

**ENFORCEABLE AGREEMENT REGARDING
POTENTIAL IMPACTS ON TRIBAL CULTURAL RESOURCES AT 851 WEEKS
STREET IN THE CITY OF EAST PALO ALTO**

Eden Housing, Inc., a California nonprofit public benefit corporation, (Developer) hereby consents to that certain Enforceable Agreement regarding potential impacts on Tribal Cultural Resources (Agreement) by and between the City of East Palo Alto (City) and Tamien Nation, the Native American Tribe culturally affiliated with the East Palo Alto area (Tribe) on the terms set forth below.

A. On March 17, 2023, the Developer submitted to the City a notice of intent to submit an application for a housing development project to be subject to the streamlined ministerial approval process described in Government Code Section 65913.4 (SB 35 Application).

B. The SB 35 Application had proposed to develop an 89-unit, 100% affordable, senior housing project (Project) at 851 Weeks Street in East Palo Alto (Project Site).

C. The City provided formal notice of Developer's intent to submit the SB 35 Application to each California Native American tribe (provided by the Native American Heritage Commission) that is traditionally and culturally affiliated with the geographic area of the Project Site on March 24, 2023. Of the nine tribes that were invited for the scoping consultation the Tamien Nation was the only responding party. On March 27, 2023, Tamien Nation (Tribe) accepted the City's invitation to engage in a scoping consultation in accordance with subdivision (b) of Government Code Section 65913.4 (Scoping Consultation).

D. Following a Scoping Consultation on May 3, 2023, the City, the Tribe, and Developer concluded that potential tribal cultural resources could be affected by the Project.

E. The Developer acknowledges that as a condition of the City and the Tribe agreeing to conclude the Scoping Consultation, the City will require compliance with the following undertakings:

1. Prior to issuance of the Grading Permit, or ground-disturbing activities, the Developer shall:
 - a. Submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by a qualified archaeologist in coordination with a representative from the Tribe registered with the Native American Heritage Commission for the City of East Palo Alto and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

2. A qualified archaeologist and Native American cultural resources monitor from the Tribe shall be present during all ground disturbing activities of the Project. The archaeologist shall determine when monitoring is no longer required.
3. If archaeological resources are exposed during construction, work within 50 feet of the find shall cease until a qualified archaeologist and Native American representative from the Tribe can assess the find and provide recommendations for further treatment, if warranted. Construction and potential impacts to the area(s) within a radius determined by the archaeologist shall not re-commence until the assessment is complete.
4. If further treatment is warranted, then a research design and treatment plan tailored to the resources identified shall be prepared by a qualified archaeologist in consultation with a Native American representative from the Tribe. Once the research design and treatment plan are approved by the City, archaeological testing of the resource can begin. Testing shall be commensurate with the level of proposed impacts and determined in consultation with the Native American representative from the Tribe. After field testing, an evaluation report shall be prepared documenting the fieldwork, analyzing the cultural materials recovered, defining the resource boundaries on the Project Site, and evaluating the resource per the California Register of Historic Resources
5. If human remains are encountered during Project construction activities, all work in the vicinity shall be halted and the San Mateo County Coroner contacted. In the event that the County Coroner determines the human remains are Native American, notification of the Native American Heritage Commission (NAHC) is required, who shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The qualified archaeologist, Project sponsor, and MLD shall make all reasonable efforts to develop an agreement for treatment. The agreement shall incorporate 'best practices' as identified by the NAHC. A final report shall be prepared by the archaeologist in consultation with the MLD and approved by the City of East Palo Alto. Work on the Project may proceed upon City approval.
6. The Project shall incorporate native landscaping where possible.
7. The Project shall include interpretive signs or plaques acknowledging the tribe that previously inhabited the site. The proposed sign or plaque shall be submitted for approval by the City, in consultation with the Tamien Nation, prior to the issuance of a building permit.
8. The Developer shall relinquish ownership of all non-burial related tribal cultural resources collected during the grading monitoring program and from any previous archaeological studies or excavations on the Project Site to the Tribe for proper treatment and disposition per the Tribal Cultural Resources Treatment and Monitoring Agreement.
9. Developer consents to the above undertakings and warrants and represents that the Developer will comply with the terms of this Agreement upon satisfaction of each of the following:
 - a. The City and the Tribe have agreed that the Scoping Consultation has concluded, and the conditions included herein fully satisfy Developer's and


City's obligations with respect to the Scoping Consultation process, such that the Developer may submit, and the City may accept for processing, the SB 35 Application.

- b. This Agreement shall not be amended, modified, or terminated without the written agreement of the City, the Tribe, and the Developer.
- c. Nothing in this Agreement shall be deemed or construed to create or establish any relationship of partnership, joint venture, agency, or any similar relationship between the City, the Tribe, and the Developer.
- d. The City, the Tribe, and the Developer agree that there are no third-party beneficiaries to this Agreement.
- e. This Agreement shall be governed and construed in accordance with the laws of the State of California.
- f. The terms of this Agreement are intended as the final expression of the City's and Tribe's agreement with respect to such terms as are included in this Agreement and may not be contradicted by evidence of any prior or contemporaneous agreement.

CITY OF EAST PALO ALTO

EDEN HOUSING

By: *Elena Lee*
Planning Manager

By: 
andrea esgood (Aug 23, 2023 15:33 PDT)
Chief Real Estate Development Officer

Dated: 9/7/2023

Dated: 08/22/23

Enforceable Agreement_Consultation Scoping_851 Weeks Street-FINAL (002)

Final Audit Report

2023-08-23

Created:	2023-08-22
By:	Diego Terreros (diego.terreros@edenhousing.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAHAHYIGfMsZacDstDuo8OZXoGj8QkzhgA3O

"Enforceable Agreement_Consultation Scoping_851 Weeks Street-FINAL (002)" History

-  Document created by Diego Terreros (diego.terreros@edenhousing.org)
2023-08-22 - 11:12:23 PM GMT
-  Document emailed to andrea osgood (aosgood@edenhousing.org) for signature
2023-08-22 - 11:16:21 PM GMT
-  Email viewed by andrea osgood (aosgood@edenhousing.org)
2023-08-22 - 11:32:31 PM GMT
-  Document e-signed by andrea osgood (aosgood@edenhousing.org)
Signature Date: 2023-08-23 - 10:33:34 PM GMT - Time Source: server
-  Agreement completed.
2023-08-23 - 10:33:34 PM GMT