

Responses to Comments on the Draft IS-MND

This section includes comments received during the circulation of the Draft Initial Study-Mitigated Negative Declaration (IS-MND) prepared for the East Broadway Complete Streets Improvement Project (Project).

The Draft IS-MND was circulated for a 32-day public review period that began on December 12, 2017 and ended on January 12, 2018. The City of Long Beach received three comment letters on the Draft IS-MND. The commenters and letter number are listed below.

Letter No. and Commenter	
1	Michael Takeshita, Prevention Services Bureau Forestry Division Acting Chief, County of Los Angeles Fire Department
2	Miya Edmonson, Acting IGR/CEQA Branch Chief, California Department of Transportation, District 7 – Office of Regional Planning
3	Gayle Totton, Associate Governmental Project Analyst, Native American Heritage Commission, Environmental and Cultural Department

The comment letters and responses follow. The comment letters have been numbered sequentially and each separate issue raised by the commenter, if more than one, has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1.1, for example, indicates that the response is for the first issue raised in comment Letter 1).

Any changes made to the text of the Draft IS-MND correcting information, data or intent, other than minor typographical corrections or minor working changes, are noted in the Final IS-MND as changes from the Draft IS-MND.

Letter 1

COMMENTER: Michael Takeshita, Prevention Services Bureau Forestry Division Acting Chief,
County of Los Angeles Fire Department

DATE: January 4, 2018

The commenter states that the project site is located entirely within the City of Long Beach and, therefore, falls outside the jurisdiction of the Planning Division, Land Development Unit, and Health Hazardous Materials Division of the Los Angeles County Fire Department (LACFD). The commenter further notes that, consistent with the statutory responsibilities of the LACFD's Forestry Division, potential impacts associated with erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archaeological and cultural resources, and the County Oak Tree Ordinance should be addressed.

Potential project impacts related to erosion and biological resources are discussed in Section VI, Geology and Soils, and Section IV, Biological Resources, of the IS-MND. The project involves modification to and resurfacing of an existing road in an urban area and would not impact watershed management, rare and endangered species, vegetation, fuel modification, archaeological and cultural resources, or oak trees.



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294

DARYL L. OSBY
FIRE CHIEF
FORESTER & FIRE WARDEN

January 4, 2018

Christopher Koontz, Advance Planning Officer
City of Long Beach
Development Services Department
333 W. Ocean Boulevard
Long Beach, CA 90802

Dear Mr. Koontz:

NOTICE OF INTENT TO ADOPT/NOTICE OF AVAILABILITY MITIGATED NEGATIVE DECLARATION, "EAST BROADWAY COMPLETE STREETS IMPROVEMENT PROJECT," PROPOSES TO INSTALL SAFETY IMPROVEMENTS INCLUDING PROTECTED BIKE LANES ON BOTH SIDES OF THE STREET, REMOVING EXISTING PAVEMENT AND RESURFACING THE ROADWAY, REPAIRING EXISTING SIDEWALKS, CURBS, AND GUTTERS, LONG BEACH, FFER 201700168

The Notice of Intent to Adopt/Notice of Availability Mitigated Negative Declaration has been reviewed by the Planning Division, Land Development Unit, Forestry Division, and Health Hazardous Materials Division of the County of Los Angeles Fire Department.

The following are their comments:

PLANNING DIVISION:

The subject property is entirely within the City of Long Beach, which is not a part of the emergency response area of the Los Angeles County Fire Department (also known as the Consolidated Fire Protection District of Los Angeles County). Therefore, this project does not appear to have any impact on the emergency responsibilities of this department.

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

- AGOURA HILLS BRADBURY CUDAHY HAWTHORNE LA HABRA LYNWOOD PICO RIVERA SIGNAL HILL
ARTESIA CALABASAS DIAMOND BAR HIDDEN HILLS LA MIRADA MALIBU POMONA SOUTH EL MONTE
AZUSA CARSON DUARTE HUNTINGTON PARK LA PUENTE MAYWOOD RANCHO PALOS VERDES SOUTH GATE
BALDWIN PARK CERRITOS EL MONTE INDUSTRY LAKESWOOD NORWALK ROLLING HILLS TEMPLE CITY
BELL CLAREMONT GARDENA INGLEWOOD LANCASTER PALMDALE ROLLING HILLS ESTATES WALNUT
BELL GARDENS COMMERCE IRWINDALE LAWNSDALE PALOS VERDES ESTATES ROSEMEAD WEST HOLLYWOOD
BELLFLOWER COVINA HAWAIIAN GARDENS LA CANADA-FLINTRIDGE LOMITA PARAMOUNT SAN DIMAS WESTLAKE VILLAG
SANTA CLARITA WHITTIER

Christopher Koontz, Advance Planning Officer
January 4, 2018
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LAND DEVELOPMENT UNIT:

This project is located entirely in the City of Long Beach. Therefore, the City of Long Beach Fire Department has jurisdiction concerning this project and will be setting conditions. This project is located in close proximity to the jurisdictional area of the Los Angeles County Fire Department. However, this project is unlikely to have an impact that necessitates a comment concerning general requirements from the Land Development Unit of the Los Angeles County Fire Department.

Should any questions arise regarding subdivision, water systems, or access, please contact the County of Los Angeles Fire Department's Land Development Unit, Inspector Nancy Rodeheffer at (323) 890-4243.

The County of Los Angeles Fire Department's Land Development Unit appreciates the opportunity to comment on this project.

FORESTRY DIVISION – OTHER ENVIRONMENTAL CONCERNS:

The statutory responsibilities of the County of Los Angeles Fire Department's Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archeological and cultural resources, and the County Oak Tree Ordinance. Potential impacts in these areas should be addressed.

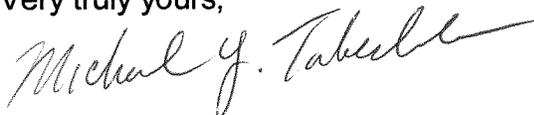
The County of Los Angeles Fire Department's Forestry Division has no further comments regarding this project.

HEALTH HAZARDOUS MATERIALS DIVISION:

The Health Hazardous Materials Division (HHMD) of the Los Angeles County Fire Department has no jurisdiction in the City of Long Beach; therefore, HHMD has no requirements for the project site.

If you have any additional questions, please contact this office at (323) 890-4330.

Very truly yours,



MICHAEL Y. TAKESHITA, ACTING CHIEF, FORESTRY DIVISION
PREVENTION SERVICES BUREAU

MYT:ac

Letter 2

COMMENTER: Miya Edmonson, Acting IGR/CEQA Branch Chief, California Department of Transportation

DATE: January 8, 2018

The commenter states that they do not expect the proposed project to adversely impact nearby State facilities. The commenter also supports implementation of complete streets because they are integral in assisting the state achieve climate change and transportation safety related policy goals and initiatives. No response is warranted.

DEPARTMENT OF TRANSPORTATION
DISTRICT 7-OFFICE OF REGIONAL PLANNING
100 S. MAIN STREET, MS 16
LOS ANGELES, CA 90012
PHONE (213) 897-0067
FAX (213) 897-1337
www.dot.ca.gov



*Serious Drought.
Making Conservation
A California Way of Life*

January 8, 2018

Mr. Christopher Koontz
City of Long Beach
333 W. Ocean Boulevard, 5th Floor
Long Beach, CA, 90802

RE: East Broadway Complete Streets
Improvement
Mitigated Negative Declaration
SCH# 2017121046
GTS#07-LA-2017-01269

Dear Mr. Koontz:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The proposed project involves repaving East Broadway between Alamitos Avenue and Redondo Avenue, and the modification of East Broadway between Alamitos Avenue and Temple Avenue to install safety improvements including protected bike lanes. The street would undergo concrete improvements and sidewalk repairs, as well as restripe the street from two travel lanes in each direction to one lane in each direction to accommodate the proposed Class IV separated bikeway.

Based on the information received in the Notice of Preparation, Caltrans has the following comments:

- The nearest State facilities to the project corridor are I-710 and SR-1. We do not expect project approval to result in any adverse impacts to the freeway system.
- Caltrans fully supports the implementation of complete streets and active transportation safety improvements. This includes measures such as road diets, bike lanes, and other traffic calming elements, some of which are proposed as part of this project. Please note the Federal Highway Administration (FHWA) recognizes the road diet treatment as a proven safety countermeasure, and the cost of a road diet can be significantly reduced if implemented in tandem with routine street resurfacing. Where possible and space permits, the City may consider widening the proposed separated bikeway accommodate greater ridership capacity and comfort.
- When considering implementation of innovative bicycle infrastructure, the City may consult resources such as the National Association of Transportation Officials' (NACTO) Urban Bikeway Design Guide, or FHWA Separated Bike Lane Planning and Design Guide, to assist in the design process. Caltrans formally endorsed the NACTO Guide in 2014 and

Mr. Christopher Koontz

01/08/2018

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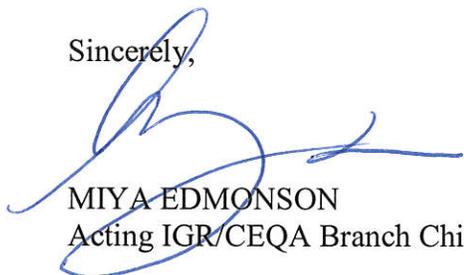
the FHWA released its guide in 2015. The State's Highway Design Manual now contains provisions for protected bike lanes under "Design Information Bulletin Number 89: Class IV Bikeway Guidance (Separated Bikeways / Cycle Tracks)."

Regional and State level policy goals related to sustainable transportation seek to reduce the number of trips made by driving, reduce greenhouse gas emissions, and encourage alternative modes of travel. Caltrans' Strategic Management Plan has set a target of tripling trips made by bicycling, doubling trips made by walking and public transit by 2020. The Strategic Plan also seeks to achieve a 15% reduction in statewide per capita vehicle miles traveled (VMT) by 2020. Similar goals are included in Caltrans' 2040 Transportation Plan, and the Southern California Association of Governments' Regional Transportation Plan. Statewide legislation such as AB 32 and SB 375 echo the need to pursue more sustainable development and transportation. The aforementioned policy goals related to sustainability and climate change can only be achieved with support from local agencies on all levels of planning.

Caltrans is aware of challenges that the region faces in identifying viable solutions to alleviating congestion on State and Local facilities. With limited room to expand vehicular capacity, it is encouraging to that the City is actively promoting alternatives to car use. Prioritizing and allocating space to efficient modes of travel such as bicycling can allow streets to transport more people in a fixed amount of right-of-way.

If you have any questions or concerns regarding these comments, please contact project coordinator, Severin Martinez at (213)-897-0067 or severin.martinez@dot.ca.gov and refer to GTS# 07-LA-2017-01269.

Sincerely,



MIYA EDMONSON
Acting IGR/CEQA Branch Chief

cc: Scott Morgan, State Clearinghouse

Letter 3

COMMENTER: Gayle Totton, Associate Governmental Project Analyst, Native American Heritage Commission

DATE: January 12, 2018

The commenter states that the Draft IS-MND does not include documentation of government-to-government consultation by the lead agency with Native American tribes under AB 52. The commenter also states that the Draft IS-MND is incorrect in stating "that consultation has not been requested by California Native American tribes traditionally and culturally affiliated with the project area" and states that tribes have requested information for projects in the City.

The Final IS-MND has been revised to include the following clarification on Page 2 under "California Native American Tribe Consultation":

The City sent AB 52 consultation letters to six Native American tribes that have requested project information under AB 52. To date, no requests for consultation on this project have been received from ~~Consultation has not been requested by~~ California Native American tribes traditionally and culturally affiliated with the project area.

NATIVE AMERICAN HERITAGE COMMISSION

Environmental and Cultural Department
 1550 Harbor Blvd., Suite 100
 West Sacramento, CA 95691
 Phone (916) 373-3710
 Fax (916) 373-5471



January 12, 2018

Christopher Koontz
 City of Long Beach
 333 W. Ocean Boulevard, 5th Floor
 Long Beach, CA 90802

Sent via e-mail: Christopher.koontz@longbeach.gov

Re: SCH# 2017121046, East Broadway Complete Streets Improvement Project, City of Long Beach; Los Angeles County, California

Dear Mr. Koontz:

The Native American Heritage Commission (NAHC) has reviewed the Mitigated Negative Declaration prepared for the project referenced above. The review included the Project Description, and the Environmental Checklist, sections 5, Cultural Resources and 17, Tribal Cultural Resources prepared by Rincon Consultants for the City of Long Beach. We have the following concerns:

1. There is no documentation of **government-to-government consultation by the lead agency** under AB-52 with Native American tribes traditionally and culturally affiliated to the project area as required by statute, or that mitigation measures were developed in consultation with the tribes. Tribes in the Los Angeles area are very active in the protection of Cultural Resources. **The statement about receiving no requests for project information under AB-52 is in error.** Tribes have provided documentation of letters sent to the City requesting consultation and letters from the City notifying tribes of projects under AB-52 (See attached).

ADDITIONAL INFORMATION:

The California Environmental Quality Act (CEQA)¹, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.² If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.³ In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52. (AB 52).⁴ **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** AB 52 created a separate category for "tribal cultural resources"⁵, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."⁶ Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.⁷ Your project may also be subject to **Senate Bill 18 (SB 18)** (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966⁸ may also apply.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online

¹ Pub. Resources Code § 21000 et seq.

² Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)

³ Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)

⁴ Government Code 65352.3

⁵ Pub. Resources Code § 21074

⁶ Pub. Resources Code § 21084.2

⁷ Pub. Resources Code § 21084.3 (a)

⁸ 154 U.S.C. 300101, 36 C.F.R. § 800 et seq.

at http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf, entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

Please contact me at gayle.totton@nahc.ca.gov or call (916) 373-3714 if you have any questions.

Sincerely,



Gayle Totton, B.S., M.A., Ph.D
Associate Governmental Project Analyst

Attachment

cc: State Clearinghouse



CITY OF LONG BEACH

LONG BEACH DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor, Long Beach, CA 90802 Phone: 570-6194 Fax: 570-6068

PLANNING BUREAU

January 5, 2017

Andrew Salas
Gabrieleno Band of Mission Indians – Kizh Nation
P. O. Box 393
Covina, CA 91723

Re: AB-52 Consultation with the Gabrieleno Band of Mission Indians – Kizh Nation for the 3311 E. Willow Street Adult Day Care Facility Project

Dear Mr. Salas:

The City of Long Beach is conducting its AB-52 consultation process for the 3311 E. Willow Street Adult Day Care Facility Project. Please consider this letter and preliminary Project information as the initiation of the California Environmental Quality Act, specifically Public Resources Code 21080.3.1 and Chapter 532 Statutes of 2014 (i.e., AB-52). Please respond within 30 days, pursuant to PRC 21080.3.1(d) if you would like to consult on this Project.

PROJECT TITLE: 3311 E. Willow Street Adult Day Care Facility Project

PROJECT LOCATION: 3311 E. Willow Street, Long Beach, California.

PROJECT DESCRIPTION: The proposed Adult Day Care facility site, located at 3311 E. Willow Street between Redondo and Temple Avenues, is improved with a currently vacant 3,960 square-foot medical office building. The proposed project would utilize all 3,960 square-feet with the following components: three offices, media room, conference rooms, library/IPAD room, salon, arts and craft room, locker, staff lounge, kitchen, three restrooms, storage space, and reception area. Vehicular access to the project site is provided via a "right-turn in only" driveway on Willow Street and an existing alley. A Mitigated Negative Declaration will be prepared for this project.

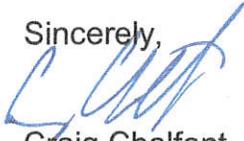
Your comments and concerns are important to the City of Long Beach in moving forward with this Project. If you have any questions or concerns with the Project, please contact me at:

Craig Chalfant
Senior Planner | City of Long Beach
333 West Ocean Boulevard, 5th floor | Long Beach, CA 90802
craig.chalfant@longbeach.gov | 562.570.6368

Andrew Salas
January 5, 2017
Page 2

Please be advised that the Gabrieleno Band of Mission Indians – Kizh Nation has 30 days upon receipt of this letter to provide input regarding this Project.

Sincerely,



Craig Chalfant
City of Long Beach

Attachments: Project Site Plan
Project Floor Plan
Project Elevations

Pertinent Statutory Information:

Under AB 52:

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice.

A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.⁹ and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18).¹⁰

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects.¹¹

1. The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.¹²

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.¹³

If a project may have a significant impact on a tribal cultural resource, **the lead agency's environmental document shall discuss** both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.¹⁴

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.¹⁵

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 **shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program,** if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.¹⁶

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, **the lead agency shall consider feasible mitigation** pursuant to Public Resources Code section 21084.3 (b).¹⁷

An environmental impact report **may not be certified,** nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.¹⁸

⁹ Pub. Resources Code § 21080.3.1, subs. (d) and (e)

¹⁰ Pub. Resources Code § 21080.3.1 (b)

¹¹ Pub. Resources Code § 21080.3.2 (a)

¹² Pub. Resources Code § 21080.3.2 (a)

¹³ Pub. Resources Code § 21082.3 (c)(1)

¹⁴ Pub. Resources Code § 21082.3 (b)

¹⁵ Pub. Resources Code § 21080.3.2 (b)

¹⁶ Pub. Resources Code § 21082.3 (a)

¹⁷ Pub. Resources Code § 21082.3 (e)

¹⁸ Pub. Resources Code § 21082.3 (d)

This process should be documented in the Tribal Cultural Resources section of your environmental document.

Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of “preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county’s jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor’s Office of Planning and Research’s “Tribal Consultation Guidelines,” which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a “Tribal Consultation List.” If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**¹⁹
- There is no Statutory Time Limit on Tribal Consultation under the law.
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,²⁰ the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city’s or county’s jurisdiction.²¹
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
 - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.²²

NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
 - A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project’s APE.
 - A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
 - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - If part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have been already recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. 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.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

¹⁹ (Gov. Code § 65352.3 (a)(2)).

²⁰ pursuant to Gov. Code section 65040.2,

²¹ (Gov. Code § 65352.3 (b)).

²² (Tribal Consultation Guidelines, Governor’s Office of Planning and Research (2005) at p. 18).

- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- 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.
- Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.²³
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.²⁴

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.²⁵ In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

²³ (Civ. Code § 815.3 (c)).

²⁴ (Pub. Resources Code § 5097.991).

²⁵ per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).