



INTERTRIBAL
TRANSPORTATION
WORKING GROUP

MEETING NOTICE AND AGENDA

Barona Band of Mission Indians
Campo Band of Mission Indians
Ewiiapaayp Band of the Kumeyaay Indians
Iipay Nation of Santa Ysabel
Jamul Indian Village of California
La Jolla Band of Luiseño Indians
La Posta Band of the Kumeyaay Nation
Pala Band of Mission Indians
Pauma Band of Luiseño Indians
Rincon Band of Luiseño Indians
San Pasqual Band of Diegueño Indians
Sycuan Band of the Kumeyaay Nation
Viejas Band of Kumeyaay Indians

INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES

The Interagency Technical Working Group on Tribal Transportation Issues may take action on any item appearing on this agenda.

Wednesday, January 25, 2017

10 a.m. to 12 noon
(Followed by luncheon)

Final Cut Restaurant
Hollywood Casino
Jamul Indian Village
14145 Campo Road
Jamul, CA 91935

Staff Contact: Jane Clough
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AGENDA HIGHLIGHTS

- **SAN DIEGO FORWARD: THE REGIONAL PLAN: DEVELOPMENT OF TRIBAL CONSULTATION PLAN FOR THE 2019 REGIONAL PLAN**
- **ASSEMBLY BILL 52 TRIBAL CULTURAL RESOURCE CONSULTATION FOR SAN DIEGO FORWARD: THE REGIONAL PLAN**
- **WORKSHOP ON INTRAREGIONAL TRIBAL TRANSPORTATION STRATEGY**

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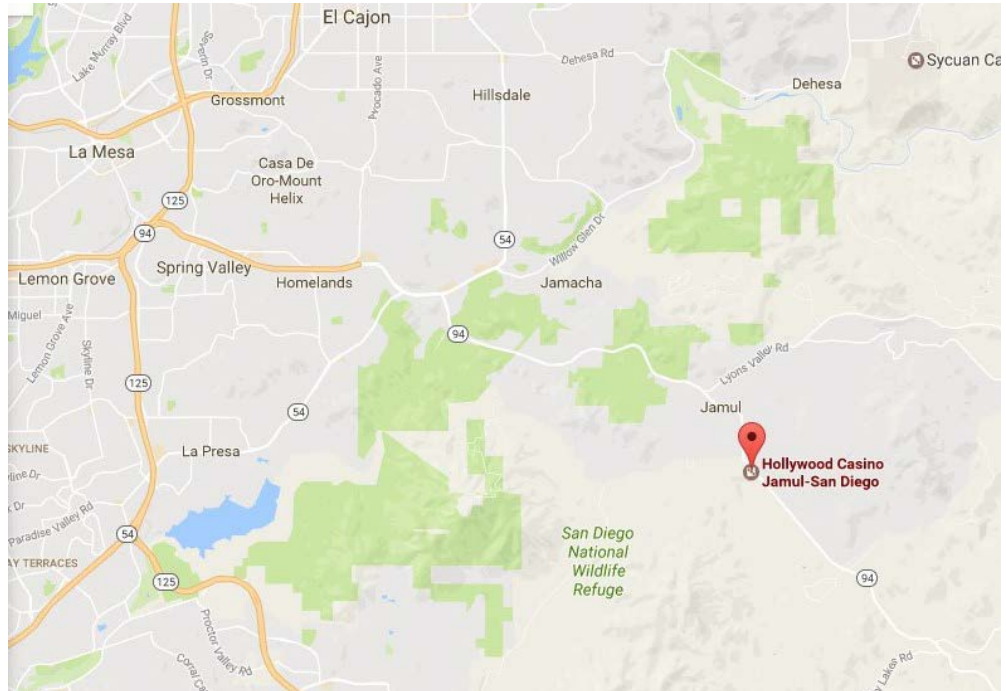
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DIRECTIONS TO MEETING LOCATION

Meeting Location:
Final Cut Steakhouse
Hollywood Casino
Jamul Indian Village
14145 Campo Road
Jamul, CA 91935



Driving Directions:

From Downtown San Diego

Take I-5 South
Merge onto CA-94 East
Turn right onto CA-94 E/Campo Road
Proceed approximately 6 miles
Turn right for Hollywood Casino

From North County

Take I-15 South toward San Diego
Take Exit 6B for I-8 E towards El Centro
Continue onto I-8 E
Merge onto CA-125 S
Take Exit 17A - Spring St towards CA-94 E
Turn left onto Spring St
Slight right to merge onto CA-94 E
Turn right onto CA-94 E/Campo Rd
Proceed approximately 6 miles
Turn right for Hollywood Casino

Public Transit:

From the El Cajon Transit Center, take Eastbound Route 894
Disembark at Hwy 94 & Maxfield Rd
Walk $\frac{3}{4}$ of a mile to Hollywood Casino

From South Bay

Take CA-54 E
Continue onto CA-125 North
Take Exit 15 to merge onto CA-94 E
Turn right onto CA-94 E/Campo Road
Proceed approximately 6 miles
Turn right for Hollywood Casino

From East of Alpine

Take I-8 West toward San Diego
Take Exit 20A for E Main St
Turn left onto E Main St
Turn left onto Jamacha Rd
Turn left onto Willow Glen Dr
Turn right onto Steele Canyon Rd
Turn left onto CA-94 E/Campo Rd
Proceed approximately 3.5 miles
Turn right for Hollywood Casino

INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES

Wednesday, January 25, 2017

ITEM NO.		RECOMMENDATION
1.	WELCOME BY JAMUL TRIBAL COUNCIL AND SELF INTRODUCTIONS The Jamul Tribal Council will welcome the Interagency Technical Working Group on Tribal Transportation Issues (Working Group) members and public to their tribal nation.	INFORMATION
2.	PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS (Erica Pinto, Working Group Co-Chair, Jamul Indian Village of California) Members of the public shall have the opportunity to address the Working Group on any issue within the jurisdiction of SANDAG that is not on this agenda. Anyone desiring to speak shall reserve time by completing a "Request to Speak" form and giving it to the Working Group coordinator prior to speaking. Public speakers should notify the Working Group coordinator if they have a handout for distribution to Working Group members. Public speakers are limited to three minutes or less per person. Working Group members also may provide information and announcements under this agenda item.	INFORMATION
+3.	APPROVAL OF MEETING MINUTES (Erica Pinto, Working Group Co-Chair, Jamul Indian Village of California) The Working Group is asked to review and approve the minutes from its November 30, 2016, meeting hosted by the Rincon Band of Luiseño Indians.	APPROVE

REPORTS

+4.	SAN DIEGO FORWARD: THE REGIONAL PLAN: DEVELOPMENT OF TRIBAL CONSULTATION PLAN FOR THE 2019 REGIONAL PLAN (Claudine Montes, Southern California Tribal Chairmen's Association; Jane Clough, SANDAG) Federal law requires that SANDAG prepare a long-range transportation plan and make an air quality conformity determination every four years. The SANDAG Board of Directors adopted the current plan, known as San Diego Forward: The Regional Plan (Regional Plan), in 2015. As part of the update scheduled for adoption in 2019, SANDAG must develop a Tribal Consultation Plan before the update begins to ensure the timely and meaningful engagement of tribal nations in the decision-making process. The Working Group is asked to review the structure of the Tribal Consultation Plan from the 2015 cycle and provide input and feedback on how to structure tribal consultation for this cycle.	DISCUSSION/ POSSIBLE ACTION
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ITEM NO.**RECOMMENDATION**

- +5. **ASSEMBLY BILL 52 TRIBAL CULTURAL RESOURCE CONSULTATION FOR SAN DIEGO FORWARD: THE REGIONAL PLAN (Andrew Martin, SANDAG)**

INFORMATION

On October 5, 2016, staff sent letters to California Native American tribes traditionally and culturally affiliated with the San Diego region announcing initiation of the planning process for an update to the Regional Plan and preparation of a new Environmental Impact Report. Pursuant to Assembly Bill 52 (Gatto, 2014) (AB 52), tribes had 30 days from receipt of the letter to request tribal cultural resource consultation. Staff will update the Working Group on the AB 52 tribal cultural resource consultation activities that have occurred to date and will discuss the next steps in the consultation process.

- +6. **WORKSHOP ON INTRAREGIONAL TRIBAL TRANSPORTATION STRATEGY (Claudine Montes, Southern California Tribal Chairmen's Association; Jane Clough, SANDAG)**

DISCUSSION

SANDAG and the Southern California Tribal Chairmen's Association are developing an Intraregional Tribal Transportation Strategy funded by a Caltrans Strategic Partnership Planning Grant. The transportation needs survey was completed in the fall of 2016, cost estimates were calculated, and a tool for analyzing the identified projects was developed. Work has been done on clustering the projects using different organizing principles. The Working Group today is asked to examine some alternative ways of organizing the strategic document using different criteria. The strategic document will be developed based on direction provided by the Working Group.

7. **TOPICS FOR NEXT MEETING AND ADJOURNMENT (Erica Pinto, Tribal Co-Chair, Jamul Indian Village of California)**

DISCUSSION/
POSSIBLE ACTION

The Working Group is asked to discuss potential topics for the next quarterly meeting which should take place in March/April. As the January meeting was in the south it is recommended that the next quarterly meeting is held in the north.

+ next to an item indicates an attachment

San Diego Association of Governments
INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL
TRANSPORTATION ISSUES

January 25, 2017

AGENDA ITEM NO.: **3**

Action Requested: APPROVE

NOVEMBER 30, 2016, MEETING MINUTES

File Number 3400500

The meeting of the Interagency Technical Working Group on Tribal Transportation Issues (Working Group) was called to order by Working Group Co-Chair, Adam Geisler (La Jolla Band of Luiseño Indians) at 10:15 a.m.

1. WELCOME BY RINCON TRIBAL COUNCIL AND SELF INTRODUCTIONS (INFORMATION)

Alfonso Kolb, Sr. (Rincon Band of Luiseño Indians) welcomed the Working Group to the Rincon Tribal Hall and conducted the opening prayer. Meeting attendees made self-introductions.

Tribal nations represented: Barona Band of Mission Indians, Jamul Indian Village of California, La Jolla Band of Luiseño Indians, Pala Band of Mission Indians, Pauma Band of Luiseño Indians, Rincon Band of Luiseño Indians, San Pasqual Band of Diegueño Indians, and Viejas Band of Kumeyaay Indians.

2. PUBLIC/MEMBER COMMENTS AND COMMUNICATIONS (INFORMATION)

Co-Chair Geisler informed the Working Group that he recently made presentations to the SANDAG Borders Committee and Transportation Committee. During these presentations, he highlighted the need for more frequent engagement between SANDAG leadership and tribal leadership and presented a request that the committees consider having one of their members sit on the Working Group in order to increase continuity and feedback. He noted that Ron Roberts and Greg Cox seemed to see the value in the idea and thanked Erica Pinto (Jamul Indian Village of California) for putting the items on the agendas.

Charles "Muggs" Stoll (SANDAG) noted that many working groups have an elected official seated on them, and that he would take this concept to SANDAG leadership and report back to the Working Group at its next meeting.

Co-Chair Geisler commented that he would like to see this topic brought before the SANDAG Board of Directors for the sake of transparency.

Co-Chair Geisler also highlighted that with Measure A failing to pass, there is even less funding to go around. He suggested that the next time a measure is considered, it would be beneficial for the tribes to be involved from the inception. Another suggestion to bring up to the Transportation Committee and Borders Committee was to see how the Southern California Tribal Chairmen's Association (SCTCA) and SANDAG leadership could meet periodically between summits so there is more continuity in communication, and collaborative strategies can be developed. Co-Chair Geisler suggested that informal luncheons with SANDAG leadership could be a possible venue for communication.

Co-Chair Geisler also reported on highlights from the Native American Advisory Committee (NAAC) of Caltrans. He recommended that whoever becomes Co-Chair of the Working Group continue to bring information back from the state. His report included the following:

- The State of California is developing urban and rural freight corridor designations and has two tribal delegates from NAAC to help with the process. The delegates are Margaret Parks (Morongo Band of Mission Indians) and Sandi Tripp (Karuk Tribe). Co-Chair Geisler recommended the Working Group invite these individuals to a meeting to learn more about the process.
- Caltrans currently records crash information on reservations as having happened on private property. This process is being modified, and California Highway Patrol (CHP) districts are holding listening sessions that should be contributed to. If Working Group members want their data tracked, they need to ask for it. If they don't, they should communicate that as well. Co-Chair Geisler recommended that the Working Group invite Chief Scott Gillingwater, the new Tribal Liaison to the CHP, to a meeting in February or March.
- Co-Chair Geisler recommended that the tribes consider writing a collective letter to Caltrans in preparation for the administration change. This letter could include recommendations as well as demonstrations of the partnership shown with Caltrans and the state. This issue was suggested for the next meeting's agenda.

Shane Helms (Morongo) presented information regarding the Tribal Transportation Self-Governance Program. Rules that apply to tribal self-governance are being updated, so those who want to be involved in the process were encouraged to refer to a handout for a relevant website.

3. APPROVAL OF MEETING MINUTES (APPROVE)

Action: Upon a motion by Dale Brush (Pauma Band of Luiseño Indians) and a second by Raymond Welch (Barona Band of Mission Indians), the Working Group approved the minutes from the September 7, 2016, meeting. Yes – Mr. Welch, Ms. Pinto, Co-Chair Geisler, Shasta Gaughen (Pala Band of Mission Indians), Mr. Brush, Mr. Kolb, Andrew Orosco, Jr. (San Pasqual Band of Diegueño Indians). No – None. Abstain – None. Absent – Campo Kumeyaay Nation, Ewiiapaayp Band of the Kumeyaay Nation, Lipay Nation of Santa Ysabel, La Posta Band of the Kumeyaay Nation, Sycuan Band of the Kumeyaay Nation, Viejas Band of Kumeyaay Indians.

CONSENT

4. 2019 REGIONAL PLAN – ASSEMBLY BILL 52 TRIBAL CONSULTATION (INFORMATION)

Jane Clough (SANDAG) informed the Working Group that SANDAG currently is undertaking the development of the 2019 San Diego Forward: Regional Plan (2019 Regional Plan). Pursuant to Assembly Bill 52 (Gatto, 2014) (AB 52) requirements for tribal resource consultation on the Environmental Impact Report, SANDAG mailed a formal notification of this undertaking to Native American tribes traditionally and culturally affiliated with the San Diego region on October 5, 2016. Pursuant to AB 52, tribes had 30 days from receipt of the notification to request consultation. The following tribes requested consultation: Campo Kumeyaay Nation, La Posta Band of the Kumeyaay Nation, Pala Band of Mission Indians, San Luis Rey Band of Mission Indians, San Pasqual Band of Diegueño Indians, and Rincon Band of Luiseño Indians. SANDAG responded to those tribes on November 18, 2016.

Co-Chair Geisler noted that some tribes may not have requested engagement due to limited capacity and requested that the Working Group continue to discuss this process as it unfolds so that all tribes can stay informed.

Ms. Gaughen noted that some tribes may have held off on sending a letter due to fears about committing themselves to something beyond their capacity. She encouraged everyone to always send a letter to keep the door open to express concerns as projects develop. She also highlighted that although SANDAG is the lead agency for the 2019 Regional Plan, actual projects within it may be headed by Caltrans, local jurisdictions, etc. Each project will have its own AB 52 process as they are implemented. She noted that tribes must reach out to agencies to let them know that they wish to be consulted on AB 52-related projects in general. Because some non-agency entities, such as school districts, may end up doing projects that fall under AB 52, they may not be familiar with the process either.

Co-Chair Geisler suggested that the Working Group receive a refresher course on AB 52.

Ms. Clough noted that the Tribal Consultation Plan for the 2019 Regional Plan needs to be developed as well and is a separate process. She suggested that the Working Group discuss these topics at the next meeting to determine how they may overlap. Ms. Gaughen offered to help with the discussion, and Andrew Martin (SANDAG) will be invited to the meeting to provide insight from SANDAG.

REPORTS

5. REVISION TO INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES CHARTER (DISCUSSION/POSSIBLE ACTION)

Recently, Co-Chair Geisler presented an update on the Tribal Liaison Program and the Working Group activities to the SANDAG Transportation Committee and Borders Committee. Given the transportation focus of the Working Group, it was recommended the Charter be revised to have the Working Group report not only to the Borders Committee but also to the Transportation Committee. In addition, as the Working Group meets quarterly, it is suggested that the term of the Co-Chair be two years instead of one year. Finally, it was suggested that the SCTCA be added into the Charter.

The Working Group briefly discussed whether there were other committees that should be added as well. Ms. Clough noted that the Working Group can bring a report to any committee as they see fit and that this change was geared towards areas of regular communication.

Co-Chair Geisler noted that the Charter is a living document and it can be amended as necessary in the future.

Action: Upon a motion by Ms. Pinto and a second by Mr. Kolb, the Working Group approved the extension of the Co-Chair term to two years and the requirement to report to the Transportation Committee as well as the Borders Committee. Yes – Mr. Welch, Ms. Pinto, Co-Chair Geisler, Ms. Gaughen, Mr. Brush, Mr. Kolb, Mr. Orosco. No – None. Abstain – None. Absent – Campo Kumeyaay Nation, Ewiiapaayp Band of the Kumeyaay Nation, Iipay Nation of Santa Ysabel, La Posta Band of the Kumeyaay Nation, Sycuan Band of the Kumeyaay Nation, Viejas Band of Kumeyaay Indians.

6. ELECTION OF THE INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES CO-CHAIR (DISCUSSION/POSSIBLE ACTION)

The Working Group postponed the election of the Co-Chair to the end of the agenda.

7. WORKSHOP ON INTRAREGIONAL TRIBAL TRANSPORTATION STRATEGY (DISCUSSION)

SANDAG and the SCTCA are developing an Intraregional Tribal Transportation Strategy (ITTS) funded by a Caltrans Strategic Partnership Planning Grant. Over the summer, almost all of the tribes in the region participated in a transportation needs survey to examine their multimodal issues. The results were presented at the last workshop in September. At that time the Working Group reviewed the results, made corrections and additions, and also reviewed/discussed criteria to use in clustering projects. The meeting ended with a request to develop cost estimates of the projects to get a sense of their magnitude.

Matt Horton (Kimley-Horn) addressed the Working Group to introduce and explain the process for cost estimating, explain areas of overlap that were identified between agencies, and give a brief overview of a tool and its functions. He also highlighted that the tool was designed for improvement projects and that other information gathered by the survey such as wanting removal of certain infrastructure would not be reflected. He noted that no data gathered has been thrown out, but the tool is designed to sort through improvement projects that will need funding.

The projects reported in the survey will cost \$3 billion total, according to consultant estimates. Mr. Horton walked the Working Group through a chart to show where tribal projects overlapped with county, Caltrans, and SANDAG projects. Highlights included:

- 1 percent of the projects identified overlap with the county Capital Improvement Program and can be considered programmed
- Other areas of overlap can be considered "planned," but funding and political whims change constantly, and these projects are not guaranteed
- 33 percent of projects identified are "tribal-only" but may still be potential sources of collaboration among the tribes or with other funding sources
- The estimates prepared are planning-level cost estimates and serve to show order of magnitude

The Working Group then returned to discussion of the tool and its usefulness for identifying funding sources. Co-Chair Geisler noted that this tool/database can be used for community development projects and internal collaboration as well. As the tool is the first of its kind, it can help create a leg up for the tribes. He also requested that Kimley-Horn send the survey out again so that tribes can contribute other projects now that they better understand the use of the tool.

Mr. Horton offered to send out the Excel files on each tribe to their respective contact so that they can update or add data as desired. Ms. Clough suggested that these updates be finalized by January and that tribes should also look at the funding sources and recommend others that they may be aware of.

Ms. Clough reminded the Working Group that the tool is to help organize the projects in a meaningful way and is not an end in and of itself. In addition, this cut of how to organize will need to be done in the context of the Caltrans Strategic Partnership Planning Grant, which has a specific timeframe. That is not to say the tool cannot be used for a long period of time, but that the output for the purposes of the Caltrans Strategic Partnership Planning Grant needs to be decided upon and memorized on paper as a product. So as soon as the data for the tool is finalized, the next steps will be to cluster projects and create the ITTS.

Co-Chair Geisler suggested that Ms. Pinto present the tool to the SCTCA within the next two months so that they can see the work being done. Ms. Pinto invited Kimley-Horn to join her for the presentation.

Ray Teran (Viejas) asked who will own the tool, and who will receive access. He raised the issue of developing a protocol for the use of the tool and suggested the Working Group discuss this in the context of the project.

Mr. Stoll and Ms. Clough responded that it is jointly owned by SANDAG/SCTCA and can be posted online and can be publicly accessible or password-protected, depending on the Working Group's desires. Ms. Clough noted that the end goal is not the tool but rather the ITTS developed from it and how the information is incorporated not only into the Regional Transportation Plan but used for other funding opportunities. Co-Chair Geisler reminded the Working Group that the ITTS will be incorporated into the 2019 Regional Plan, so information given to the database should not be confidential in nature.

Co-Chair Geisler and Mr. Kolb noted that these aren't only "tribal" improvement projects but improvements for anyone in the county who uses these facilities. The Working Group agreed that this sentiment was important, and the ITTS should clearly state this goal at the beginning.

It was determined that each tribe should be contacted by Kimley-Horn with the data collected from their surveys and with a list of funding sources for their review/additions. Any revisions must be submitted by January 1, 2017, in order to keep the project on track.

8. TOPICS FOR NEXT MEETING AND ADJOURNMENT (DISCUSSION/POSSIBLE ACTION)

The Working Group discussed potential items for the next meeting. Topics included having a CHP representative come to discuss safety data, a discussion about the AB 52 and 2019 Regional Plan Tribal Consultation Plans, and the review of a draft letter to Caltrans highlighting past accomplishments of the Working Group.

Co-Chair Geisler noted that the state is ramping up their bike plan, and it would be useful to have someone involved make a presentation to the Working Group.

Co-Chair Geisler suggested that the framework from the 2019 Regional Plan Tribal Consultation Plan be maintained with tweaks made by the Working Group and that the Working Group will not have to completely reinvent a consultation plan.

The next meeting of the Working Group was scheduled for Wednesday, January 25, 2017, from 10 a.m. to 12 noon at the Jamul Indian Village.

6. (Revisited) ELECTION OF THE INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES CO-CHAIR (DISCUSSION/POSSIBLE ACTION)

The Working Group revisited the election prior to the adjournment of the meeting.

Action: Upon a motion by Co-Chair Geisler and a second by Mr. Welch, the Working Group approved the election of Ms. Pinto for the position of Co-Chair. Yes – Mr. Welch, Ms. Pinto, Co-Chair Geisler, Ms. Gaughen, Mr. Brush, Mr. Kolb, Mr. Orosco. No – None. Abstain – None. Absent – Campo Kumeyaay Nation, Ewiiapaayp Band of the Kumeyaay Nation, Iipay Nation of Santa Ysabel, La Posta Band of the Kumeyaay Nation, Sycuan Band of the Kumeyaay Nation, Viejas Band of Kumeyaay Indians.

Ms. Pinto asked if there could be a secondary Co-Chair position. Mr. Stoll answered that vice-chair positions do exist on some boards, and Co-Chair Geisler reminded the Working Group that this would require a revision to the Charter.

Action: Upon a motion by Co-Chair Geisler and a second by Mr. Brush, the Working Group approved an amendment to the Charter to include a Vice Co-Chair position. Yes – Mr. Welch, Ms. Pinto, Co-Chair Geisler, Ms. Gaughen, Mr. Brush, Mr. Kolb, Mr. Orosco. No – None. Abstain – None. Absent – Campo Kumeyaay Nation, Ewiiapaayp Band of the Kumeyaay Nation, Iipay Nation of Santa Ysabel, La Posta Band of the Kumeyaay Nation, Sycuan Band of the Kumeyaay Nation, Viejas Band of Kumeyaay Indians.

Action: Upon a motion by Ms. Pinto and a second by Co-Chair Geisler, the Working Group approved the nomination of Mr. Orosco for the position of Vice Co-Chair. Yes – Mr. Welch, Ms. Pinto, Co-Chair Geisler, Ms. Gaughen, Mr. Brush, Mr. Kolb, Mr. Orosco. No – None. Abstain – None. Absent – Campo Kumeyaay Nation, Ewiiapaayp Band of the Kumeyaay Nation, Iipay Nation of Santa Ysabel, La Posta Band of the Kumeyaay Nation, Sycuan Band of the Kumeyaay Nation, Viejas Band of Kumeyaay Indians.

The meeting was adjourned by Co-Chair Geisler at 12:36 p.m.

**INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES
MEETING ATTENDANCE FOR NOVEMBER 30, 2016**

JURISDICTION/ORGANIZATION	NAME	ATTENDING	COMMENTS
Barona Band of Mission Indians	Raymond Welch	Yes	
	Albert "Boxie" Phoenix	No	
	Clifford LaChappa	No	
	Sheilla Alvarez, Alternate	Yes	
	Melissa Donayre, Alternate	No	
Campo Kumeyaay Nation	Harry Cuero, Jr.	No	
	Marcus Cuero, Alternate	No	
Ewiiapaayp Band of the Kumeyaay Nation	Roberto Pinto, Sr.	No	
Iipay Nation of Santa Ysabel	Virgil Perez	No	
Jamul Indian Village of California	Erica Pinto	Yes	
	Michael A. Hunter, Alternate	Yes	
La Jolla Band of Luiseño Indians	Adam Geisler, Chair	Yes	
	Thomas Rodriguez	No	
	George Wilkins, Alternate	No	
	John Beresford, Alternate	No	
	Mark Lofton, Alternate	No	
La Posta Band of the Kumeyaay Nation	Eric LaChappa	No	
	Javaughn Miller, Alternate	No	
Pala Band of Mission Indians	Robert Smith	No	
	Howard Maxcy Jr.	No	
	Sheila Lopez, Alternate	No	
	Shasta Gaughen, Alternate	Yes	
	Marcos Orozco, Alternate	No	
Pauma Band of Luiseño Indians	Temet Aguilar	No	
	Dale Brush, Alternate	Yes	
Rincon Band of Luiseño Indians	Frank Mazzetti, III	No	
	Alfonso Kolb, Sr., Alternate	Yes	
San Pasqual Band of Diegueño Indians	Steve Cope	No	
	Andrew Orosco, Jr., Alternate	Yes	
	Dave Toler, Alternate	No	
Sycuan Band of the Kumeyaay Nation	Cody Martinez	No	
	Sid Morris, Alternate	No	

JURISDICTION/ORGANIZATION	NAME	ATTENDING	COMMENTS
Viejias Band of Kumeyaay Indians	Robert "Cita" Welch, Jr.	No	
	Victor Woods	No	
	Don Butz, Alternate	No	
	Darwin Tewanger, Alternate	No	
	Samuel Brown, Alternate	No	
ADVISORY MEMBERS LISTED BELOW (ATTENDANCE NOT COUNTED FOR QUORUM PURPOSES)			
Southern California Tribal Chairman's Association	Claudine Montes	Yes	
	Denis Turner, Alternate	No	
Bureau of Indian Affairs, Southern California	Steve Wilkie	No	
	Robert "RJ" Eben, Alternate	No	
Caltrans, District 11	Chi Vargas	Yes	
County of San Diego	Eric Lardy	No	
	Sheri McPherson, Alternate	No	
Metropolitan Transit System	Janelle Carey	No	
	Sharon Cooney, Alternate	No	
North County Transit District	Johnny Dunning	No	
OTHER ATTENDEES		SANDAG STAFF MEMBERS LISTED BELOW	
Leo Espelet, Kimley-Horn and Associates, Inc. Kyle Phillips, Kimley-Horn and Associates, Inc. Matt Horton, Kimley-Horn and Associates, Inc. Shane Helms, Morongo Ray Teran, Viejas Richard Chin, County of San Diego		Charles "Muggs" Stoll Jane Clough Elisa Arias Carolina Ilic Valerie Erze	

San Diego Association of Governments
**INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL
TRANSPORTATION ISSUES**

January 25, 2017

AGENDA ITEM NO.: **4**

Action Requested: DISCUSSION/POSSIBLE ACTION

SAN DIEGO FORWARD: THE REGIONAL PLAN: DEVELOPMENT OF
TRIBAL CONSULTATION PLAN FOR THE 2019 REGIONAL PLAN

File Number 3400500

Introduction

Federal law requires that SANDAG prepare a long-range transportation plan and make an air quality conformity determination every four years. The SANDAG Board of Directors adopted the current plan, known as San Diego Forward: The Regional Plan (Regional Plan), in 2015. As part of the update scheduled for adoption in 2019, SANDAG must develop a Tribal Consultation Plan before the update begins to ensure the timely and meaningful engagement of tribal nations in the decision-making process. The Interagency Technical Working Group on Tribal Transportation Issues (Working Group) is asked to review the structure of the Tribal Consultation Plan from the 2015 cycle and provide input and feedback on how to structure tribal consultation for this cycle.

Discussion

SANDAG has forged a strong working relationship with the tribal nations in our region based on a regional framework of communication, coordination, and collaboration in the regional transportation planning process. In preparation for the development of the 2019 Regional Plan, the agency must develop a Tribal Consultation Plan for engaging the region's tribal nations in this process. The goal is to work to ensure that tribal issues and perspectives are included in the plan as neighboring land use authorities for which the transportation system must serve but are not subject to state law (Title 23, U.S.C.450.312 and 316(c)).

Tribal Consultation Plan for the Regional Plan adopted in 2015

It is suggested that the Working Group begin a discussion of the Tribal Consultation Plan for the 2019 Regional Plan by reviewing the Tribal Consultation Plan for the Regional Plan adopted in 2015 (Attachment 1). It outlines the direction of the tribal nations in terms of the structure of the dialogue and how the tribal nations wanted to be engaged in the process of developing the Regional Plan. It was the result of a collaborative effort between SANDAG and the Southern California Tribal Chairmen's Association (SCTCA) in 2013. As an initial step, staff from both agencies developed some preliminary ideas. These formed the basis of discussion in a workshop held on October 9, 2012, with tribal elected officials from 10 of the 17 tribes in the region. The resulting draft Tribal Consultation Plan and schedule was then presented to the SCTCA Board for approval and then submitted to the SANDAG Board for use in developing the Regional Plan. The timeline/schedule used for the tribal consultation for the 2015 Regional Plan is attached as a point of reference for discussion (Attachment 2).

Proposed Tribal Consultation Plan for the Regional Plan to be adopted in 2019

The next update of the Regional Plan must be adopted by October of 2019. The development of the Regional Plan would begin in the summer of 2017. In order to ensure the timely and meaningful engagement of tribal nations in that process, a Tribal Consultation Plan should be developed and approved by the end of Fiscal Year 2017.

The Working Group is asked to review and discuss how the process worked in the last cycle and make suggestions of modifications for this cycle.

Attachments: 1. San Diego Forward: The Regional Plan – Tribal Consultation Plan (2015)
 2. SANDAG Regional Plan – Tribal Consultation Plan Activities Timeline (2015)

Key Staff Contact: Jane Clough, (619) 699-1909, jane.clough@sandag.org

TRIBAL CONSULTATION PLAN
(January 2013 – September 2015)

1. Tribal Conference on RCP/2050 RTP/SCS

- Convene an informational conference on the content of the Regional Comprehensive Plan (RCP) and the 2050 Regional Transportation Plan (RTP) for all of the tribal nations in the region;
- The purpose of this conference would be to provide tribes in the region an opportunity to become familiar with what is in the existing plans and understand how the region views the role of tribes;
- Tribal nations would like to have available subject experts from SANDAG to cover their area of expertise and answer questions.

2. Survey on Tribal Policy Issues and Planning

- Based on discussions at the conference, staff from SCTCA and SANDAG will develop a survey to distribute to all tribal nations on potential policy areas to discuss for the development of the Regional Plan, including transportation issues;
- Survey instrument will be taken to the SCTCA Board for approval;
- Survey will be distributed to Tribal Offices and each tribe will determine how to gather the information from each tribe;
- Survey results will be collected and compiled for the SCTCA and Borders Committee to discuss.

3. Technical Workshops on Identified Policy Areas

- Based on the survey results, the SCTCA will determine as a board the type and number of meetings and workshops necessary to discuss the tribal perspective on policy areas of the Regional Plan;
- SANDAG and SCTCA staff will develop a schedule, based on recommendations from the SCTCA and Borders Committees;
- The structure and participants for these workshops will be determined by the SCTCA Board and each tribal nation. Some workshops may be among tribal leaders, while other will include tribal experts in a designated policy area, or both.

4. Interagency Technical Working Group on Tribal Transportation Issues

- On a parallel track, the Working Group will work on the transportation elements of the Regional Plan;
- The Working Group will provide input into the development of each stage of the Plan and provide guidance to the SCTCA Board and tribal nations;
- At key decision-making points the Working Group will provide recommendations to the SCTCA for tribal consideration and relay this input to the Transportation Committee through their representation on that Policy Advisory Committee.
- The Working Group will provide a forum for action related to the transportation issues in the Regional Plan, including the inclusion of Long Range Tribal Transportation Plans in the Regional Plan.

5. Develop Tribal Policy Paper for Regional Plan

- Based on the outcomes of the series of workshops, SANDAG/SCTCA staff prepare a policy paper on the tribal perspective for the Regional Plan;
- The paper will be taken to the SCTCA Board and Borders Committee for review and comment.
- Elements of the tribal policy paper will be incorporated into related areas of the Regional Plan.

6. Convene San Diego Regional Tribal Summit

- At a timely and meaningful moment in the process of developing the Regional Plan, the San Diego Regional Tribal Summit will be convened between the Boards of SANDAG and the SCTCA to discuss key policy issues for inclusion in the Regional Plan and a potential collaborative agenda.
- The strategic actions agreed upon in the Summit will be included in the Regional Plan, as well as issues of concern to tribal nations.

Approved:

November 2012: Southern California Tribal Chairmen's Association Board meeting

January 2013: As part of the Public Participation Plan for San Diego Forward: The Regional Plan

Interagency Technical Working Group on Tribal Transportation Issues

January 25, 2017

Assembly Bill No. 52

CHAPTER 532

An act to amend Section 5097.94 of, and to add Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to, the Public Resources Code, relating to Native Americans.

[Approved by Governor September 25, 2014. Filed with Secretary of State September 25, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 52, Gatto. Native Americans: California Environmental Quality Act.

Existing law, the Native American Historic Resource Protection Act, establishes a misdemeanor for unlawfully and maliciously excavating upon, removing, destroying, injuring, or defacing a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources.

The California Environmental Quality Act, referred to as CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the lead agency to provide a responsible agency with specified notice and opportunities to comment on a proposed project. CEQA requires the Office of Planning and Research to prepare and develop, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA that include, among other things, criteria for public agencies to following in determining whether or not a proposed project may have a significant effect on the environment.

This bill would specify that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment. The bill would require a lead agency to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. The bill would

specify examples of mitigation measures that may be considered to avoid or minimize impacts on tribal cultural resources. The bill would make the above provisions applicable to projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015. The bill would require the Office of Planning and Research to revise on or before July 1, 2016, the guidelines to separate the consideration of tribal cultural resources from that for paleontological resources and add consideration of tribal cultural resources. By requiring the lead agency to consider these effects relative to tribal cultural resources and to conduct consultation with California Native American tribes, this bill would impose a state-mandated local program.

Existing law establishes the Native American Heritage Commission and vests the commission with specified powers and duties.

This bill would additionally require the commission to provide each California Native American tribe, as defined, on or before July 1, 2016, with a list of all public agencies that may be a lead agency within the geographic area in which the tribe is traditionally and culturally affiliated, the contact information of those agencies, and information on how the tribe may request those public agencies to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Current state law provides a limited measure of protection for sites, features, places, objects, and landscapes with cultural value to California Native American tribes.

(2) Existing law provides limited protection for Native American sacred places, including, but not limited to, places of worship, religious or ceremonial sites, and sacred shrines.

(3) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not readily or directly include California Native American tribes' knowledge and concerns. This has resulted in significant environmental impacts to tribal cultural resources and sacred places, including cumulative impacts, to the detriment of California Native American tribes and California's environment.

(4) As California Native Americans have used, and continue to use, natural settings in the conduct of religious observances, ceremonies, and cultural practices and beliefs, these resources reflect the tribes' continuing cultural ties to the land and their traditional heritages.

(5) Many of these archaeological, historical, cultural, and sacred sites are not located within the current boundaries of California Native American reservations and rancherias, and therefore are not covered by the protectionist policies of tribal governments.

(b) In recognition of California Native American tribal sovereignty and the unique relationship of California local governments and public agencies with California Native American tribal governments, and respecting the interests and roles of project proponents, it is the intent of the Legislature, in enacting this act, to accomplish all of the following:

(1) Recognize that California Native American prehistoric, historic, archaeological, cultural, and sacred places are essential elements in tribal cultural traditions, heritages, and identities.

(2) Establish a new category of resources in the California Environmental Quality Act called “tribal cultural resources” that considers the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation.

(3) Establish examples of mitigation measures for tribal cultural resources that uphold the existing mitigation preference for historical and archaeological resources of preservation in place, if feasible.

(4) Recognize that California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated. Because the California Environmental Quality Act calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental assessments for projects that may have a significant impact on those resources.

(5) In recognition of their governmental status, establish a meaningful consultation process between California Native American tribal governments and lead agencies, respecting the interests and roles of all California Native American tribes and project proponents, and the level of required confidentiality concerning tribal cultural resources, at the earliest possible point in the California Environmental Quality Act environmental review process, so that tribal cultural resources can be identified, and culturally appropriate mitigation and mitigation monitoring programs can be considered by the decisionmaking body of the lead agency.

(6) Recognize the unique history of California Native American tribes and uphold existing rights of all California Native American tribes to participate in, and contribute their knowledge to, the environmental review process pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) Ensure that local and tribal governments, public agencies, and project proponents have information available, early in the California Environmental Quality Act environmental review process, for purposes of identifying and addressing potential adverse impacts to tribal cultural resources and to reduce the potential for delay and conflicts in the environmental review process.

(8) Enable California Native American tribes to manage and accept conveyances of, and act as caretakers of, tribal cultural resources.

(9) Establish that a substantial adverse change to a tribal cultural resource has a significant effect on the environment.

SEC. 2. Section 5097.94 of the Public Resources Code is amended to read:

5097.94. The commission shall have the following powers and duties:

(a) To identify and catalog places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands. The identification and cataloguing of known graves and cemeteries shall be completed on or before January 1, 1984. The commission shall notify landowners on whose property such graves and cemeteries are determined to exist, and shall identify the Native American group most likely descended from those Native Americans who may be interred on the property.

(b) To make recommendations relative to Native American sacred places that are located on private lands, are inaccessible to Native Americans, and have cultural significance to Native Americans for acquisition by the state or other public agencies for the purpose of facilitating or assuring access thereto by Native Americans.

(c) To make recommendations to the Legislature relative to procedures which will voluntarily encourage private property owners to preserve and protect sacred places in a natural state and to allow appropriate access to Native American religionists for ceremonial or spiritual activities.

(d) To appoint necessary clerical staff.

(e) To accept grants or donations, real or in kind, to carry out the purposes of this chapter.

(f) To make recommendations to the Director of Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Indian matters touched upon by department programs.

(g) To bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, pursuant to Section 5097.97. If the court finds that severe and irreparable damage will occur or that appropriate access will be denied, and appropriate mitigation measures are not available, it shall issue an injunction, unless it finds, on clear and convincing evidence, that the public interest and necessity require otherwise. The Attorney General shall represent the commission and the state in litigation concerning affairs of the commission, unless the Attorney General has determined to represent the agency against whom the commission's action is directed, in which case the commission shall be authorized to employ other counsel. In any action to enforce the provisions of this subdivision the commission shall introduce evidence showing that such cemetery, place, site, or shrine has been historically regarded as a sacred or sanctified place by Native American people and represents a place of unique historical and cultural significance to an Indian tribe or community.

(h) To request and utilize the advice and service of all federal, state, local, and regional agencies.

(i) To assist Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities.

(j) To assist state agencies in any negotiations with agencies of the federal government for the protection of Native American sacred places that are located on federal lands.

(k) To mediate, upon application of either of the parties, disputes arising between landowners and known descendents relating to the treatment and disposition of Native American human burials, skeletal remains, and items associated with Native American burials.

The agreements shall provide protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction and provide for sensitive treatment and disposition of Native American burials, skeletal remains, and associated grave goods consistent with the planned use of, or the approved project on, the land.

(l) To assist interested landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials.

(m) To provide each California Native American tribe, as defined in Section 21073, on or before July 1, 2016, with a list of all public agencies that may be a lead agency pursuant to Division 13 (commencing with Section 21000) within the geographic area with which the tribe is traditionally and culturally affiliated, the contact information of those public agencies, and information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation pursuant to Section 21080.3.1.

SEC. 3. Section 21073 is added to the Public Resources Code, to read:

21073. “California Native American tribe” means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004.

SEC. 4. Section 21074 is added to the Public Resources Code, to read:

21074. (a) “Tribal cultural resources” are either 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.

(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.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

SEC. 5. Section 21080.3.1 is added to the Public Resources Code, to read:

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.

SEC. 6. Section 21080.3.2 is added to the Public Resources Code, to read:

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.

SEC. 7. Section 21082.3 is added to the Public Resources Code, to read:

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

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

(1) Whether the proposed project has a significant impact on an identified tribal cultural resource.

(2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.

(c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to a tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(3) This subdivision does not affect or alter the application of subdivision (r) of Section 6254 of the Government Code, Section 6254.10 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

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

(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.

(g) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.

SEC. 8. Section 21083.09 is added to the Public Resources Code, to read:

21083.09. On or before July 1, 2016, the Office of Planning and Research shall prepare and develop, and the Secretary of the Natural Resources Agency shall certify and adopt, revisions to the guidelines that update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 4 of the California Code of Regulations to do both of the following:

(a) Separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions.

(b) Add consideration of tribal cultural resources with relevant sample questions.

SEC. 9. Section 21084.2 is added to the Public Resources Code, to read:

21084.2. A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.

SEC. 10. Section 21084.3 is added to the Public Resources Code, to read:

21084.3. (a) Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.

(b) If the lead agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in Section 21080.3.2, the following are examples of mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts:

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

(2) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:

(A) Protecting the cultural character and integrity of the resource.

(B) Protecting the traditional use of the resource.

(C) Protecting the confidentiality of the resource.

(3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

(4) Protecting the resource.

SEC. 11. (a) This act does not alter or expand the applicability of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) concerning projects occurring on Native American tribal reservations or rancherias.

(b) This act does not prohibit any California Native American tribe or individual from participating in the California Environmental Quality Act on any issue of concern as an interested California Native American tribe, person, citizen, or member of the public.

(c) This act shall apply only to a project that has a notice of preparation or a notice of negative declaration or mitigated negative declaration filed on or after July 1, 2015.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

San Diego Association of Governments
INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL
TRANSPORTATION ISSUES

January 25, 2017

AGENDA ITEM NO.: **6**

Action Requested: DISCUSSION

WORKSHOP ON INTRAREGIONAL TRIBAL TRANSPORTATION STRATEGY

File Number 3401000

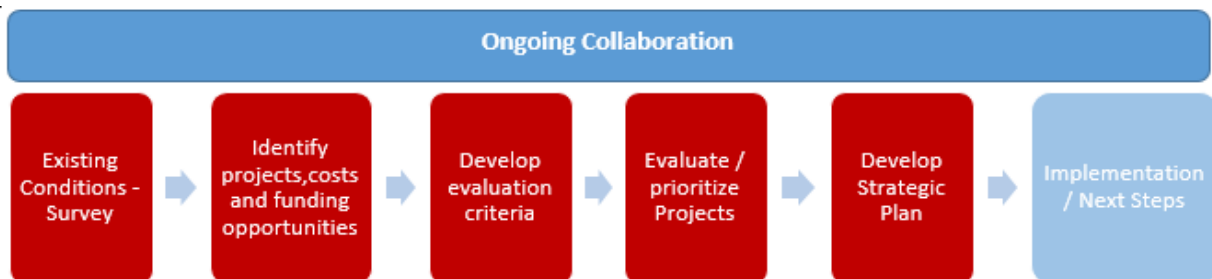
Introduction

San Diego Forward: The Regional Plan (Regional Plan) is the SANDAG Board-adopted Regional Transportation Plan and Sustainable Communities Strategy, adopted in October 2015. The Regional Plan focuses transportation investments in the most urbanized areas, where the vast majority of the region’s population lives and works, to provide transportation options that reduce greenhouse gas emissions in accordance with California climate change legislation. At the same time, the transportation system also must support the needs of federally recognized tribal nations located in the sparsely-populated rural areas of the region. SANDAG, the Southern California Tribal Chairmen’s Association (SCTCA), and other agencies that influence tribal transportation are working together to develop an Intraregional Tribal Transportation Strategy (ITTS) that identifies key multimodal projects and programs that will improve tribal mobility consistent with the Regional Plan. It is anticipated that the ITTS will identify:

- Projects of interest to tribal governments
- Projects of common interest or coordination potential for one or more tribal governments, state, or local jurisdictions
- Funding sources and funding approaches

Discussion

The ITTS is following the planning process outlined in the graphic below.



Project work is underway or has been completed in the tasks highlighted in red above. The current focus is the development of a draft strategic plan.

Earlier in the project, a mobility needs assessment survey was developed with input from the Interagency Technical Working Group on Tribal Transportation Issues (Working Group). The survey is being used to identify transportation projects and programs that are most important to the region's tribal governments. The survey was tailored to each tribal nation by including a list and maps of transportation projects that have previously received consideration. Other aspects of the survey involved rating the relative importance of transportation goals. Safety and roadway condition were the two most important goals. The survey also included a question regarding cultural resource awareness/preservation considerations to include in the final ITTS.

To date, 16 tribes have completed surveys, identifying 127 transportation projects. SANDAG staff, SCTCA staff, Kimley-Horn staff, and other ITTS project team members have met with the tribal representatives to assist in explaining the importance of the surveys and assist in completing the surveys. The findings of the surveys represent the first comprehensive database of tribal transportation needs in the SANDAG region.

Survey information was summarized into an Excel database and geographic information system mapping was developed for all of the projects which were identified in the surveys. As part of the database development, planning-level project costs were developed for each project, as well as potential funding sources. Consultant staff also reviewed area planning and programming documents and identified transportation projects which have potential overlaps with other projects in the region.

The database was reviewed with tribal representatives at a workshop conducted on September 7, 2016. The workshop provided valuable input regarding the ITTS criteria, implementation status of projects, potential partnerships, and further validation of the survey information.

A searchable tool was developed from the database. The tool searches the database for criteria based on project objectives, potential funding sources, costs, corridor location, and how they relate to other projects happening in the region.

Next Steps

The project team will work with the Working Group at the January 25, 2017, meeting to identify ways to group projects and organize the ITTS. This will be done in a workshop format. Staff will present the pros and cons of options for grouping projects. Meeting attendees will be asked their preferences for ways to organize the ITTS.

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