

IV. Environmental Impact Analysis

L. Tribal Cultural Resources

1. Introduction

This section of the Recirculated Draft EIR provides an analysis of the Project's potential impacts on tribal cultural resources. The evaluation of potential impacts to tribal cultural resources is based on coordination and consultation with California Native American tribes that are traditionally and culturally affiliated with the Project Site, as well as a review of the Sacred Land Files records search conducted by the Native American Heritage Commission (NAHC). This section is also based on the *Tribal Cultural Resources Report for the Paseo Marina Project* (Tribal Cultural Resources Report) prepared by Dudek (2021) included as Appendix K of this Recirculated 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 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.¹ 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.²

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.³

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

¹ *Public Resources Code, Section 21080.3.1(b) and (c).*

² *Public Resources Code, Sections 21080.3.1(d) and 21080.3.1(e).*

³ *Public Resources Code, Section 21080.3.2(b).*

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.⁴

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 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.⁵

(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

⁴ *Public Resources Code, Section 21082.3(d)(2) and (3).*

⁵ *Public Resources Code, Section 21082.3(c)(2)(B).*

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.

(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) Current Project Site Conditions

As discussed in Section II, Project Description, of this Recirculated Draft EIR, the Project Site is currently developed with three structures, including a two-story Barnes and Noble bookstore located along the northeastern corner of the Project Site, a single-story building providing a variety of retail uses located generally within the southern portion of the Project Site, a two-story commercial and retail building located generally within the western portion of the Project Site, and surface parking and circulation areas. Historic topographic maps do not reveal any development within the Project Site prior to the construction of the shopping center in the mid-1970s.

The Project Site is located in the Palms–Mar Vista–Del Rey Community Plan area of the City of Los Angeles, southwest of the City of Culver City, north of the Ballona Wetlands, and 1.75 miles east of the Pacific Ocean. According to the Tribal Cultural Resources Report, historical maps indicate the presence of the extensive Ballona Lagoon (currently in the location of Marina Del Rey) to the south of the Project Site. In addition, this area falls within the ancient floodplain of the Los Angeles River in a low-lying area between the Ballona Bluffs to the south and the Santa Monica plain to the north. With regard to the underlying geological and soil conditions, existing development in the vicinity of the Project Site is underlain by soils classified by the U.S. Department of Agriculture as Urban Land or Commercial Complex, which is associated with discontinuous human-transported material over Holocene alluvium and marine deposits.⁶ Due the size and nature of past development associated with the surrounding structures and existing paved area, all native subsurface soils with potential to support the presence of cultural deposits have very likely been disturbed in areas occupied with existing buildings. Areas with paved parking lots may have a higher potential for intact native soils to persist, underneath pavement and base. However, there is always some possibility that subsurface Native American resources could be present, as have been encountered in areas such as Playa Vista, to the east or extensively developed areas near Downtown.

(2) City of Los Angeles Ethnographic Context

As provided in the Tribal Cultural Resources Report, based on ethnographic information, it is believed that at least 88 different languages were spoken from Baja California Sur to the southern Oregon state border at the time of Spanish contact in the 16th century. Tribes in the Los Angeles region have traditionally spoken Takic languages

⁶ U.S. Department of Agriculture, *Natural Resources Conservation Service Soils Soil Survey Geographic Database*, available at <https://casoilresource.lawr.ucdavis.edu/gmap/>, accessed on June 9, 2023.

that may be assigned to the large Uto-Aztecan family. These groups include the Gabrieleño, Cahuilla, and Serrano.

The archaeological record indicates that the Gabrieleño arrived in the Los Angeles Basin around 500 B.C. Surrounding native groups included the Chumash and Tataviam to the northwest, the Serrano and Cahuilla to the northeast, and the Juaneño and Luiseño to the southeast. The name “Gabrielino” or “Gabrieleño” denotes those people who were administered by the Spanish from the San Gabriel Mission, which included people from the Gabrieleño area proper, as well as other social groups. Therefore, in the post-Contact period, the name does not necessarily identify a specific ethnic or tribal group. The names by which Native Americans in southern California identified themselves have, for the most part, been lost. Many modern Gabrieleño identify themselves as descendants of the indigenous people living across the plains of the Los Angeles Basin and refer to themselves as the Tongva, within which there are a number of regional bands. This term (Tongva) is used in the remainder of this section to refer to the pre-Contact inhabitants of the Los Angeles Basin and their descendants.

Tongva lands encompassed the greater Los Angeles Basin and three Channel Islands: San Clemente; San Nicolas; and Santa Catalina. The Tongva established large, permanent villages in the fertile lowlands along rivers and streams, and in sheltered areas along the coast, stretching from the foothills of the San Gabriel Mountains to the Pacific Ocean. A total tribal population has been estimated of at least 5,000, but recent ethnohistoric work suggests a number approaching 10,000.

The large ethnographic Tongva village in the region was that of Yanga (also known as Yaangna, Janga, and Yabit), which was in the vicinity of the Pueblo of Los Angeles approximately 10 miles from the Project Site. This village was reportedly first encountered by the Portola expedition in 1769. In 1771, Mission San Gabriel was established and Mission records indicate that 179 Gabrieleño inhabitants of Yanga were recruited to San Gabriel Mission. Based on this information, Yanga may have been the most populated village in the Western Gabrieleño territory.

The Tongva subsistence economy was centered on gathering and hunting. The surrounding environment was rich and varied, and the tribe exploited mountains, foothills, valleys, deserts, riparian, estuarine, and open and rocky coastal eco-niches. Like that of most native Californians, acorns were the staple food (an established industry by the time of the early Intermediate Period). Acorns were supplemented by the roots, leaves, seeds, and fruits of a wide variety of flora (e.g., islay, cactus, yucca, sages, and agave). Fresh water and saltwater fish, shellfish, birds, reptiles, and insects, as well as large and small mammals, were also consumed.

A wide variety of tools and implements were used by the Tongva to gather and collect food resources. These included the bow and arrow, traps, nets, blinds, throwing sticks and slings, spears, harpoons, and hooks. Groups residing near the ocean used oceangoing plank canoes and tule balsa canoes for fishing, travel, and trade between the mainland and the Channel Islands.

Tongva people processed food with a variety of tools, including hammerstones and anvils, mortars and pestles, manos and metates, strainers, leaching baskets and bowls, knives, bone saws, and wooden drying racks. Food was consumed from a variety of vessels. Catalina Island steatite was used to make ollas and cooking vessels.

At the time of Spanish contact, the basis of Tongva religious life was the Chinigchinich cult, centered on the last of a series of heroic mythological figures. Chinigchinich gave instruction on laws and institutions, and also taught the people how to dance, the primary religious act for this society. He later withdrew into heaven, where he rewarded the faithful and punished those who disobeyed his laws. The Chinigchinich religion seems to have been relatively new when the Spanish arrived. It was spreading south into the Southern Tadic groups even as Christian missions were being built. The Chinigchinich religion may represent a mixture of native and Christian belief and practices.

Deceased Tongva were either buried or cremated, with burial more common on the Channel Islands and the neighboring mainland coast and cremation predominating on the remainder of the coast and the interior. Cremation ashes have been found buried within stone bowls and in shell dishes, as well as scattered among broken ground stone implements. These archaeological finds correspond with ethnographic descriptions of an elaborate mourning ceremony that included a wide variety of offerings, including seeds, stone grinding tools, otter skins, baskets, wood tools, shell beads, bone and shell ornaments, and projectile points and knives. Offerings varied with the sex and status of the deceased. At the behest of the Spanish missionaries, cremation essentially ceased during the post-Contact period.

(3) Senate Bill 18 and Assembly Bill 52 Consultation

In compliance with the requirements of Senate Bill 18 and AB 52, Department of City Planning staff provided formal notification of the Project on April 19, 2017, and August 10, 2017. Letters were sent via FedEx and certified mail to the following California Native American tribes that requested notification:

- Fernandeano Tataviam Band of Mission Indians
- Gabrieleño Band of Mission Indians—Kizh Nation

- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino/Tongva Nation
- Gabrielino/Tongva San Gabriel Band of Mission Indians
- San Fernando Band of Mission Indians
- Soboba Band of Luiseño Indians
- Torres Martinez Desert Cahuilla Indians

One response was received by the City on May 2, 2017, from Mr. Andrew Salas, Chairman of the Gabrieleño Band of Mission Indians—Kizh Nation, who asserted the following:

Your project lies within our ancestral tribal territory, meaning descending from, or a higher degree of kinship than traditional or cultural affiliation. Your project is located within a sensitive area and may cause a substantial adverse change in the significance of our tribal cultural resources.

On July 26, 2017, consultation occurred between the City and the representatives from the Gabrieleño Band of Mission Indians—Kizh Nation by teleconference. Department of City Planning staff and representatives from the tribe participated in the teleconference to discuss the tribe's concerns regarding tribal cultural resources as they relate to the Project Site. During the teleconference, the tribal representatives provided an oral history of the areas near the Project Site, including the following:

- The Playa Vista area is a highly sensitive area.
- There is a traditional trading route that went through the area—the Gaucha trading route (as shown in the 1938 LA County Map and included as Figure 3 in the Tribal Cultural Resources Report).
- The burial site at Lincoln Boulevard is named after the Saangna village.
- There were 360 burials in this one location (a Google search for 'Playa Vista human remains cultural resources' would yield information on this large burial site).
- Ballona Creek, the wetlands, marshes, and the coastal area were a highly used area. Villages had a presence at the bluffs.
- The area is known for its oil resources, including the tar pits at Baldwin Hills.

On January 3, 2023, the City Department of City Planning issued a pre-closure letter notifying Mr. Andrew Salas of the Gabrieleño Band of Mission Indians—Kizh Nation of the City’s intent to conclude consultation at the publication of the Recirculated Draft EIR. Subsequently, on February 9, 2023, a follow-up teleconference call was held between the City and representatives of the Gabrieleño Band of Mission Indians—Kizh Nation. During this call, the tribe provided a history of the area of the Project Site and discussed previous findings of Native American remains. The tribe also requested that the tribe’s mitigation measure be incorporated as part of the Project. The tribe also shared materials regarding the history of Native Americans in the area and a video that focuses on the discovery of Tongva Burial Grounds located in Playa Vista.

The City recognized the tribe’s concerns as discussed throughout the Project’s AB 52 consultation process. In response to the tribe’s comments, and in consideration of the surrounding area’s known sensitivity for tribal cultural resources, the mitigation measure previously set forth in the Draft EIR has been modified, including to require that the Project Applicant retain both archeological and tribal monitors that are qualified to identify subsurface tribal cultural resources. This mitigation measure, which was shared with the tribe on February 23, 2023, would serve to reduce the Project’s potential impacts on tribal cultural resources to a less than significant level, as detailed further below.

Copies of notification letters, verification of mailing, and correspondence received from the tribal representative are included as Appendix K of this Recirculated Draft EIR.

(4) Background Research

(a) Sacred Lands File Review

A Sacred Sites/Lands File Search was conducted by the California NAHC for the Project on June 12, 2017, and the results of the records searches, are included in Appendix K of this Recirculated Draft EIR. The results of the Sacred Sites/Lands File searches indicated negative results.

(b) California Historical Resources Information System Review

A California Historical Resources Information System records search at the South Central Coastal Information Center (SCCIC) was conducted as part of the preparation of the Tribal Cultural Resources Report for the Project. The records search included SCCIC’s collections of mapped prehistoric, historic, and built environment resources, Department of Parks and Recreation site records, technical reports, and ethnographic references. Additional consulted sources included historical maps of the Project Site vicinity, the National Register, the California Register, the California Historic Property Data File, and the lists of California State Historical Landmarks, California Points of Historical Interest, and the Archaeological Determinations of Eligibility.

(i) Previously Conducted Cultural Resource Studies

Results of the cultural resources records search indicated that 30 previous cultural resource studies have been conducted within 0.5 mile of the Project Site between 1969 and 2015. None of these have intersected the Project Site. Four studies (LA-00253, LA-02558, LA-02673, and LA-03495) directly address the prehistoric site P-19-00047, recorded approximately 750 feet outside the Project Site.⁷ A brief summary of these four studies is provided below.

LA-00253: This study describes an archaeological investigation for proposed Admiralty Place Development completed by Brian D. Dillon, PhD in 1988. The investigation included a surface collection of site P-19-000047 which produced shells, debitage, cores, handstones, choppers, and bowl fragments. In addition, subsurface testing revealed midden soils as shallow as 30 centimeters below the disturbed overburden surface.

LA-02558: This study was completed by Statistical Research in 1989 for the Channel Gateway Project within the boundaries of site P-19-00047. Trenching excavations revealed intact midden soils on the site. Four fragments of human remains were positively identified.

LA-02673: This study was completed by Statistical Research in 1992 as the continuation of LA-02558, as described above. The report documents a more rigorous investigation of site P-19-000047 at the request of the Southern California Gabrielino Indian Band. A combination of hand excavation and monitored machine excavation yielded similar artifacts to previous investigations as well as revealed the midden layer. This study succeeded in establishing clear boundaries to P-19-000047.

LA-03495: This study provides a brief article by Harvey S. Levine written in 1969. Levine reported two burials found that year, both of which were excavated by UCLA. The article also summarized artifacts that were found in the vicinity in the past, which included additional burials, large stone bowls, mortars, pestles, projectile points, fish bones, and shells.

(ii) Previously Recorded Cultural Resources

SCCIC records indicate a total of five previously recorded cultural resources fall within the 0.5-mile records search buffer around the Project Site; none of these recorded

⁷ *The exact location of this resource may not be disclosed in order to ensure its location remains confidential.*

resources are on the Project Site. Of these, three are historic-era buildings or structures, one is a historic era trash midden, and one is a prehistoric site (P-19-000047).

P-19-000047 was recorded as a large shell midden in 1961, approximately 750 feet away from the Project Site. The site reportedly yielded numerous artifacts associated with food preparation and tool manufacture including stone bowls, projectile points, debitage, bone tools, beads, antler harpoons, choppers, hammerstones, scrapers, and pestles. Two burials were reported at the site based on site forms on file with the SCCIC. The Southern California Gabrieleño People tribe identified the site as a sacred village site Sa'anga (LA-00253). Portions of the site have undoubtedly been destroyed due to development. However, the possibility of intact portions of the site exists. As discussed in the Tribal Cultural Resources Report included in Appendix K of this Recirculated Draft EIR, based on a review of historical aerials (available since 1952) and topographic maps (available since 1896), aerials indicate that as far back as 1952 the parcel was used for agriculture. By 1972, the parcel appears to be unused and undeveloped. By 1980, the present layout of buildings had been constructed. Historic topographic maps do not reveal any development within the Project Site prior to the construction of the shopping center.

P-19-000047 is a listed Historic-Cultural Monument (HCM-490), which is a database maintained by the City of Los Angeles Office of Historic Resources. The resource meets the criteria for HCM designation, having yielded, or may be likely to yield, information important in prehistory or history. The inventory notes that the site has yielded “upwards of a dozen human burials and unique harpoon heads.”

(c) Ethnographic Research and Review of Academic Literature

As part of the preparation of the Tribal Cultural Resources Report for the Project, academic and ethnographic literature and materials were reviewed for information pertaining to past Native American use of the Project area. This review included consideration of sources identified by the Gabrieleño Band of Mission Indians—Kizh Nation during past consultations with the City. Figure 3 of the Tribal Cultural Resources Report, included in Appendix K of this Recirculated Draft EIR, shows the general location of the Project Site (in blue) relative to features identified on a 1938 Kirkman-Harriman historical map. Based on this map, the Project Site is south of an old road that skirted around what is now Marina del Rey, along the general route of today's Washington Boulevard. Heading northeast along the side of Ballona Creek, through houses associated with Rancho Ballona, the route would have intersected the historic location of El Pueblo de Los Angeles, approximately 13 miles northeast of the Project Site.

According to the Tribal Cultural Resources Report, one study made an effort to map the traditional Gabrieleño/Tongva cultural use area through documented family kinships and Native American recruitment numbers documented in mission records.⁸ Working under the assumption that missionization affected the region's population relatively evenly, this process allowed the researchers to identify the relative size of tribal villages (settlements) based on the number of individuals reported in these records. Traditional cultural use area boundaries, as informed by other ethnographic and archaeological evidence, were then drawn around these clusters of villages. Based on that study, the nearest village site to the Project Site was Guaspét, located within a mile of the Project Site in a portion of today's Culver City that fell within what was once the eastern portion of Rancho Ballona. An additional village named Waachnga was also identified in the vicinity of what is now Marina del Rey, approximately 1 mile from the Project Site. Therefore, it is likely that there were at least two named Gabrieleño communities between present day Culver City and the mouth of Ballona Creek during the Spanish and Mexican eras. It should be noted that these villages have also been represented on the 1938 Kirkman-Harriman map discussed above, which was prepared independently of the studies identifying the surrounding villages.

The most common name for the village in the Marina del Rey area is Sa'anga (also the name used by the Gabrieleño Kizh in previous consultation). The 1938 map represents this village to the south of the mouth of Ballona Creek. This village location is consistent with information presented in a Los Angeles Times article reporting the identification of significant cultural deposits indicative of habitation activities and high numbers of Native American burials that were encountered 1 mile south of the Project Site during construction of the Playa Vista housing community. Regardless of the exact location of Sa'anga, which would likely have been subject to change over many hundreds of years in response to variable environmental conditions, it is clear from the archaeological record that area around the Project Site was subject to past Native American use. This is indicated by the presence of a previously recorded prehistoric habitation site (P-19-000047) identified within approximately 750 feet of the Project Site.

Based on review of pertinent academic and ethnographic information, the Project Site falls within the boundaries of the Gabrieleño/Tongva traditional use area. While sensitive cultural resources have been previously recorded in the surrounding vicinity, none have been identified within the Project Site. As such, no Native American tribal cultural resources have been previously documented in areas that may be impacted by the Project.

⁸ *Northwest Economic Associates (NEA) and King, Chester, Ethnographic Overview of the Angeles National Forest: Tataviam and San Gabriel Mountain Serrano Ethnohistory, 2014.*

3. Project Impacts

a. Thresholds of Significance

In accordance with the State CEQA Guidelines Appendix G, the Project would have a significant impact related to tribal cultural resources if it 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 Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.***

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 provided above.

b. Methodology

A California Historical Resources Information System records search was conducted for the Project Site and a 0.5-mile radius around the Project Site to determine potential impacts associated with tribal cultural resources. The records search included a review of mapped prehistoric, historic, and built environment resources; Department of Parks and Recreation Site Records; technical reports; ethnographic references; historical maps; the California Historic Property Data File; the National Register of Historic Places, California Register of Historical Resources, California State Historical Landmarks, and California Points of Historical Interest listings; and the Archaeological Determinations of Eligibility. Pertinent academic and ethnographic literature was also reviewed for information pertaining to past Native American use of the Project area. Consultation with California Native American Tribes was conducted to address potential impacts associated with

Native American resources. In addition, a Sacred Lands Files search was conducted by the NAHC to determine the presence of any recorded tribal cultural resources on the Project Site.

c. Project Design Features

No specific project design features are proposed with regard to tribal cultural resources.

d. Analysis of Project Impacts

As set forth in Section II, Project Description, of this Recirculated Draft EIR, the Project proposes two development options—Option A and Option B. Option A proposes to develop a new mixed-use development with 658 multi-family residential units, and up to 27,300 square feet of neighborhood-serving commercial uses. The proposed uses for Option A would be provided within three seven-story buildings over two subterranean levels.

Option B proposes to develop approximately 425 multi-family residential units, 40,000 square feet of neighborhood-serving commercial uses, and 90,000 square feet of office space. The proposed uses for Option B would be provided within four buildings ranging between four and seven stories over three subterranean levels.

Construction activities, including depth of excavation and overall amount of grading would be greater under Option B. Specifically, Option A would involve excavations to a depth of approximately 28 feet while Option B would involve excavations to a depth of approximately 43 feet. As the differences in the land use mix and floor area of the two development options would not affect the analysis related to tribal cultural resources, the evaluation of potential impacts associated with tribal cultural resources provided below accounts for both development scenarios and the term “Project” is used. Additionally, as provided in the Tribal Cultural Resources Report, both options exceed the maximum depth to which soils likely to support the presence of archaeological resources or related tribal cultural resources, which are considered most likely to be present within 10 feet of the ground surface. As such, Option A and Option B have the same potential for encountering unknown buried cultural resources and/or tribal cultural resources.

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. 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 Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.***

- ii. 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)?***

(1) Impact Analysis

As presented above in Subsection 2.b.(4), the results of the records searches (i.e., SCCIC and NAHC) conducted for the Project Site and the independent analysis of correspondence and materials relative to potential tribal cultural resources on the Project Site and vicinity included in the Tribal Cultural Resources Report prepared for the Project demonstrate that while a large shell midden (P-19-000047, the Sa'anga)⁹ has been recorded approximately 750 feet from the Project Site, no known tribal cultural resources have been identified within the Project Site. However, in consideration of the known sensitivity of the surrounding area regarding cultural resources and due to the proximity of the Project Site to the Sa'anga, Mitigation Measure TCR-MM-1 is included below to provide for periodic Native American monitoring. As set forth in Mitigation Measure TCR-MM-1, a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, would oversee and adjust monitoring efforts as needed (increase, decrease, or discontinue monitoring frequency) based on the observed potential for construction activities to encounter tribal cultural deposits or related materials and as approved by the City. Following completion of construction, the qualified archaeologist would provide an archaeological monitoring report to the City and SCCIC with the results of the cultural monitoring program.

As discussed above in Subsection 2.b.(4), no pre-historic archaeological sites, or other resources documented to be related to past Native American activity, have been previously identified within the Project Site. SCCIC records indicate that a total of five previously recorded cultural resources fall within the 0.5-mile records search buffer around the Project Site. These include three historic-era buildings or structures, one historic era trash midden, and one prehistoric site (P-19-000047, the Sa'anga). P-19-000047,

⁹ *P-19-000047, identified as the village of Sa'anga during previous consultation with the Gabrieleño tribal community, reportedly included at least two burials and had a rich subsurface deposit with cultural material indicative of habitation and tool manufacture.*

identified as the village of Sa'anga, is located approximately 750 feet from the Project Site and reportedly included human burials and had a rich subsurface deposit with cultural material indicative of habitation and tool manufacture. P-19-000047 is a listed Historic-Cultural Monument (HCM-490). The resource is considered to meet the criteria for HCM designation, having yielded, or may be likely to yield, information important in prehistory or history. The inventory notes that the site has yielded "upwards of a dozen human burials and unique harpoon heads." However, none of the five previously recorded cultural resources that fall within the 0.5-mile records search buffer around the Project Site, including P-19-000047,¹⁰ are located on the Project Site. Therefore, as concluded in the Tribal Cultural Resources Report, as the Project Site is not 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), the Project would not cause a substantial adverse change in the significance of a tribal cultural resource listed or eligible for listing in the California Register or in a local register. **As such, impacts to such resources would be less than significant.**

(2) Mitigation Measures

As provided above and as concluded in the Tribal Cultural Resources Report, impacts to tribal cultural resources would be less than significant. Notwithstanding, as provided in the Tribal Cultural Resources Report, in consideration of the known sensitivity of the surrounding area for cultural resources, the Tribal Cultural Resources Report includes a recommendation for providing periodic monitoring during ground disturbance activities. This recommendation is set forth below as Mitigation Measure TCR-MM-1.

Mitigation Measure TCR-MM-1: Prior to commencing any ground disturbance activities, including excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing asphalt, clearing, pounding posts, augering, blasting, stripping topsoil or a similar activity at the Project Site, the Applicant, or its successor, shall retain and pay for archeological and tribal monitors, determined by both the City's Office of Historic Resources and the Gabrieleño Band of Mission Indians—Kizh Nation to be qualified to identify subsurface tribal cultural resources.

¹⁰ While site P-19-000047 has not been specifically identified as a tribal cultural resource by Native American representatives through the process of AB 52 consultation, it is designated as an HCM, and documented to be a sensitive and important archaeological resource. As noted above, the Gabrieleño Band of Mission Indians—Kizh Nation identified a known area containing a number of human burials approximately 1 mile away and has also observed the general project area to be of traditional cultural and natural importance to the tribe. Management approaches for both tribal cultural resources and cultural resources have taken these considerations into account.

The qualified archeological and tribal monitors shall observe all ground disturbance activities on the Project Site at all times while ground disturbance activities are taking place. If ground disturbance activities are simultaneously occurring at multiple locations on the Project Site, an archaeological 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 archaeological and tribal monitor both indicate that the site has a low potential for impacting tribal cultural resources.

Prior to the commencement of any ground disturbance activities at the Project Site, the Applicant, or its successor, shall notify any California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the Project Site that ground disturbance activities are about to commence and invite the tribes to observe the ground disturbance activities, if the tribes wish to monitor.

In addition, prior to commencement of ground disturbance activities, the archaeological monitor in consultation with the tribal monitor, shall provide a 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.

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 the qualified archaeologist, 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 Project; (2) and the Department of City Planning, Office of Historic Resources.

2. If the City Office of Historic Resources 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 any 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 general public under the applicable provisions of the California Public Records Act, California Public Resources Code Section 6254(r), and in compliance with the City's AB 52 Confidentiality Protocols.

(3) Level of Significance After Mitigation

Project-level impacts related to tribal cultural resources were determined to be less than significant without mitigation. Notwithstanding, as provided in the Tribal Cultural Resources Report, in consideration of the known sensitivity of the surrounding area for cultural resources, the Tribal Cultural Resources Report includes a recommendation for providing periodic monitoring during ground disturbance activities. This recommendation is set forth above as Mitigation Measure TCR-MM-1. Implementation of Mitigation Measure TCR-MM-1 would further reduce the Project's less-than-significant impact.

e. Cumulative Impacts

(1) Impact Analysis

As indicated in Section III, Environmental Setting, of this Recirculated Draft EIR, there are a total of 14 related projects in the vicinity of the Project Site. The Project and the related projects are located within an urbanized area that has been disturbed and developed over time. Although impacts to tribal cultural resources tend to be site-specific, cumulative impacts could occur if the Project, related projects, and other future development within the general area were to affect the same tribal cultural resources and communities. In the event that tribal cultural resources are uncovered, each related project would be required to comply with applicable regulatory requirements, including as discussed in detail above in Subsection 2.a on page IV.L-1 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 requirements of AB 52 to determine and mitigate any potential impacts to tribal cultural resources. Therefore, the Project 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.

(2) Mitigation Measures

Cumulative impacts related to tribal cultural resources would be less than significant. Therefore, no mitigation measures are required.

(3) Level of Significance After Mitigation

Cumulative impacts related to tribal cultural resources were determined to be less than significant without mitigation. Therefore, no mitigation measures were required or included, and the impact level remains less than significant.