

# CITY OF HUNTINGTON BEACH

## Inter-Department Communication

### Community Development Department

**TO:** Honorable Mayor and City Council Members

**VIA:** Eric Parra, Interim City Manager

**FROM:** Jennifer Villaseñor, Director of Community Development

**DATE:** October 14, 2024

**SUBJECT: MODIFIED RESOLUTION NO. 2024-52 FOR ITEM 18 (BOLSA CHICA SENIOR CARE COMMUNITY PROJECT)**

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Attached is a modified draft Resolution No. 2024-52 as Late Communications to Item 18 on the October 15, 2024, agenda.

This updated Resolution is a follow-up from the late communication distributed to the City Council last Friday October 11, 2024, which included a Findings and a Statement in Support of Findings document to be added as Exhibit B to Draft Resolution No. 2024-52.

As such, the entire draft Resolution No. 2024-52 with updated Exhibits A and B is attached hereto for your reference.

If you have any questions, please contact Hayden Beckman at ext. 5561.

JV:HB:kdc

xc: Robin Estanislau, City Clerk  
Tania Moore, Deputy City Clerk  
Kim De Coite, Senior Administrative Assistant  
Cathy Fikes, Senior Administrative Assistant

**SUPPLEMENTAL  
COMMUNICATION**

RESOLUTION NO. 2024-52

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF HUNTINGTON BEACH APPROVING  
GENERAL PLAN AMENDMENT NO. 21-004 FOR THE BOLSA CHICA SENIOR CARE  
COMMUNITY

WHEREAS, General Plan Amendment No. 21-004 proposes to amend Figure LU-2 of the Land Use Element of the City's General Plan to change the land use designation of the real property consisting of an approximately 3.1-acre site generally located on the southwest corner of Warner Avenue at Bolsa Chica Street, as more particularly described in Exhibit A attached hereto, from CG (Commercial General) to Mixed Use with a Specific Plan Overlay (M-sp); and

Pursuant to California Government Code Section 65354, the Planning Commission of the City of Huntington Beach, after notice duly given, held public hearings on September 10 and September 24, 2024 to consider General Plan Amendment No. 21-004; and

The Planning Commission, after considering the environmental documents for the Project comprising the Revised Draft Environmental Impact Report ("DEIR") No. 21-004, along with the Final Revised DEIR, including Response to Comments, Mitigation Monitoring Program ("MMP"), the Draft Findings and Facts in Support of Findings, the City Planning Staff Report, and evidence both written and oral, presented to and considered by the Planning Commission at the above-referenced, duly noticed hearings, recommended approval of said General Plan Amendment and certification of the EIR to the City Council; and

Pursuant to California Government Code, the City Council of the City of Huntington Beach, after notice duly given, held a public hearing on October 15, 2024 to consider General Plan Amendment No. 21-004; and

The City Council finds that said General Plan Amendment No. 21-004 is necessary to address the changing demographics and maintain the continued orderly development of the community, to accomplish refinement of the General Plan, and is consistent with all other elements of the General Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntington Beach as follows:

SECTION 1: That the real property that is the subject of this Resolution (hereinafter referred to as the "Subject Property") is generally located on the southwest corner of Warner

Avenue at Bolsa Chica Street and is more particularly described in the legal description and maps attached hereto as Exhibit A incorporated by this reference as though fully set forth herein.

SECTION 2: That General Plan Amendment No. 21-004 is hereby approved. The Community Development Director is hereby directed to prepare and file an amended Land Use Map and Figure LU-3. A copy of said map and figure, as amended, shall be available for inspection in the Community Development Department. This resolution shall take effect immediately.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Community Development

ATTACHMENTS

Exhibit A: Legal Description and Amended Figure LU-3  
Exhibit B: Findings and Statement in Support of Findings

**EXHIBIT "A"**

All that certain real property situated in the County of Orange, State of California, described as follows:

PARCEL A:

THE NORTH 180.00 FEET OF THE EAST 180.00 FEET OF LOT 2 IN BLOCK 20 OF TRACT NO. 86, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 10, PAGES 35 AND 36, MISCELLANEOUS MAPS, IN THE OFFICE OF COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF THE WEST 30.00 FEET OF BOLSA CHICA STREET ADJOINING SAID LOT ON THE EAST VACATED BY ORDER OF THE BOARD OF SUPERVISORS OF SAID COUNTY, A CERTIFIED COPY OF WHICH WAS RECORDED ON JULY 15, 1943 IN BOOK 1197, PAGE 424, OFFICIAL RECORDS, LYING BETWEEN THE EASTERLY PROLONGATION OF THE LINE OF SAID LOT AND THE SOUTH LINE OF THE NORTH 180.00 FEET OF SAID LOT.

EXCEPTING THEREFROM THE INTEREST IN THAT PORTION OF SAID LAND CONVEYED TO THE CITY OF HUNTINGTON BEACH, FOR ROAD PURPOSES BY DEED RECORDED NOVEMBER 20, 1963 IN BOOK 6813, PAGE 177, OFFICIAL RECORDS.

APN: 163-281-01

PARCEL B:

LOT 2 IN BLOCK 20 OF TRACT NO. 86, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 10, PAGES 35 AND 36 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF THE WEST 30.00 FEET OF BOLSA CHICA STREET ADJOINING SAID LOT 2 ON THE EAST, VACATED BY ORDER OF THE BOARD OF SUPERVISORS OF SAID COUNTY, A CERTIFIED COPY OF WHICH RECORDED JULY 15, 1943, IN BOOK 1197 PAGE 424 OFFICIAL RECORDS.

TITLE WHICH WOULD PASS WITH A LEGAL CONVEYANCE OF SAID LAND.

EXCEPTING THEREFROM THE SOUTH 150.00 FEET.

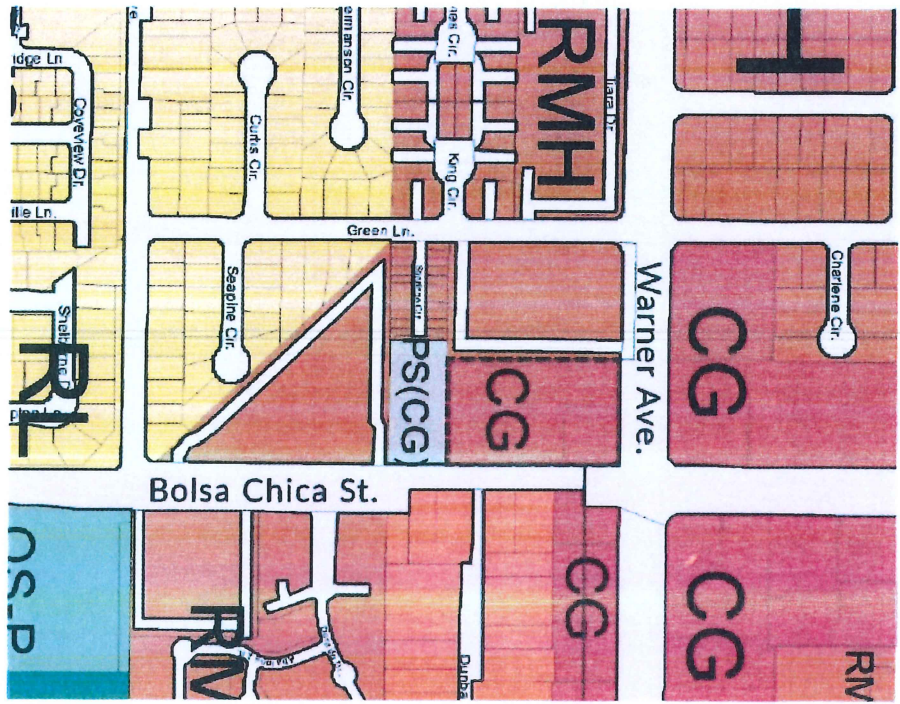
ALSO EXCEPTING THE NORTH 180 FEET OF THE EAST 180 FEET THEREOF, MEASURED FROM THE CENTER LINE OF BOLSA CHICA STREET ADJOINING ON THE EAST.

ALSO, EXCEPTING ALL MINERALS, INCLUDING, BUT NOT LIMITED TO OIL, GAS, OTHER HYDROCARBONS, GRAVEL AND STEAM ALL BELOW 500 FEET FROM THE SURFACE OF SUCH LAND, WITHOUT THE RIGHT OF SURFACE ENTRY, EXCEPTING BELOW 500 FEET FROM SUCH SURFACE, RESERVED IN DEED FROM CHARLES HERMENSEN AS TRUSTEE FOR THE CHARLES L. HERMENSEN TRUST RECORDED JULY 9, 1982 AS INSTRUMENT NO. 82-237601 OF OFFICIAL RECORDS.

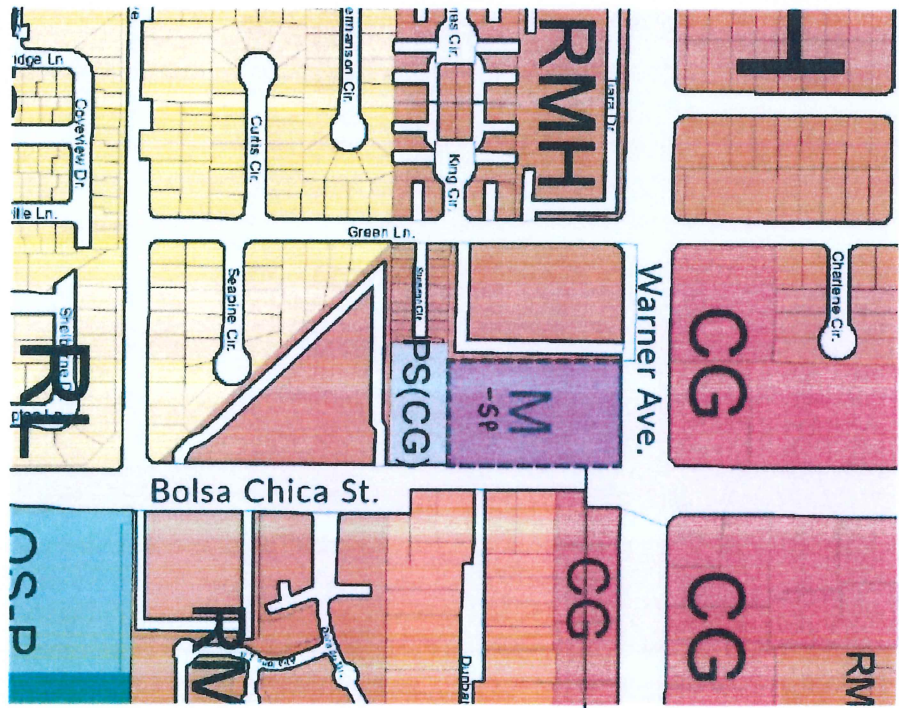
APN: 163-281-02



LAND USE MAP - EXISTING PLAN



LAND USE MAP - PROPOSED



- LEGEND
- RL Residential Low Density
  - RM Residential Medium Density
  - RMH Residential Medium High Density
  - OS-P Park
  - CG Conservation
  - OS-P Commercial General
  - OS-P Mixed Use

**Exhibit B**  
**To**  
**Resolution No. 2024-52**  
**Resolution of the City Council of the**  
**City of Huntington Beach**  
**Regarding Approval of General Plan Amendment No. 21-004**

**Bolsa Chica Senior Living Community Project**  
**Revised Final Environmental Effect Report**  
**SCH No. 2022110040**  
**Findings and Statement in Support of Findings**  
(CEQA Guidelines section 15091(a))

The City Council of the City of Huntington Beach (“City”) adopts these Findings and Statement in Support of Finding in compliance with title 14 California Code of Regulations section 15091, subdivision (a) (“CEQA Guidelines”) regarding potentially significant effects identified in Revised Final Environmental Impact Report (“RFEIR”) for the Bolsa Chica Senior Care Community Project, and changes or alterations required in, or incorporated into, the Project to reduce the effects to less than significant.

Section 15091, subdivision (a) of the CEQA”) Guidelines section 15091(a) provides that:

**(a)** No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1)** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. [“Finding No. 1”]
- (2)** Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. [“Finding No. 2”]
- (3)** Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. [“Finding No. 3”]

The RFEIR evaluated the “modified project” proposed by the project applicant in response to public comments on the originally proposed project. As described in detail in the RFEIR, the modified project reduced the number of units proposed in the originally proposed project, eliminated independent living units, reduced the scale and height of the of the originally proposed project, and made other changes to

reduce the effects of the Project in response to public comments. The RFIR did not identify any significant and unavoidable adverse effects of the modified project.

For every effect of the modified project that could have a significant effect, the RFEIR describes and evaluates measures and/or project changes (collectively, “Mitigation”) to avoid or substantially lessen the significant effects to less than significant. The following sets forth those potentially significant environmental effects identified in the RFEIR, makes Finding No. 1 above with regard to each significant effect, describes the Mitigation to avoid or reduce the significant effect to less than significant, and describes the facts in support of the Findings.

This Findings document does not repeat the analysis in the RFEIR of each significant environmental effect or the measures to avoid or lessen those effects. Please refer to the RFEIR for more detail in support of the Findings. The RFEIR is on file with the City of Huntington Beach, at 2000 Main Street, Huntington Beach, CA 92648. The RFEIR is hereby incorporated by reference. The Findings described herein are also supported by other evidence in the record of proceedings concerning the modified project including, but not limited to, the changes to the originally proposed project included in the modified project.

## **I. CULTURAL RESOURCES**

### **A. Threshold 4.3.1: Cause a Substantial Adverse Change in the Significance of a Historical Resource Pursuant to Section 15064.5**

The Project site is currently developed with two commercial buildings, located at 4952 and 4972 Warner Avenue, that were constructed in 1977 and 1979. No cultural resources or buildings with historical significance were identified in the Project site. Although there are no archeological resources on the Project site qualifying as “historical resources” under CEQA, the whole Bolsa Chica Mesa is considered a “Sacred Lands Site Complex” by Native Americans. To date, no artifacts have been recorded in the immediate Project site, but subsurface excavations associated with the Project have the potential to unearth previously unknown cultural or historical resources. (RFEIR, pp. 4.3-6 to 4.3-8.)

**Finding No. 1:** Changes or alternations have been required in, or incorporated into, the Project that avoid or lessen the potentially significant environmental effect as determined in the RFEIR (CEQA Guidelines section 15091(a)(1).) The following Mitigation is adopted to reduce associated effects.

**Mitigation:** The following mitigation measures have been incorporated into the Project RFEIR to reduce this effect to a less-than-significant level (RFEIR, p. 4.3-9):

#### ***CUL-1. Archeological Site Monitoring.***

Prior to the issuance of a grading permit, a City of Huntington Beach (City)-approved archaeologist that meets the Secretary of the Interior’s Professional Qualifications Standards for archaeology shall prepare an Archaeological Mitigation and Monitoring Plan (AMMP) for the proposed Project. The AMMP shall include protocols for mitigation of any finds through a Research Design and Recovery Plan outlining significance testing of the inadvertent finds, laboratory analyses, curatorial requirements, and reporting

requirements. The AMMP shall include language that all work must be stopped within 50 feet of an archaeological find while the find is assessed by the archaeologist and any Native American monitors.

The City-approved archaeologist shall oversee archaeological monitoring of construction-related ground disturbance. Monitoring shall continue until the archaeologist determines that there is a low potential for encountering subsurface archaeological, cultural, or tribal cultural resources. In the event that archaeological cultural resources are identified during ground-disturbing Project activities, the protocols outlined in the Project's AMMP shall be implemented.

**Level of Significance After Mitigation:** Less than significant (RFEIR, p. 4.3-9).

Consistent with the originally proposed Project, with incorporation of Mitigation Measure CUL-1 as part of the modified Project, potential effects to subsurface archaeological and historical cultural resources would be reduced to a less than significant level. All anticipated effects to cultural resources would be considered **less than significant**.

**B. Threshold 4.3.2: Cause a Substantial Adverse Change in the Significance of an Archeological Resource Pursuant to § 15064.5.**

Desktop surveys were conducted within the Project site and a 1-mile radius of the Project site. The results of the record search indicated that no archaeological resources have been previously recorded within the Project site; all Project actions would occur exclusively within the Project site. Soils on the Project site have been previously disturbed from development of the existing two commercial buildings on the site, landscaping, parking, and associated infrastructure, and no artifacts have been recorded on or around the immediate Project site. Although there are no archeological sites or artifacts that have been recorded in the immediate vicinity of the Project site, the whole Bolsa Chica Mesa is considered a "Sacred Lands Site Complex" by Native Americans. Given this information, there is an elevated potential for the Project site to contain subsurface archaeological resources. (RFEIR, p. 4.3-8.)

**Finding No. 1:** Changes or alternations have been required in, or incorporated into, the Project that avoid or lessen the potentially significant environmental effect as determined in the RFEIR (CEQA Guidelines § 15091(a)(1).) Mitigation is adopted to reduce associated effects.

**Mitigation:** The following mitigation measures have been incorporated into the Project RFEIR to reduce this effect to a less-than-significant level (RFEIR, pp. 4.3-9):

***Implement Mitigation Measure CUL-1. Archeological Site Monitoring***

**Level of Significance After Mitigation:** Less than significant (RFEIR, p. 4.3-9).

With incorporation of Mitigation Measure CUL-1 as part of the modified Project, potential effects to subsurface archaeological and historical cultural resources would be reduced to a less than significant level. All anticipated effects to cultural resources would be considered **less than significant**.

## **II. GEOLOGY AND SOILS**



**A. Threshold 4.5.6: Direct or Indirect Destruction of Unique Paleontological Resources or Site or Geologic Features.**

The records search, as well as geologic mapping in the area, indicate that there is the potential for Pleistocene sediments to be located at or near the surface on the Project site. Nearby Pleistocene sites have produced vertebrate as well as invertebrate fossils. Therefore, this background information suggests there is high potential that near surface excavations on the Project site could produce Pleistocene fossils which would be considered significant paleontological resources. (RFEIR, p. 4.5-9.)

**Finding No. 1:** Changes or alternations have been required in, or incorporated into, the Project that avoid or lessen the potentially significant environmental effect as determined in the RFEIR (CEQA Guidelines § 15091(a)(1).) Mitigation is adopted to reduce associated effects.

**Mitigation:** The following mitigation measures have been incorporated into the Project RFEIR to reduce this effect to a less-than-significant level (RFEIR, p. 4.5-10):

***GEO-1. Approved Paleontologist Observation of Grading Activities.***

A City-approved paleontologist shall be retained to observe grading activities during grading or trenching activities that cut into the Pleistocene wave-cut marine terrace units. Prior to issuance of any permits the paleontologist shall prepare a Paleontological Resource Effect Management Plan (“PRIMP”) to orient the protocols for monitoring and fossil recovery.

***GEO-2. Paleontological Resource Surveillance and Reporting.***

The City-approved paleontologist shall be present at the pre-grade conference and shall establish procedures for paleontological resource surveillance and procedures for temporarily halting and redirecting work to permit sampling and identification and evaluation of fossils. If the resources are deemed to be significant, the paleontologist shall determine appropriate actions, in cooperation with the Applicant, which ensure proper exploration and/or salvage. Full-time monitoring and salvage efforts will be necessary whenever previously undisturbed sediments are being disturbed (8 hours per day during grading or trenching activities). Once the earth moving is 50 percent completed, monitoring may be reduced if no fossils are being recovered. The paleontologist shall be empowered to temporarily divert or direct grading operations to facilitate assessment and salvaging of exposed fossils. Collection and processing of matrix samples through fine screens will be necessary to salvage any micro-vertebrate remains. If a deposit of micro-vertebrates is discovered, matrix material can be moved off to one side of the grading area to allow for further screening without delaying construction activities. Collected fossils shall be prepared to the level of identification, and all fossils shall be identified to the most specific taxonomic level possible. All fossils and their contextual stratigraphic data shall go to an institution with a research interest in the materials. A final report that details methods, fossils recovered, and their significance shall be prepared and submitted to the City and the institution curating the fossils. This document shall also show compliance with any and all requirements.

**Level of Significance After Mitigation:** Less than significant (RFEIR, p. 4.5-11).

With incorporation of MM GEO-1 and MM GEO-2 as part of the modified project, potential effects related to unique paleontological resources would be reduced to a less than significant level. All anticipated effects related to geology and soils would be considered **less than significant**.

### **III. TRIBAL CULTURAL RESOURCES**

#### **A. Threshold 4.9.1(b): Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource.**

A cultural resources Record Search, a Sacred Lands File (“SLF”) search through the Native American Heritage Commission (“NAHC”), and Native American consultation per AB 52 and SB 18 were conducted for the proposed Project. The purpose of these efforts was to identify known tribal cultural resources on or near the Project site. No tribal cultural resources were identified as part of the records search. Although no human remains are known to be on the Project site or are anticipated to be discovered during Project construction, there is always a possibility of encountering unanticipated human remains. Consultation occurred with three Native American Tribes, resulting in mitigation measures and the presence of a Tribal Monitor onsite during the ground-disturbing activities. (RFEIR, pp. 4.9-8 to 4.9-9.)

**Finding No. 1:** Changes or alternations have been required in, or incorporated into, the Project that avoid or lessen the potentially significant environmental effect as determined in the RFEIR (CEQA Guidelines § 15091(a)(1).) Mitigation is adopted to reduce associated effects.

**Mitigation:** The following mitigation measures have been incorporated into the Project RFEIR to reduce this effect to a less-than-significant level (RFEIR, pp. 4.9-9 to 4.9-14):

##### ***TCR-1. Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities.***

The Applicant shall retain a Native American Monitor from or approved by the Gabrieleño Band of Mission Indians – Kizh Nation (Kizh Nation) and the Juaneño Band of Mission Indians – Acjachemen Nation (Acjachemen Nation). The monitors shall be retained prior to the commencement of any “ground-disturbing activity” for the subject Project at all Project locations (i.e., both on-site and any off-site locations that are included in the Project description/definition and/or required in connection with the Project, such as public improvement work). “Ground-disturbing activity” shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching.

A copy of the executed monitoring agreement shall be submitted to the City prior to the earlier commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.

The monitors shall complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Kizh Nation and the Acjachemen Nation. Monitor logs will identify and describe any

discovered tribal cultural resources, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or “TCRs”), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs shall be provided to the Applicant and City upon written request to the Kizh Nation and the Acjachemen Nation.

On-site tribal monitoring shall conclude upon the latter of the following: (1) written confirmation to the Kizh Nation and the Acjachemen Nation from a designated point of contact for the Applicant that all ground-disturbing activities and phases that may involve ground-disturbing activities on the Project site or in connection with the Project are complete; or (2) a determination and written notification by the Kizh Nation and the Acjachemen Nation to the Applicant and City that no future, planned construction activity and/or development/construction phase at the Project site possesses the potential to effect Kizh Nation and Acjachemen Nation TCRs.

Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Kizh Nation and Acjachemen Nation monitor and/or archaeologist. The Kizh Nation and Acjachemen Nation shall recover and retain all discovered TCRs in the form and/or manner the tribal groups deem appropriate and for any purpose the tribes deem appropriate, including for educational, cultural and/or historic purposes.

#### ***TCR-2. Unanticipated Discovery of Human Remains and Associated Funerary Objects.***

Native American human remains are defined in Public Resources Code (PRC) 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code section 5097.98, are also to be treated according to this statute.

If Native American human remains and/or grave goods are discovered or recognized on the Project site, then all construction activities shall immediately cease. Health and Safety Code section 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and all ground-disturbing activities shall immediately halt and shall remain halted until the Coroner has determined the nature of the remains. If the Coroner recognizes the human remains to be those of a Native American or has reason to believe they are Native American, he or she shall contact, by telephone within 24 hours, the NAHC, and Public Resources Code section 5097.98 shall be followed.

Human remains and grave/burial goods shall be treated alike per California Public Resources Code sections 5097.98(d)(1) and (2).

Construction activities may resume in other parts of the Project site at a minimum of 200 feet away from discovered human remains and/or burial goods, if the Kizh Nation and Acjachemen Nation monitors determine that resuming construction activities at that distance is acceptable and provides the Project manager express consent of that determination (along with any other mitigation measures the Kizh Nation and Acjachemen Nation monitors and/or archaeologists deems necessary). (CEQA Guidelines § 15064.5(f).)

Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any historic archaeological material that is not Native American in origin (non-TCR) shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.

Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

### ***TCR-3. Procedures for Funerary Remains.***

If the NAHC designates the Kizh as the Most Likely Descendant (“MLD”) for any human remains discovered or recognized on the project site, the Koo-nas-gna Burial Policy shall be implemented. To the Kizh Nation, the term “human remains” encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the preparation of the soil for burial, the burial of funerary objects with the deceased, and the ceremonial burning of human remains.

If the discovery of human remains includes four or more burials, the discovery location shall be treated as a cemetery and a separate treatment plan shall be created.

The prepared soil and cremation soils are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects. Cremations will either be removed in bulk or by means as necessary to ensure complete recovery of all sacred materials.

In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be posted outside of working hours. The Kizh Nation will make every effort to recommend diverting the Project and keeping the remains in situ and protected. If the Project cannot be diverted, it may be determined that burials will be removed.

In the event that preservation in place is not possible despite good faith efforts by the project applicant/developer and/or landowner, before ground-disturbing activities may resume on the Project site, the landowner shall arrange a designated site location within the footprint of the project for the respectful reburial of the human remains and/or ceremonial objects.

Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items should be retained and reburied within 6 months of recovery. The site of reburial/repatriation shall be on the Project site but at a location agreed upon between the Kizh Nation and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.

The Kizh Nation will work closely with the project's qualified archaeologist to ensure that the excavation is treated carefully, ethically, and respectfully. If data recovery is approved by the Kizh Nation, documentation shall be prepared and shall include (at a minimum) detailed descriptive notes and sketches. All data recovery-related forms of documentation shall be approved in advance by the Kizh Nation. If any data recovery is performed, once complete, a final report shall be submitted to the Kizh Nation and the NAHC. The Kizh Nation does NOT authorize any scientific study or the utilization of any invasive and/or destructive diagnostics on human remains.

**Level of Significance After Mitigation:** Less than significant (RFEIR, p. 4.9-14).

With implementation of Mitigation Measures the proposed modified project would result in **less than significant effects** to tribal cultural resources.

#### **B. Cumulative Tribal Cultural Resources Effects.**

Potential effects of the proposed Project to unknown tribal cultural resources, when combined with the effects of past, present, and reasonably foreseeable projects in the City, could contribute to a cumulatively significant effect due to the overall loss of tribal cultural resources unique to the region. However, each discretionary development proposal received by the City is required to undergo environmental review pursuant to CEQA. If there were any potential for significant effects to tribal cultural an investigation would be required to determine the nature and extent of the resources, and identify appropriate. When resources are assessed and/or protected as they are discovered, effects to these resources are less than significant. (RFEIR, pp. 4.9-14 to 4.9-15.)

**Finding:** Changes or alternations have been required in, or incorporated into, the Project that avoid or lessen the potentially significant environmental effect as determined in the RFEIR (CEQA Guidelines § 15091(a)(1).) Mitigation is adopted to reduce associated effects.

**Mitigation:** The following mitigation measures have been incorporated into the Project RFEIR to reduce this effect to a less-than-cumulatively considerable level (RFEIR, pp. 4.9-14 to 4.9-15):

#### ***Implement Mitigation Measures TCR-1, TCR-2, and TCR-3.***

**Level of Significance After Mitigation:** Less than cumulatively considerable (RFEIR, p. 4.9-15).

Implementation of Mitigation Measures would ensure that the incremental effects of the proposed modified Project are **less than cumulatively considerable**, and the Project effects would not result in a significant cumulative effect to tribal cultural resources or previously undiscovered buried human remains.