

IV. Environmental Impact Analysis

L. Tribal Cultural Resources

1. Introduction

This section identifies and evaluates potential Project impacts to tribal cultural resources. The analysis in this section is based on the results of consultation with California Native American Tribes conducted by the City of Los Angeles (City) for the Project, as required by the California Environmental Quality Act (CEQA) as amended by Assembly Bill (AB) 52, as well as the results of the analysis of resources in the *1100 5th Street Project, Tribal Summary Report* (Tribal Cultural Report).¹ Although the Tribal Cultural Report is considered confidential due to sensitive information regarding the location of tribal cultural resources, copies of the Native American consultation letters, a letter from the Native American Heritage Committee containing the results of the Sacred Lands File search for the Project, and suggested mitigation provided by the Gabrieleño Band of Mission Indians-Kizh Nation are provided in **Appendix M** of this Draft EIR.

2. Environmental Setting

a) Regulatory Framework

The following describes the primary regulatory requirements regarding tribal cultural resources. Applicable plans and regulatory documents/requirements include the following:

- Assembly Bill 52
- California Public Resources Code Section 5097
- California Penal Code

(1) State

(a) *Assembly Bill 52*

Assembly Bill (AB) 52 was approved on September 25, 2014. The act amended California Public Resources Code (PRC) Section 5097.94, and added PRC Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3. The primary intent of AB 52 is to involve California Native American Tribes early in the environmental review process and to establish a category of resources related to Native Americans, known as tribal cultural resources, that require consideration under CEQA. PRC Section 21074(a)(1) and (2) defines tribal cultural resources as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a

¹ ESA, 1100 5th Street Project, City of Los Angeles, California, Tribal Summary Report, December 2023.

California Native American Tribe” that are either included or determined to be eligible for inclusion in the California Register or included in a local register of historical resources, or a resource that is determined to be a tribal cultural resource by a lead agency, in its discretion and supported by substantial evidence. A tribal cultural resource is further defined by PRC Section 20174(b) as a cultural landscape that meets the criteria of subdivision (a) to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. PRC Section 20174(c) provides that 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).

PRC Section 21080.3.1 requires that, within 14 days of a lead agency determining that an application for a project is complete, or a decision by a public agency to undertake a project, the lead agency provide formal notification to the designated contact, or a tribal representative, of California Native American Tribes that are traditionally and culturally affiliated with the geographic area of the project (as defined in PRC Section 21073) and who have requested in writing to be informed by the lead agency of projects within their geographic area of concern.² Tribes interested in consultation must respond in writing within 30 days from receipt of the lead agency’s formal notification and the lead agency must begin consultation within 30 days of receiving the tribe’s request for consultation.³

PRC Section 21080.3.2(a) identifies the following as potential consultation discussion topics: the type of environmental review necessary; the significance of tribal cultural resources; the significance of the project’s impacts on the tribal cultural resources; project alternatives or appropriate measures for preservation; and mitigation measures. Consultation is considered concluded when either: (1) the parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or (2) a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.⁴

In addition to other CEQA provisions, the lead agency may certify an EIR or adopt a MND for a project with a significant impact on an identified tribal cultural resource, only if a California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or requested a consultation but failed to engage in the consultation process, or the consultation process occurred and was concluded as described above, or if the California Native American tribe did not request consultation within 30 days.⁵

PRC Section 21082.3(c)(1) states that 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 without the prior consent of the tribe that provided the information. If the lead agency publishes

² Public Resources Code, Section 21080.3.1(b) and (c).

³ Public Resources Code, Sections 21080.3.1(d) and 21080.3.1(e)

⁴ Public Resources Code, Section 21080.3.2(b)

⁵ Public Resources Code, Section 21082.3(d)(2) and (3)

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.

Confidentiality does not apply to data or information that are, or become publicly available, are already in lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the Applicant or the 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.⁶

(b) California Public Resources Code

California Public Resources Code (PRC) Section 5097.98, as amended by AB 2641, provides procedures in the event human remains of Native American origin are discovered during project implementation. PRC Section 5097.98 requires that no further disturbances occur in the immediate vicinity of the discovery, that the discovery is adequately protected according to generally accepted cultural and archaeological standards, and that further activities take into account the possibility of multiple burials. PRC Section 5097.98 further requires the Native American Heritage Commission (NAHC), upon notification by a County Coroner, designate and notify a Most Likely Descendant (MLD) regarding the discovery of Native American human remains. Once the MLD has been granted access to the site by the landowner and inspected the discovery, the MLD then has 48 hours to provide recommendations to the landowner for the treatment of the human remains and any associated grave goods. In the event that no descendant is identified, or the descendant fails to make a recommendation for disposition, or if the land owner rejects the recommendation of the descendant, the landowner may, with appropriate dignity, reinter the remains and burial items on the property in a location that will not be subject to further disturbance.

PRC Section 5097.99 prohibits acquisition or possession of Native American artifacts or human remains taken from a Native American grave or cairn after January 1, 1984, except in accordance with an agreement reached with the NAHC.

PRC Section 5097.5 provides protection for tribal resources on public lands, where Section 5097.5(a) states, in part, that:

No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface, any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological, or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over the lands.

⁶ Public Resources Code, Section 21082.3(c)(2)(B).

(c) *California Penal Code*

California Penal Code Section 622.5 provides the following: “Every person, not the owner thereof, who willfully injures, disfigures, defaces, or destroys any object or thing of archeological or historical interest or value, whether situated on private lands or within any public park or place, is guilty of a misdemeanor.”

California Penal Code Section 623 provides the following: “Except as otherwise provided in Section 599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment: (1) breaks, breaks off, cracks, carves upon, paints, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, mars, or harms any natural material found in any cave. (2) disturbs or alters any archaeological evidence of prior occupation in any cave. (3) kills, harms, or removes any animal or plant life found in any cave. (4) burns any material which produces any smoke or gas which is harmful to any plant or animal found in any cave. (5) removes any material found in any cave. (6) breaks, forces, tampers with, removes or otherwise disturbs any lock, gate, door, or any other structure or obstruction designed to prevent entrance to any cave, whether or not entrance is gained.

b) Existing Conditions

(1) Ethnographic Context

The Project Site is located within an area that has been inhabited by the contemporary Native American group known as the Gabrielino. The florescence of this group occurred during a time period that spanned from approximately 1,500 years B.P. to the mission era, with the arrival of Spanish expeditions and the establishment of the mission system. Coming ashore near Malibu Lagoon or Mugu Lagoon in October of 1542, Juan Rodriguez Cabrillo was the first European to make contact with the Gabrielino Indians. The Gabrielino are estimated to have numbered around 5,000 in the pre-contact period and maps produced by early explorers indicate that at least 26 Gabrielino villages were within proximity to known Los Angeles River courses, while an additional 18 villages were reasonably close to the river.⁷

The term “Gabrielino” is a general term that refers to those Native Americans who were controlled by the Spanish at the Mission San Gabriel Arcángel. Prior to European colonization, the Gabrielino occupied a diverse area that included: the watersheds of the Los Angeles, San Gabriel, and Santa Ana rivers; the Los Angeles basin; and the islands of San Clemente, San Nicolas, and Santa Catalina. Their neighbors included the Chumash to the north, the Juañeno to the south, and the Serrano and Cahuilla to the east. The Gabrielino are reported to have been second only

⁷ ESA, 1100 5th Street Project, Phase I Archaeological Resources Assessment Report and XPI Testing Results, April 2020.

to the Chumash in terms of population size and regional influence. The Gabrielino language is part of the Takic branch of the Uto-Aztecan language family.⁸

Community populations generally ranged from 50 to 100 inhabitants, although larger settlements may have existed. Gabrielino villages are reported by early explorers to have been most abundant near the Los Angeles River, in the San Fernando Valley, the Glendale Narrows area north of Downtown, and around the Los Angeles River's coastal outlets. Among those villages north of Downtown are *Maawnga* in the Glendale Narrows; *Totongna* and *Kawengna*, in the San Fernando Valley; *Hahamongna*, northeast of Glendale; and the village of *Yaangna*, in the vicinity of present-day Downtown Los Angeles.⁹

The exact location of *Yaangna* within Downtown Los Angeles continues to be debated, although it was possibly located at the present-day location of the Civic Center. Other possible locations are near the present-day Union Station, to the south of the old Spanish Plaza, and near the original site of the Bella Union Hotel located on the 300 Block of North Main Street. One hypothesis is that the Union Station location is an unlikely spot for a large village or habitation, as it lies within the annual Los Angeles River flood zone.¹⁰ Local sources such as the Echo Park Historical Society report that when Gaspar de Portola and Father Juan Crespi camped on the river bank opposite the North Broadway Bridge entrance to Elysian Park, they were served refreshments by *Yaangna* Indian villagers from the current location of the Los Angeles Police Academy.¹¹

Based on baptismal records, *Yaangna* appears to have been occupied until at least 1813. But by the early 1820s, *Yaangna*'s Gabrielino residents were displaced to an area south of the village site in what is presently the block north of Los Angeles Street and 1st Street. By 1836, the displaced Gabrielino community was known as *Rancho de los Pablinos*, and Los Angeles residents began complaining about the Gabrielino bathing in the *Zanjas*. As a result of the complaints, the Gabrielino were once again displaced farther to the east near the present-day intersection of Alameda Street and Commercial Street. Between 1845 and 1847, they were moved to the east side of the river to a settlement that was known as *Pueblito*, and by 1847, the Gabrielino from *Yaanga* were displaced once again and left without a place in which to form a new community. As a result, the Gabrielino dispersed throughout Los Angeles County.¹²

Another community or village, the smallest, which was named *Rancheria de los Pipimares* was a separate location where the Island Gabrielino who had relocated to Los Angeles lived. The name originally referenced to people from Santa Catalina Island but over time it became associated with Island Indians generally. The village was likely in place by the late 1820's when survivors from Santa Catalina were relocated to Los Angeles, but in 1846 it was removed and relocated due to neighbor complaints. Historical research, including descriptions documented from residents at

⁸ ESA, 1100 5th Street Project, City of Los Angeles, California, Tribal Summary Report, October 2023.

⁹ ESA, 1100 5th Street Project, City of Los Angeles, California, Tribal Summary Report, October 2023.

¹⁰ Dillon, B.D., Alameda District Plan, Los Angeles, California, Prehistoric and Early Historic Archaeological Research, 1994.

¹¹ ESA, 1100 5th Street Project, City of Los Angeles, California, Tribal Summary Report, March 2023.

¹² ESA, 1100 5th Street Project, City of Los Angeles, California, Tribal Summary Report, March 2023.

the time indicate that the Island Indians living in *Rancheria de los Pipimares*, in spite of being baptized in the Catholic Church, were still practicing traditional religion at the Rancheria location as late as 1842, clustered in a few huts and maintaining a distinct identity (as Island Indians). The *Rancheria de los Pipimares* is estimated to have been on the west side of San Pedro Street at Seventh Street which was just under one-mile west of the Project Site.¹³

(2) Historic Map and Aerial Photograph Review

Topographic maps, Sanborn maps, and aerial photographs were included in the Phase I ESA Report¹⁴ (see **Appendix F.1** to this Draft EIR) and were examined to provide historical information about the Project Site and to help approximate the Project Site's geographic proximity to potential resources, which contributes to an assessment of the Site's archaeological sensitivity.

The 1906 Sanborn Map depicts the Project Site as platted for residential development and show three residential structures and a stable. The map identifies the tenants of the Project Site as Merchants Ice and Cold Storage Company. According to the 1923 and 1928 aerial photographs, the Project Site appears to be developed with several warehouse and commercial buildings. By 1928, the Project Site is partially vacant. The 1938, 1942, and 1952 aerial photographs and 1950, 1953, and 1954 Sanborn Maps depict the Project Site to be developed with the current warehouse building located at the northwestern portion of the property and current warehouse located near the central portion of the Project Site. The Project Site is also developed with several other smaller warehouse/commercial buildings. Additionally, the Sanborn Maps identify Merchants Ice and Cold Storage Company and Weber Trailer & Manufacturing company as tenants of the Project Site. The 1959 Sanborn Map depicts the Project Site to be developed with the current warehouse located in the northwestern portion of the Project Site and the current warehouse located in the center of the Project Site, and the remaining is undeveloped parking areas. The map also identifies the tenants of the Project Site as Yellow Cab Company (Airport Transit Company). The 1960, 1967, and 1970 Sanborn Maps and the 1964 aerial photographs show little change to the Project Site with the exception of current loading docks and awning structures, which remain unchanged through 2012.¹⁵

(3) Record Search and Agency and Tribal Coordination

(a) *Archaeological Resource Evaluation*

A records search was conducted at the CHRIS SCCIC at California State University, Fullerton, and included a review of all recorded archeological and built-environment resources, as well as a review of cultural resource reports on file. As previously detailed in **Section IV.B, Cultural Resources**, of this Draft EIR, and presented below in **Table IV.L-1, Archeological Resources Search Results**, the records search results indicate that five historic period archaeological sites

¹³ ESA, 1100 5th Street Project, City of Los Angeles, California, Tribal Summary Report, March 2023.

¹⁴ Professional Services Industries, Inc., Report of Phase I Environmental Site Assessment, Warehouse Building, 1100 E 5th Street, November 24, 2014.

¹⁵ Professional Services Industries, Inc., Report of Phase I Environmental Site Assessment, Warehouse Building, 1100 E 5th Street, November 24, 2014.

have been previously recorded within the 0.5-mile records search radius. These resources are not currently listed as eligible for the National Register or the California Register. No archaeological or historic resources have been previously recorded within the Project Site.

Although no archaeological resources have been recorded within the Project Site, of the 47 previous cultural resources studies conducted within 0.5-mile records-search radius, one study, entitled *Extent of Zanja Madre*, includes maps that depict a segment of a Spanish and Mexican era water conveyance system known as the *Zanja* as bisecting the eastern portion of the Project Site. The *Zanja* system and subsequent additional *Zanja* segments were Los Angeles' original irrigation system, which is thought to have run throughout the City in various branches, predominantly along major roads.¹⁶ The segment that has been mapped as bisecting the eastern portion of the Project Site is *Zanja* No. 2.

**Table IV.L-1
Archaeological Resources Search Results**

Primary Number	Trinomial	Description	Date Recorded
P-19-2610	CA-LAN-2610H	Historic-period road "Old Santa Fe Avenue;" stone pavement and street car line.	1997
P-19-3338	CA-LAN-3338H	Historic-period archaeological site refuse deposits dating to the late 19 th and early 20 th centuries.	2000
P-19-4192	CA-LAN-4192H	Historic-period archaeological site; four discrete refuse scatter dating to the early 20 th century.	2010
P-19-4193	CA-LAN-4193H	Historic-period archaeological site; roadway and refuse deposit.	2010
P-19-4460	CA-LAN-4460H	Historic-period archaeological site; trash deposits, railroad spur and foundations.	2014; 2016

Source: 1100 5th Street Project, City of Los Angeles, California, Tribal Summary Report, October 2023.

(b) Sacred Lands File Search

The Native American Heritage Commission (NAHC) maintains a confidential Sacred Lands File which contains sites of traditional, cultural, or religious value to the Native American community. The NAHC was contacted on December 6, 2017 to request a search of the Sacred Lands File. The NAHC responded to the request in a letter dated December 20, 2017. The NAHC's letter states that "[a] record search of the NAHC Sacred Lands File was completed for the information you have submitted for the above reference[d] project. The results were positive." The letter went on to further state the Gabrieleno Band of Mission Indians-Kizh Nation (the "Tribe") should be contacted for more information. As discussed further below, on July 3, 2018, City staff notified the Gabrieleno Band of Mission Indians-Kizh Nation of the positive find.

¹⁶ The term "Zanja," translating as "ditch" in English, refers to the open earth features that were used during early Euro-American habitation of this area to transport water.

(c) *Assembly Bill (AB) 52 Consultation*

Pursuant to AB 52, on October 16, 2017, the City provided AB 52 Project notification letters to the Native American Tribes that are traditionally and culturally affiliated with the geographic area that the Project Site is located on. Letters were sent via certified mail to the following California Native American Tribes and all requests for consultation were required to be received no later than November 16, 2017:

- Fernandeano Tataviam Band of Mission Indians
- Gabrieleño Band of Mission Indians – Kizh Nation
- Gabrieleno Tongva Indians of California Tribal Council
- Gabrieleno/Tongva Nation
- Gabrieleno/Tongva San Gabriel Band of Mission Indians
- Gabrielino-Tongva Tribe
- San Fernando Band of Mission Indians
- Soboba Band of Luiseño Indians
- Torres Martinez Desert Cahuilla Indians

Tribal Chairman Andrew Salas, on behalf of the Gabrieleño Band of Mission Indians-Kizh Nation (the “Tribe”), was the only Tribal representative who responded to the Project notification letter. No communication or request for consultation was received from any of the other notified tribes within the response period.

In a letter dated October 18, 2017, Chairman Salas, requested AB 52 consultation with the City in response to the Project notification letter. On January 18, 2018, representatives of the City and the Tribe engaged in consultation pursuant to the requirements of AB 52 and participated in a conference call during which the Project was discussed. In closing the Tribe stated, “due to the project site being located within and around sacred villages, adjacent to sacred water courses, major traditional trade routes, and historic *zanja*, there is a high potential to impact tribal cultural resources still present within the soil from the thousands of years of prehistoric activities that occurred within and around these Tribal Cultural landscapes. Therefore, to avoid impacting or destroying Tribal Cultural Resources that may be inadvertently unearthed during the project’s ground disturbing activities, attached is the mitigation language approved by our Tribal Government for use with this project.” Immediately following the call, City staff sent an email to Tribal Chairman Salas summarizing the consultation. The staff summary noted the following:

- The Arts District is within the Area of Potential Effect (APE) defined by the NAHC.
- The Project Site is located close to the Los Angeles River, which is a highly sensitive location with a potential to find tribal resources.

- There was a 400-year-old Sycamore tree near the river near the location of the present day Vignes/Commercial Streets, which was used for ceremonial activities and was located near a burial ground.
- The Santa Fe trading route is close to the Project Site which underlies present-day Santa Fe Avenue and is near burial grounds.
- Metro/LADOT found human remains during a construction project in fall/winter of 2017 in the vicinity of the Project Site.

The City requested further documentation and information regarding the potential for tribal cultural resources in the Project vicinity, in particular regarding the burial grounds that were encountered during the above-referenced Metro/LADOT project. The City followed up with Tribal Chairman Salas via a phone call on September 3, 2019. Additionally, Tribal Chairman Salas stated, “due to the project site being located within and around sacred villages, adjacent to sacred water courses, major traditional trade routes, and historic *zanja*, there is a high potential to impact tribal cultural resources still present within the soil from the thousands of years of prehistoric activities that occurred within and around these Tribal Cultural landscapes. Therefore, to avoid impacting or destroying Tribal Cultural Resources that may be inadvertently unearthed during the Project’s ground disturbing activities, attached is the mitigation language approved by our Tribal Government for use with this project.”

On October 27, 2023, the City sent the Tribe a Pre-Closure of Consultation letter. In the Pre-Closure Letter, City staff summarized the combined efforts to engage in a meaningful consultation regarding the Project’s potential impacts to tribal cultural resources and to document the tribal consultation process, pursuant to PRC Section 21080.3.2, and shared the proposed mitigation measure. The Tribe responded to the Pre-Closure of Consultation Letter stating they are not in agreement with the language proposed in the City’s mitigation measure and attached the Tribe’s preferred mitigation measure. The City incorporated components of the Tribe’s preferred mitigation measure into the City’s proposed mitigation measure, which both require on-site monitoring by a tribal monitor, and provide procedures and guidance on steps that would occur in the event that any subsurface objects or artifacts that may be tribal cultural resources are encountered. The Tribe’s suggested guidance regarding the potential discovery of human remains and associated funerary objects will be considered should those types of resources be discovered.

As a result of the information provided in the tribal cultural resources report prepared for the Proposed Project, and information and comments provided by the Tribe during the consultation process, the City, after acting in good faith and after reasonable effort, concluded consultation for purposes of AB52 on November 22, 2023,

A record of the notification letters, verification of mailing, the Sacred Lands File search request and results, and the suggested mitigation language provided by the Tribe are included as **Appendix M** of this Draft EIR.

3. Project Impacts

a) Thresholds of Significance

(1) State CEQA Guidelines Appendix G

In accordance with Appendix G of the *State CEQA Guidelines*, the Project would have a significant impact related to Tribal Cultural Resources if the project would:

Threshold (a): *Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe and that is:*

(i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or

(ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

(2) 2006 L.A. CEQA Thresholds Guide

The *L.A. CEQA Thresholds Guide* does not include any criteria to evaluate tribal cultural resources impacts. Thus, the potential for the Project to result in impacts related to tribal cultural resources is based on the *State CEQA Guidelines* Appendix G thresholds.

b) Methodology

A resource records search for the Project was conducted at the CHRIS SCCIC and of the NAHC's Sacred Land File. The records search at the CHRIS SCCIC consisted of a review of all recorded archaeological and built-environment resources as well as a review of cultural resource reports on file for the Project Site and surrounding 0.5-mile radius.

The Sacred Lands File search is a search of recorded Native American sacred sites and burial sites as defined by the NAHC and PRC Sections 55097.94(a) and 5097.96.

Pertinent academic and ethnographic literature was also reviewed for information pertaining to past Native American use of the project area. Lastly, in accordance with AB 52, notification letters were sent to all of the California Native American tribes that are traditionally and culturally affiliated

with the Project Site. As stated previously, the Gabrieleño band of Mission Indians-Kizh Nation was the only tribe to request consultation, which was conducted as requested.

c) Project Design Features

Construction and operation of the Project would be implemented in accordance with applicable regulatory and code requirements related to tribal cultural resources. No specific Project Design Features are proposed with regards to tribal cultural resources.

d) Analysis of Project Impacts

As compared to the Project, the Flexibility Option would change a portion of the use of the second floor from residential to commercial, and would not otherwise change the Project's land uses or size. The overall commercial square footage provided would be increased by 17,765 square feet to 64,313 square feet and, in turn, there would be a reduction in the number of live/work units from 220 to 200 units. The overall building parameters would remain unchanged and the design, configuration, and operation of the Flexibility Option would be comparable to the Project. Furthermore, tribal cultural resources impacts are typically site-specific and dependent on a project's proposed footprint and depth/amount of excavation. The Flexibility Option would be located on the same Project Site with the same subsurface sensitivity for buried tribal cultural resources. In addition, the Flexibility Option would not alter the proposed construction footprint, depth, or amount of excavation compared to the Project and would be subject to the same regulatory requirements, including PRC Section 21074. Therefore, the conclusions regarding the impact analysis and impact significance determination presented below for the Project would be the same under the Flexibility Option.

Threshold (a): *Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe and that is:*

- (i) listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or*
- (ii) a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?*

Because the Flexibility Option would be located on the same Project Site with the same potential to encounter buried tribal cultural resources as the Project and would not alter the proposed construction footprint or increase or decrease the amount or depth of excavation compared to the

Project, the conclusions regarding the impact analysis and impact significance determination presented below for the Project would be the same under the Flexibility Option.

(1) Impact Analysis

As detailed in **Table IV.L-1** above, results of the CHRIS SCCIC records search indicate that five historic period archaeological sites consisting of: stone pavement and a streetcar line; refuse deposits; refuse scatter; a roadway and refuse deposit; and trash deposits, a railway spur, and foundations; have been previously recorded within the 0.5-mile-records search radius. However, these resources are not currently listed as eligible for the National Register or the California Register and no archaeological or historic architectural resources have been previously recorded within the Project Site.

As described above, the City commenced notification for the Project in accordance with AB 52 on October 16, 2017 via certified mail to all of the surrounding tribes that had requested to be included on the AB 52 notification list. In addition, in order to identify tribal cultural resources within or adjacent to the Project Site, a Sacred Lands File search was requested from the NAHC. The Project's Sacred Lands File search was positive and NAHC informed the City to contact Gabrieleño Band of Mission Indians - Kizh Nation for information regarding the nature of the resources.

During consultation conversations, Tribal Chairman Salas stated that the Project Site is sensitive for the potential presence of tribal cultural resources due to its proximity to the Los Angeles River (the current channel of the river is approximately 0.9-mile east of the Project Site); the presence of the Santa Fe trading route within the Arts District; the Sycamore tree at Vignes and Commercial Streets; and human remains found by Metro/LADOT during a construction project near the Project vicinity.

During consultation between the Tribe and the City, no documentation was provided regarding the Sycamore tree or the human remains found by Metro/LADOT. Information regarding the proximity of the Los Angeles River and the nearby railroad was provided. Although documentation has not been provided as yet by the Tribe regarding the Sycamore tree and human remains, what is known about these areas of sensitivity has been considered as part of this study. The current development within the Project Site includes a building and parking areas built historically and thus have a low footprint of disturbance within the Project Site. The buildings, which are not known to have basements, and parking areas could have capped subsurface resources associated with early uses on the Project Site. This includes off-site areas within the public right-of-way that may require utilities work or other off-site activities related to the Project, that could retain the potential to preserve tribal cultural resources.

Tribal Chairman Salas stated that trade routes and cultural landscapes are protected under AB 52 as a tribal cultural resource, and there is no evidence of this landscape remaining in the current urban environment. The current Project Site is completely developed and has been since the turn of the century. No trails or waterways overlap with the Project Site itself. No cultural landscapes or cultural objects that the Tribe might consider a tribal cultural resource are known to be on the Project Site.

The *Zanja* alignment is mapped as overlapping with the Project Site on the Stevenson 1884 map. Potential impacts to the *Zanja* No. 2 are evaluated in Section **IV.B, Cultural Resources**, of this Draft EIR. As detailed in **Section IV.B, Cultural Resources**, of this Draft EIR, the *Zanja* No. 2 has been determined by the City, as lead agency, to be an “historical resource” under *State CEQA Guidelines* Section 15064.5(a)(3), and it will be offered the protections of an historical resource under *State CEQA Guidelines* Section 15064.5(a)(3).

No additional resources that the City, as lead agency, determined to be significant pursuant to PRC Section 5024.2 were identified. However, as detailed in **Section IV.B, Cultural Resources**, of this Draft EIR, given the higher sensitivity for buried resources of the sediment underlying the Project Site, the positive result from the Sacred Lands File Search, the lack of basements in the current on-site structures, and the proposed excavation depth of the Project (50 feet below the surface), construction of the Project could encounter tribal cultural resources. **Therefore, the Project could potentially cause a substantial adverse change in the significance of a tribal cultural resources listed or eligible for listing in the California Register or in a local register or a resource determined by the City to be significant pursuant to Public Resources Code Section 5024.1. As such impacts to tribal cultural resources would be potentially significant without mitigation.**

(2) Mitigation Measures

Under both the Project and the Flexibility Option, impacts to tribal cultural resources would require the following mitigation measures:

MM TCR-1 Prior to commencing any ground disturbance activities at the Project site, the Applicant, or its successor, shall retain archeological monitors and tribal monitors that are qualified to identify subsurface tribal cultural resources. Ground disturbance activities shall include excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, driving posts, augering, backfilling, blasting, stripping topsoil or a similar activity at the project site. Any qualified tribal monitor(s) shall be approved by the Gabrieleño Band of Mission Indians-Kizh Nation. Any qualified archeological monitor(s) shall be approved by the Department of City Planning, Office of Historic Resources (“OHR”).

The qualified archeological and tribal monitors shall observe all ground disturbance activities on the project site at all times the ground disturbance activities are taking place. If ground disturbance activities are simultaneously occurring at multiple locations on the project site, an archeological and tribal monitor shall be assigned to each location where the ground disturbance activities are occurring. The on-site monitoring shall end when the ground disturbing activities are completed, or when the archeological and tribal monitor both indicate that the site has a low potential for impacting tribal cultural resources.

Prior to commencing any ground disturbance activities, the archaeological monitor in consultation with the tribal monitor, shall provide Worker Environmental Awareness Program (WEAP) training to construction crews involved in ground disturbance activities that provides information on regulatory requirements for the protection of tribal cultural resources. As part of the WEAP training, construction crews shall be briefed on proper procedures to follow should a crew member discover tribal cultural resources during ground disturbance activities. In addition, workers will be shown examples of the types of resources that would require notification of the archaeological monitor and tribal monitor. The Applicant shall maintain on the Project site, for City inspection, documentation establishing the training was completed for all members of the construction crew involved in ground disturbance activities.

The monitors will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Tribe. Monitor logs will identify and describe any discovered TCRs, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or "TCR"), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs will be provided to the project applicant/lead agency upon written request.

In the event that any subsurface objects or artifacts that may be tribal cultural resources are encountered during the course of any ground disturbance activities, all such activities shall temporarily cease within the area of discovery, the radius of which shall be determined by a qualified archeologist, in consultation with a qualified tribal monitor, until the potential tribal cultural resources are properly assessed and addressed pursuant to the process set forth below:

1. Upon a discovery of a potential tribal cultural resource, the Applicant, or its successor, shall immediately stop all ground disturbance activities and contact the following: (1) all California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and OHR.
2. If OHR determines, pursuant to Public Resources Code Section 21074 (a)(2), that the object or artifact appears to be a tribal cultural resource in its discretion and supported by substantial evidence, the City shall provide any affected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the Applicant, or its successor, and the City regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources.

3. The Applicant, or its successor, shall implement the tribe's recommendations if a qualified archaeologist retained by the City and paid for by the Applicant, or its successor, in consultation with the tribal monitor, reasonably conclude that the tribe's recommendations are reasonable and feasible.
4. In addition to any recommendations from the applicable tribe(s), a qualified archeologist shall develop a list of actions that shall be taken to avoid or minimize impacts to the identified tribal cultural resources substantially consistent with best practices identified by the Native American Heritage Commission and in compliance with any applicable federal, state, or local law, rule, or regulation.
5. If the Applicant, or its successor, does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist or qualified tribal monitor, the Applicant, or its successor, may request mediation by a mediator agreed to by the Applicant, or its successor, and the City. The mediator must have the requisite professional qualifications and experience to mediate such a dispute. The City shall make the determination as to whether the mediator is at least minimally qualified to mediate the dispute. After making a reasonable effort to mediate this particular dispute, the City may (1) require the recommendation be implemented as originally proposed by the archaeologist or tribal monitor; (2) require the recommendation, as modified by the City, be implemented as it is at least as equally effective to mitigate a potentially significant impact; (3) require a substitute recommendation be implemented that is at least as equally effective to mitigate a potentially significant impact to a tribal cultural resource; or (4) not require the recommendation be implemented because it is not necessary to mitigate a significant impacts to tribal cultural resources. The Applicant, or its successor, shall pay all costs and fees associated with the mediation.
6. The Applicant, or its successor, may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by both the qualified archaeologist and qualified tribal monitor and determined to be reasonable and appropriate.
7. The Applicant, or its successor, may recommence ground disturbance activities inside of the specified radius of the discovery site only after it has complied with all of the recommendations developed and approved pursuant to the process set forth in paragraphs 2 through 5 above.
8. Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the South Central Coastal Information Center (SCCIC) at California State University, Fullerton and to the Native American Heritage Commission for inclusion in its Sacred Lands File.

9. Notwithstanding paragraph 8 above, any information that the Department of City Planning, in consultation with the City Attorney's Office, determines to be confidential in nature shall be excluded from submission to the SCCIC or provided to the public under the applicable provisions of the California Public Records Act, California Public Resources Code, section 6254(r), and handled in compliance with the City's AB 52 Confidentiality Protocols.

(3) Level of Significance After Mitigation

In the event unknown tribal cultural resources are unearthed during construction of the Project or Flexibility Option, with implementation of **MM TCR-1**, impacts on tribal cultural resources would be reduced to a less than significant level.

4. Cumulative Impacts

Because the Flexibility Option would be located on the same Project Site with the same potential to encounter buried tribal cultural resources as the Project and would not alter the proposed construction footprint or increase or decrease the amount or depth of excavation compared to the Project, the conclusions regarding the cumulative impact analysis and impact significance determination presented below for the Project would be the same under the Flexibility Option.

a) Impact Analysis

As identified in **Section III, Environmental Setting**, of this Draft EIR in **Section III, Environmental Setting**, 17 related projects are located in the vicinity of the Project Site. The Project and related projects are located within a highly urbanized area that has been extensively disturbed and developed over time.

Although impacts to tribal cultural resources tend to be site-specific, cumulative impacts would occur if the Project combined with the Related Projects within this study area affected the same tribal cultural resources and communities. In the event any tribal cultural resources are uncovered, each related project would be required to comply with the applicable regulatory requirements, as well as the City's condition of approval, as appropriate, and any site-specific mitigation that would be identified for that related project. In addition, related projects would be required to comply with the consultation requires of AB 52 to determine and mitigate any potential impacts to tribal cultural resources.

Therefore, the Project, including the Flexibility Option, and related projects would not result in significant cumulative impacts to tribal cultural resources. As such, the Project's contribution would not be cumulatively considerable, and cumulative impacts would be less than significant.

b) Mitigation Measures

Under both the Project and the Flexibility Option, cumulative impacts to tribal cultural resources would be less than significant; no mitigation measures would be required.

c) Level of Significance After Mitigation

Under both the Project and the Flexibility Option, cumulative impacts to tribal cultural resources would be less than significant without mitigation.