APPENDIX C

AB 52 DOCUMENTATION
Type of List Requested

☐ X CEQA Tribal Consultation List (AB 52) – Per Public Resources Code § 21080.3.1, subs. (b), (d), (e) and 21080.3.2

☐ General Plan (SB 18) - Per Government Code § 65352.3.

Local Action Type:

___ General Plan  ___ General Plan Element  ___ General Plan Amendment

___ Specific Plan  ___ Specific Plan Amendment  ___ Pre-planning Outreach Activity

Required Information

Project Title: 1900 4th Street Project

Local Government/Lead Agency: City of Berkeley

Contact Person: Michael Hibma, M.A., Senior Cultural Resources Manager, LSA Associates, Inc.

Street Address: 157 Park Place

City: Richmond  Zip: 94801
Phone: (510) 236-6810  Fax: (510) 236-3480
Email: michael.hibma@lsa-assoc.com

Specific Area Subject to Proposed Action

County: Alameda  City/Community: Berkeley

Project Description: West Berkeley Investors, LLC of Danville proposes to redevelop two contiguous parcels in West Berkeley, 1900 4th Street APN 057-2101-001 and 2) 791 University Street, APN 057-2101-005 with a mix of residential and commercial uses totaling 207,590 gross square feet as well as associated parking and circulation, open space and landscaping, and utility improvements. The proposed uses would be located within two separate buildings that would range from 1- to 5-stories (a maximum of 71 feet) in height. See attached aerial map of the project site.

Additional Request

☐ X Sacred Lands File Search - Required Information:

USGS Quadrangle Name(s): Oakland West, Calif., 7.5 minute

Township: 1 South  Range: 3 West  Section(s): Rancho San Antonio (V. and D. Peralta)
February 4, 2016

Michael Hibma
LSA Associates

Sent by Email: Michael.hibma@lsa-assoc.com
Number of Pages: 3

RE: 1900 4th Street Project, Alameda County

Dear Mr. Hibma:

Attached is a consultation list of tribes with traditional lands or cultural places located within the boundaries of the above referenced counties. Please note that the intent above reference codes is to mitigate impacts to tribal cultural resources, as defined, for California Environmental Quality Act (CEQA) projects.

As of July 1, 2015, Public Resources Code Sections 21080.1, 21080.3.1 and 21080.3.2 require public agencies to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose mitigating impacts to tribal cultural resources:

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. (Public Resources Code Section 21080.1(d))

The law does not preclude agencies from initiating consultation with the tribes that are culturally and traditionally affiliated with their jurisdictions. The NAHC believes that in fact that this is the best practice to ensure that tribes are consulted commensurate with the intent of the law.

In accordance with Public Resources Code Section 21080.1(d), formal notification must include 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. The NAHC believes that agencies should also include with their notification letters information regarding any cultural resources assessment that has been completed on the 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;
   - 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;
   - If the probability is low, moderate, or high that cultural resources are located in the APE.
   - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential 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 results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. **A search of the SFL was completed for the USGS quadrangle information provided with negative results.**

4. Any ethnographic studies conducted for any area including all or part of the potential APE; and

5. Any geotechnical reports regarding all or part of the potential 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 cultural place. 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 case that they do, having the information beforehand will help to facilitate the consultation process.

If you receive notification of change of addresses and phone numbers from tribes, please notify me. With your assistance, we are able to assure that our consultation list contains current information.

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

Sincerely,

[Signature]

Sharaya Souza
Staff Services Analyst
Amah Mutsun Tribal Band of Mission San Juan Bautista
Irene Zwierlein, Chairperson
789 Canada Road, CA 94062
amahmutsuntribal@gmail.com
(650) 400-4806 Cell

Coastanoan Rumsen Carmel Tribe
Tony Cerdas, Chairperson
240 E. 1st Street, P.O. Box 28
Pomona, CA 91766
rumsen@aol.com
(909) 524-8041 Cell
(909) 629-6081

Indian Canyon Mutsun Band of Costanoan
Ann Marie Sayer, Chairperson
P.O. Box 28
Hollister, CA 95024
ams@indiancanyon.org
(831) 637-4238

Muwekma Ohlone Indian Tribe of the SF Bay Area
Rosemary Cambra, Chairperson
P.O. Box 360791
Milpitas, CA 95036
muwekma@muwekma.org
(408) 314-1898
(510) 581-5194

The Ohlone Indian Tribe
Andrew Galvan
P.O. Box 3152
Fremont, CA 94539
chochenyo@AOL.com
(510) 882-0527 Cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable only for consultation with Native American tribes under Public Resources Code Sections 21080.3.1 for the proposed 1900 4th Street Project, Alameda County.
03 March 2016

Ms. Shannon Allen
Principal Planner, Land Use Planning Division
City of Berkeley
2120 Milvia Street
Berkeley, California 94704

RE: Formal Request for Tribal Consultation Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21080.3.1, subds. (b), (d) and (e) for 1900 Fourth Street, Berkeley, California.

Dear Ms. Allen:

This letter constitutes a formal request for tribal consultation under the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21080.3.1 subdivisions (b), (d) and (e)) for the mitigation of potential project impacts to tribal cultural resource for the above referenced project. The Ohlone Indian Tribe, Inc., requested formal notice and information for all projects within your agency’s geographical jurisdiction on 3 March 2016 and received notification on 3 March 2016 regarding the above referenced project.

The Ohlone Indian Tribe, Inc., requests consultation on the following topics checked below, which shall be included in consultation if requested (Public Resources Code section 21080.3.2, subd. (a)):

- Alternatives to the project
- Recommended mitigation measures
- Significant effects of the project

The Ohlone Indian Tribe, Inc., also requests consultation on the following discretionary topics checked below (Public Resources Code section 21080.3.2, subd. (a)):

- Type of environmental review necessary
- Significance of tribal cultural resources, including any regulations, policies or standards used by your agency to determine significance of tribal cultural resources
- Significance of the project’s impacts on tribal cultural resources
- Project alternatives and/or appropriate measures for preservation or mitigation that we may recommend, including, but not limited to:

1. (1) Avoidance and preservation of the resources in place, pursuant to Public Resources Code section 21084.3, 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. (2) Treating the resources with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resources, including but not limited to the following:
   1. Protecting the cultural character and integrity of the resource;
   2. Protection the traditional use of the resource; and
   3. Protecting the confidentiality of the resource.

3. (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. (4) Protecting the resource.

Additionally, The Ohlone Indian Tribe, Inc., would like to receive any cultural resources assessments or other assessments that have been completed on all or part of the project’s potential “area of project effect” (APE), including, but not limited to:

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;
   - 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;
   - If the probability is low, moderate, or high that cultural resources are located in the APE.
   - Whether the records search indicates a low, moderate or high probability that unrecorded cultural resources are located in the potential APE; and
   - If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.

   The results of any archaeological inventory survey that was conducted, including:
   - Any report that may contain site forms, site significance, and suggested mitigation measurers.

2. 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 results of any Sacred Lands File (SFL) check conducted through Native American Heritage Commission. The request form can be found at http://www.nahc.ca.gov/slf_request.html. USGS 7.5-minute quadrangle name, township, range, and section required for the search.

4. Any ethnographic studies conducted for any area including all or part of the potential APE; and

5. Any geotechnical reports regarding all or part of the potential APE.
We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, subd. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that “feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts.” Madera Oversight Coalition v. County of Madera (2011) 199 Cal.App.4th 48, disapproved on other grounds, Neighbors for Smart Rail v. Exposition Metro Line Construction Authority (2013) 57 Cal.4th 439.

The Ohlone Indian Tribe, Inc., expects to begin consultation within 30 days of your receipt of this letter. Please contact The Ohlone Indian Tribe, Inc., lead contact person identified in the attached request for notification.

Andrew A. Galvan  
President, Board of Directors, The Ohlone Indian Tribe, Inc.  
P.O. Box 3152,  
Mission San Jose District  
Fremont, California 94539

510-882-0527  
chochenyo@aol.com

Cordially yours,

Andrew A. Galvan  
President, Board of Directors  
The Ohlone Indian Tribe, Inc.

CC: Native American Heritage Commission
03 March 2016

Ms. Shannon Allen
Principal Planner, Land Use Planning Division
City of Berkeley
2120 Milvia Street
Berkeley, California 94704

RE: California Environmental Quality Act Public Resources Code section 21080.3, subd. (b) Request for Formal Notification of Proposed Projects Within the Ohlone Indian Tribe's Geographic Area of Traditional and Cultural Affiliation

Dear Ms. Allen:

As of the date of this letter, in accordance with Public Resources Code Section 21080.3.1, subd. (b), The Ohlone Indian Tribe, Inc., which is traditionally and culturally affiliated with a geographic area within your agency’s geographic area of jurisdiction, requests formal notice of and information on proposed projects for which your agency will serve as a lead agency under the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq. Pursuant to Public Resources Code section 21080.3.1, subd. (b), and until further notice, we hereby designate the following person as the tribe’s lead contact person for purposes of receiving notices of proposed projects from your agency:

Andrew A. Galvan
President, Board of Directors, The Ohlone Indian Tribe, Inc.
P.O. Box 3152,
Mission San Jose District
Fremont, California 94539

510-882-0527
chochenyo@aol.com

We request that all notices be sent via certified U.S. Mail with return receipt. Following receipt and review of the information your agency provides, within the 30-day period proscribed by Public Resources Code section 21080.3.1, subd. (d), the Ohlone Indian Tribe may request consultation, as defined by Public Resources Code section 21080.3.1, subd. (b), pursuant to Public Resources Code section 21080.3.2 to mitigate any project impacts a specific project may cause to tribal cultural resources.
If you have any questions or need additional information, please contact our lead contact person listed above.

Cordially yours,

[Signature]

Andrew A. Galvan  
President, Board of Directors  
The Ohlone Indian Tribe, Inc.

CC: Native American Heritage Commission
March 21, 2016  muwekma@muwekma.org

Rosemary Cambra
Muwekma Ohlone Indian Tribe of the SF Bay Area
P.O. Box 360791
Milpitas, CA 95036

Subject: Assembly Bill 52 Consultation for the 1900 Fourth Street Project, Berkeley, Alameda County, California

Dear Ms. Cambra:

West Berkeley Investors, LLC (project applicant) is proposing to redevelop the property located at 1900 Fourth Street and 701 University Avenue (APNs 057-2101-001 and 057-2101-005), also known as the Spenger’s Parking Lot site, with a mix of residential and commercial uses totaling 207,590 gross square feet (135 residential units and 33,080 square feet of retail and restaurant space), as well as associated parking and circulation, open space and landscaping, and utility improvements. The proposed Project would redevelop the site with two separate buildings: a three-story building at the corner of Fourth Street and Hearst Avenue, and a one-to-five-story building on the balance of the site. Maximum building heights would be 60 feet to the rooftop and up to 71 feet to the parapet. The proposed Project would be built on a deep foundation secured by piles in order to reach the stiffer clay soils that are present below the weaker shallow soils that underlie the site. Foundation supports may consist of pre-cast, pre-stressed reinforced concrete piles, or other options such as drilled displacement piles. Excavation depths would be determined based on additional study. Additional Project information can be found here: https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1900_Fourth.aspx

The City of Berkeley (City) is the Lead Agency overseeing preparation of an Environmental Impact Report (EIR) and Initial Study for the Project pursuant to the California Environmental Quality Act (CEQA). A Public Review Draft of the EIR and Initial Study is currently scheduled to be available in Fall 2016.

Assembly Bill 52 (AB 52), which became law January 1, 2015, requires that, as part of the CEQA review process, public agencies provide early notice of a project to California Native American Tribes, and if formally requested in writing by a Tribe, consult with Tribes in regards to the project. By July 1, 2016, the Native American Heritage Commission (NAHC) is required to provide each California Native American Tribe with a list of all public agencies that may be involved.
CEQA lead agencies 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 placement on agency notification lists for project-specific consultation. Via this letter, the City is hereby providing notice to all Ohlone Tribes identified by the NAHC, and as part of the CEQA process and per AB 52, for the 1900 Fourth Street Project.

The purpose of AB 52 and the consultation is to identify and consider potential impacts to a new category of resources called Tribal Cultural Resources (TCRs), and take into account tribal cultural values, in addition to scientific and archaeological values, when determining possible impacts and mitigation. An impact to a TCR may result in a significant impact under CEQA which would require avoidance or minimization of the impact.

The project site is within the City Landmark boundary of the West Berkeley Shellmound (CA-ALA-307). Archaeological testing has been conducted at the project site in 1999, 2000, and 2014 to determine the presence or absence of archaeological deposits potentially associated with the West Berkeley Shellmound. The most recent archaeological excavation at the project site consisted of mechanical trenching and a large areal exposure. Results of the testing indicate that no evidence of intact primary shellmound deposits are at the Project site. Although shellmound material was identified during the 2014 excavation, the report concludes that this was likely redeposited during agricultural soil improvement and road-building, grading, and paving activities during the late-19th and through the mid-20th century.

To request consultation under AB 52 for the 1900 Fourth Street Project, please contact me, Shannon Allen, Principal Planner, within 30 days of receipt of this letter. Should a response from you not be received within this timeframe, the City is not required to enter into consultation with you on this matter.

I can be reached by email at ShAllen@ci.berkeley.ca.us or by mail at:

Shannon Allen, Principal Planner  
City of Berkeley  
Planning and Development Department, Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Thank you for your consideration of this request.

Sincerely,

Shannon Allen

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1 Public Resources Code (PRC) Section 21074(a) defines Tribal Cultural Resources as either of the following:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either: (1) included or determined to be eligible for inclusion in the California Register of Historical Resources; or (2) included in a local register of historical resources as defined in subdivision (k) of PRC Section 5020.1; or
- 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 PRC Section 5024.1.
ATTACHMENT – 1900 Fourth Street Project Figures
Project Location and Vicinity Map, Site Plan/Ground Plan

FIGURE 1
190 Fourth Street Project NOP
Conceptual Ground Level Site Plan

SOURCES: TCA ARCHITECTS; WEST BERKELEY INVESTORS, LLC,
I:\CBE1504 1900 Fourth Street\Figures\NOP\Fig_2.ai
March 21, 2016  
rumsen@aol.com

Tony Cerda  
Costanoan Rumsen Carmel Tribe  
240 E. 1st Street  
Pomona, CA 91766

Subject: Assembly Bill 52 Consultation for the 1900 Fourth Street Project, Berkeley, Alameda County, California

Dear Mr. Cerda:

West Berkeley Investors, LLC (project applicant) is proposing to redevelop the property located at 1900 Fourth Street and 701 University Avenue (APNs 057-2101-001 and 057-2101-005), also known as the Spenger’s Parking Lot site, with a mix of residential and commercial uses totaling 207,590 gross square feet (135 residential units and 33,080 square feet of retail and restaurant space), as well as associated parking and circulation, open space and landscaping, and utility improvements. The proposed Project would redevelop the site with two separate buildings: a three-story building at the corner of Fourth Street and Hearst Avenue, and a one- to five-story building on the balance of the site. Maximum building heights would be 60 feet to the rooftop and up to 71 feet to the parapet. The proposed Project would be built on a deep foundation secured by piles in order to reach the stiffer clay soils that are present below the weaker shallow soils that underlie the site. Foundation supports may consist of pre-cast, pre-stressed reinforced concrete piles, or other options such as drilled displacement piles. Excavation depths would be determined based on additional study. Additional Project information can be found here:

https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1900_Fourth.aspx

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CEQA lead agencies 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 placement on agency notification lists for project-specific consultation. Via this letter, the City is hereby providing notice to all Ohlone Tribes identified by the NAHC, and as part of the CEQA process and per AB 52, for the 1900 Fourth Street Project.

The purpose of AB 52 and the consultation is to identify and consider potential impacts to a new category of resources called Tribal Cultural Resources (TCRs)\(^1\), and take into account tribal cultural values, in addition to scientific and archaeological values, when determining possible impacts and mitigation. An impact to a TCR may result in a significant impact under CEQA which would require avoidance or minimization of the impact.

The project site is within the City Landmark boundary of the West Berkeley Shellmound (CA-ALA-307). Archaeological testing has been conducted at the project site in 1999, 2000, and 2014 to determine the presence or absence of archaeological deposits potentially associated with the West Berkeley Shellmound. The most recent archaeological excavation at the project site consisted of mechanical trenching and a large areal exposure. Results of the testing indicate that no evidence of intact primary shellmound deposits are at the Project site. Although shellmound material was identified during the 2014 excavation, the report concludes that this was likely redeposited during agricultural soil improvement and road-building, grading, and paving activities during the late-19\(^{th}\) and through the mid-20\(^{th}\) century.

To request consultation under AB 52 for the 1900 Fourth Street Project, please contact me, Shannon Allen, Principal Planner, within 30 days of receipt of this letter. Should a response from you not be received within this timeframe, the City is not required to enter into consultation with you on this matter.

I can be reached by email at ShAllen@ci.berkeley.ca.us or by mail at:

Shannon Allen, Principal Planner  
City of Berkeley  
Planning and Development Department, Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Thank you for your consideration of this request.

Sincerely,

\(\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\)  

Shannon Allen

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- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either: (1) included or determined to be eligible for inclusion in the California Register of Historical Resources; or (2) included in a local register of historical resources as defined in subdivision (k) of PRC Section 5020.1; or
- 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 PRC Section 5024.1.
ATTACHMENT – 1900 Fourth Street Project Figures
Project Location and Vicinity Map, Site Plan/Ground Plan

FIGURE 1
190 Fourth Street Project NOP
Conceptual Ground Level Site Plan

SOURCES:
TCA ARCHITECTS; WEST BERKELEY INVESTORS, LLC,
I:\CBE1504 1900 Fourth Street\Figures\NOP\Fig_2.ai
March 21, 2016

Ann Marie Sayers
Indian Canyon Mutsun Band of Costanoan
P.O. Box 28
Hollister, CA 95024

Subject: Assembly Bill 52 Consultation for the 1900 Fourth Street Project, Berkeley, Alameda County, California

Dear Ms. Sayers:

West Berkeley Investors, LLC (project applicant) is proposing to redevelop the property located at 1900 Fourth Street and 701 University Avenue (APNs 057-2101-001 and 057-2101-005), also known as the Spenger’s Parking Lot site, with a mix of residential and commercial uses totaling 207,590 gross square feet (135 residential units and 33,080 square feet of retail and restaurant space), as well as associated parking and circulation, open space and landscaping, and utility improvements. The proposed Project would redevelop the site with two separate buildings: a three-story building at the corner of Fourth Street and Hearst Avenue, and a one-to-five-story building on the balance of the site. Maximum building heights would be 60 feet to the rooftop and up to 71 feet to the parapet. The proposed Project would be built on a deep foundation secured by piles in order to reach the stiffer clay soils that are present below the weaker shallow soils that underlie the site. Foundation supports may consist of pre-cast, pre-stressed reinforced concrete piles, or other options such as drilled displacement piles. Excavation depths would be determined based on additional study. Additional Project information can be found here: https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_board/1900_Fourth.aspx

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Assembly Bill 52 (AB 52), which became law January 1, 2015, requires that, as part of the CEQA review process, public agencies provide early notice of a project to California Native American Tribes, and if formally requested in writing by a Tribe, consult with Tribes in regards to the project. By July 1, 2016, the Native American Heritage Commission (NAHC) is required to provide each California Native American Tribe with a list of all public agencies that may be involved.

Sincerely,

[Signature]
CEQA lead agencies 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 placement on agency notification lists for project-specific consultation. Via this letter, the City is hereby providing notice to all Ohlone Tribes identified by the NAHC, and as part of the CEQA process and per AB 52, for the 1900 Fourth Street Project.

The purpose of AB 52 and the consultation is to identify and consider potential impacts to a new category of resources called Tribal Cultural Resources (TCRs)\(^1\), and take into account tribal cultural values, in addition to scientific and archaeological values, when determining possible impacts and mitigation. An impact to a TCR may result in a significant impact under CEQA which would require avoidance or minimization of the impact.

The project site is within the City Landmark boundary of the West Berkeley Shellmound (CA-ALA-307). Archaeological testing has been conducted at the project site in 1999, 2000, and 2014 to determine the presence or absence of archaeological deposits potentially associated with the West Berkeley Shellmound. The most recent archaeological excavation at the project site consisted of mechanical trenching and a large areal exposure. Results of the testing indicate that no evidence of intact primary shellmound deposits are at the Project site. Although shellmound material was identified during the 2014 excavation, the report concludes that this was likely redeposited during agricultural soil improvement and road-building, grading, and paving activities during the late-19\(^{th}\) and through the mid-20\(^{th}\) century.

To request consultation under AB 52 for the 1900 Fourth Street Project, please contact me, Shannon Allen, Principal Planner, within 30 days of receipt of this letter. Should a response from you not be received within this timeframe, the City is not required to enter into consultation with you on this matter.

I can be reached by email at ShAllen@ci.berkeley.ca.us or by mail at:

Shannon Allen, Principal Planner  
City of Berkeley  
Planning and Development Department, Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Thank you for your consideration of this request.

Sincerely,

Shannon Allen

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ATTACHMENT – 1900 Fourth Street Project Figures
Project Location and Vicinity Map, Site Plan/Ground Plan

FIGURE 1
SOURCES: TCA ARCHITECTS; WEST BERKELEY INVESTORS, LLC, MAY 2015.

190 Fourth Street Project NOP
Conceptual Ground Level Site Plan
March 21, 2016

Irenne Zwierlein
Amah Mutsun Tribal Band of Mission San Juan Bautista
789 Canada Road
Woodside, CA 94062

Subject: Assembly Bill 52 Consultation for the 1900 Fourth Street Project, Berkeley, Alameda County, California

Dear Ms. Zwierlein:

West Berkeley Investors, LLC (project applicant) is proposing to redevelop the property located at 1900 Fourth Street and 701 University Avenue (APNs 057-2101-001 and 057-2101-005), also known as the Spenger's Parking Lot site, with a mix of residential and commercial uses totaling 207,590 gross square feet (135 residential units and 33,080 square feet of retail and restaurant space), as well as associated parking and circulation, open space and landscaping, and utility improvements. The proposed Project would redevelop the site with two separate buildings: a three-story building at the corner of Fourth Street and Hearst Avenue, and a one- to five-story building on the balance of the site. Maximum building heights would be 60 feet to the rooftop and up to 71 feet to the parapet. The proposed Project would be built on a deep foundation secured by piles in order to reach the stiffer clay soils that are present below the weaker shallow soils that underlie the site. Foundation supports may consist of pre-cast, pre-stressed reinforced concrete piles, or other options such as drilled displacement piles. Excavation depths would be determined based on additional study. Additional Project information can be found here:

https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1900_Fourth.aspx

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Assembly Bill 52 (AB 52), which became law January 1, 2015, requires that, as part of the CEQA review process, public agencies provide early notice of a project to California Native American Tribes, and if formally requested in writing by a Tribe, consult with Tribes in regards to the project. By July 1, 2016, the Native American Heritage Commission (NAHC) is required to provide each California Native American Tribe with a list of all public agencies that may be
CEQA lead agencies 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 placement on agency notification lists for project-specific consultation. Via this letter, the City is hereby providing notice to all Ohlone Tribes identified by the NAHC, and as part of the CEQA process and per AB 52, for the 1900 Fourth Street Project.

The purpose of AB 52 and the consultation is to identify and consider potential impacts to a new category of resources called Tribal Cultural Resources (TCRs)¹, and take into account tribal cultural values, in addition to scientific and archaeological values, when determining possible impacts and mitigation. An impact to a TCR may result in a significant impact under CEQA which would require avoidance or minimization of the impact.

The project site is within the City Landmark boundary of the West Berkeley Shellmound (CA-ALA-307). Archaeological testing has been conducted at the project site in 1999, 2000, and 2014 to determine the presence or absence of archaeological deposits potentially associated with the West Berkeley Shellmound. The most recent archaeological excavation at the project site consisted of mechanical trenching and a large areal exposure. Results of the testing indicate that no evidence of intact primary shellmound deposits are at the Project site. Although shellmound material was identified during the 2014 excavation, the report concludes that this was likely redeposited during agricultural soil improvement and road-building, grading, and paving activities during the late-19th and through the mid-20th century.

To request consultation under AB 52 for the 1900 Fourth Street Project, please contact me, Shannon Allen, Principal Planner, within 30 days of receipt of this letter. Should a response from you not be received within this timeframe, the City is not required to enter into consultation with you on this matter.

I can be reached by email at ShAllen@ci.berkeley.ca.us or by mail at:

Shannon Allen, Principal Planner  
City of Berkeley  
Planning and Development Department, Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Thank you for your consideration of this request.

Sincerely,

Shannon Allen

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¹ Public Resources Code (PRC) Section 21074(a) defines Tribal Cultural Resources as either of the following:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either: (1) included or determined to be eligible for inclusion in the California Register of Historical Resources; or (2) included in a local register of historical resources as defined in subdivision (k) of PRC Section 5020.1; or
- 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 PRC Section 5024.1.
ATTACHMENT – 1900 Fourth Street Project Figures
Project Location and Vicinity Map, Site Plan/Ground Plan

FIGURE 1

LSA

Project Location
Regional Location

Project Site Boundary
April 5, 2016

chochenyo@aol.com

Andrew Galvan
President, Board of Directors, The Ohlone Indian Tribe, Inc.
P.O. Box 3152
Fremont, California  94539

Subject: Assembly Bill 52 Consultation for the 1900 Fourth Street Project, Berkeley, Alameda County

Dear Mr. Galvan:

Please consider this a formal acknowledgement that the City of Berkeley (City) has received your letter dated March 3, 2016, requesting tribal consultation under AB 52 for the project referenced above. As the City’s Principal Planner for the 1900 Fourth Street project, I would like to propose a formal meeting with you at the City’s Planning and Development Department office to discuss the project. The purpose of this meeting would be to begin consultation with you and discuss possible mitigation measures to reduce the proposed project’s potential impacts to tribal cultural resources. Please let us know what day(s) in April are convenient for you or if an alternate location is preferred.

Also, per the request included in your March 3, 2016, letter, we have attached a disc containing electronic copies of reports and records obtained as part of the records search completed for the project at the Northwest Information Center of the California Historical Resources Information System.

To arrange a meeting for this project, I can be reached at: ShAllen@cityofberkeley.info or at (510) 981-7430, or by mail at: Shannon Allen, Principal Planner, City of Berkeley, Planning and Development, Department, Land Use Planning Division, 2120 Milvia Street, Berkeley, CA 94704.

Sincerely,

Shannon Allen

Cc: Sally Zarnowitz, Principal Planner, Acting Planning Manager
    Theresa Wallace, Project Manager, LSA Associates

Attachment: Compact disc with NWIC records search results
AGENDA

TRIBAL CONSULTATION MEETING
1900 FOURTH STREET PROJECT
May 31, 2016

Invitees:
Andrew Galvan, President, Board of Directors, The Ohlone Indian tribe, Inc.
Shannon Allen, Principal Planner, City of Berkeley
Greg Powell, Principal Planner, City of Berkeley
Charles Enchill, Assistant Planner, City of Berkeley

1. Proposed Project

2. Environmental Review - EIR

3. Preliminary Impacts to Cultural Resources

4. Draft Mitigation Measures

5. Recommended Mitigation Measures

6. Alternatives to the Project

7. Meeting with LSA
AGENDA

TRIBAL CONSULTATION MEETING
1900 FOURTH STREET PROJECT
August 3, 2016

Invitees:
Andrew Galvan, President, Board of Directors, The Ohlone Indian Tribe, Inc.
Shannon Allen, Principal Planner, City of Berkeley
Charles Enchill, Assistant Planner, City of Berkeley
Theresa Wallace, Project Manager/Associate, LSA
Mark Rhoades, Rhoades Planning Group
Lauren Colbert Seaver, BHV

1. Discussion of the Administrative Draft EIR Cultural Resources Section
   [Andy Galvan was provided a copy of the Cultural Resources Section of ADEIR #1 for his review, at the City of Berkeley, for approximately 1.5 hours on August 3]

2. Presentation of Developer Proposed Conditions of Approval For Consideration
   • Regular use/access to community room in building. Room could include storage space, moveable chairs, display area.
   • Grant of $75,000 with the goal of supporting Ohlone culture – two ideas are a language or scholarship program. The Ohlone Indian Tribe, Inc. may have other ideas for use of this one time grant.
AGENDA

TRIBAL CONSULTATION MEETING
1900 FOURTH STREET PROJECT
September 6, 2016

Invitees:
- Andrew Galvan, President, Board of Directors, The Ohlone Indian Tribe, Inc.
- Shannon Allen, Principal Planner, City of Berkeley
- Tim Jones, Archaeologist, LSA
- Theresa Wallace, Project Manager/Associate, LSA [phone]

1. Discussion of the Administrative Draft EIR Cultural Resources Section
   [Andy Galvan was provided a copy of the Cultural Resources Section of ADEIR #2 for
   his review, at the City of Berkeley, for approximately 1.5 hours on September 1]

2. Preferred Conditions of Approval

3. Alternatives to the Project
October 6, 2016

Andrew Galvan
President, Board of Directors
The Ohlone Indian Tribe, Inc.
P.O. Box 3152
Fremont, California  94539

Subject:  Conclusion of Assembly Bill 52 Consultation for the 1900 Fourth Street Project, Berkeley, Alameda County

Dear Mr. Galvan:

Please consider this letter formal documentation for the public record that the City of Berkeley (City) has conducted consultation with the Ohlone Indian Tribe, Inc. (Tribe) for the 1900 Fourth Street Project (project) pursuant to Assembly Bill (AB 52). As a representative of the Tribe, you formally requested consultation with the City for the project via letter on March 3, 2016. The City, represented by Principal Planner Shannon Allen, met with you at the Planning and Development Department at 2120 Milvia Street on May 31, August 3, and September 6, 2016. The purpose of these meetings was to discuss the project’s potential impacts to Tribal Cultural Resources and to identify measures to mitigate potentially significant impacts to such resources. To this end, the Tribe provided input regarding proposed mitigation measures and reviewed, and commented on, the administrative Draft of the Environmental Impact Report prepared for the project.

The AB 52 consultation conducted between the City and Tribe for the project resulted in the following mitigation measures and recommended conditions of approval to reduce potentially significant impacts to Tribal Cultural Resources. These mitigation measures and recommended conditions of approval will be included in the project Draft EIR, tentatively scheduled for public release the last week of October, 2016.

Mitigation Measures:

• A pre-construction ground-penetrating-radar survey to identify areas of potentially intact subsurface archaeological deposits.

• Pre-construction cultural sensitivity and awareness training for on-site project personnel. The training shall be done by an Ohlone tribal member and a qualified archaeologist.
• A pre-construction review of the project’s utility plan to assess whether trenching for utility connections adjacent to the project site has the potential to impact intact deposits associated with the West Berkeley Shellmound. Appropriate mitigation measures shall be implemented as a condition of this review.

• Full-time monitoring of project construction by a qualified archaeologist and an Ohlone tribal member.

**AB52 Measures:**

• The project applicant will make a donation to the Ohlone Indian Tribe, Inc., a 501(c)(3) organization, in the amount of $75,000 for the sole purpose of maintaining, with appropriate dignity, the Ohlone Indian Cemetery at 1401 Washington Boulevard in the Mission San Jose District of the City of Fremont, Alameda County.

• The project applicant will fund the development a GIS layer for City staff use that indicates areas of archaeological sensitivity within the City. This map will be for internal, project-planning use and will not be available to the public as it would contain sensitive information.

**Recommended Condition of Approval:**

• The project applicant will fund and maintain a publicly accessible, permanent display within the City Landmark boundary of the West Berkeley Shellmound that describes the archaeological and cultural significance of the site. The content of the display will be developed in consultation with a qualified archaeologist and Ohlone representative to ensure that tribal and archaeological perspectives are equally presented.

The City endorses the above measures and conditions of approval, and is of the opinion that these would reduce potentially significant impacts to Tribal Cultural Resources to less than significant. The City would like to formally conclude AB 52 consultation with the Tribe for the 1900 Fourth Street Project at this time. *If the Tribe does not agree that consultation for this project has concluded, please notify me via telephone (510-981-7430) or email (ShAllen@ci.berkeley.ca.us) within 7 days.*

Please note that conclusion of the AB 52 consultation for the 1900 Fourth Street Project does not preclude the Tribe from consulting with the City on future projects that are subject to AB 52. The City will actively engage with the Tribe on future projects in the City, as required under AB 52.

Sincerely,

Shannon Allen, AICP
Principal Planner