

**Appendix M SB 18/AB 52 Tribal Consultation Letter
Responses**

Appendices

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CITY of LAGUNA NIGUEL

30111 Crown Valley Parkway / Laguna Niguel,
California, 92677
Phone / 949-362-4300 Fax / 949-362-4340

CITY COUNCIL

Mayor John Mark Jennings
Mayor Pro Tem Laurie Davies
Council Member Elaine Gennawey
Council Member Fred Minagar
Council Member Sandy Rains

October 25, 2019

Subject: Native American Consultation Pursuant to AB 52 and SB 18 - City Center Mixed-Use Project, Laguna Niguel, Orange County, California.

To Whom It May Concern:

The City of Laguna Niguel (City) is the Lead Agency under the California Environmental Quality Act (CEQA) for a proposed development project currently referred to as the "City Center Mixed-Use Project." The project includes a General Plan Amendment (GPA 19-01). The proposal includes grading and development of a +/- 207,000 square feet of collective building area for commercial uses and up to 275 multi-family residential units. The project also notably includes a parking structure, surface parking, and site landscaping. The project is envisioned to be an integrated, walkable, community-oriented space for its visitors as well as the on-site residents. The project site is +/- 24 acres in area and is generally located at the intersection of Crown Valley Parkway and Alicia Parkway in the City of Laguna Niguel adjacent to City Hall (see Figures 1 and 2). The property general consists of the South County Justice Center (closed 2008), the Orange County Library, a County maintenance yard and undeveloped land (see Figure 3).

Pursuant to the provisions of CEQA, Public Resources Code Section 21080.3.1 subdivisions (b), (d) and (e), also known as Assembly Bill (AB) 52, please consider this letter with a description of the proposed project, map exhibits showing the project location (Figures 1-3), and the Lead Agency contact person as formal notification. The City is requesting to consult with you in order to identify tribal cultural resources that may be impacted by the project.

Additionally, the City is requesting consultation under Senate Bill (SB) 18, which requires local governments to consult with tribes prior to making certain planning decisions and requires consultation and notice for a General Plan and Specific Plan adoption or amendment in order to preserve, or mitigate impacts to, cultural places that may be affected. Please consider this letter as a notice of the project, which includes a General Plan Amendment, and an invitation to request consultation with the City regarding the proposed project.

Previous Projects

Please note as reference, previous cultural resources studies were prepared for the project area for the South Court Facility Environmental Impact Report (EIR) in 2008 and the AGORA Downtown mixed-use development project EIR in 2016. Neither of these projects were ultimately constructed.

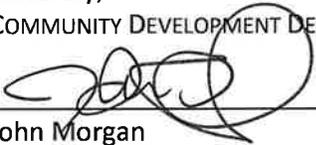
The Native American Heritage Commission (NAHC) was contacted on January 20, 2016 to perform a search of the Sacred Lands File. The NAHC responded on January 28, 2016 and reported that no Native American sacred sites and/or heritage resources are located within the project area or the immediate vicinity.

A record search was conducted for the project area on January 26, 2016 at the South Central Coast Information Center (SCCIC), California State University at Fullerton. The record search covered a one-mile radius around the Project boundaries. The search indicated a total of 25 cultural resources studies had been completed within the one-mile radius of the project area. Of these, four studies included a portion of the project area. The record search also found that CA-ORA-33 is located at the southern boundary of the project area and is a shell midden that was tested in 1960 and labeled as a seasonal camp. Two additional recorded resources are known within a half mile and consist of a metate and a minimally recorded site with surface finds that was destroyed by development in 1976.

A pedestrian archaeological survey was conducted in 2008 within the project area for the South Court Facility EIR. This survey was negative for cultural resources. The locations of all prior known sites are completely developed over. The EIR recommends halt of work in the event of inadvertent discoveries as the primary mitigation measure.

In accordance with Public Resources Code Section 21080.3.1(d) for AB 52, please respond in writing within 30 days if you would like to consult on this project. For consultation under SB 18, a request must be made within 90 days of the date of this notice. Thank you for your consideration on this matter and please do not hesitate to contact me should you have any questions or need additional information.

Sincerely,
COMMUNITY DEVELOPMENT DEPARTMENT



John Morgan
Development Services Manager (Lead Agency Contact)
949.362.4332
jmorgan@cityoflagunaniguel.org

Attachments: Project Vicinity Map
Project Location Map
Project Aerial Plan



Figure 1. Project Vicinity Map

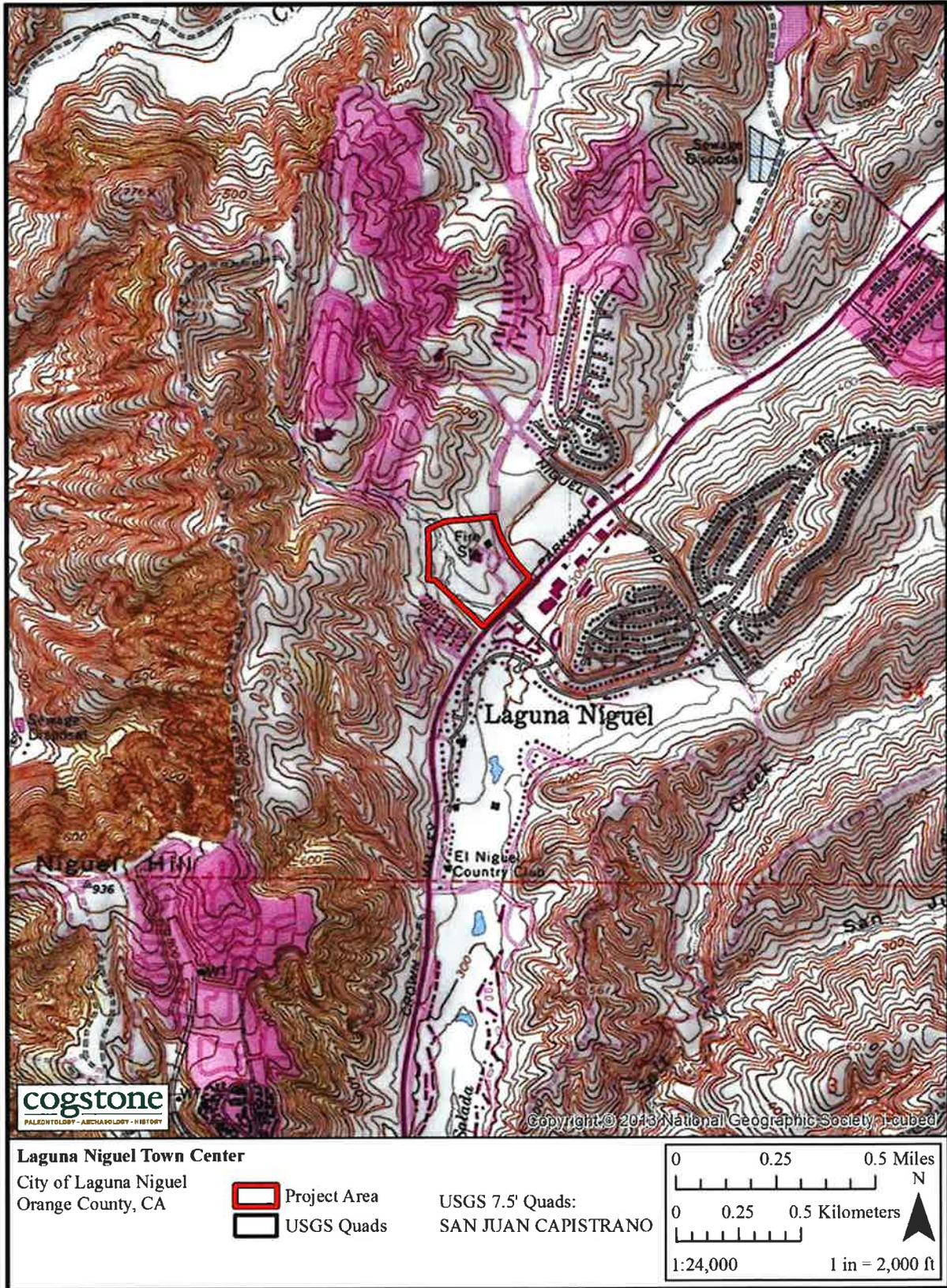


Figure 2. Project Location Map



THIS DRAWING WAS PREPARED USING RECORD INFORMATION AND IS NOT BASED ON A FIELD SURVEY.
 THE BOUNDARY LINES SHOWN ARE APPROXIMATE AND SHOULD BE VERIFIED BY A REGISTERED SURVEYOR.
 DIMENSIONS ON THIS DRAWING ARE IN FEET AND DECIMALS THEREOF. DIMENSIONS ARE LOCATED WITHIN A MARKING-CORNER OF 1/4 ONE FOOT.



SOUTH COUNTY CIVIC CENTER

MIN 2015-002

EXHIBIT

Figure 3. Project Aerial Plan

NATIVE AMERICAN HERITAGE COMMISSION
Cultural and Environmental Department
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Phone: (916) 373-3710
Email: nahc@nahc.ca.gov
Website: <http://www.nahc.ca.gov>



October 8, 2019

John Morgan
City of Laguna Niguel

VIA Email to: jmorgan@cityoflagunaniguel.org

RE: Native American Consultation, Pursuant to Senate Bill 18 (SB18), Government Codes §65352.3 and §65352.4, as well as Assembly Bill 52 (AB52), Public Resources Codes §21080.1, §21080.3.1 and §21080.3.2, City Center Mixed-Use Project, Orange County

Dear Mr. Morgan:

Attached is a consultation list of tribes with traditional lands or cultural places located within the boundaries of the above referenced counties or projects.

Government Codes §65352.3 and §65352.4 require local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of avoiding, protecting, and/or mitigating impacts to cultural places when creating or amending General Plans, Specific Plans and Community Plans.

Public Resources Codes §21080.3.1 and §21080.3.2 requires public agencies to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of avoiding, protecting, and/or mitigating impacts to tribal cultural resources as defined, for California Environmental Quality Act (CEQA) projects.

The law does not preclude local governments and agencies from initiating consultation with the tribes that are culturally and traditionally affiliated within your jurisdiction. The NAHC believes that this is the best practice to ensure that tribes are consulted commensurate with the intent of the law.

Best practice for the AB52 process and in accordance with Public Resources Code §21080.3.1(d), is to do the following:

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.

The NAHC also recommends, but does not require that lead agencies include in their notification letters, information regarding any cultural resources assessment that has been completed on the area of potential affect (APE), such as:

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

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code Section 6254.10.
3. The result of the Sacred Lands File (SFL) check conducted through the Native American Heritage Commission. The request form can be found at <http://nahc.ca.gov/wp-content/uploads/2015/08/Local-Government-Tribal-Consultation-List-Request-Form-update.pdf>.
4. Any ethnographic studies conducted for any area including all or part of the APE; and
5. Any geotechnical reports regarding all or part of the APE.

Lead agencies should be aware that records maintained by the NAHC and CHRIS is not exhaustive, and a negative response to these searches does not preclude the existence of a tribal cultural resource. A tribe may be the only source of information regarding the existence of a tribal cultural resource.

This information will aid tribes in determining whether to request formal consultation. In the event, that they do, having the information beforehand well help to facilitate the consultation process.

If you receive notification of change of addresses and phone numbers from tribes, please notify the NAHC. With your assistance, we can assure that our consultation list remains current.

If you have any questions, please contact me at my email address: steven.quinn@nahc.ca.gov.

Sincerely,



Steven Quinn
Associate Governmental Program Analyst

Attachment

From: [Gonzalez Romero, Arysa \(TRBL\)](#)
To: [John Morgan](#)
Subject: AB52 and SB18 "City Center Mixed-Used Project"
Date: Wednesday, November 06, 2019 3:05:25 PM

Greetings,

A records check of the Tribal Historic preservation office's cultural registry revealed that this project is not located within the Tribe's Traditional Use Area. Therefore, we defer to the other tribes in the area. This letter shall conclude our consultation efforts.

Thank you,

Arysa Gonzalez Romero
Historic Preservation Technician
Agua Caliente Band of Cahuilla Indians
5401 Dinah Shore Drive Palm Springs, CA 92264
D: 760-883-1327 | C: 760-831-2484



TRIBAL HISTORIC PRESERVATION OFFICE
PALA BAND OF MISSION INDIANS
PMB 50, 35008 Pala Temecula Road | Pala, CA 92059
Phone 760-891-3510 | www.palatribe.com

December 4, 2019

John Morgan
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677

Re: AB-52 Consultation; City Center Mixed-Use Project

Dear Mr. Morgan:

The Pala Band of Mission Indians Tribal Historic Preservation Office has received your notification of the project referenced above. This letter constitutes our response on behalf of Robert Smith, Tribal Chairman.

We have consulted our maps and determined that the project as described is not within the boundaries of the recognized Pala Indian Reservation. The project is also beyond the boundaries of the territory that the tribe considers its Traditional Use Area (TUA). Therefore, we decline AB-52 consultation at this time, but do not waive our right to request consultation under other applicable laws in the future. At this point we defer to the wishes of Tribes in closer proximity to the project area.

We appreciate involvement with your initiative and look forward to working with you on future efforts. If you have questions or need additional information, please do not hesitate to contact Alexis Wallick by telephone at 760-891-3537 or by e-mail at awallick@palatribe.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Shasta C. Gaughen". The signature is fluid and cursive.

Shasta C. Gaughen, PhD
Tribal Historic Preservation Officer
Pala Band of Mission Indians