



MEA GUIDELINES FOR TRIBAL CULTURAL RESOURCES

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COMMUNITY DEVELOPMENT DEPARTMENT

CITY OF SANTA BARBARA

630 Garden Street, Santa Barbara, CA

PREFACE TO THE 2025 MEA GUIDELINES FOR TRIBAL CULTURAL RESOURCES

The Master Environmental Assessment Guidelines for Tribal Cultural Resources (referred to herein as the MEA Guidelines) aim to provide a respectful, comprehensive approach to identifying, protecting, and honoring tribal cultural resources, and outline principles for engaging in meaningful consultation with tribal representatives. Developed in collaboration with local Chumash leaders, these guidelines acknowledge that tribal cultural resources are an irreplaceable aspect of heritage, identity, and community well-being for Indigenous peoples.

State and federal legislation, including the California Environmental Quality Act (CEQA), require that development projects assess and mitigate potential impacts to tribal cultural resources and sacred sites. The MEA Guidelines are designed to assist City staff, tribal representatives, consultants, and developers in addressing tribal cultural resources in compliance with relevant state, and local laws, including CEQA.

These guidelines were developed alongside the 2025 updates to the MEA Guidelines for Archaeological Resources and the MEA Guidelines for Historic Resources, each presented in separate documents. Together, the MEA Guidelines are intended to serve as a tool to bridge the gap between modern development and the preservation of cultural resources, including tribal cultural heritage, ensuring that tribal communities' rights, values, and perspectives are incorporated in the decision-making process.

The MEA Guidelines for Archaeological Resources, from their development in 1981, focused exclusively on archaeological and built historic period resources. Though local Barbareño Chumash community members were consulted in developing older versions of the MEA Guidelines, the assessment of *tribal cultural resources*, those resources that have particular meaning and significance to local Chumash tribal heritage values, have not been addressed within the MEA Guidelines.

This Tribal Cultural Resources chapter of the MEA is addressing this need and is the result of meetings among Chumash tribal representatives identified by the California Native American Heritage Commission (NAHC), city of Santa Barbara Planning Division staff, and Stone Archaeological Consulting, who has managed this effort.

By implementing the MEA Guidelines for Tribal Cultural Resources, the City can support the cultural continuity of local tribal communities, promoting a future where tribal cultural resources are preserved and protected for generations to come. The City of Santa Barbara Community Development Director is authorized to make revisions as needed to the MEA Guidelines for Tribal Cultural Resources to keep the document up to date.

ACKNOWLEDGEMENTS

The City of Santa Barbara would like to express sincere appreciation to the Chumash tribal representatives from the Barbareño Band, Santa Ynez Band, Northern Chumash, and Coastal Band, for their contributions and input through meetings, coordination, and review. Their perspectives and expertise were instrumental in informing this work. Their engagement has helped strengthen the City's understanding of cultural resource considerations and improve the approach to compliance with federal, state, and local policies.

A special acknowledgement is extended to Eleanor Fishburn, Chairperson of the Barbareño Band of Chumash Indians for her invaluable contributions in providing historical and cultural context on the Barbareño Chumash, and to Wendy Teeter, Cultural Resource Archaeologist of the Santa Ynez Band of Chumash Indians, for her peer review and dedicated engagement throughout this process.

The City recognizes the importance of ongoing coordination and remains committed to working with tribal representatives to protect and respect important tribal cultural resources.

Table of Contents

PREFACE TO THE 2025 MEA GUIDELINES FOR TRIBAL CULTURAL RESOURCES	i
ACKNOWLEDGEMENTS	ii
GLOSSARY	iv
1.0 Tribal Cultural Resource Setting.....	1
1.1 Tribal Cultural Resource.....	1
1.2 Chumash Tribal Bands.....	2
1.3 Context Statement from the BARBAREÑO Band of Chumash Indians.....	3
1.4 Prehistory.....	6
1.5 History.....	6
2.0 REGULATORY FRAMEWORK FOR TRIBAL CULTURAL RESOURCES.....	8
2.1 City Plans and Regulations	8
2.2 State Laws and Regulations.....	9
_____ Compliance Timeline and Consultation Process Flowchart	12
2.3 Federal Laws and Regulations.....	17
3.0 TRIBAL CULTURAL RESOURCE ASSESSMENT	21
4.0 PROTECTION, AVOIDANCE, AND MITIGATION	29
4.1 Standard Conditions for Projects Involving Ground Disturbance	29
4.2 Monitoring	32
5.0 BEST PRACTICES FOR CONSULTATION AND RESPECTFUL ENGAGEMENT	33

Appendices

APPENDIX A – Tribal Outreach Correspondence Format

APPENDIX B – Tribal Consultation Letter Format

GLOSSARY

Assembly Bill (AB) 52

California State Assembly Bill 52 (2014), is stated in Public Resources Code (PRC) Section 21081.3.1 and 21081.3.2; it requires that local government such as the City of Santa Barbara consult with Native American tribal representatives for projects subject to the California Environmental Quality Act (CEQA) when a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) is being prepared. The consultation's objective is to determine the project's potential to result in significant impacts on a tribal cultural resource. See Section 2.2, Regulatory Framework for more information.

Assembly Bill (AB) 168

California State Assembly Bill 168 (2020), is a process for tribal scoping consultation for housing development proposals seeking review under the streamlined ministerial approval process created by SB 35 (Wiener, 2017).

Advisory Council on Historic Preservation (ACHP)

Federal agency that promotes the preservation, enhancement, and sustainable use of diverse historic resources.

Archaeological Resource

Evidence of past cultural occupation, seasonal use, or ephemeral activity reflected in artifacts, food remains, or other evidence that provide insight into past lifestyles and their evolution through time. Prehistoric resources, dating back at least 13,000 years, extend throughout the Santa Barbara Channel, predating European and American colonization. Historic period resources are evidence of the region's cultural shifts from Spanish colonization and Franciscan missions, to subsequent Spanish-Mexican, American settler, and immigrant occupations.

California Native American Tribe

A formal organization recognized by the Native American Heritage Commission as a distinct cultural entity that is traditionally and culturally affiliated with a specific geographic area.

Cultural Landscape

A tribal cultural resource that is geographically defined in terms of size and scope and reflects a tribe's cultural practices, beliefs, and historical connections to the land, including sacred sites, traditional areas, and environmental features such as landforms, mountain tops, etc.

Cultural Resource

An archaeological resource or tribal cultural resource reflecting cultural activities and/or heritage values.

Federally Recognized Indian Tribe

A tribe, band, or community of Native Americans that is recognized by the United States as having a government-to-government relationship with the federal government and is eligible for federal programs and services (25 U.S. Code 5130 and 5131).

Native American Heritage Commission (NAHC)

Native American Heritage Commission, the California State agency involved with Native American tribal affairs.

Native American Monitor

A Native American individual with training in the recognition of archaeological and tribal cultural resources who is retained to observe ground disturbances within these potential or recorded resources, and provides their observations to their tribal membership and planning lead agency.

Senate Bill (SB) 18

California State Senate Bill 18 (2004), is stated in Government Code Section 65352 and promulgates the following requirements for Native American consultation for projects subject to a General Plan Update or Amendment and/or a Specific Plan. A local government must notify tribes identified by the NAHC of the opportunity to conduct consultations for the purpose of preserving, or mitigating impacts to, cultural places located on land within the local government's jurisdiction that is affected by the proposed plan adoption or amendment. See Section 2.2, Regulatory Framework for more information.

Section 106 Compliance

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to provide the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on proposed activities that may affect significant historic resources, including archaeological resources and tribal cultural resources. This review process is often referred to as "Section 106 Compliance" since it is Section 106 of the NHPA that provides for the Council's consideration. Section 106 of the NHPA requires federal agencies to consider the effects of projects they carry out, license, or financially assist (undertakings) on historic properties and to provide the ACHP an opportunity to comment on such undertakings.

State Historic Preservation Officer (SHPO)

State-appointed official responsible for overseeing historic preservation efforts under the National Historic Preservation Act of 1966.

Traditional Knowledge

A body of knowledge, practice, and beliefs handed down through generations by cultural transmission about the relationships of living beings (including humans) with one another and with their environment.

Tribal Cultural Resource

Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe.

Tribal Consultation

The process of consulting with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project subject to California State Senate Bill 18 (General Plan Updates and Amendments, and Specific Plans) and California State Assembly Bill 52 (projects subject to the California Environmental Quality Act where a negative declaration [ND], mitigated negative declaration [MND], or environmental impact report [EIR] is being prepared) regarding the development's potential to adversely impact a tribal cultural resource. Consultation with a

federally-recognized California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project is required for projects subject to the federal National Historic Preservation Act (NHPA), Section 106 Guidelines (on federal lands and/or involving federal funding). Tribal consultation is conducted between the governmental lead agency responsible for approving the project and the California Native American tribal government.

Tribal Outreach and Engagement

The process of engaging with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, where the project is exempt from CEQA (and not subject to the NHPA Section 106 Guidelines) regarding the project development's potential to adversely impact a tribal cultural resource. This is not a formal government to government discussion, but the results are considered equally important to those achieved during formal tribal consultation.

Tribal Representative

A NAHC-recognized California Native American tribal elected official or individual appointed by the official who represents the tribe in formal consultation or outreach and engagement activities.

Tribal Historic Preservation Officer (THPO)

The THPO is the individual appointed by a federally-recognized Native American tribe to lead government-to-government consultations under Section 106, SB 18, and AB 52 guidelines.

Workers Environmental Awareness Program (WEAP)

The WEAP is a standard operating procedure and measure required when a development project has been determined to have the potential to result in significant impacts to a known tribal cultural resource, or a project site that a tribe has determined to possibly include a tribal cultural resource. It requires that all personnel involved in project construction, including field consultants and construction workers be educated to the following prior to the commencement of ground disturbing activities: applicable regulations including the requirement for confidentiality and consequences of violating state laws and regulations; protocols for avoidance and appropriate measures for avoiding and minimizing impacts resources that could be present; culturally appropriate treatment of any discovery of significance to Native Americans, including appropriate behaviors and responsive actions to follow, consistent with Native American tribal values; and relevant information outlining what to do and who to contact if any potential cultural resources or tribal cultural resources are encountered.

1.0 Tribal Cultural Resource Setting

The Chumash people historically inhabited a large portion of Central California, including the Santa Barbara and Channel Island region. Santa Barbara included numerous historical Chumash village sites located along the coastline and in inland areas. Colonial impacts disrupted their traditional way of life, particularly through the Spanish missions and later developments. In Santa Barbara, tribal cultural resources are primarily associated with the Barbareño Chumash people, whose presence in the region dates back thousands of years. Protection and management of these resources in the City of Santa Barbara involves understanding the history, values, and ongoing concerns of local Chumash tribes, and collaboration between the Chumash community, local government, and other stakeholders in the development process.

1.1 TRIBAL CULTURAL RESOURCE

Tribal cultural resources are an integral part of the cultural heritage and identity of tribal communities. Tribal cultural resources include physical artifacts and archaeological sites as well as sacred lands, ancient villages, traditional knowledge, and practices. As such, the protection, preservation, and respectful management of tribal cultural resources are paramount in maintaining the cultural integrity of Indigenous communities.

The California Public Resources Code (PRC) and California Environmental Quality Act (CEQA) Guidelines Appendix G Section XVI provide direction as to the assessment and protection of tribal cultural resources. The MEA Guidelines use the definition of tribal cultural resources and cultural landscapes as provided in PRC Section 21074:

- a. *A tribal cultural resource is one of the following:*
 - (1) *Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*
 - (A) *Included or determined to be eligible for inclusion in the California Register of Historical Resources; or*
 - (B) *Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.*
 - (2) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.*

1.2 CHUMASH TRIBAL BANDS

The contemporary California Native American tribes identified by the Native American Heritage Commission (NAHC) within the City of Santa Barbara and surrounding heritage territories are bands of the Chumash tribe who maintain connections with cultural heritage within these ancestral Chumash homelands. There are seven distinct Chumash languages spoken in the region and many people spoke more than one language as Chumash people intermarried both within and outside of their homelands. The mission system gathered Chumash people together for labor where the population dwindled due to harsh conditions and diseases. Establishment of the missions throughout California by Franciscan friars resulted in the breakdown of traditional Chumash band independence as individuals were forced to convert to Catholicism and become members of the local missions. The distinctive Chumash band identities, however, were maintained when each member's village was recorded in baptismal records. After secularization of the missions, Chumash people settled away from the missions, but often close by with family and loved ones, continuing their language and cultural traditions. Research has illuminated the distinctive cultural adaptations of the Chumash bands to differing environmental contexts, but has also illustrated how villagers from different bands cooperated in trade and complex social networking including intermarriage prior to the establishment of the Franciscan mission system.¹ Chumash were baptized and were substantially removed from their villages and housed within missions at San Luis Obispo in 1772, San Buenaventura in 1782, Santa Barbara in 1786, La Purisima Concepcion in 1787 and Santa Ynez in 1804 until they were secularized by Mexico in 1834. Intermarriage has continued within Band families since that time. Many Chumash tribal representatives, however, consider that their ancestral territories reflected by established linguistic boundaries reflect the homeland of their ancestors. The recordation of these villages as they existed when confronted with missionization provide clear boundaries of the Chumash band territories. These are presented below.

Barbareño

Barbareño band villages extended from approximately Rincon Point throughout the Gaviota Coast, including the contemporary cities of Santa Barbara, Carpinteria, and Goleta. The NAHC recognizes the Barbareño Band of Chumash Indians (BBCI) and the Coastal Band of Chumash Indians (CBCI) within the ancestral territory. This term for these Chumash stems from ancestors who were baptized and then were associated with the Santa Barbara Mission. The City of Santa Barbara is within the ancestral Barbareño Chumash territory.

Samala (Inezeño)

Samala (the Chumash language name for the band) villages extended throughout the Santa Ynez Valley and southwest to Point Conception. Samala ancestors were baptized at Mission Santa Ines, and today are the federally and NAHC-recognized Santa Ynez Band of Chumash Indians (SYBCI) and maintain the Chumash reservation in Santa Ynez.

Ventureño

Ventureño band villages extended from approximately Rincon Point eastward and included Ventura, Oxnard, Camarillo to Malibu. Their territory extended northward into the present-day Los Padres National Forest as far as Mount Pinos. NAHC recognizes the Barbareño/Ventureño Band of Chumash

¹ Johnson, John R. 1988. *Chumash Social Organization: An Ethnohistoric Perspective*. Unpublished Ph.D. dissertation, Department of Anthropology, University of California, Santa Barbara.

Indians (BVBCI) within the ancestral territory. This term for these Chumash stems from ancestors who were baptized and then were associated with the San Buenaventura Mission.

Purismeño

Purismeño Chumash villages extended north of Point Conception and extended beyond the Santa Ynez River. Associated with ancestors who were baptized as the Mission La Purisima Concepcion, this ancestral area covers the communities and cities of Orcutt, Lompoc, and Santa Maria. No specific contemporary band organizations recognized by the NAHC are associated with Purismeño descendants.

Obispeño

Obispeño extended north of Point Conception and extended beyond the Santa Ynez River of the Purismeño and throughout southern San Luis Obispo County. Associated with ancestors who were baptized at the San Luis Obispo Mission, this ancestral area covers the area of San Luis Obispo, Avila Beach, Pismo Beach, Grover Beach, Atascadero, Templeton, and Morro Bay. The NAHC recognizes the Northern Chumash Tribal Council associated with Obispeño descendants.

1.3 CONTEXT STATEMENT FROM THE BARBAREÑO BAND OF CHUMASH INDIANS

The following is a narrative prepared by BBCI members that represents their perspective of their heritage and association to Santa Barbara:

We are the Barbareño Band of Chumash Indians, the Band of the Land, and the area which today you call 'Goleta' and 'Santa Barbara' is our ancestral homeland! How can we convey to you what our homeland means to us?

This we know: Our family members who came before us, the hul-mol-moloq-i'waš hul-kuh-ku', the 'ancient ones', have passed on to us the knowledge of the cultural, historical and spiritual value of our homeland. On this land, over the span of hundreds and thousands of years, our family members were born, lived out their lives, and died. The spirits of those family members are still with us, forever connected to this land they love. We honor them even as we honor the land as sacred. For us, the sacredness of the land will never be derived from the financial value of the land nor did what we can build upon it for our financial gain.

We remember the stories that have been passed down to us, because they connect us to our nohnonočwaš, our ancestors, and to the land they lived on. These stories are important to us, because though we may live in this modern world, we derive much of our meaning from the people's wisdom and experiences of the past contained in the stories. In this way it can be said, we are the past, which ties us to the present and to the future.

These stories from our ancestors are not typically stories that you will read in any history book; those books have not been written by our people. Though we continually strive for healing, these are stories we keep locked in hearts scarred from the memory of a thousand and more injustices visited upon our people by the invaders. But still, the stories long to be told.

Our stories are the spirit of the land, speaking through the ancestors and touching our hearts. They begin in the time from before memory, from the mists of time from whence our people came. And even if your ancestors are not from this land, if you truly love this land and feel a deep connection to it, perhaps you too may know the deep and true wisdom of these stories.

As you read the following stories and thoughts, remember that the great number of cultural resource sites in Santa Barbara are intimately connected to the present day Barbareño Chumash descendants. These cultural resource sites were the places our ancestors, or to be more precise - our family members, lived out their lives on, and when they died, these sites are where they were buried. Through the unfeeling and objective scientific jargon with which these sites are associated today, it is easy to forget that they are the final resting places of our family members. But never forget that these sites, and human remains and cultural items found at these sites, deserve to be treated with the utmost respect and dignity.

How did this land become our ancestral homeland? It is said that our people originated from the islands and came later to this mainland. Remember that our history did not begin with the arrival of the Spanish, the Mexicans and the Americans. Our people lived here for many, many centuries before the invaders came.

The families of the Barbareño Band of Chumash Indians are the people who have traditionally inhabited coastal Santa Barbara County and parts of the backcountry. Our family members were those whose cultural and linguistic knowledge preserved a record of Barbareño heritage resources by working with anthropologists John P. Harrington, Alfred Kroeber, and others. Our family members and relatives are the well-known sources of Barbareño traditional knowledge as they are the individuals who provided the information cited in all of the articles and books published on Barbareño language and culture.

Ancient cultural and linguistic knowledge of our Chumash ancestors have been preserved, written and published by non-native historians, linguists and archaeologists. However, during this same time, the Chumash ancestors and family members continued to carry-on our cultural knowledge, safeguarding our language, oral traditions and cultural practices for future generations. These cultural gifts carried across many generations are received with an open heart. Oral traditions and stories are one of the strongest threads we have in our native tapestry.

Our ancestors' stories contain elements of surprise, challenge, conflict, suspense, resolution, and consequences. All these elements serve a purpose within our Chumash world, tying us to the land and to each other, securing our cultural future.

Our ancestors suffered from colonization, resulting in forced suppression of identity, and to survive, compliance. The fallout has resulted in transgenerational trauma and cultural deprivation.

Yet, within our families, we have tangible items as well. The sacred abalone shell passed from Chumash mother to daughter. This represents our ties to the past while continuing as a living contemporary representation of our cultural continuity. It also epitomizes our physical ties to nature and respect to the earth which has always nourished us from the past to the future. Our oral traditions are the memories of the past and connect us to the present. Our stories become the narrative of our people, and our old ways will never be a forgotten period in our history.

Tangible items passed down by family members are treasures. But we have lost so much over the years, including the sacred and precious land, so more often we have only the stories, the timoloqinaš, the tales of the old timers, the memories of the ancestors.

The Chumash at the mission lived in crowded compounds in rows of adobe apartments. European diseases took many lives, for the Chumash had no natural resistance to them. The measles epidemic in the winter of 1806 especially, took many Indian lives all over California. The soldiers and guards were cruel, oftentimes mistreating the Chumash and taking advantage of the young women.

Maria Ygnacia obtained a grant of land in a canyon next to the mission vineyard which was then on San Jose Creek. The land grant was at the place named the Alikon. The creek which flowed down from the mountains and through the property was later renamed Maria Ygnacio Creek. Today if you drive up Old San Marcos Pass Road, you can see the site of the Alikon ranch where she used to live. Drive past the new housing tracts and as the road curves to the left and the view opens up, down below on the right you can see where the Alikon ranch used to be. Later, that place became known as the Indian Orchard. Without this land grant, her family would have lost their language, they would have been split apart. But at the Alikon they had their own foods, they spoke their own language. And for that reason, the language came down to her descendants and the present-day Chumash of Goleta/Santa Barbara and still exists, although we have no fluent speakers left.

On Sundays, Maria Ygnacia and her family traveled by wagon to the small chapel built by the Indians on the reservation at Kaswa', La Cieneguita, near the present-day Modoc Road/Hope Ranch area. Yes, there was once a reservation for the Chumash in that area. But like so much else that has disappeared, that has, too.

Every hill and contour of the land, every tree and every insect on every leaf and blade of grass, every mountain peak and rock upon the shore is sacred in the estimation of our people. Every place in Santa Barbara and beyond in our ancestral homeland has been the scene of events, happy and sad, eventful and mundane in the lives of our people and how could it be otherwise since we have lived here for hundreds and thousands of years!

As I walk along the East Beach, I can hear the melody of the waves and I know that too, is the spirit of the land. It tells me that in the beautiful sea our grandmothers once made offerings to and danced the Seaweed Dance for, the creatures in it are dying and being reduced to extinction. In my dreams and in my waking moments, the spirit of the land tells me things I once knew and things I have forgotten, that we were a proud people with our songs, dances, and stories, which told the wisdom of the ancestors.

1.4 PREHISTORY

Chumash people have lived in what is now the City of Santa Barbara, as well as Santa Barbara, Ventura, Los Angeles, and San Luis Obispo counties, and the Channel Islands for over 13,000 years. Thousands of Chumash villages, ceremonial places, and favorite hunting, fishing and gathering spots extend throughout the urban and rural landscape. Scientific studies show that the Chumash developed a highly sophisticated adaptation to the varied habitats from the coastline to the ridgelines of mountain ranges. The distribution, size, and number of these places varied over time, reflecting a response to changing climate that changed the availability of water, plants, and animals.

Chumash people believe their ancestors came from the Northern Channel Islands, as also demonstrated with archaeological finds continuing across to the mainland and outward. Chumash people continue to be linked through marriage, ceremonies, and trade along the coastline from Malibu in Los Angeles County, west to Point Concepcion, and north to Piedras Blancas in San Luis Obispo County, and from the Channel Islands to Santa Barbara, the Santa Ynez Valley, and on to the Cuyama Valley. Over time, the geographical separation of these people resulted in the development of distinct languages within the family, similar to the differences between Germanic or Romantic language families. Similar to Europe, people often spoke several languages based on occupation and relationships. Ethnographic recordings by John Paul Harrington preserved Chumash people in the late 1800s speaking their languages helping Chumash people today to continue speaking.

Chumash cultural heritage is seen in beautiful baskets, clam and *Olivella* (Purple olive) shell bead “money” used to buy and sell goods all over the California state, stone bowls, and many other pieces, but their most iconic cultural item is the plank canoe, called a *tomol*. As maritime people, boats were always a part of the culture, but we have no evidence of what a 13,000-year-old canoe looks like. Chumash have used *tomols* for more than a thousand years to deep sea fish and haul large amounts of goods and people from the islands to the mainland and from coastal villages to each other. They can still be seen at Chumash festivals and paddles are often open to the public.

1.5 HISTORY

The Mission Period within the Chumash area is marked by establishment of San Luis Obispo in 1772, San Buenaventura in 1782, Santa Barbara in 1786, La Purisima Concepcion in 1787 and Santa Ynez in 1804 and extended until secularization by Mexico in 1834. Indigenous Chumash hunter and gatherer subsistence and cultural practices were substantially diminished by the Franciscan’s goal of converting Chumash people to Christianity and forced manual labor to support the Mission system. The Chumash populations plummeted due to the introduction of European disease including smallpox and syphilis within cramped neophyte barracks. A coordinated revolt by Chumash living in the Santa Barbara, Santa Ynez, and La Purisima Missions began in 1824 after a prolonged drought, lack of munitions being shipped from Franciscan centers in Mexico, and years of abuse by soldiers protecting these religious centers (Johnson 2024).² The revolt continued for over two years with some of the Barbareño Chumash

² Johnson, John. 2024. *The Chumash Uprising of 1824: What We Know 200 Years Later*. Santa Barbara County Archaeological Society Presentation. June 3.

being the last to return to the Mission Santa Barbara after intense negotiations for better treatment and pardons for leaving (Dee 1976).³

After Mexican Independence, Chumash people were given freedom to leave the missions. Many trained as vaqueros and in building and agricultural practices found themselves still living in harsh conditions during the subsequent Rancho Period from 1834 to 1847. They were promised homelands by the Mexican government as citizens surrounding the converted Mission towns, but these promises were not maintained. Without their own property, most were forced to work on large Mexican rancho land grants established by the wealthy families of Spanish ancestry (Grant 1978).⁴

The Early American Transition period beginning in 1850 and extending to 1870, resulted in continued colonialization and development of the area. Many Chumash worked as inexpensive labor on the cattle ranches, as house servants or farm laborers (Grant 1978). The Santa Ynez Chumash reservation was first established in 1855 by the federal government along Zanja de Cota Creek away from good land promised by the Mission Santa Ines (Grant 1978). At the time it was formally established in 1901 (SYBCI 2024)⁵, it was the smallest reservation in the state (Grant 1978). The reservation has since grown in size and complexity, supported by its gaming commerce and has developed housing, medical facilities, and infrastructure for its membership.

3 Hudson, Dee (Winter 1976). "Chumash Canoes of Mission Santa Bárbara: the Revolt of 1824". *The Journal of California Anthropology*. 3 (2): 4–15. JSTOR 27824883.

4 Grant, Campbell. 1978. Chumash: Introduction. *Handbook of North American Indians. Volume 8, California*. Pp. 505-508. Smithsonian Institution, Washington D.C.

5 Santa Ynez Band of Mission Indians. 2024. <https://chumash.gov/>

2.0 REGULATORY FRAMEWORK FOR TRIBAL CULTURAL RESOURCES

The following is a list of legal requirements and directives to consult with Native American tribes. In addition to the below directives, evaluation and protection of tribal cultural resources within the City of Santa Barbara are governed by policies, laws, and regulations at the city and state levels. In cases where development projects are supported through federal funding, such as transportation infrastructure or affordable housing grants, federal statutes apply as well.

2.1 CITY PLANS AND REGULATIONS

City policies related to tribal cultural resources and the protection of archaeological resources are found in the City General Plan Historic Resources Element (2012), Coastal Land Use Plan (2019), and Santa Barbara Municipal Code Chapter 22.12.

City Coastal Land Use Plan (2019)

The Coastal Land Use Plan (LUP) (2019) Chapter 4.4 is dedicated to Cultural Resources. Coastal LUP cultural resources policies that specifically address tribal cultural resources and Native American consultation are listed below. Additional policies regarding the protection, treatment, and evaluation of archaeological resources are also included in Chapter 4.4 of the Coastal Land Use Plan.

Policy 4.4-3. Increase the Visibility of Chumash History and Culture. Encourage and participate in partnerships between the City, developers, landowners, non-profits, and representation from most likely descendants of Barbareño Chumash and local Native American associations and individuals to increase the visibility of Chumash history and culture by:

- A. *Supporting public displays or exhibits of Chumash arts, culture, and history;*
- B. *Encouraging the incorporation of elements from Chumash art and culture into public and private development; and*
- C. *Supporting the creation of a permanent Chumash archaeological museum and interpretive center in addition to the Santa Barbara Museum of Natural History.*

Policy 4.4-6. Native American Consultation Requirement. The City shall consult with Native American tribal groups and individuals approved by the Native American Heritage Commission for the area prior to amending or adopting its General Plan or any specific plan, or amending the Coastal LUP, when designating any land as open space, when development may adversely impact Native American archaeological and/or cultural resources, during preparation of any mitigation plan to address adverse impacts to Native American archaeological and/or cultural resources, and prior to release of a negative declaration, mitigated negative declaration, or environmental impact report prepared for the project.

2.2 STATE LAWS AND REGULATIONS

State laws involving protection of archaeological resources include the California Environmental Quality Act (CEQA), the California Coastal Act and related Commission, and code regulations.

Assembly Bill 52 Native American Consultation

As promulgated by Assembly Bill (AB) 52, Public Resources Code Section 21081.3.1 and 21081.3.2 require consultation with Native American tribal representatives for projects subject to CEQA review, where a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) is being prepared. The consultation's objective is to determine the project's potential to result in significant impacts on a tribal cultural resource.

PRC Section 21080.3.1.

- (a) *The Legislature finds and declares that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources.*
- (b) *Prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if:*
 - (1) *the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and*
 - (2) *the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. When responding to the lead agency, the California Native American tribe shall designate a lead contact person. If the California Native American tribe does not designate a lead contact person, or designates multiple lead contact people, the lead agency shall defer to the individual listed on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. For purposes of this section and Section 21080.3.2, "consultation" shall have the same meaning as provided in Section 65352.4 of the Government Code.*
- (c) *To expedite the requirements of this section, the Native American Heritage Commission shall assist the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.*
- (d) *Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.*
- (e) *The lead agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation. § 21080.3.2.*

PRC Section 21080.3.2.

- (a) *As a part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project’s impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommended to the lead agency.*
- (b) *The consultation shall be considered concluded when either of the following occurs:*
 - (1) *The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.*
 - (2) *A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.*
- (c)
 - (1) *This section does not limit the ability of a California Native American tribe or the public to submit information to the lead agency regarding the significance of the tribal cultural resources, the significance of the project’s impact on tribal cultural resources, or any appropriate measures to mitigate the impact.*
 - (2) *This section does not limit the ability of the lead agency or project proponent to incorporate changes and additions to the project as a result of the consultation, even if not legally required.*
- (d) *If the project proponent or its consultants participate in the consultation, those parties shall respect the principles set forth in this section.*

AB 52 Native American Consultation Requirements

The Governor’s Office of Land Use and Climate Innovation (LCI) (formerly the Office of Planning and Research), the state agency that oversees implementation of the CEQA Guidelines, published the following direction as to how agencies must conduct consultation with Native American tribes.⁶ The intent of AB 52 is to:

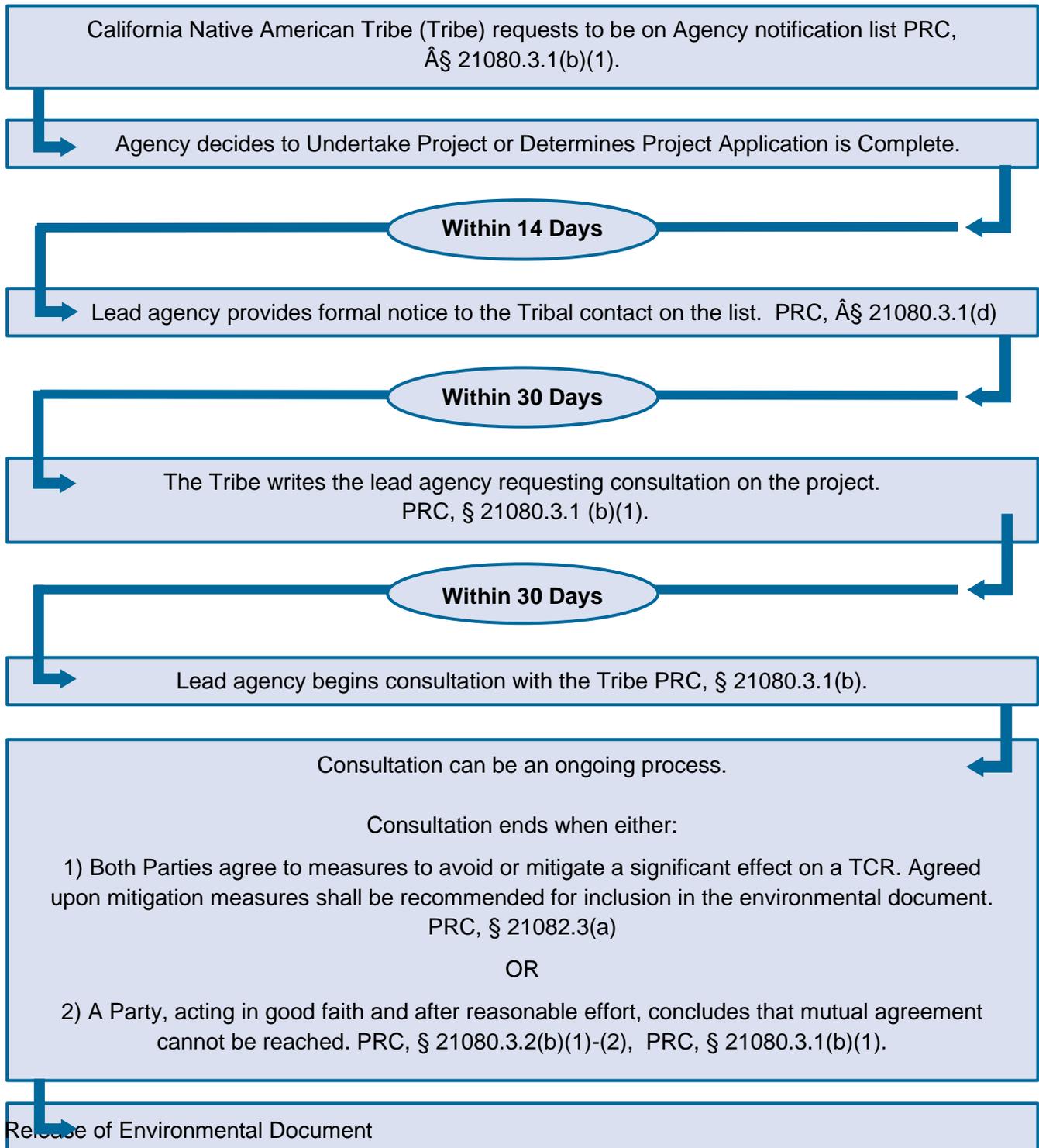
- Require tribal notification and meaningful consultation early in the project planning process; and,
- Consider tribal cultural values in determining project impacts and mitigation.

⁶ Office of Planning and Research. 2017. Technical Advisory: AB 52 and Tribal Cultural Resources in CEQA. June.

The process for AB 52 Native American Consultation is as follows:

- 1. AB 52 – Native American Tribes Request AB 52 Notification.** Native American tribes must submit a written request to be on the agency’s CEQA notice list (PRC 21080.3.1[b]). Alternatively, City staff may request a list of AB 52 Native American contacts from the NAHC and request a Sacred Lands File search. To do so, staff may complete a Native American Contacts List Request Form indicating the request for AB 52 Contact list, along with a project site map indicating areas of ground disturbance, and a project description.
- 2. AB 52 – Initiating Tribal Consultation.** Within 14 days of a complete planning application, City staff must provide a letter to tribal representatives on the AB 52 Notification List. The letter must include the project description, project site map, and a request for consultation. See sample letter in Appendix B.
- 3. AB 52 – Tribal Consultation.** Tribes wishing to engage in AB 52 tribal consultation have 30 days to respond and request formal consultation. Upon receiving a response from tribal representatives requesting consultation, the City has an additional 30 days to engage in tribal consultation process. If no requests for consultation are received within 30 days from the mailing of AB 52 letters, AB 52 tribal consultation may conclude.
- 4. AB 52 – Concluding Tribal Consultation.** Consultation concludes when either all parties agree to measures to mitigate or avoid significant effects on tribal cultural resources; or the City, acting in good faith and after reasonable effort, concludes that a mutual agreement cannot be reached (PRC Section 21080.3.2[b][1&2]). The tribal consultation process may continue throughout the CEQA review process. City staff must summarize all responses received from tribal representatives and describe the agency’s response to all comments in the CEQA document.

COMPLIANCE TIMELINE AND CONSULTATION PROCESS FLOWCHART



Senate Bill 18 Native American Consultation

State Senate Bill 18 promulgated the following requirements for Native American consultation for projects subject to a General Plan Update or Amendment and/or a Specific Plan.

Government Code Section 65352.

- *Prior to the adoption or any amendment of a general plan or specific plan, a local government must notify the appropriate tribes (on the contact list maintained by the NAHC) of the opportunity to conduct consultations for the purpose of preserving, or mitigating impacts to, cultural places located on land within the local government's jurisdiction that is affected by the proposed plan adoption or amendment. Tribes have 90 days from the date on which they receive notification to request consultation, unless a shorter timeframe has been agreed to by the tribe (Section 65352.3).*
- *Prior to the adoption or substantial amendment of a general plan or specific plan, a local government must refer the proposed action to those tribes that are on the NAHC contact list and have traditional lands located within the city or county's jurisdiction. The referral must allow a 45-day comment period (Section 65352). Notice must be sent regardless of whether prior consultation has taken place. Such notice does not initiate a new consultation process.*

Government Code Section 65092.

- *Local governments must send notice of a public hearing, at least 10 days prior to the hearing, to tribes who have filed a written request for such notice.*

SB 18 Native American Consultation Requirements

The LCI, formerly Office of Planning and Research, published Tribal Consultation Guidelines to supplement State guidance on the preparation of General Plans. The Guidelines provided the following direction as to how agencies must conduct consultation with Native American tribes.⁷ The intent of SB 18 is to:

- Provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage; and
- Allow consideration of cultural places in the context of broad local land use policy.

The process for SB 18 Native American Consultation is as follows:

1. **SB 18 - Identification of Native American Tribes.** When an adoption of or amendment to any General Plan or Specific Plan is proposed, the City is required to consult with California Native American tribes early in the planning process. City staff must obtain a list of Native American tribal representatives from the NAHC and request a Sacred Lands File search. To do so, staff may complete a Native American Contacts List Request Form indicating the request for SB 18 Contact list, along with a map of the Area of Potential Effect (APE) and a project description.

⁷ Office of Planning and Research. 2005. State of California Tribal Consultation Guidelines, Supplement to General Plan Guidelines. November.

2. **SB 18 – Initiating Tribal Consultation.** City staff must provide a letter to all tribal representatives on the SB 18 Notification List requesting consultation (Gov. Code Section 65352.3). See sample letter in Appendix B.
3. **SB 18 – Tribal Consultation.** Tribes wishing to engage in SB 18 tribal consultation must respond within 90 days (Gov. Code Section 65352.3[a]). SB 18 consultation is considered an ongoing process without a defined end point in the statute. The tribal consultation process may continue during Planning Commission or City Council deliberations on the proposed plan.
4. **SB 18 – Tribal Notification and Comment Period.** Prior to adoption, the City must send a referral notification to the tribes for the proposed General Plan or Specific Plan amendment, and allow 45 days to comment (Gov. Code Section 65352[a][8]). Tribal representatives must be included in the notice of public hearing list, at least 10 days prior to the hearing.

Assembly Bill 168 Native American Consultation

AB 168 (2020) requires tribal consultation for housing development projects seeking review under the streamlined ministerial approval process created by SB 35 (2017). Developers are required to submit a preliminary application with key project details and engage in tribal consultation that potentially influences the project’s eligibility for ministerial approval. Within 30 calendar days of receiving an SB 35 preliminary application, the local government must provide formal notice for each tribe traditionally and culturally affiliated with the geographic area of the project site. Each tribe that receives this notice has 30 calendar days to accept the invitation to engage in consultation. The requirements and process of are codified in Government Code Section 65913.

Treatment of Human Remains

The treatment and disposition of human burials and skeletal remains encountered during development are addressed in Health and Safety Code Sections 7050.5 and Public Resources Code Sections 5097.94, 5097.98, and 5097.99. These measures provide protection to Native American human burials and skeletal remains from vandalism and destruction and provide a process by which Native American descendants can make known their concerns regarding the need for sensitive treatment and disposition of Native American burials, skeletal remains, and items associated with Native American burials.

The procedures to be followed in the event of discovery or disturbance of human burials are described also in CEQA Guidelines Section 15064.5 (d) and (e).

CEQA Guidelines Section 15064.5

- (d) *When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission. Action implementing such an agreement is exempt from:*

- (1) *The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).*
 - (2) *The requirements of CEQA and the Coastal Act.*
- (e) *In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:*
- (1) *There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:*
 - (A) *The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and*
 - (B) *If the coroner determines the remains to be Native American:*
 1. *The coroner shall contact the Native American Heritage Commission within 24 hours.*
 2. *The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.*
 3. *The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or*
 - (2) *Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.*
 - (A) *The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.*
 - (B) *The descendant identified fails to make a recommendation; or*
 - (C) *The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.*

The law makes obtaining or possessing Native American artifacts or human remains taken from a grave or cairn a felony, except as otherwise provided by law or in accordance with an agreement reached pursuant Public Resources Code Sections 5097.94 and 5097.98 that pertain to Native American possession and transport of Native American artifacts and/or human remains. The law applies to archaeological investigations as well as to accidental discovery.

California Register of Historic Resources

CEQA Guidelines Section 15126.4(b) provides the following direction relative to development of mitigation measures for historic resources eligible for listing on the California Register of Historic Resources, including archaeological resources. Since prehistoric archaeological resources are also considered tribal cultural resources, the following direction applies.

CEQA Guidelines Section 15126.4(b)

- (2) *In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.*
- (3) *Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:*
- (A) *Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.*
 - (B) *Preservation in place may be accomplished by, but is not limited to, the following:*
 1. *Planning construction to avoid archaeological sites;*
 2. *Incorporation of sites within parks, greenspace, or other open space;*
 3. *Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.*
 4. *Deeding the site into a permanent conservation easement.*
 - (C) *When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code.*
 - (D) *Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.*

2.3 FEDERAL LAWS AND REGULATIONS

Federal legislation concerning tribal cultural resources applies when a project involves federal funds, land, or jurisdictional permitting authority. For such projects, compliance with federal regulations, including the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA) of 1966 is the responsibility of the lead agency. Project examples in Santa Barbara may include, but are not limited to:

- Transportation projects on U.S. Highway 101 overseen by the California Department of Transportation (Caltrans);
- Affordable housing projects funded by federal Housing and Urban Development (HUD);
- Federally funded City projects; and
- Projects requiring permits from a federal agency such as the U.S. Army Corps of Engineers.

In some cases, the City may assume the role as the NEPA lead agency and ensure compliance with federal historic preservation requirements under Section 106 of the NHPA, including tribal cultural resources.

The National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966 as amended (16 USC 470), requires federal agencies to inventory, evaluate, and encourage the preservation of cultural resources of local, regional, or national significance on federal lands or lands over which federal agencies have permit, licensing, or financial authority. Regulations implementing these requirements are set forth in Title 36, Part 800 of the Code of Federal Regulations (36 CFR 800). NHPA requires federal agencies to provide the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on proposed activities that may affect significant historic resources. This review process is often referred to as “Section 106 Compliance” since it is Section 106 of the NHPA that provides for the Council’s consideration. Section 106 of the NHPA requires federal agencies to consider the effects of projects they carry out, license, or financially assist (undertakings) on historic properties and to provide the ACHP an opportunity to comment on such undertakings. The procedure for meeting Section 106 requirements is defined in its implementing regulations at 36 CFR Part 800, “Protection of Historic Properties.” This process seeks to avoid, minimize, or mitigate adverse effects to historic properties from undertakings.⁸

National Register of Historic Places Eligibility Requirements

A “historic property” is one that is considered eligible for listing on the National Register of Historic Places (NRHP). Section 106 provides the following eligibility criteria for NRHP listing:⁹

8 Advisory Council on Historic Preservation (ACHP). 2021. Consultation With Indian Tribes in the Section 106 Review Process: The Handbook.

<https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf>

9 U.S. Department of the Interior, National Park Service. 1995. National Register Bulletin. How to Apply the National Register Criteria for Evaluation. https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- a. That are associated with events that have made a significant contribution to the broad patterns of our history; or*
- b. That are associated with the lives of significant persons in or past; or*
- c. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or*
- d. That have yielded or may be likely to yield, information important in history or prehistory.*

Section 106 Native American Consultation Requirements

The NHPA includes the following direction on Native American consultation:

- 54 U.S.C. 302706 (a) clarifies that properties of religious and cultural importance to Indian tribes may be eligible for listing in the National Register of Historic Places; and
- 54 U.S.C. 302706 (b) requires that federal agencies, in carrying out their Section 106 responsibilities, consult with any Indian tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking.

The Advisory Council on Historic Preservation (ACHP), the federal agency that oversees implementation of the NHPA Section 106 regulations, has published the following direction as to how agencies must conduct consultation with Native American tribes.¹⁰ The consultation process must provide the Native American tribe a reasonable opportunity to:

- Identify its concerns about historic properties;
- Advise on the identification and evaluation of historic properties including those of religious and cultural significance to the Indian tribe;
- Articulate views on the undertaking's effects on such properties; and
- Participate in the resolution of adverse effects.

¹⁰ Advisory Council on Historic Preservation. 2021. Consultation with Indian Tribes in the Section 106 Review Process: The Handbook. June.

The process for Section 106 Native American Consultation is as follows:

- 1. Section 106 Consultation – Identification of Indian Tribes.** The NEPA lead agency – in some cases, the City of Santa Barbara – is required to consult with federally recognized Indian tribes that attach religious and cultural significance to historic properties that may be affected by development projects. The Santa Ynez Band of Chumash Indians is the only federally recognized tribe within the vicinity of the City of Santa Barbara.

Under 36 CFR Section 800.2(c)(5), an agency may invite state recognized Indian tribes, such as those identified by the California Native American Heritage Commission (NAHC), or tribes who have neither federal nor state recognition to participate in consultation as “additional consulting parties” based on a demonstrated interest in the project’s effects on historic properties. However, the NHPA defines the term “Indian tribe” as federally recognized Indian tribes, meaning only they have a statutory right to be consulting parties in the Section 106 process (ACHP 2021).

Indian tribes possess special expertise in assessing the National Register eligibility of historic properties that may possess religious and cultural significance to them (36 CFR § 800.4(c)(1)), the knowledge the tribes possess that enables them to identify places of religious and cultural significance to their tribes, based on traditional knowledge, traditional cultural knowledge or indigenous knowledge, or traditional ecological knowledge. Indian tribes have their own way of generating, transmitting, and protecting this information.

For projects requiring Section 106 Consultation, staff should obtain a list of Native American tribal representatives from the NAHC and request a Sacred Lands File search. To do so, staff may complete a Native American Contacts List Request Form providing a map of the Area of Potential Effect ([APE]; the project site and impact areas) and a project description. It is strongly advised that all contacts identified by the NAHC be included in consultation, regardless of federal recognition status.

- 2. Section 106 Consultation – Initiating Tribal Consultation.** The City must initiate consultation by sending a letter to the leadership of each Indian tribe identified on the NAHC contact list. The letter includes details regarding the proposed project’s location, description, and any information available relative to the presence or potential for tribal cultural resources. Consultation begins with a formal letter from City staff to the appropriate tribal official, usually the tribal leader, with a copy to the Tribal Historic Preservation Officer (THPO), or cultural resources staff person if there is no THPO.

- 3. Section 106 Consultation – Identification and Evaluation of Impacts.** Upon receiving a response from tribal representatives requesting consultation, City staff must set up a meeting to consult with the tribe. The purpose of Section 106 consultation is to identify any tribal cultural resources and to evaluate the National Register of Historic Places (NRHP) eligibility of any identified tribal cultural resources. Tribes possess unique expertise in evaluating sites of religious and cultural significance, using traditional knowledge. Site visits may be conducted as part of the tribal cultural resources identification process. City staff must summarize all responses received from tribal representatives and describe the agency's response to all comments. If no requests for consultation are received within 30 days from the mailing of Section 106 letters, State Historic Preservation Office (SHPO) documentation may be finalized.

- 4. Section 106 Consultation – Resolve Adverse Effects.** If a tribal cultural resource is identified and is eligible for listing on the NRHP, the objective of consultation is to reach an agreement on resolving any potential adverse effect on a tribal cultural resource. The City, SHPO, and consulting Native American tribes develop a Section 106 Memorandum of Agreement (MOA) or Programmatic Agreement (PA) documenting measures to be taken and outlining how the adverse effects will be successfully addressed. If an agreement cannot be reached, the ACHP can be asked to review the decision at the request of the lead agency or the consulting tribe. After consultation has ended, the ACHP prepares its formal comments to the agency, who must consider the ACHP's comments in reaching a final decision.

Other Federal Acts

The American Indian Religious Freedom Act (AIRFA) of 1978 (42 USC 1996) requires all federal agencies to take into account the effects of their policies on traditional Native American religious and cultural values and practices and, insofar as possible, not interfere with those values and practices.

3.0 TRIBAL CULTURAL RESOURCE ASSESSMENT

This section outlines the assessment process that helps identify, evaluate, and address the potential impacts of a proposed project on tribal cultural resources. The purpose of this assessment is to:

- Identify the potential for tribal cultural resources to exist within or near the project area;
- Ensure compliance with legal requirements under the California Environmental Quality Act (CEQA), AB 52, and other applicable laws that require consultation with tribal representatives and protect tribal cultural resources;
- Assess the significance of tribal cultural resources to the tribes traditionally or culturally affiliated with the area;
- Facilitate meaningful consultation with tribes to understand their concerns, cultural values, and potential impacts to sacred sites, burial sites, and other culturally important locations or objects; and
- Develop measures to avoid or reduce the potential impacts to tribal cultural resources, if applicable, to ensure that these resources are preserved for future generations.

The assessment is also intended to ensure that tribes are consulted and have the opportunity to protect and manage cultural resources important to the local Chumash community. Through this process, projects can be developed in a way that acknowledges and honors the unique cultural landscapes, cultural heritage, and traditions of local Chumash communities.

STEP 1.

DETERMINE IF THE PROPOSED PROJECT IS SUBJECT TO CEQA

The MEA Guidelines ensure that the potential for impacts on tribal cultural resources resulting from development activities are systematically assessed. MEA Guidelines apply to all projects that are subject to the CEQA, including development plans, conditional use permits, coastal development permits, specific plans, and general plan amendments. Additionally, if the project qualifies for streamlined review under SB 35, tribal consultation is required under AB 168.¹¹

City staff are required to review projects to determine if CEQA applies. To be subject to CEQA, a project must both:

1. Involve a physical change to the environment either directly or indirectly; and
2. Include one of the following:
 - a) Require a discretionary permit, such as a land use decision or planning approval (excludes administrative approvals); or
 - b) An activity that is undertaken or funded by the City, or another public agency.

¹¹ Office of Planning and Research. 2020. AB 168: Tribal Scoping Consultation Requirements for Projects Seeking Review Under the Streamlined Ministerial Approval Process (SB 35). November.

For projects subject to CEQA, the following project types must be evaluated for their potential to affect tribal cultural resources:

- **Development or Construction Projects.** Land-disturbing activities, such as building construction, infrastructure development, or excavation, could potentially affect tribal cultural resources.
- **Land Use or Zoning Changes.** Changes in land use or zoning that could lead to development in areas traditionally or culturally affiliated with tribes.
- **Environmental Restoration Projects.** Projects that involve habitat restoration, soil and groundwater remediation, or activities that result in altering or managing the environment in culturally significant areas could affect tribal cultural resources (e.g., land restoration, fire management, or wildlife management).
- **General Plan or Specific Plan Amendments.** Projects proposing a General Plan Amendment and/or Specific Plan are also subject to tribal consultation requirements pursuant to SB 18.
- **Any project undergoing preparation of a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report.** Pursuant to AB 52, formal tribal consultation is required for preparation of a Negative Declaration (ND), Mitigated Negative Declaration (MND), or Environmental Impact Report (EIR). Proceed to Step 3.

If a project would result in ground disturbances (either directly or indirectly), or otherwise requires tribal consultation under State law, staff must proceed to Step 2.

STEP 2.

REVIEW ARCHAEOLOGICAL AND TRIBAL CULTURAL RESOURCES SENSITIVITY

The City of Santa Barbara recognizes the potential for a project to result in impacts to tribal cultural resources in any location where a recorded prehistoric resource exists, or where the potential for unknown resources to exist is reasonably probable. The MEA Guidelines include Archaeological Resources Sensitivity Areas that incorporate the locations of recorded prehistoric and historic-period cultural resources provided by the California Historical Resource Information System (CHRIS), Central Coast Information Center (CCoIC), and geographic distribution areas within the city where related environmental and/or historical demographic patterns indicate a reasonable assumption that other unknown cultural resources may exist.

The Archaeological Resources Sensitivity Area Maps are based on previously prepared archaeological resources reports and historic maps and photographs outlining the development history of the city. Sensitivity Areas include recorded resources and associated areas where there is potential for unknown resources. The Sensitivity Areas include the following time periods:

- Prehistoric Resources Period
- Mission Complex and Waterworks (1786-1835)

- Spanish Colonial and Mexican Periods (1782-1849)
- Early American Transition Period (1850-1870)
- American Period (1870-1900) and Early Twentieth Century (1900-1925)

The 2025 MEA Guidelines for Archaeological Resources contain additional information about the required contents and format for archaeological investigations completed within each of these Sensitivity Areas. Additional information on Sensitivity Areas most likely to pertain to tribal cultural resources is provided below.

Prehistoric Resources Period

The Prehistoric Resources Period encompasses the timeframe when Chumash lived across the south and central coast of the Santa Barbara Channel, including the present city of Santa Barbara boundaries before European colonization. This Sensitivity Area incorporates all recorded prehistoric archaeological sites and a 100-meter (330-foot) buffer. This buffer accounts for the distance a recorded prehistoric archaeological site may extend below the ground surface and that was not possibly identified during an initial ground surface archaeological survey that resulted in the site boundary definition.

With a few exceptions, prehistoric archaeological sites have been recorded within 300 feet of drainages, bluffs, and estuaries. This settlement pattern is particularly true of larger, permanent villages characterized by well-developed (up to over 5 feet deep) soils resulting from the organic decomposition of prehistoric food remains (midden). Access to a permanent source of fresh water is recognized as a major influence of prehistoric occupation; proximity to the Pacific Ocean coastline and estuaries extending inland also offered efficient access to coastal food resources including shellfish, fish, and waterfowl. The boundaries of the Prehistoric Resources Period therefore incorporate those locations within the city limits where environmental characteristics influenced settlement. Smaller, special activity areas used for gathering and hunting activities were not as strongly influenced by the factors listed above and evidence of these locations is not as pronounced. Most often these sites are limited to distributions of artifacts on the ground surface (the limited extent of these smaller, shallow cultural deposits has also resulted in this evidence having been destroyed during urban development within the city over the past 150 years). Even these smaller, limited activity sites are not recorded within the city on slopes of over 20 percent, where this steep topography discouraged these activities.

The Prehistoric Resources Period sensitivity area also incorporates the results of systematic archaeological surveys that have been completed over the past 30 years. Consistent results without identifying the presence of cultural resources effectively contributes to the validation of areas where unknown prehistoric cultural resources are most likely to be located. The 2025 MEA sensitivity area maps have taken these results into account in refining their boundaries.

Mission Complex and Waterworks Period (1786-1835)

This period includes construction of the Santa Barbara Mission in 1786 and its waterworks. Barbareño Chumash living in villages in concentric circles of distance away were integrated into the Santa Barbara Mission system as laborers and neophytes constructing mission, and later city, infrastructure, including the aqueduct waterworks system. As Chumash populations died within Mission Santa Barbara, villages as far as the Santa Ynez valley were brought into this labor system until the Mission of Santa Ines was constructed in 1804.

Mapped Sensitivity Areas Requiring Tribal Engagement and Ground Surface Surveys

Projects of relatively intensive ground disturbances within the **Prehistoric Resources Period** and **Mission Complex and Waterworks (1786-1835)** Sensitivity Areas are capable of encountering and disturbing recorded and/or unknown tribal cultural resources.

If a project is proposed within one of these Sensitivity Areas, staff must review the project to determine if tribal engagement is required, following the procedures within the 2025 MEA Guidelines for Archaeological Resources. Tribal engagement is a required component of Phase 1 Archaeological Resources and Tribal Cultural Resources Reports. The preliminary Draft results of the Phase 1 Archaeological Resources Report investigation is shared with Chumash tribal representatives identified by the NAHC. The final Phase 1 Archaeological Resources and Tribal Cultural Resources Reports report shall summarize the tribal outreach process and communications with local Chumash tribal representatives with ancestral affiliation to the project area and define all potential project tribal cultural resources impacts as outlined in the MEA for Archaeological Resources Guidelines section 4.2.1, Item 12.

When determining whether a Phase 1 Archaeological Resources and Tribal Cultural Resources Report is required, staff will consider the following factors:

- Project size;
- Amount of ground disturbance;
- Proposed activities; and
- Any prior cultural resource investigations previously completed at the site and vicinity.

If a project does not require a Phase 1 Archaeological Resources and Tribal Cultural Resources Report, then the potential for a project to impact tribal cultural resources is not considered likely.

Other Mapped Sensitivity Areas Requiring Ground Surveys

Systematic ground surface surveys are required for projects resulting in ground disturbances within archaeological resource sensitivity areas outside of the Prehistoric Resources Period and Mission Complex and Waterworks (1786-1835) Sensitivity Areas as a component of Phase 1 Archaeological Resource Report, or Letter Report Confirming No Archaeological Resources, except for those with minimal excavation requirements (see MEA Guidelines for Archaeological Resources). If these investigations identify prehistoric cultural resources, these are considered to be potential tribal cultural resources, and subsequent assessment steps below must be taken.

Engagement with Chumash Tribal Representatives

Tribal outreach and communication with local Chumash tribal representatives with ancestral affiliation to the project area, as identified by the Native American Heritage Commission (NAHC), is required to identify any tribal cultural resources. For projects that require the preparation of a Phase 1 Archaeological and Tribal Cultural Resources Report, the following steps for undertaking outreach are required. See Appendix A for a sample tribal outreach correspondence format for preliminary engagement with tribal representatives.

1. Distribute the preliminary Draft Phase 1 Archaeological Resources Report to tribal representatives identified by the NAHC.

A preliminary Draft Phase 1 Archaeological Resources Report shall be circulated for comment via email by either the City-qualified archaeological consultant report preparer to Chumash tribal representatives identified by the NAHC, who have traditional lands located within the City's jurisdiction.¹² These representatives will identify if there are any tribal cultural resources to record outside of the archaeological findings.

2. Provide Two Weeks for Tribal Representatives to Comment.

At least two (2) weeks must be provided to tribal representatives to provide comment.

3. Issue follow-up request for comment to tribal representatives.

If no responses from Chumash tribal representatives are received after two weeks from the initial email circulation, the consultant or City staff must provide a follow-up request to the tribal representatives via email and provide an additional two weeks for a response.

4. Finalize the Tribal Outreach Correspondence after four weeks from the initial request for comments.

The Phase 1 Archaeological and Tribal Cultural Resources Report must include a summary of all comments and recommendations regarding potential impacts to tribal cultural resources received after two weeks from the follow up request (at least 4 weeks from initial request), and the documented correspondence resulting from the outreach. If no comment is received from Chumash tribal representatives after two weeks from the follow up request for comments, the Draft Phase 1 Archaeological and Tribal Cultural Resources Report shall be finalized, including the dates when the draft report was circulated, to which tribal representatives, and any responses provided.

STEP 3.

TRIBAL CONSULTATION

This step must be completed by City staff for projects that require formal government-to-government consultation, including the following:

- Projects that may significantly impact tribal cultural resources after an assessment of Tribal Cultural Resource sensitivity following Steps 1 and 2, as identified through initial tribal engagement and/or ground surveys.
- Projects that require formal tribal consultation pursuant to state or federal law, including:
 - AB 52 consultation for projects requiring an ND, MND, or EIR
 - SB 18 consultation for General Plan or Specific Plan Amendments
 - Projects applying for Affordable Housing Streamlined Approval under (SB 35) require consultation under AB 168

¹² City staff may also circulate archaeological reports previously accepted by the City to tribal representatives.

- Projects with a federal nexus requiring compliance with Section 106 of the National Historic Preservation Act

The formal consultation process should be conducted in a manner that respects tribal heritage, allowing tribes to lead discussions on what resources may be impacted and how best to approach the assessment.

Identification of Tribal Representatives

For any project requiring formal tribal consultation (AB 52, AB 168, SB 18, Section 106 of the NHPA), City staff must identify tribal representatives who have ancestral lands located within the City's jurisdiction. Staff are encouraged to contact the Native American Heritage Commission (NAHC) requesting a contact list of Chumash and request a Sacred Lands File search for each project. Staff must indicate the type formal consultation is required.

Consultation Process

The City must consult with each tribe that requests consultation. Applicants and consultants may be invited to tribal consultation meetings, if agreed upon by both the City and tribal representatives. The consultation should focus on:

- Identifying issues of concern to the tribe, including cultural values, sites, features, and landscapes, and laws protecting tribal cultural resources;
- How the project might impact tribal cultural resources; and
- A good faith effort to find a mutually acceptable resolution to identify issues and if feasible, ways in which the City can accommodate tribal concerns.

Administrative Record

City staff and consultants must maintain comprehensive documentation of consultation efforts, assessment findings, and mitigation actions. This transparency promotes accountability and allows for evaluation by tribal and government agencies.

STEP 4.

ASSESS POTENTIAL IMPACTS TO TRIBAL CULTURAL RESOURCES

Methodology

Determining the presence or the potential presence of a tribal cultural resource is derived from the following:

- Tribal engagement conducted in preparation of a Phase 1, 2, or 3 Archaeological Resources and Tribal Cultural Resources Report;
- Identification of prehistoric resources as part of an archaeological ground survey or CCoIC Records Search;
- Formal consultation with local Native American tribal representatives; and
- Sacred Lands File Search

The traditional knowledge the tribal representatives possess enables them to identify places of religious and cultural significance to their tribes, based on traditional knowledge, traditional cultural knowledge or indigenous knowledge, or traditional ecological knowledge, relative to sites, features, places, cultural landscapes, sacred places, and objects with cultural value to the tribe. They may also decide not to identify or share the location of tribal cultural resources for a given project. The engagement of tribes to identify any tribal cultural resources is the central component of this process. Staff should work with tribal representatives to ensure accurate identification and evaluation of resources, recognizing and incorporating indigenous knowledge in project impact assessments and mitigation measures.

Significance Threshold

If a tribal cultural resource is present or if unknown resources have the potential to exist within a project site, the following significance thresholds from Appendix G of the CEQA Guidelines apply:

- a) *Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value a California Native American tribe, and that is:*
 - i) *Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or*
 - ii) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code § 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code § 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

The CEQA Guidelines Appendix G Environmental Checklist Form, Item No. 11 also requires tribal consultation to accurately assess potential impacts on tribal cultural resources.

- b) *Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?*

Potential direct impacts, such as physical actions that would occur immediately with implementation of a project, could have adverse (negative) effects on tribal cultural resources. Indirect adverse effects include changes to the surrounding cultural landscape such as the introduction of adjacent incompatible mass or scale of development.

Evaluating a project's impact on tribal cultural resources requires input from tribal representatives having traditional knowledge, traditional cultural knowledge or indigenous knowledge, or traditional ecological knowledge, relative to sites, features, places, cultural landscapes, sacred places, and objects with cultural value to the tribe that are affiliated with the Santa Barbara area. Therefore, consultation with the tribal representatives is essential for assessing the level of impact for projects located in areas where tribal cultural resources are known to occur, or may be expected.

CEQA Document Preparation

The Phase 1 Archaeological Resources and Tribal Cultural Resources Report will be used as the technical document used to address potential impacts resulting from projects subject to CEQA review. The analysis of potential tribal cultural resource impacts resulting from the project must include the following within the CEQA document:

- Methodology used to identify tribal cultural resources;
- Summary of tribal engagement and formal consultation with local Chumash tribal representatives, and outcomes. This includes an Appendix with the list of tribal representatives contacted, all communications with the NAHC and tribal representatives, including written correspondence, emails, phone logs, and meeting notes;
- Potential project impacts to tribal cultural resources and level of significance;
- Applicable mitigation including standard conditions in Chapter 4.0 Protection, Avoidance, and Mitigation, and/or reasonably feasible measures proposed by Native American tribes; and
- Residual impacts after mitigation is applied.

4.0 PROTECTION, AVOIDANCE, AND MITIGATION

Protection, avoidance, and mitigation measures for tribal cultural resources are designed to avoid, minimize, or offset potential impacts to the cultural heritage, practices, and resources of local Chumash tribes. These measures may be incorporated into the project planning phase or following environmental review, or during construction.

Reasonably feasible actions requested by Chumash tribal representatives with traditional lands in the City's jurisdiction will be identified as required measures to ensure potential impacts on tribal cultural resources are reduced to a less than significant level. These measures may incorporate relevant directives from state and local regulations as outlined in Section 2.0, Regulatory Framework, including:

- City Coastal Land Use Plan Policy 4.4-8
- CEQA Section 15126.4
- PRC Section 5024.1

Additionally, tribal monitoring of project ground disturbances may be required to address the potential for unknown tribal cultural resources.

4.1 STANDARD CONDITIONS FOR PROJECTS INVOLVING GROUND DISTURBANCE

For all construction projects involving ground disturbance, the following standard condition applies:

Unanticipated Discovery of Archaeological and Tribal Cultural Resources:

Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation.

If such archaeological resources are encountered or suspected, work shall be halted immediately. The City Environmental Analyst shall be notified, and a City Qualified Archaeologist shall be retained by the applicant to assess the nature, extent, and significance of the discovery. The City Qualified Archaeologist will develop appropriate management recommendations for the treatment of archaeological resources, which may include, but are not limited to, redirection of grading and/or excavation activities, and consultation and/or monitoring with a local Chumash representative.

If a discovery consists of possible human remains, the Santa Barbara County Coroner and the California Native American Heritage Commission shall be contacted immediately, and a local Chumash representative shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only resume after the Environmental Analyst grants authorization.

If a discovery consists of possible prehistoric or Native American artifacts or materials, a local Chumash representative shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only resume after the Environmental Analyst grants authorization.

Procedures if Cultural Resources are Discovered

If tribal cultural resources and/or prehistoric archaeological resources are encountered or suspected during construction:

- Work must stop immediately and City staff must issue a Stop Work Order.
- The City Environmental Analyst must be notified.
- The applicant must contract with a local Chumash representative and an archaeologist from the City Qualified Archaeologist List.
- An assessment of the discovery and appropriate recommendations must be provided to City staff.
- A local Chumash tribal representative will monitor all further ground disturbance.
- Work will only resume after the Environmental Analyst gives approval.

Special Procedures for Human Remains

- If potential human remains are discovered, a Stop Work Order must be issued and all work must be redirected pursuant to Public Resources Code Section 5097 and a minimum 50-foot buffer from the area is established.
- The Santa Barbara County Coroner must be contacted to identify if the remains are human.
- If they are Native American, the California Native American Heritage Commission (NAHC) must be contacted to identify the Chumash Most Likely Descendant (MLD) as the individual to work with the project applicant determine the acceptable disposition of the remains.
- Work can only continue after authorization from the Environmental Analyst in consultation with the MLD.
- A local Chumash tribal representative must be retained by the applicant to monitor all further ground disturbance as identified by the MLD.

Workers Environmental Awareness Program (WEAP)

The following condition should be incorporated when deemed necessary by a tribal representative as a result of informal outreach or consultation, or if the Phase 1 Archaeological Resources Report identified the existence of, or potential for, cultural or tribal cultural resources within the project site.

Workers Environmental Awareness Program (WEAP)

The Applicant shall retain a City Qualified Archaeologist and local Chumash Tribal Representative to provide a Workers Environmental Awareness Program (WEAP) to all personnel involved in project construction, including field consultants and construction workers, prior to the commencement of ground disturbing activities. Chumash tribal representatives involved with initial project outreach should assist in preparation of the WEAP. The WEAP shall include:

- *Applicable regulations including the requirement for confidentiality and consequences of violating state laws and regulations.*
- *Protocols for avoidance and appropriate measures for avoiding and minimizing impacts resources that could be present.*
- *Culturally appropriate treatment of any discovery of significance to Native Americans, including appropriate behaviors and responsive actions to follow, consistent with Native American tribal values.*
- *Relevant information outlining what to do and who to contact if any potential cultural resources or tribal cultural resources are encountered.*

All grading/excavating workers, contractors, and visitors shall attend the WEAP prior to entering the project site and performing any work. The Applicant shall provide copies of the training attendance sheets to City staff as a record of compliance. As new crew members are added during project construction, they will be required to review the WEAP training manual and sign off on it with acknowledgement from the construction superintendent, who will inform the monitoring archaeologist and local Chumash tribal representative observer.

WEAP Implementation and Compliance:

- The WEAP must be approved by the City before Building Permit approval and implemented before the start of construction.
- The applicant must submit WEAP attendance records to the City to demonstrate compliance.
- City compliance staff will ensure adherence to the WEAP through site inspections, attendance reviews, and worker interviews.

4.2 MONITORING

The following standard condition is to be incorporated for any site with suspected, but not confirmed, subsurface tribal cultural resources where monitoring of ground disturbances is required. The language may be modified as necessary to address project site specific characteristics.

Native American Monitoring

- A. *The Applicant shall complete the following prior to the issuance of building permits:*

Contract with a local Chumash tribal representative (and, if archaeological resources are known or suspected, an archaeologist from the most current City Qualified Archaeologists List), for monitoring during all ground disturbing activities associated with the project including but not limited to, vegetation or paving removal, grading, excavation, and trenching in the areas identified during informal outreach or consultation with Chumash tribal representatives, and in the Phase ___ Archaeological Resources and Tribal Cultural Resources Report prepared for this site by _____, dated _____. The contract shall be subject to the review and approval of the Environmental Analyst.

The local Chumash tribal representative and archaeologist's monitoring contract shall include the following provisions:

If unknown tribal cultural resources are encountered or suspected, work shall be halted or redirected immediately and the City Environmental Analyst shall be notified. The local Chumash tribal representative monitor (and City Qualified Archaeologist if archaeological resources are identified) shall assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for tribal cultural resource and archaeological resource treatment. This may require additional consultation with other Chumash tribal representatives. Resulting management recommendations may include, but are not limited to, archaeological investigations to determine the spatial extent and characteristics of the resources, possible alternative construction methods to avoid the resource, and continued monitoring by the local Chumash tribal representative and archaeologist.

If a discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately pursuant to Health and Safety Code Sections 7050.5 and Public Resources Code Sections 5097.94, 5097.98, and 5097.99. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission to identify the Most Likely Descendant, who shall work with the project applicant to determine the appropriate disposition of the remains in a location that ensures their preservation in perpetuity. Work in the area may only proceed after the Environmental Analyst grants authorization.

- B. *Prior to issuance of the Certificate of Occupancy (Final Inspection), the Applicant shall submit a final report on the results of the tribal cultural resource monitoring to the Environmental Analyst within 180 days of completion of the monitoring, or prior to the issuance of the Certificate of Occupancy (Final Inspection), whichever is earlier. The tribal cultural resource report shall include a statement as to the duration of monitoring completed, any resources encountered, and a conclusion that any potential impacts to the resource were satisfactorily addressed. If required, the Applicant shall also submit a final report on the results of the archaeological monitoring complying with the MEA Guidelines for Archaeological Resources Section 4.6, Archaeological Resources Construction Monitoring Report guidelines.*

5.0 BEST PRACTICES FOR CONSULTATION AND RESPECTFUL ENGAGEMENT

By following the below best practices, the City can facilitate a respectful, effective, and legally compliant consultation process. Also refer to Section 3.0, Tribal Cultural Resource Assessment Steps 2 and 3.

Meaningful Consultation

Consultation should be approached with flexibility that respects the tribe's role within the overall project planning process and facilitates its full participation. Staff should initiate consultation as early as feasible in the planning process and provide tribal representatives with sufficient time to review and respond to project information. Maintaining open lines of communication allows for a two-way dialogue rather than simply notifying tribes of project plans.

Documentation

Documentation of tribal consultation is important because it allows consulting parties to accurately track the stages of the process. City staff must document all efforts to initiate and carry out consultation with local Chumash tribal representatives. Such documentation, in the form of written correspondence, telephone logs, e-mails, and mailing receipts, must be included in the agency's official administrative record. City staff must also keep notes so that the consultation record documents the content of consultation meetings, site visits, and phone calls in addition to information about dates and who participated. Doing so allows the City and consulting parties to review proceedings and correct any errors or omissions, thus facilitating better overall communication.

Confidentiality of Information

The City must consider any confidentiality concerns raised by tribes during the identification process. Federal and state regulation dictate that an agency shall withhold from disclosure to the public information about the location, character, or ownership of a cultural resource when the agency determines that the disclosure of such information may risk harm to the resource or impede the use of a traditional religious site by practitioners.

Information about tribal cultural resources submitted by a California Native American tribe may not be included in the environmental document or disclosed to the public without the prior written consent of the tribe (however, consistent with current practice, confidential information may be included in a confidential appendix). A lead agency may also exchange information confidentially with other public agencies that have jurisdiction over the environmental document (PRC Section 21082.3 (c)(1)).

A public agency and the tribe may share confidential information regarding tribal cultural resources with the project applicant. The project applicant should keep the information confidential, unless the tribe consents to disclosure in writing. Confidentiality is intended to prevent vandalism or damage to the cultural resource. Additionally, information that is already publicly available, developed by the project applicant, or lawfully obtained from a third party that is not the tribe or another public agency may be disclosed during the environmental review process (PRC Section 21082.3(c)(2)).

Recommendations from the Barbareño Band of Chumash Indians

The Barbareño Band of Chumash Indians (BBCI) have identified the importance of their participation in the identification and evaluation of tribal cultural resources. They have previously identified the following goals and priorities: ¹³

1. Preservation and conservation of open space land and natural resources are areas of immediate concern to the local Chumash.
2. Local Chumash today continue to carry on the stewardship of preserving cultural sites, features, and landscapes as our Chumash ancestors had for thousands of years. If our ancestral sites are disturbed and destroyed, our lasting legacy of having occupied these homelands will be lost. Therefore, consultation with the BBCI can be an important tool to understand the impact of development on cultural resources in the City of Santa Barbara.
3. Long term preservation, supported by reasonable scientific, archaeological investigations.
4. Barbareño Chumash monitors shall be present for all ground disturbing activities on projects that we deem important to our Band.
5. Artifact Policy. All archaeological materials removed from a project site shall be curated at a local qualified institution that would grant our Band access to local collections.
6. Reburial. Allow a cultural ceremony to be performed revering our ancestors. Make sure all burial items are held with the utmost respect.

¹³ City of Goleta, 2019. *City of Goleta Citywide Historic Context Statement*. February.

APPENDIX A

TRIBAL OUTREACH CORRESPONDENCE FORMAT

This appendix provides a standard format for undertaking outreach with Chumash tribal representatives to facilitate identification of potential tribal cultural resources within a project site and if these may exist, to solicit comments on how to feasibly address them.

The City of Santa Barbara Community Development Department Planning Division will maintain a list of Chumash tribal representatives identified by the Native American Heritage Commission (NAHC) that will be updated on a regular, periodic basis (e.g., quarterly throughout the year). This list will be used by consultants to distribute preliminary results of archaeological resource investigations to tribal representatives, in order to request and include all information on tribal cultural resources that are known or may be present within a given project site by those representatives.

In order to ensure consistency and clarity in this community, the following format is provided. The consultant can elect to provide additional details where considered appropriate.

(Insert Recipient Contact Information)

SENT VIA EMAIL

(DATE)

Subject: Tribal Outreach for the Preparation of *(Insert Report Name and Address)*

Dear ____ *(insert the appropriate name of the tribal representative),*

I am requesting your review of the attached preliminary report *(indicate what phase)* for the proposed *(indicate the project name and location)*. This represents tribal outreach complying with the City of Santa Barbara Master Environmental Assessment (MEA) Guidelines for Archaeological Resources and MEA Guidelines for Tribal Cultural Resources. The objective of this outreach is to provide local tribal representatives the opportunity to comment on technical reports so that any known or potential tribal cultural resources within a project site are appropriately identified, and that measures are incorporated in the report to address any project impacts that may affect those known or potential tribal cultural resources.

This tribal outreach is not subject to formal government-to-government consultation pursuant to Senate Bill (SB) 18, Assembly Bill (AB) 52 or the National Historic Preservation Act (NHPA) Section 106 regulations. The City of Santa Barbara, however, is committed to gaining your input, comments, and/or concerns regarding this project.

A background records search for the project was completed at the California Historical Resources Information System (CHRIS), Central Coast Information Center (CCoIC) at the Santa Barbara Museum of Natural History. This revealed that (_) archaeological sites are recorded on the project site, and that (_) archaeological sites are recorded within (__) mile of the project site. (_) previous investigations have been undertaken within the project site, and (_) previous investigations have been undertaken within (_) mile of the project site. The intensive ground surface of the proposed project impact areas identified (_) prehistoric resources. These resources are considered to be/not be significant pursuant to City and State significance criteria. Measures to address these resources include __ *(summarize all standard conditions or specific recommendations presented in the report)*.

Please provide your comments on this preliminary Phase (_) Report by _ *(two weeks from outreach)*. Your response is very much appreciated.

(Insert Archaeologist Signature Block and Contact Information)

APPENDIX B

TRIBAL CONSULTATION LETTER TEMPLATE

This appendix provides a standard template for initiating tribal consultation with Chumash tribal representatives.

This template may be used by City staff to initiate tribal consultation pursuant to Assembly Bill (AB) 52, Senate Bill (SB 18), and Section 106 of the National Historic Preservation Act (NHPA).

Instructions:

- Fill in the blanks where indicated. Delete all instructions in *italics* and inapplicable text from the letter.
- A project location map is required to be attached to the letter.
- If available, a Sacred Lands File completed by the NAHC should be attached.
- If available, archaeological investigations completed at the project site should be attached.
- Letters should be mailed to each recipient via certified mail. Copies of each letter and proof of mailing should be kept in the administrative record for the project.
- Additionally, letters should be emailed if an email address is provided.
- Review MEA Guidelines for Tribal Cultural Resources Chapter 5.0, Best Practices for Consultation and Respectful Engagement

1. *(Insert the following on City letterhead)*

[DATE]

[Name, Title]

[Tribal Affiliation]

[Mailing Address]

[Phone Number]

[Email Address]

Subject: Tribal Consultation for ____ *(Insert project name and address)*

Dear ____ *(Name of the tribal representative):*

2. *(Choose one and insert brief summary of the project, including type, size, and purpose)*

The City of Santa Barbara is reviewing a proposed project at ____ *(Insert project name and address).*

OR

The City of Santa Barbara has decided to undertake the following project: ____

(Insert project description)

3. *(Choose one or more depending on applicability, delete inapplicable text)*

(AB 52) The project is subject to the Assembly Bill (AB) 52 and Public Resources Code Section 21080.3.1, and the California Environmental Quality Act (CEQA). An important component of AB 52 compliance is to conduct tribal consultation with California Native American Tribes that have knowledge of tribal cultural resources in the area. Accordingly, please consider this as a formal request to conduct consultation regarding potential tribal cultural resources within the project site.

(AB 168) The project qualifies as an affordable housing project undergoing the streamlined ministerial process under Senate Bill 35 and is therefore subject to comply with the tribal consultation requirements of Assembly Bill 168. An important component of AB 168 compliance is to conduct tribal scoping consultation with California Native American Tribes that have knowledge of tribal cultural resources in the area.

(SB 18) In compliance with Senate Bill (SB) 18 and Government Code Section 65352, the City is contacting California Native American Tribes to inquire if they wish to engage in government-to-government consultation with City staff for this project.

(Section 106 of the NHPA) The project is subject to the National Historic Preservation Act (NHPA) Section 106 Guidelines. An important component of the Section 106 Guidelines compliance is to conduct consultation with local, federally recognized tribes that have knowledge of tribal cultural resources in the area. Accordingly, please consider this as a formal request to conduct consultation regarding potential tribal cultural resources within the project site.

4. *(Include if a Sacred Lands File search was completed)*

A search of the California Native American Heritage Commission Sacred Lands Inventory determined that the project site was (*choose one: positive / negative*) for tribal cultural resources.

5. *(Include if an archaeological investigation was completed)*

An archaeological investigation was completed at the project site and is attached. Measures to address these resources include __ (*summarize all standard conditions or specific recommendations presented in the report*)

6. *(Insert contact information)*

If you wish to initiate consultation, please respond to the contact information provided below. For further information or to schedule a consultation meeting, please contact:

[*Name, Title*]
[*Phone Number*]
[*Email Address*]
[*Mailing Address*]

The City of Santa Barbara hopes to engage your participation in consultation at your earliest convenience.

Respectfully,

7. *(Insert signature block and include attachments)*

[*Name, Title*]
City of Santa Barbara

Attachment 1: [Project Location Map and/or USGS Quadrangle (*required*)

Attachment 2: NAHC Sacred Land File Search (*if available*)

Attachment 3: Project Archaeological Resources Report