and emergency warnings. Additionally, the City and Santa Clara County address flood hazards in the local hazard mitigation plan, which also provides emergency response actions.

Comment 4-4

4. According to Valley Water’s records, there are no wells within the property boundary. 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 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 4-4

This comment states that no wells are within the project site, however, if wells are found on the project during construction, the comment provides the necessary information to have the well properly destroyed. This comment does not address the adequacy of the analysis in the IS/MND, and no further response is necessary.

2. Responses to Comments

5. PACIFIC GAS AND ELECTRIC COMPANY, JULY 30, 2025

Comment 5-1

Thank you for providing PG&E the opportunity to review your proposed plans for PDC24-040, PD24-005, ER24-092 dated and received on July 8, 2025. Our review indicates the proposed work and/or improvements do not appear to directly interfere with any of PG&E's existing facilities or land rights.

Please note, this is our preliminary review and PG&E may provide additional comments in the future as the project progresses or if additional information is provided. If there are subsequent modifications made to the design, we ask that the plans be resubmitted for review to the email address listed below.

If PG&E gas and/or electric service are needed, please submit an application through PG&E's Your Project Portal: Sign In (yourprojects-pge.com).

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of two (2) working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

Response 5-1

This comment acknowledges that the proposed project does not appear to interfere with PG&E facilities or land rights and does not address the adequacy of the IS/MND. Therefore, no further response is required.

3. Revisions to the IS/MND

This section contains minor revisions and/or clarifications to the IS/MND text as a result of the comments received as described in Chapter 2, *Response to Comments*, and/or to correct any minor errors and omissions discovered after release of the IS/MND for public review. New text is shown in double underline, and removed text is shown in ~~strikethrough~~ formatting.

Section 4.10, Hydrology and Water Quality, impact discussion (a), page 4-55:

Additionally, the City of San José operates under the Municipal Regional Stormwater NPDES Permit (MRP), issued by the RWQCB (Order No. R2-2022-0018 and NPDES Permit No. CAS612008), effective date July 1, 2023. Requirements for stormwater permitting under the MRP Provision C.3, addresses the thresholds required for development and redevelopment projects to both treat and prevent increases in runoff from development projects. Provision C.3 requires regulated projects to incorporate post-construction stormwater management measures, including site design measures, source control measures, and stormwater treatment measures to reduce stormwater pollution after construction of the project. These requirements are in addition to standard stormwater-related best management practices required during construction.

Section 4.10, Hydrology and Water Quality, impact summary table, impact discussion (d), page 4-54:

Issues	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Incorporated	Less-than-Significant Impact	No Impact
X. HYDROLOGY AND WATER QUALITY. Would the project:				
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?			<u>X</u>	X

Section 4.10, Hydrology and Water Quality, impact discussion (d), page 4-60:

No-Less-than-Significant Impact. The project site is not within a tsunami or seiche inundation zone, and is designated as Flood Zone D (i.e., undetermined flood hazard area). A seiche is a surface wave created when a body of water is shaken, usually by earthquake activity. Seiches are of concern relative to water storage facilities because inundation from a seiche can occur if the wave overflows a containment wall, such as the wall of a reservoir, water storage tank, dam or other artificial body of water. According to the Santa Clara County Multijurisdictional Hazard Mitigation Plan, the Bay Area has not been adversely

3. Revisions to the IS/MND

affected by seiches and the project site is located over 9 miles from the San Francisco Bay. Additionally, the project site is not located in a tsunami hazard evacuation area, and therefore would not be at risk of a tsunami.

The nearest waterway to the project is Coyote Creek, located approximately 0.17 miles to the west of the project site, ~~though the project site is not in a reservoir flood zone or dam inundation zone.~~ The project site is located within the inundation zone for the Leroy Anderson Dam. Valley Water is currently undertaking a seismic retrofit project for the Leroy Anderson Dam, which will ensure compliance with current seismic safety standards and regulations, increase the dam's outlet capacities, and allow for rapid, controlled reservoir reduction levels in the event of an emergency. Further, Valley Water maintains Emergency Action Plans with procedures for damage assessment and emergency warnings. Additionally, the City and Santa Clara County address flood hazards in the local hazard mitigation plan, which also provides emergency response actions. These existing plans and procedures would serve to protect future residents of the project site from hazards associated with potential dam inundation. Therefore, there is not a substantial risk of flooding at the project site and there would not be a risk of release of pollutants due to project inundation. Thus, ~~there would be no~~ the impact would be less than significant.