

DOCKETED

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April 5, 2024

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

Subject: Application for Confidential Designation
**Cultural Resource Assessment Report
for the San José 04 Data Center (SJ04) Project
City of San José, Santa Clara County
San José 04 Data Center (22-SPPE-02)**

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.

Cultural Resource Assessment Report for the San José 04 Data Center (SJ04) Project, City of San José, Santa Clara County prepared by Chronical Heritage dated April, 2024.

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

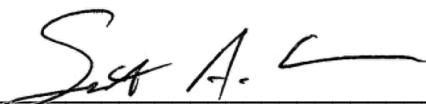
identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

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.



Scott A. Galati
Counsel to Microsoft