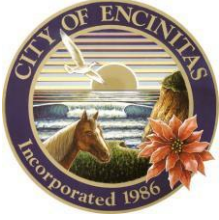


D-2

**Assembly Bill 52
Consultation**

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City of Encinitas

Development Services Department

505 South Vulcan Avenue, Encinitas, California 92024-3633

December 16, 2021

VIA ELECTRONIC MAIL AND U.S. MAIL

Ms. Cami Mojado
Cultural Resources Manager
San Luis Rey Band of Mission Indians
1889 Sunset Drive
Vista, CA 92081

**SUBJECT: AB 52 Notification for the Melba Residential Subdivision Project
City Case No. MULTI-4309-2021 / SUB-4310-2021 / CDPNF-4312-2021 / DR-4313-2021 /
CPP-4313-2021**

Dear Ms. Mojado,

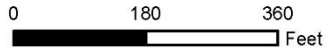
Pursuant to Public Resources Code Section 21080.3.1, this letter serves as formal notification of the above-referenced development application for tribal consultation purposes. The project is a Density Bonus Tentative Map, Design Review Permit, and Coastal Development Permit (MULTI-004309-2021, SUB-00-4310-2021, DR-004311-2021, CDPNF-004312-2021 respectively) for a 6.646-gross acre property (289,499.76 gross square feet) for the demolition of all onsite structures, and construction of 30 detached single-family residences with 27 market-rate units and three very-low affordable units, a private road, utility, drainage, and stormwater improvements.

The project site includes the following addresses and assessor parcel numbers (APNs):

| | Address | APN |
|----|-----------------------|------------|
| 1. | Balour Drive | 259-181-02 |
| 2. | 1180 Balour Drive | 259-181-04 |
| 3. | 1190 Island View Lane | 259-181-03 |
| 4. | 1220 Melba Road | 259-180-16 |
| 5. | 1230 Melba Road | 259-180-33 |
| 6. | 1234 Melba Road | 259-180-09 |
| 7. | 1240 Melba Road | 259-180-10 |



Source: ESRI, SanGIS



Project Location
 Melba Road Residential Subdivision
 Figure 1

The project applicant has retained the services of Cogstone Resource Management, Inc. to conduct a Phase I Archaeological Survey for the project. The survey report completed by Cogstone Resource Management indicated that no significant cultural resources were observed on the project site. The consulting archaeologist recommended archaeological monitoring during construction activity.

Additionally, the following documents are available for your review and reference. Because of document size constraints, please contact me obtain a direct and secure download link from a shared drive for the documents.

1. Project Location Map
2. Grading Plan (Pasco Laret Suiter & Associates)
3. Geotechnical Study (GEOCON Incorporated)
4. Phase I Archaeological Study (Cogstone Resource Management, Inc)

If you wish to request consultation for this project, please contact me within 30 days. My contact information is found below:

J. Alfred Dichoso, AICP
Associate Planner
Encinitas Development Services Department
505 South Vulcan Avenue
Encinitas, CA 92024
Phone: 760-633-2681
Email: jdichoso@encinitasca.gov

Please contact me if you need any additional information.

Sincerely,

J. Alfred Dichoso, AICP
Associate Planner

A handwritten signature in black ink, appearing to read 'J. Alfred Dichoso', written over a large, stylized circular flourish.

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From: [J Dichoso](#)
To: [Carmen Mojado](#)
Cc: [Christina Willis](#); [Nick Koutoufidis](#); [Andrew Maynard](#)
Subject: AB52 Follow-up - Melba Density Bonus
Date: Monday, March 7, 2022 10:58:13 AM

Hi Carmen – I am following up on your questions for us that we left unanswered during our recent meeting. Primarily, I am looking for the engineering-focused questions so we can provide answers to your satisfaction.

Thank you.



J. ALFRED DICHOSO, AICP
Associate Planner

760.633.2681 | jdichoso@encinitasca.gov
Development Services Department
505 South Vulcan Ave, Encinitas, CA 92024
www.cityofencinitas.org

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Many of our services are available online. Please click [here](#) to find a list of all available online services. You can schedule a virtual appointment with Planning staff. Appointments are available by clicking [here](#). Zoning information is also available online [here](#).

The Development Services counter is open for in-person services on Monday-Thursday from 8 am-5 pm, and every other Friday from 8 am-4 pm. We value your needs, so it is our goal to reply to your inquiry within two business days.

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From: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Sent: Wednesday, January 25, 2023 11:45 AM
To: J Dichoso <JDichoso@encinitasca.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>;
Christina Willis <Christina@brginc.net>
Subject: RE: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

No problem at all. Great, thank you so much. Let me review and get back to you.

Cheryl

Cheryl Madrigal

Cultural Resources Manager
Tribal Historic Preservation Officer
Cultural Resources Department

Rincon Band of Luiseño Indians

1 West Tribal Road | Valley Center, CA 92082
Office: (760) 749 1092 ext. 323 | Cell: 760-648-3000
Fax: 760-749-8901
Email: cmadrigal@rincon-nsn.gov



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From: J Dichoso <JDichoso@encinitasca.gov>
Sent: Wednesday, January 25, 2023 10:47 AM
To: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>;
Christina Willis <Christina@brginc.net>
Subject: RE: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Cheryl – I’m sorry for the late reply. Please see the link below which includes all documents previously shared with you including the Arborist Report as discussed at our meeting last week.

[22-11-21 AB52 Consultation - Torrey Crest-Melba Road Subdivision - MULTI-004309-2021](#)

Thank you. Let me know if you have any questions.



J. ALFRED DICHOSO, AICP

760.633.2681

jdichoso@encinitasca.gov

Development Services Department

www.encinitasca.org

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[Please tell us how we are doing.](#)

From: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Sent: Wednesday, December 21, 2022 6:13 PM
To: J Dichoso <JDichoso@encinitasca.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>
Subject: RE: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

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Got it. Thanks

From: J Dichoso <JDichoso@encinitasca.gov>
Sent: Wednesday, December 21, 2022 6:10 PM
To: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>
Subject: RE: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

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Hello Cheryl – I just sent the appointment.

Thank you.



J. ALFRED DICHOSO, AICP

760.633.2681

jdichoso@encinitasca.gov

Development Services Department

www.encinitasca.org

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[Please tell us how we are doing.](#)

From: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Sent: Wednesday, December 21, 2022 5:55 PM
To: J Dichoso <JDichoso@encinitasca.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>
Subject: RE: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

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Yes, feel free to invite the CEQA consultant. Thanks for asking!

Cheryl

Cheryl Madrigal

Cultural Resources Manager
Tribal Historic Preservation Officer
Cultural Resources Department

Rincon Band of Luiseño Indians

1 West Tribal Road | Valley Center, CA 92082
Office: (760) 749 1092 ext. 323 | Cell: 760-648-3000
Fax: 760-749-8901
Email: cmadrigal@rincon-nsn.gov



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From: J Dichoso <JDichoso@encinitasca.gov>
Sent: Wednesday, December 21, 2022 5:37 PM
To: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>
Subject: RE: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

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Hi Cheryl – Sorry for the late response. Is it acceptable for us to invite our CEQA consultant? With her, it would be myself, Nick Koutoufidis (staff CEQA coordinator, included in this email); a total of three. If no, that's acceptable, it'd be just myself and Nick.
Thank you.



J. ALFRED DICHOSO, AICP
760.633.2681
jdichoso@encinitasca.gov
Development Services Department
www.encinitasca.org

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Please tell us how we are doing.

From: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Sent: Monday, December 19, 2022 6:53 AM
To: J Dichoso <JDichoso@encinitasca.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>
!

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J. Alfred,

Thank you so much for your response. Online meeting is fine and most likely, I will be the only one attending the meeting.

Thanks,

Cheryl

Cheryl Madrigal

Cultural Resources Manager
Tribal Historic Preservation Officer
Cultural Resources Department

Rincon Band of Luiseño Indians

1 West Tribal Road | Valley Center, CA 92082
Office: (760) 749 1092 ext. 323 | Cell: 760-648-3000
Fax: 760-749-8901
Email: cmadrigal@rincon-nsn.gov



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From: J Dichoso <JDichoso@encinitasca.gov>
Sent: Thursday, December 15, 2022 3:38 PM
To: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>; Nick Koutoufidis <nkoutoufidis@encinitasca.gov>
Subject: RE: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

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Hello Cheryl –

My apologies for the late reply. Thank you for responding and we recognize your request to consult.

My next email will be an appointment to meet after January 9, 2023.

I have a two questions -

1. Is it your preference to meet in person or online in a virtual meeting?
2. To whom would you like me to send the meeting invitation?

Thank you.



J. ALFRED DICHOSO, AICP

760.633.2681

jdichoso@encinitasca.gov

Development Services Department

www.encinitasca.org

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[Please tell us how we are doing.](#)

From: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Sent: Monday, December 12, 2022 12:25 PM
To: J Dichoso <JDichoso@encinitasca.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>
Subject: Torrey Crest/Melba Road Subdivision MULTI-004309-2021

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Dear Alfred,

This email is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Tribe”), a federally recognized Indian Tribe and sovereign government. We have received your notification regarding the above-mentioned project and we request consultation to assess potential impacts to cultural resources. The identified location is within the Traditional Use Area (TUA) of the Luiseño people. As such, the Rincon Band is traditionally and culturally affiliated to the project area.

After review of the provided documents and our internal information, the Rincon Band has specific concerns that the project may impact tangible Tribal Cultural Resources (TCRs), Traditional Cultural Landscapes (TCLs), and potential Traditional Cultural Properties (TCPs). Embedded in these resources and within the TUA are Rincon’s history, culture, and continuing traditional identity.

Thank you for providing the Tribe with copies of existing documents pertaining to the project such as the cultural survey including the archaeological site records, archaeological record search results, geotechnical report, and the grading plans. The Rincon Band would like to consult on the project in order to learn more about any potential impacts to cultural resources. Please provide meeting dates for the week of January 9, 2023 or later.

If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 749 1092 ext. 323 or via electronic mail at cmadrigal@rincon-nsn.gov. Thank you for the opportunity to protect and preserve our cultural assets.

Cheryl

Cheryl Madrigal

Cultural Resources Manager
Tribal Historic Preservation Officer
Cultural Resources Department

Rincon Band of Luiseño Indians

1 West Tribal Road | Valley Center, CA 92082
Office: (760) 749 1092 ext. 323 | Cell: 760-648-3000
Fax: 760-749-8901
Email: cmadrigal@rincon-nsn.gov



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Rincon Band of Luiseño Indians

CULTURAL RESOURCES DEPARTMENT

One Government Center Lane | Valley Center | CA 92082
(760) 749-1092 | Fax: (760) 749-8901 | rincon-nsn.gov



March 16, 2023

Sent via email: jdichoso@encinitasca.gov

City of Encinitas
Development Services Department
J. Alfred Dichoso
505 South Vulcan Avenue
Encinitas, CA 92024

Re: Conclusion of Consultation on the Melba Road & Island View Lane Residential Project

Dear Mr. Dichoso,

This letter is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Tribe”), a federally recognized Indian tribe and sovereign government. Thank you for providing the Rincon Band with the project description and associated reports for the above referenced project.

Rincon’s Tribal Historic Preservation Office has reviewed the provided documents. We believe potential exists that archaeological resources will be unearthed during ground-disturbing activities associated with the proposed project. The Rincon Band recommends archaeological and tribal monitoring for all ground disturbing activities, a monitoring report, and protocols for discovery of cultural material and human remains. Additionally, we believe that tribal cultural resources such as native trees and shrubs utilized in traditional practices will be impacted by this project. We recommend working closely with the San Pasqual Band of Mission Indians to further consult on opportunities for a cultural resources monitoring program including an avoidance and habitat restoration plan for the project. We understand that other Tribes potentially have knowledge particular to this project site and may request additional measures. Please note that the Rincon Band supports all efforts to completely avoid cultural resources as preferred mitigation.

The Tribe has no further comments regarding this project, and we can conclude consultation at this time. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 749 1092 or via electronic mail at cmadrigal@rincon-nsn.gov. Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cheryl Madrigal".

Cheryl Madrigal
Tribal Historic Preservation Officer
Cultural Resources Manager

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RE: Melba Residential Subdivision Project

J Dichoso <JDichoso@encinitasca.gov>

To:Ray Teran <rteran@viejas-nsn.gov>

Cc:Ernest Pingleton <epingleton@viejas-nsn.gov>;Nick Koutoufidis <nkoutoufidis@encinitasca.gov>

Hello Ray -

Thank you so much for your comments regarding the Melba Residential Subdivision Project.

I wanted to confirm that this concludes AB52 consultation regarding this project.

I will keep you up to date on any project updates, public review of the environmental document, and/or changes that you would want to be aware of.

Thank you.



J. ALFRED DICHOSO, AICP

760.633.2681

jdichoso@encinitasca.gov

Development Services Department

www.encinitasca.org

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[Please tell us how we are doing.](#)

From: Ray Teran <rteran@viejas-nsn.gov>

Sent: Wednesday, December 28, 2022 10:42 AM

To: J Dichoso <JDichoso@encinitasca.gov>

Cc: Ernest Pingleton <epingleton@viejas-nsn.gov>

Subject: Melba Residential Subdivision Project

CAUTION: External Email. Do not click any links or open attachments unless you recognize the sender, verified their email address, and know the content is safe.

The Viejas Band of Kumeyaay Indians (“Viejas”) has reviewed the proposed project and at this time we have determined that the project site has cultural significance or ties to Viejas. Cultural resources have been located within or adjacent to the APE-DE of the proposed project.

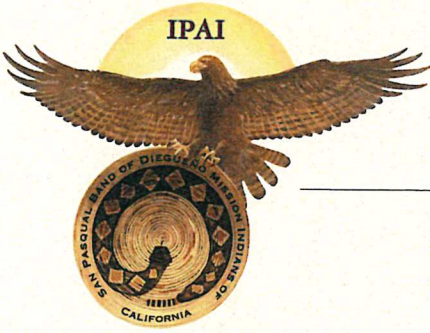
Viejas Band request that a Kumeyaay Cultural Monitor be on site for ground disturbing activities and to inform us of any new developments such as inadvertent discovery of cultural artifacts, cremation sites, or human remains.

If you wish to utilize Viejas cultural monitors (Viejas rate is \$54.15/hr. plus GSA mileage), please call Ernest Pingleton at 619-655-0410 or email, epingleton@viejas-nsn.gov, for contracting and scheduling. Thank you.

Ray Teran

Viejas Tribal Government
Resource Management Director
619-659-2312
rteran@viejas-nsn.gov





SAN PASQUAL BAND OF MISSION INDIANS

SAN PASQUAL RESERVATION

August 11, 2022

Anna Colamussi
City of Encinitas
Planning Manager
Development Services Department
505 South Vulcan Ave, Encinitas, CA 92024

Sent Via: USPS Certified Mail

RE: California Environmental Quality Act Public Resources Code section 21080.3(b) Request for Formal Notification of Proposed Projects Within the San Pasqual Band of Mission Indian's Geographic Area of Traditional and Cultural Affiliation

To whom this may concern,

With this letter, in accordance with Public Resources Code Section 21080.3.1(b), the San Pasqual Band of Mission Indians ("Band"), which is traditionally and culturally affiliated with the geographic area incorporating your agency's geographic area of jurisdiction and sphere of influence, present a formal standing request for government to government consultation and notice of and information on all ongoing and proposed projects for which your agency serves or will serve as a lead agency under the California Environmental Quality Act (CEQA), per Public Resources Code section 21000 et seq.

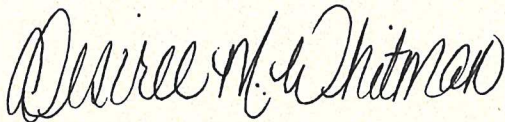
Pursuant to Public Resources Code section 21080.3.1(b), and until further notice, the Band hereby designates the following people as the Band's lead contacts for the purposes of consultation and receiving notices of all ongoing and proposed and projects from your agency:

Desiree Morales Whitman
Tribal Historic Preservation Officer (THPO)
16400 Kumeyaay Way, Valley Center, California 92082
Phone: 760-749-3200
Direct Line: 760-651-5142
Fax: 760-751-3485
Email: Desireem@sanpasqualtribe.org
THPO@sanpasqualtribe.org

Angelina Gutierrez
THPO Monitor Supervisor
16400 Kumeyaay Way, Valley Center, California 92082
Phone 760-749-3200
Direct Line: 760 651-5219
Fax: 760-751-3485 Email: Angelinag@sanpasqualtribe.org

We request that all notices be sent via certified U.S. Mail with return receipt. Following receipt and review of the information your agency provides, within the 30-day period proscribed by Public Resources Code section 21080.3.1(d), the Band may request consultation, as defined by Public Resources Code section 21080.3.1(b), pursuant to Public Resources Code section 21080.3.2 to mitigate any project impacts a specific project may cause to tribal cultural resources (TCRs).

Respectfully,



Desiree Morales Whitman
Tribal Historic Preservation Officer (THPO)
16400 Kumeyaay Way, Valley Center, California 92082

SAN LUIS REY BAND OF MISSION INDIANS

1889 Sunset Drive • Vista, California 92081

760-724-8505 • FAX 760-724-2172

www.slrmissionindians.org

December 28th, 2021

J.Alfred Dichoso, AICP
Associate Planner
Encinitas Development Services Department
City of Encinitas
505 South Vulcan Ave.
Encinitas, CA 92024

VIA ELECTRONIC MAIL
Jdichoso@encinitasca.gov

RE: Formal Request for Tribal Consultation Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21080.3.1, subs. (b), (d) and (e) for the Melba Residential Subdivision Project, Encinitas, CA (MULTI-4309-2021 / SUB-4310-2021 / CDN-4312-2021 / DR-4313-2021 / CPP-4313-2021

Dear Mr.Dichoso :

This letter constitutes a formal request for 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 resource for the above referenced project. The San Luis Rey Band of Mission Indians requested formal notice and information for all projects within your agency's geographical jurisdiction and received notification on December 16th, 2021, regarding the above referenced project.

The San Luis Rey Band of Mission Indians requests 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 San Luis Rey Band of Mission Indians also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2 (subd. (a)):

- Type of environmental review necessary

X Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources

X Significance of the project's impacts on tribal cultural resources

X Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:

- (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 San Luis Rey Band of Mission Indians requests to receive any cultural resources assessments or other assessments that have been completed on all or part of the project's potential "area of project effect" (APE), including, but not limited to:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System (CHRIS), including, but not limited to:
 - A listing of any and all known cultural resources have already been recorded on or adjacent to the APE;
 - Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
 - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.

2. The results of any archaeological inventory survey that was conducted, including:
 - Any report that may contain site forms, site significance, and suggested mitigation measures.
All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.
3. The results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.
4. Any ethnographic studies conducted for any area including all or part of the potential APE; and
5. Any geotechnical reports regarding all or part of the potential APE.

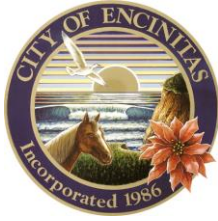
We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal 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.

The San Luis Rey Band of Mission Indians expects to begin consultation within 30 days of your receipt of this letter. Please contact the San Luis Rey Band of Mission Indians lead contact person identified in our previous request for notification.

Name: Cami Mojado
Title: Cultural Resources Manager
Address: 1889 Sunset Drive, Vista, CA 92081
Office Phone Number: 760-724-8505
Direct Cell Phone Number: 760-917-1736
Office Fax Number 760-724-2172
Email Address: cjmojado@slrmissionindians.org

Sincerely,

Cami Mojado
Cultural Resources Manager
San Luis Rey Band of Mission Indians



City of Encinitas

505 South Vulcan Avenue, Encinitas, California 92024-3633

Tel: (760) 633-2710; Fax: (760) 633-2818

August 22, 2024

VIA EMAIL AND MAIL

Ms. Carmen Mojado
Cultural Resources Manager
San Luis Rey Band of Mission Indians
1889 Sunset Drive
Vista, CA 92081

Subject: AB 52 Completion of Consultation – Torrey Crest Residential Subdivision Project (formerly Melba Road Residential Subdivision)

PLAN CASE NOS.

MULTI-004309-2021, DR-004311-2021, SUB-004310-2021, and CDPNF-004312-2021

PROJECT SITE ADDRESS (APN)

1220-1240 Melba Road and 1180 & 1190 Island View Lane (APNs 259-180-09, 259-180-10, 259-180-16, 259-180-33, 259-181-02; 259-181-03, 259-181-04)

Dear Ms. Mojado,

Thank you for participating in AB-52 consultation with the City of Encinitas (City) for the Torrey Crest (formerly Melba Road) Residential Subdivision. Based on our meeting with you on March 7, 2022, we have provided all information requested, which included the following:


- The Cultural Resources Assessment Report prepared by Cogstone Resource Management, with confidential appendices;
- The Limited Geotechnical Investigation prepared by GeoCon Incorporated; and,
- An electronic copy of the civil plans

A copy of the EIR's proposed cultural resource mitigation measures, included as Attachment 1 of this letter, was provided on March 8, 2022.

Please note, the Project has been modified to include the measures identified on Attachment 1, which are also included in the Mitigation Monitoring and Reporting Program (MMRP) for the Torrey Crest Residential Subdivision Project. The purpose of the MMRP is to ensure that the Project complies with all applicable environmental mitigation requirements in accordance with Public Resources Code Section 21081.6 and Section 15097 of the California Environmental Quality Act Guidelines. The MMRP for the Project will be adopted by the City of Encinitas, in conjunction with its consideration of the Final Environmental Impact Report for the Project which is scheduled for September 5, 2024. You will receive this legal notice for the public hearing by mail, and we will forward you an electronic copy of the Final EIR as soon as it is available.

This agreement concludes our consultation under AB-52.

Respectfully,

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by several loops and a long horizontal stroke extending to the right.

J. Dichoso, AICP
Project Planner

ATTACHMENT 1

Cultural and Tribal Resource Mitigation for the Torrey Crest Residential Subdivision

MM CUL-1: Cultural Resources Construction Monitoring

Due to the high potential for uncovering unknown subsurface archaeological resources, including Native American tribal cultural resources, cultural resource mitigation monitoring shall be undertaken for any and all on-site and off-site ground disturbing activities. If on-site and/or off-site ground disturbing activities (e.g., exploratory trenching or excavations) are required for any informal or formal solicitation (written or spoken) of construction bids or similar requirements, all applicable requirements identified in MM CUL-2 through MM CUL-8 below shall be undertaken by the Applicant and/or Owner.

Timing/Implementation: Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.

Enforcement/Monitoring: City of Encinitas Development Services

MM CUL-2: Cultural Resource Monitoring Program

A Cultural Resource Mitigation Monitoring Program shall be conducted to provide for the identification, evaluation, treatment, and protection of any cultural resources that are affected by or may be discovered during the construction of the proposed Project. The monitoring shall consist of the full-time presence of a Qualified Archaeologist and a TCA (traditionally and culturally affiliated) Native American Monitor for, but not limited to, any clearing or grubbing of vegetation, tree removal, demolition and/or removal of remnant foundations, pavements, abandonment and/or installation of infrastructure; grading or any other ground disturbing or altering activities, including the placement of imported fill materials (note: all fill materials shall be absent of any and all cultural resources); and related road improvements. Other tasks of the monitoring program shall include the following:

- The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc.
- The Qualified Archaeologist and TCA Native American Monitor shall attend all applicable pre-construction meetings with the Contractor and/or associated Subcontractors.
- The Qualified Archaeologist shall maintain ongoing collaborative consultation with the TCA Native American Monitor during all ground disturbing or altering activities, as identified above.
- The Qualified Archaeologist and/or TCA Native American Monitor may halt ground disturbing activities if archaeological artifact deposits or cultural features are discovered. In general, ground disturbing activities shall be directed away from these deposits for a short time to allow a determination of potential significance, the subject of which shall be determined by the Qualified Archaeologist and the TCA Native American Monitor. Ground disturbing activities shall not resume until the Qualified Archaeologist, in consultation with the TCA Native American Monitor, deems the cultural resource or feature has been appropriately documented and/or protected. At the Qualified

Archaeologist's discretion, the location of ground disturbing activities may be relocated elsewhere on the Project site to avoid further disturbance of cultural resources.

- The avoidance and protection of discovered unknown and significant cultural resources and/or unique archaeological resources is the preferable mitigation for the proposed Project. If avoidance is not feasible, a Data Recovery Plan may be authorized by the City as the Lead Agency under CEQA. If a data recovery is required, then the TCA tribe shall be notified and consulted in drafting and finalizing any such recovery plan.
- The Qualified Archaeologist and/or TCA Native American Monitor may also halt ground disturbing activities around known archaeological artifact deposits or cultural features if, in their respective opinions, there is the possibility that they could be damaged or destroyed.

Timing/Implementation: *Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.*

Enforcement/Monitoring: *City of Encinitas Development Services*

MM CUL-3 Pre-Excavation Agreement

Prior to the issuance of a Grading Permit, and subject to approval of terms by the City, the Applicant or Owner, and/or Contractor shall enter into a Pre-Excavation Agreement with the TCA tribe. The purpose of this agreement shall be to formalize protocols and procedures between the Applicant or Owner, and/or Contractor, and the Tribe for the protection and treatment of, but not limited to, such items as Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through the cultural resource mitigation monitoring program in conjunction with the construction of the proposed Project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, soil surveys, grading, or any other ground disturbing activities.

Timing/Implementation: *Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.*

Enforcement/Monitoring: *City of Encinitas Development Services*

MM CUL-4 Retain Qualified Archaeologist and TCA Native American Monitor

Prior to the issuance of a Grading Permit, the Applicant or Owner, and/or Contractor shall provide a written and signed letter to the City's Development Services Director, stating that a City-approved Qualified Archaeologist and a TCA Native American Monitor have been retained at the Applicant or Owner and/or Contractor's expense to implement the monitoring program, as described in the pre-excavation agreement. A copy of the letter shall be included in the Grading Plan Submittals for the Grading Permit.

Timing/Implementation: *Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.*

Enforcement/Monitoring: City of Encinitas Development Services

MM CUL-5 Prepare Controlled Grade Procedure

Prior to the issuance of a Grading Permit, and in order for potentially significant archaeological artifact deposits and/or cultural resources to be readily detected during mitigation monitoring, a written "Controlled Grade Procedure" shall be prepared by a Qualified Archaeologist, in consultation with the TCA Native American Monitor, and the Applicant or Owner, subject to the approval of City representatives. The Controlled Grade Procedure shall establish requirements for any ground disturbing work with machinery occurring in and around areas the Qualified Archaeologist and TCA Native American Monitor determine to be sensitive through the cultural resource mitigation monitoring process. The Controlled Grade Procedure shall include, but not be limited to, appropriate operating pace, increments of removal, weight and other characteristics of the earth disturbing equipment. A copy of the Procedure shall be included in the Grading Plan Submittals for the Grading Permit.

Timing/Implementation: Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.

Enforcement/Monitoring: City of Encinitas Development Services

MM CUL-6 Prepare Monitoring Report and/or Evaluation Report

Prior to the release of the Grading Bond, a Monitoring Report and/or Evaluation Report, which describes the results, analysis and conclusions of the cultural resource mitigation monitoring efforts (such as, but not limited to, the Research Design and Data Recovery Program) shall be submitted by the Qualified Archaeologist, along with the TCA Native American Monitor's notes and comments, to the City's Development Services Director for approval.

Timing/Implementation: Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.

Enforcement/Monitoring: City of Encinitas Development Services

MM CUL-7 Disposition of Tribal Cultural Resources

The landowner shall relinquish ownership of all tribal cultural resources collected during the cultural resource mitigation monitoring conducted during all ground disturbing activities, and from any previous archaeological studies or excavations on the Project site to the TCA tribe for respectful and dignified treatment and disposition, including reburial, in accordance with the Tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98.

Timing/Implementation: *Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.*

Enforcement/Monitoring: *City of Encinitas Development Services*

MM CUL-8 Identification of Human Remains

As specified by California Health and Safety Code Section 7050.5, if human remains are found on the Project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office by telephone. No further excavation or disturbance of the discovery or any nearby area reasonably suspected to overlie adjacent remains (as determined by the Qualified Archaeologist and/or the TCA Native American Monitor) shall occur until the Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98. If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected (as determined by the Qualified Archaeologist and/or the TCA Native American Monitor), and consultation and treatment could occur as prescribed by law. As further defined by State law, the Coroner would determine within two working days of being notified if the remains are subject to his or her authority. If the Coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC would make a determination as to the Most Likely Descendent. If Native American remains are discovered, the remains shall be kept *in situ* ("in place"), or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of the TCA Native American Monitor.

Timing/Implementation: *During grading and excavation activities, and upon completion of monitoring activities.*

Enforcement/Monitoring *City of Encinitas Development Services*
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