

City of Carlsbad Beach Access Repair Project

Mitigation Monitoring and Reporting Plan

The California Environmental Quality Act (CEQA) requires the adoption of feasible mitigation measures to reduce the severity and magnitude of potentially significant environmental impacts associated with project development.

CEQA Guidelines Section 15091(d) states:

When making the findings required in subdivision (a)(1), the CEQA Lead Agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be enforceable through permit conditions, agreements, or other measures.

CEQA Guidelines Section 15097(a) states:

This section applies when a public agency has made the findings required under paragraph (1) of subdivision (a) of section 15091 to adopt a mitigated negative declaration in conjunction with approving a project. In order to assure that the mitigation measures and project revisions identified in the negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.

Mitigation Measures

Mitigation Measures	Monitoring or Reporting Action	Timing of Monitoring or Reporting Action	Responsible Party	Compliance Verification Date
BIOLOGICAL RESOURCES				
BIO-1: Prior to the start of construction activities, including vegetation removal, demolition, and grading activities, a qualified biologist shall conduct a survey for sensitive plants within the Project footprint and immediately adjacent habitat. To the extent practicable, the plant survey shall occur within the blooming period for those sensitive species previously observed onsite and/or those species with a high potential to occur onsite. To the extent practicable, sensitive plant species shall be avoided by Project activities. If sensitive plant avoidance is not practicable, then it is recommended that the impacted species be either (a) transplanted outside of the Project impact footprint prior to Project implementation or (b) replanted onsite (1:1 ratio) following Project implementation, if feasible.	Conduct surveys for sensitive plant species, and map as needed Confirm locations are identified in contract documents	Prior to construction	Qualified Biological Resources Contractor	

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<p>BIO-2: Bat Protection. Prior to the start of construction, including demolition and grading activities, all suitable areas within the Project site and an appropriate survey buffer shall be surveyed for the presence of bat roosts by a qualified bat biologist. Surveys are required as follows:</p> <p>(1) Initial surveys are recommended to be conducted at least six months prior to the initiation of vegetation removal and ground disturbing activities, ideally during the maternity season (typically March 1 to August 31), to allow time to prepare mitigation and/or exclusion plans if needed, and</p> <p>(2) Pre-construction surveys shall be conducted by a qualified bat biologist no more than two (2) weeks prior to the initiation of vegetation removal and ground disturbing activities. Surveys may entail direct inspection of the trees, stairways, and/or other suitable habitat or nighttime surveys.</p>	<p>Conduct surveys as needed</p> <p>Monitor construction activities for nighttime lighting compliance</p>	<p>Prior to construction occurring between March 1 and August 31</p>	<p>Qualified Biological Resources Contractor</p>	
<p>BIO-2(a): If active bat roosts are present, a qualified bat biologist shall determine the species of bats present and the type of roost (i.e., day roost, night roost, maternity roost). If the biologist determines that the roosting bats are not a special-status species and the roost is not being used as a maternity roost, then the bats may be evicted from the roost by a qualified bat biologist experienced in developing and implementing bat mitigation and exclusion plans.</p>	<p>Remove bat roost habitat as needed</p>	<p>Prior to construction occurring between March 1 and August 31</p>	<p>Qualified Biological Resources Contractor</p>	
<p>BIO-2(a)(i): If special-status bat species or a maternity roost of any bat species is present, but no direct removal of active roosts will occur, a qualified bat biologist shall determine appropriate avoidance measures, which may</p>	<p>Flag construction-free buffer around active roosts</p>	<p>Prior to construction occurring between March 1 and August 31</p>	<p>Qualified Biological Resources Contractor</p>	

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include implementation of a construction-free buffer around the active roost.				
BIO-2(a)(ii): If special-status bat species or a maternity roost of any bat species is present and direct removal of habitat (roost location) will occur, then a qualified bat biologist experienced in developing bat mitigation and exclusion plans shall develop a mitigation plan to compensate for the lost roost site. Removal of the roost shall only occur when the mitigation plan has been approved by the City and only when bats are not present in the roost. The mitigation plan shall detail the methods of excluding bats from the roost and the plans for a replacement roost in the vicinity of the Project site. The mitigation plan shall be submitted to the City for approval prior to implementation. The plan shall include: (1) a description of the species targeted for mitigation; (2) a description of the existing roost or roost sites; (3) methods to be used to exclude the bats if necessary; (4) methods to be used to secure the existing roost site to prevent its reuse prior to removal; (5) the location for a replacement roost structure; (6) design details for the construction of the replacement roost; (7) monitoring protocols for assessing replacement roost use; (8) a schedule for excluding bats, demolishing of the existing roost, and construction of the replacement roost; and (9) contingency measures to be implemented if the replacement roosts do not function as designed.	Develop Bat Mitigation Plan	Prior to construction occurring between March 1 and August 31	Qualified Biological Resources Contractor	
BIO-2(b): If the pre-construction survey determines that no active roosts are present, then trees/stairways/suitable habitat shall be removed within two (2) weeks following the pre-construction survey.	Remove trees/stairways/suitable habitat as needed	Prior to construction occurring between March 1 and August 31	Construction contractor	

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BIO-2(c): All potential roost trees shall be removed in a manner approved by a qualified bat biologist, which may include presence of a biological monitor.	Monitor removal of potential bat roost trees as needed	Prior to construction occurring between March 1 and August 31	Qualified Biological Resources Contractor	
BIO-2(d): All construction activity in the vicinity of an active roost shall be limited to daylight hours.	Monitor hours of construction activity in the vicinity of active roosts	Prior to construction occurring between March 1 and August 31	Qualified Biological Resources Contractor	
BIO-3: Construction activities, including vegetation removal, demolition, and grading activities, shall occur outside of the gnatcatcher breeding season (February 15 – August 31). If breeding season avoidance is not practicable, then BIO-4 shall be implemented.	Monitor to confirm no vegetation removal, demolition, or grading activities (unless not practicable)	Between February 15 and August 31	Qualified Biological Resources Contractor	
<p>BIO-4: If construction activities, including vegetation removal, demolition, and grading activities, will occur within gnatcatcher breeding season (February 15 – August 31), the following will be implemented:</p> <ol style="list-style-type: none"> a. A permitted biologist shall conduct a pre-construction survey within the Project site and adjacent suitable habitat prior to the start of work. The survey will be conducted no more than three (3) days prior to construction. b. If an active gnatcatcher nest (nest containing eggs or an empty or partial nest with gnatcatchers actively exhibiting breeding behaviors) occurs within the Project site or adjacent habitat, the biologist shall establish a 500' no work buffer around the active gnatcatcher nest and consultation with USFWS shall occur. c. If no active gnatcatcher nests are observed during the pre-construction survey, no further action is required. 	<p>Conduct surveys for gnatcatcher habitat, and map as needed</p> <p>Establish 500-foot no work buffer</p> <p>Consult with USFWS</p> <p>Confirm locations are identified in contract documents</p>	Within three days prior to construction	Qualified Biological Resources Contractor	

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<p>BIO-5: A nesting bird survey shall be conducted within three (3) days prior to start of construction, including demolition, grading, and vegetation removal, if construction and/or vegetation removal occur during the nesting bird season identified in the HMP (February 15 – September 15). If vegetation removal occurs outside of nesting season or if no nesting birds are found, no further action is required. If active nests are identified, the biologist will establish appropriate buffers around the area (typically 500' for raptors and sensitive species, 200' for non-raptors/non-sensitive species). All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite biologist will review and verify compliance with these nesting boundaries and will verify the nesting effort has finished. Work can resume within the buffer area when no other active nests are found. Alternatively, a qualified biologist may determine that certain work can be permitted within the buffer areas and would develop a monitoring plan to prevent any impacts while the nest continues to be active (eggs, chicks, etc.). If vegetation clearing is not initiated within 72 hours of a negative survey during nesting season, the nesting survey must be repeated to confirm the absence of nesting birds.</p>	<p>Conduct pre-construction surveys</p> <p>Flag active nests if present, establish buffers, and monitor</p> <p>Develop monitoring plan as needed</p>	<p>Within three days prior to construction occurring between February 15 and September 15.</p>	<p>Qualified Biological Resources Contractor</p>	
<p>BIO-6: Implementation of general BMPs is required to the extent practical. Key aspects of the BMPs are to clearly delineate the limits of disturbance, use properly maintained equipment, properly implement and monitor water quality BMPs, avoid use of chemicals near sensitive areas, develop procedures for minimizing the likelihood of spills and to control sediment, ensure worker safety, and minimize impacts to wildlife.</p>	<p>Monitor construction activities for compliance (e.g., visual inspections, sampling) and document in project file</p>	<p>During construction</p>	<p>Construction contractor</p>	

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<p>BIO-7: Permanent impacts to native vegetation communities (including the newly shaded area on the slope of the coastal bluff area) shall be mitigated in accordance with the City's HMP for areas within the coastal zone as shown in Table 13, <i>HMP Mitigation for Impacts to Vegetation Communities</i>, through the following methods:</p> <ul style="list-style-type: none"> Establishment of habitat onsite where non-native vegetation currently exists or where there is a lack of vegetative cover. 	Confirm establishment of habitat onsite	During restoration activities	Construction contractor	
<p>BIO-8: Areas where temporary impacts occur to native vegetation communities from the Project construction activities shall be revegetated with appropriate native vegetation following Project implementation. Habitat establishment onsite shall follow the recommendations outlined in the <i>Guidelines for Habitat Creation and Restoration</i> (TAIC, 2009) prepared for the City of Carlsbad. Plant material for revegetation efforts shall also be consistent with State Parks Statement of Policy for plant genetic integrity (Policies 11.4 and 11.5) to ensure preservation and diversity of vegetative entities within the State Park System.</p>	Confirm establishment of native vegetation	During restoration activities	Construction contractor	
<p>BIO-9: Approved landscape specialist (appointed by the City of Carlsbad) to monitor and maintain the vegetated communities that were impacted by construction activities as well as the areas that were revegetated in compliance with the required mitigation ratios. One (1) year after the completion of the Project, monitoring activities shall continue for an additional five (5) years. Plant maintenance activities would include pruning as needed, shrubbery to be checked monthly for breakage/damage and operation and maintenance of irrigation systems.</p>	Monitor and maintain vegetated communities impacted by construction and revegetated areas as per the mitigation ratios	One year after the completion of the Project, monitoring activities shall continue for an additional five (5) years	Landscape Specialist/Qualified Contractor	

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<p>Watering Requirements for Native Plants:</p> <ul style="list-style-type: none"> • Water plants once a week, for the first month or until the rainy season begins. • After the rain begins, only water through April and only if it has not rained in 3 consecutive weeks. • Do not water in direct sun or on an unseasonably warm day. • Infrequent deep watering is more desirable than frequent shallow watering. 				
CULTURAL RESOURCES				
<p>CR-1: Alterations needed to comply with the ADA would be consistent with both the Secretary of the Interior’s Standards and Guidelines for Rehabilitation, and the California Historical Building Code. A description of specific improvements proposed for rehabilitation would be submitted to State Parks for review and approval in advance of construction to ensure that the comfort station retains its historic integrity.</p> <p>A qualified archaeological monitor shall be present during all work taking place within 20’ of the CRHR eligible Comfort Station. Photo documentation of the stairs, ramp, and comfort station surrounding features (including the retaining walls and concrete slab/cantilevered deck) prior to demolition is required. The qualified archaeologist will attend all pre-construction meetings to consult with the grading and excavation contractors concerning excavation schedules, archaeological field techniques, and safety issues. The qualified archaeologist will consult with the qualified State Historian and Associate State Archaeologist regarding any impacts that have the potential to affect the historic Comfort Station. The archaeologist shall retain the option to reduce monitoring, with concurrence from the City and</p>	<p>Any improvements to the sidewalks surrounding the comfort station need to comply with the Americans with Disabilities Act and the Secretary of the Interior’s Standards and Guidelines for Rehabilitation, and the California Historical Building Code</p> <p>Provide description of proposed improvements to State Parks prior to construction for their review and approval.</p> <p>Qualified monitor to be present during construction</p>	<p>Prior to construction and during construction</p>	<p>Qualified Archaeological Monitor or Qualified Contractor</p>	

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<p>qualified historian, if it is determined that work will not be impacting the resource.</p>				
<p>CR-2: A qualified archaeological monitor and a qualified Native American/cultural monitor shall be present during all ground disturbing activities related to this project as well as during any work taking place within 20 feet of the CRHR eligible Comfort Station. The qualified archaeologist and qualified Native American/cultural monitor will attend all pre-construction meetings to consult with the grading and excavation contractors concerning excavation schedules, archaeological field techniques, and safety issues. In the event that potential cultural resources are discovered during ground-disturbing activities, the qualified archaeologist on site will notify the Associate State Archaeologist from State Parks and City of Carlsbad immediately and all work shall stop and/or be diverted in that area and within 30 feet of the find until the significance of the resource can be assessed, and appropriate treatment measures developed and implemented, if necessary. The Associate State Archaeologist from State Parks, an appropriate representative from the City of Carlsbad, and a tribal representative shall assess the significance of the cultural resource. The archaeologist and the tribal representative shall make recommendations to the Lead Agency on the measures that will be implemented to protect the cultural resource(s), including but not limited to, avoidance in place, excavation, relocation, and further evaluation of the discoveries in accordance with California Environmental Quality Act (CEQA). If the resource is determined to be culturally significant, the City of Carlsbad shall engage with the consulting Tribes to confer regarding the appropriate treatment for the</p>	<p>If archaeological materials or potential tribal cultural resources are encountered, halt construction and establish a temporary no-work buffer zone. Notify the Associate State archaeologist from State Parks and City of Carlsbad.</p> <p>Determine eligibility and implement appropriate treatment measures. Prepare a monitoring report with photo documentation and monitoring forms and catalog any artifacts found</p>	<p>During construction</p>	<p>A qualified Archaeological Monitor and a qualified Native American/Cultural Monitor or Qualified Contractor</p>	

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<p>cultural resource. Pursuant to Calif. Pub. Res. Code § 21083.2(b), avoidance is the preferred method of preservation.</p> <p>Artifacts/cultural materials encountered during project work should be left <i>in situ</i>, if possible. If project work or other planned future disturbance of that specific location requires the cultural material to be relocated, it should be reburied as close to the original location as possible, on State Parks property, in a location that will be free from future disturbance. If any such artifacts are collected, they shall be prepared to a point of identification and permanent preservation. Any/all collected items that have thoroughly been evaluated by a Luiseño Native American monitor shall be repatriated to the consulting Tribes for reburial on project site. No photographs shall be taken, and no invasive or non-invasive testing shall be conducted unless prior written permission has been given by all the consulting Tribes. Materials of non-Native American origin and as agreed upon by the tribal monitor may be collected for curation. Curation must include obtaining an accession number and cataloging collections in the Excel format approved for use with TMS. A monitoring report containing photograph documentation and monitoring forms as well as an appended catalog of artifacts (if any are collected) shall be prepared and shall signify completion of the mitigation. The archaeologist shall retain the option to reduce monitoring, with concurrence from the State and City, if it is determined that the sediments were previously disturbed or previously monitored.</p>				
<p>CR-3: If human remains are encountered during excavation activities, all work shall halt in the vicinity of</p>	<p>If human remains are</p>	<p>During construction</p>	<p>A qualified Archaeological</p>	

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<p>the remains and the City of Carlsbad shall notify the County Coroner (<i>California Public Resources Code, Section 5097.98</i>). In addition to the County Coroner, State Parks Associate State Archaeologist/Tribal Liaison shall be notified. The County Coroner will determine whether the remains are of forensic interest. If the Coroner, with the aid of a qualified archaeologist and a qualified Native American/cultural monitor, determines that the remains are prehistoric, he/she will contact the (NAHC). The NAHC will be responsible for designating the most likely descendant (MLD), who will be responsible for the ultimate disposition of the remains, as required by Section 7050.5 of the <i>California Health and Safety Code</i>. The MLD shall make his/her recommendation within 48 hours of being granted access to the site. If feasible, the MLD's recommendation should be followed and may include scientific removal and non-destructive analysis of the human remains and any items associated with Native American burials (<i>California Health and Safety Code, Section 7050.5</i>). If the landowner rejects the MLD's recommendations, the landowner shall rebury the remains with appropriate dignity on the property in a location that will not be subject to further subsurface disturbance (<i>California Public Resources Code, Section 5097.98</i>).</p>	<p>encountered, halt construction and follow procedures as appropriate</p>		<p>Monitor and a qualified Native American/Cultural Monitor or Qualified Contractor</p>	
GEOLOGY AND SOILS				
<p>GEO-1: The final design of the Project shall consider and where feasible, implement the coast bluff stability enhancement recommendations and the design and construction recommendations provided in the Geotechnical Basis of Design prepared by Terra Cota Consultants, and presented in Appendix F. Geotechnical recommendations focus on design and structural considerations as well as materials and fill type to be used during construction. The Geotechnical recommendations are listed below:</p>	<p>Select and implement appropriate geotechnical recommendation for repairs</p>	<p>Prior to construction</p>	<p>Geologist or Qualified Contractor</p>	

Mitigation Measures	Monitoring or Reporting Action	Timing of Monitoring or Reporting Action	Responsible Party	Compliance Verification Date
<ul style="list-style-type: none"> • Foundation Design for Sidewalk Support/Retaining Walls • Slab Design for On-Grade Sidewalk Slabs • Retaining Walls • Structural Fill Placement 				
<p>GEO-2: A qualified paleontologist should observe earth disturbing activities occurring at Maple Avenue and Hemlock Avenue stairways. The paleontologist should attend the pre-construction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues. In the event that potential paleontological resources are discovered during ground-disturbing activities, work shall stop in that area and within 30' of the find until a qualified paleontologist can assess the significance of the find and, if necessary, develop appropriate treatment measures. Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Specimens shall be curated into a professional, accredited museum repository with permanent retrievable storage such as theSDNHM. A report of findings, with an appended itemized inventory of specimens, shall be prepared and shall signify completion of the mitigation. The paleontologist shall retain the option to reduce monitoring, with concurrence from the City, if it is determined that the sediments were previously disturbed. Monitoring may also be reduced with concurrence from the City if potentially fossiliferous units are not present or, if present, are determined to have a low potential to contain fossil resources.</p>	<p>If paleontological resources are encountered, halt construction and establish a temporary no-work buffer zone</p>	<p>During construction</p>	<p>Paleontologist or Qualified Contractor</p>	

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NOISE				
<p>NOI-1: It is recommended that construction activities for the Project include the following noise construction BMPs to minimize nuisance noise to the extent possible:</p> <ul style="list-style-type: none"> • Construction Equipment. Electrical power shall be used to run air compressors and similar power tools where feasible. Internal combustion engines should be equipped with a muffler of a type recommended by the manufacturer and in good repair. All diesel equipment should be operated with closed engine doors and should be equipped with factory-recommended mufflers. Construction equipment that continues to generate substantial noise at the Project boundaries should be shielded with temporary noise barriers, such as barriers that meet anSTC rating of 25, sound absorptive panels, or sound blankets on individual pieces of construction equipment. Stationary noise-generating equipment, such as generators and compressors, should be located as far as practically possible from the nearest residential property lines. • Neighbor Notification. Provide notification to residential occupants adjacent to the Project site at least 24 hours prior to initiation of construction activities that could result in substantial noise levels at outdoor or indoor living areas. This notification should include the anticipated hours and duration of construction and a description of noise reduction measures being implemented at the Project site. The notification should include a telephone number for local residents to call to submit complaints associated with construction noise. • Noise Control Plan. Construction contractors shall develop and implement a noise control plan that includes a noise control monitoring program to 	<p>Incorporate Noise BMPs into construction specifications</p> <p>Provide written notification to adjacent residences at least 24 hours prior to construction activities that could result in substantial noise levels at outdoor or indoor living areas</p> <p>Prepare Noise Control Plan</p>	<p>Prior to construction</p> <p>As needed, at least 24 hours prior to construction</p> <p>Prior to construction</p>	<p>Construction contractor</p>	

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<p>ensure sustained construction noise levels do not exceed 75 decibels over a 12-hour period at the nearest sensitive receivers. The plan may include the following requirements:</p> <ul style="list-style-type: none"> – Contractor shall turn off idling equipment while not being used for operations after idling for five (5) minutes. – Contractor shall perform noisier operation during the times least sensitive to receptors. – All diesel equipment shall be operated with closed engine doors and shall be equipped with factory-recommended mufflers. – Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or security staff facilities, where practical. 				
TRANSPORTATION				
T-1: Prior to the start of construction activities, a Traffic Control Management Plan will be prepared and implemented.	Prepare Traffic Control Management Plan	Prior to construction	Construction contractor	
TRIBAL CULTURAL RESOURCES				
<p>TCR-1: Tribal Cultural Resources Monitoring Prior to the commencement of any ground-disturbing activities, the project developer shall:</p> <ul style="list-style-type: none"> a. Retain the services of a qualified archaeologist who shall be on-site for ground-disturbing activities. In the event cultural material is encountered, the archaeologist is empowered to temporarily divert or halt grading to allow for coordination with the Luiseño Native American 	<p>Luiseño Native American monitor and archaeologist to be present at pre-construction meetings and prior to any ground disturbing-activities</p> <p>Enter into a Pre-Excavation Agreement/Tribal Cultural Resources Treatment and Tribal Monitoring Agreement, with the</p>	Prior to any ground disturbing activities/construction and during construction activities	Archaeologist and Native American Monitor / Qualified Contractor	

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<p>monitor, or other Traditionally and Culturally Affiliated Luiseño tribe (“TCA Tribe”), and to determine the significance of the discovery. The archaeologist shall follow all standard procedures for cultural materials that are not Tribal Cultural Resources.</p> <p>b. Enter into a Pre-Excavation Agreement, otherwise known as a Tribal Cultural Resources Treatment and Tribal Monitoring Agreement, with the San Luis Rey Band of Mission Indians or other Luiseño tribe that meets all standard requirements of the tribe for such Agreements. This agreement will address provision of a Luiseño Native American monitor and contain provisions to address the proper treatment of any tribal cultural resources and/or Luiseño Native American human remains inadvertently discovered during the course of the project. The Agreement will outline the roles and powers of the Luiseño Native American monitors and the archaeologist and may include the following provisions. In some cases, the language below may be modified in consultation with San Luis Rey Band of Mission Indians if special conditions warrant.</p> <p>c. A Luiseño Native American monitor shall be present during all ground-disturbing activities. Ground disturbing activities may include, but are not limited to, archaeological studies, geotechnical investigations, clearing, grubbing, trenching, excavation, preparation for utilities and other infrastructure, and grading activities.</p>	<p>San Luis Rey Band of Mission Indians or other Luiseño tribe</p> <p>Should any cultural materials be discovered, construction must halt and notify San Luis Rey Band of Mission Indians or other Luiseño tribe</p> <p>Should human remains be encountered, halt work and notify the San Diego County Medical Examiner</p>			

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<p>d. Any and all uncovered artifacts of Luiseño Native American cultural importance shall be returned to the San Luis Rey Band of Mission Indians, and/or the Most Likely Descendant, if applicable, and not be curated, unless ordered to do so by a federal agency or a court of competent jurisdiction.</p> <p>e. The Luiseño Native American monitor shall be present at the project’s pre-construction meeting to consult with grading and excavation contractors concerning excavation schedules and safety issues, as well as to consult with the archaeologist PI concerning the proposed archaeologist techniques and/or strategies for the project.</p> <p>f. Luiseño Native American monitors and archaeological monitors shall have joint authority to temporarily divert and/or halt construction activities. If tribal cultural resources are discovered during construction, all earth-moving activity within and around the immediate discovery area must be diverted until the Luiseño Native American monitor and the archaeologist can assess the nature and significance of the find.</p> <p>g. If a significant tribal cultural resource(s) and/or unique archaeological resource(s) are discovered during ground-disturbing activities for this project, the San Luis Rey Band of Mission Indians or other Luiseño tribe shall be notified and consulted regarding the respectful and dignified treatment of those resources. Pursuant to California Public Resources Code Section</p>				

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<p>21083.2(b) avoidance is the preferred method of preservation for archaeological and tribal cultural resources. If, however, the Applicant is able to demonstrate that avoidance of a significant and/or unique cultural resource is infeasible and a data recovery plan is authorized by the City of Carlsbad as the lead agency, the San Luis Rey Band of Mission Indians shall be consulted regarding the drafting and finalization of any such recovery plan.</p> <p>h. When tribal cultural resources are discovered during the project, if the archaeologist collects such resources, a Luiseño Native American monitor must be present during any testing or cataloging of those resources. If the archaeologist does not collect the tribal cultural resources that are unearthed during the ground-disturbing activities, the Luiseño Native American monitor may, at their discretion, collect said resources and provide them to the San Luis Rey Band of Mission Indians for dignified and respectful treatment in accordance with their cultural and spiritual traditions.</p> <p>i. If suspected Native American human remains are encountered, California Health and Safety Code Section 7050.5(b) states that no further disturbance shall occur until the San Diego County Medical Examiner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. Suspected Native American remains shall be</p>				

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<p>examined in the field and kept in a secure location at the site. A Luiseño Native American monitor shall be present during the examination of the remains. If the San Diego County Medical Examiner determines the remains to be Native American, NAHC must be contacted by the Medical Examiner within 24 hours. The NAHC must then immediately notify the “Most Likely Descendant” about the discovery. The Most Likely Descendant shall then make recommendations within 48 hours and engage in consultation concerning treatment of remains as provided in Public Resources Code 5097.98.</p> <p>j. In the event that fill material is imported into the project area, the fill shall be clean of tribal cultural resources and documented as such. Commercial sources of fill material are already permitted as appropriate and will be culturally sterile. If fill material is to be utilized and/or exported from areas within the project site, then that fill material shall be analyzed and confirmed by an archaeologist and Luiseño Native American monitor that such fill material does not contain tribal cultural resources.</p> <p>k. No testing, invasive or non-invasive, shall be permitted on any recovered tribal cultural resources without the written permission of the SLRBMI or any other Luiseño Native American consulting tribe.</p>				
<p>TCR-2: Tribal Cultural Resources Monitoring and/or Evaluation Report</p> <p>Prior to the completion of project construction, a monitoring report and/or evaluation report, if</p>	<p>Prepare a Tribal Cultural Resources Monitoring Report and the Project Archaeologist shall submit the report to the South Coastal Information Center</p>	<p>Prior to construction completion</p>	<p>Archaeologist / Qualified Contractor</p>	

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<p>appropriate, which describes the results, analysis, and conclusions of the monitoring program shall be submitted by the Project Archaeologist, along with the Luiseño Native American monitor's notes and comments, to the City of Carlsbad for approval, and shall be submitted to the South Coastal Information Center. Said report shall be subject to confidentiality as an exception to the Public Records Act and will not be available for public distribution.</p>				