

**DOCKETED**

<b>Docket Number:</b>	22-SPPE-02
<b>Project Title:</b>	San Jose Data Center 04
<b>TN #:</b>	246335
<b>Document Title:</b>	Microsoft Request For Confidentiality - Cultural Report for SJ04 Data Center
<b>Description:</b>	N/A
<b>Filer:</b>	Scott Galati
<b>Organization:</b>	DayZenLLC
<b>Submitter Role:</b>	Intervenor Representative
<b>Submission Date:</b>	10/3/2022 2:38:12 PM
<b>Docketed Date:</b>	10/3/2022



October 3, 2022

Mr. Drew Bohan  
Executive Director  
California Energy Commission  
715 P Street  
Sacramento, CA 95814

*Subject:* Application for Confidential Designation  
Results of the Literature Review for the Trimble Road Data Center  
Project, City of San José, County of Santa Clara, California  
Bowers Backup Generating Facility (22-SPPE-01)

Dear Mr. Bohan,

Microsoft, as owner of the SJ04 Data Center, requests that the attached information be designated confidential pursuant to 20 California Code of Regulations (CCR) Section 2505. This information is being supplied to the California Energy Commission (CEC) in support of its Application for a Small Power Plant Exemption docketed on September 12, 2022.

In support of its Application for Confidential Designation, Microsoft provides the following information:

APPLICANT: Microsoft Corporation

ADDRESS: 1 Microsoft Way  
Redmond, WA 98052

*1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.*

*Results of the Literature Review for the Trimble Road Data Center Project, City of San José, County of Santa Clara, California, prepared by Paleowest, dated August 2, 2022.*

*1(b). Specify the part(s) of the record for which you request confidential designation.*

The report identified above in 1(a) in its entirety:

*2. State and justify the length of time the Commission should keep the record confidential.*

The report identified above should be kept confidential indefinitely to protect potential cultural resources and sites. If the descriptions of the locations of the sites are released to the public domain, there is potential for looting of that site.

*3(a). State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record.*

The report identified above specifically identifies areas of potential cultural and historical significance. It is thus protected under Government Code Sections 6254(e) and 6254(k). Protection provided is analogous to that given to Native American sacred places under Section 6254(r) of the Government Code.

*3(b). Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.*

The public interest will be served by nondisclosure by preventing looting of the cultural resources and sites described in the reports. Such looting would preclude scientific study of the sites to gain data about the cultural resources of the area.

*4. State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the*

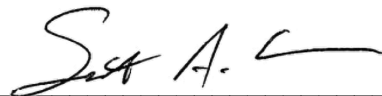
*identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

Microsoft believes the CEC staff will require the specific information contained in the report to properly perform its analysis. Aggregation of the information would hinder a complete CEC analysis. However, Microsoft believes the CEC can incorporate a generalized summary of information contained in the report to properly state the basis for its analysis without disclosing information specific enough to facilitate looting.

*5. State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.*

Microsoft has not disclosed any of the subject information to anyone other than its employees, attorneys, and consultants working on the SJ04 Data Center. Moreover, this information will not be disclosed to any other persons employed by or working for Microsoft except on a "need to know" basis. Microsoft is marking this information "Confidential" and is instituting a policy that segregates this information from other SJ04 Data Center files and that access to it be restricted to a designated confidential information manager or managers within Microsoft or its attorneys/consultants.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct and complete to the best of my knowledge and I am authorized to make the application and certification on behalf of the applicant.



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Scott A. Galati  
Counsel to Microsoft