

Appendix C
Federated Indians of Graton Rancheria Request



September 15, 2015

Paul Jensen
Community Development Director
City of San Rafael
1400 5th Avenue, 3rd Floor
San Rafael, CA 94901

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) for projects within the Federated Indians of Graton Rancheria's Ancestral Lands.

Dear Mr. Jensen;

The Federated Indians of Graton Rancheria appreciates the opportunity to initiate 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 resources for the Andersen Drive SMART Crossing project within the Tribe's ancestral lands.

Receiving this letter sets forth the Tribe's formal request for 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

The Tribe 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:



- Cultural Monitor on site during ground disturbance and development of tribal treatment plan.
- (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, the Tribe would like to receive any additional cultural resources assessments that may be completed in association with the environmental process on all or part of the project's potential "area of project effect" (APE). The review of studies provided was completed by the THPO/NAGPRA office after a lengthy process of acquiring the various documents needed for review. The Tribe prefers to have all completed studies, maps in color format when appropriate for viewing, clearly delineated areas showing the project with cultural resource areas/sites identified, photographs of the project area, displaying parcel information in correlation with the site records or cultural resource reports from past projects and current reports.

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.



FEDERATED INDIANS OF
GRATON
RANCHERIA

The Tribe appreciates the opportunity to continue consultation and please feel free to contact the Tribal Heritage Preservation Officer, Buffy McQuillen at (707) 566-2288 or by email at bmcquillen@gratonrancheria.com who will serve as the lead contact on behalf of the Tribe.

Sincerely,

Lorelle Ross, Vice-Chairperson
Federated Indians of Graton Rancheria