

IV. Environmental Impact Analysis

K. Tribal Cultural Resources

1. Introduction

This section of the Draft EIR provides an analysis of the Project’s potential impacts on tribal cultural resources. This section is based in part on the *Tribal Cultural Resources Report for the 222 West 2nd Project* (TCR Report) prepared by Dudek in June 2018, included as Appendix M of this Draft EIR. The impact analysis also is based on a Sacred Lands File (SLF) records search conducted by the California Native American Heritage Commission (NAHC) and a California Historical Resources Information System (CHRIS) records search conducted by the South Central Coastal Information Center (SCCIC) at California State University Fullerton, both of which are appended to the TCR Report, as well as consultation with the Gabrieleño Band of Mission Indians—Kizh Nation.¹

2. Environmental Setting

a. Regulatory Framework

California law protects Native American burials, skeletal remains, and associated grave goods regardless of the antiquity and provides for the sensitive treatment and disposition of those remains.

On September 25, 2014, Governor Edmund G. “Jerry” Brown signed into law Assembly Bill (AB) 52, which amended Public Resources Code (PRC) Section 5097.94 and added Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to establish that an analysis of a project’s impact on cultural resources include whether the project would impact “tribal cultural resources.” PRC Section 21074 sets forth the following:

¹ *As discussed further below, AB 52 notification letters were sent to all of the California Native American tribes that are traditionally and culturally affiliated with the general Project area. The Gabrieleño Band of Mission Indians—Kizh Nation was the only tribe to respond and request consultation.*

- (a) *“Tribal cultural resources” are either of the following:*
- (1) *Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*
 - (A) *Included or determined to be eligible for inclusion in the California Register of Historical Resources.*
 - (B) *Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.²*
 - (2) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1.³ In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.*
- (b) *A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.*
- (c) *A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2,⁴ 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).⁵*

² Per PRC Section 5020.1(k), “local register of historical resources” means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.

³ PRC Section 5024.1(c) provides the National Register criteria for listing of historical resources in the California Register.

⁴ Per PRC Section 21083.2(g), a unique archaeological resource means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; or (2) has a special and particular quality such as being the oldest of its type or the best available example of its type; or (3) is directly associated with a scientifically recognized important prehistoric or historic event or person.

⁵ Per PRC Section 21083.2(h), a non-unique archaeological resource means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A non-unique archaeological resource
(Footnote continued on next page)

For a project for which a notice of preparation (NOP) for a Draft EIR was filed on or after July 1, 2015, the lead agency is required to consult with any California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project, if: (1) the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area; and (2) the tribe requests consultation within 30 days of receipt of formal notification by the lead agency. PRC Section 21080.3.1(b) defines “consultation” with a cross-reference to Government Code Section 65352.4, which applies when local governments consult with tribes on certain planning documents and states the following:

“Consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

The new provisions in PRC Section 21080.3.2(a) enumerate topics that may be addressed during consultation, including identification of the significance of tribal cultural resources, determination of the potential significance of project impacts on tribal cultural resources and the type of environmental document that should be prepared, and identification of possible mitigation measures and project alternatives.

PRC Section 21084.3 also states that public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. This section of the PRC also includes examples of mitigation measures that may be considered to avoid or minimize the significant adverse effects.

Consultation ends when either of the following occurs prior to the release of the environmental document:⁶

1. Both parties agree to measures to avoid or mitigate a significant effect on a tribal cultural resource; or

need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

⁶ Governor’s Office of Planning and Research, *Tribal Consultation Guidelines, Supplement to General Plan Guidelines, November 14, 2005.*

2. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached (PRC Section 21080.3.2(b)(1)-(2)).

Agreed upon mitigation measures shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or substantially lessen a significant impact on an identified tribal cultural resource (PRC Section 21082.3(a)-(b)).

With regard to human remains, CEQA Guidelines Section 15064.5 addresses consultation requirements if an initial study identifies the existence of, or the probable likelihood of, Native American human remains within a project site. This section of the CEQA Guidelines as well as Health and Safety Code Section 7050.5 and PRC Section 5097.9 address treatment of human remains in the event of accidental discovery.

b. Existing Conditions

(1) Project Site and Surrounding Area

The Project Site comprises approximately 2.71 acres in Downtown Los Angeles and is bounded by South Broadway on the west, West 2nd Street on the north, and South Spring Street on the east.⁷ Existing uses within the northern portion of the Project Site consist of a former surface parking lot, which is currently in use as a staging and excavation area for construction of the Los Angeles County Metropolitan Transportation Authority (Metro) Regional Connector 2nd Street/Broadway rail station and portal. Metro's construction activities include excavation to a depth of up to approximately 89 feet in portions of the Project Site.^{8,9} The southern portion of the Project Site contains a five-story, approximately 67-foot-tall parking structure that includes rooftop parking and two subterranean levels. The Project Site is relatively flat with limited ornamental landscaping.

⁷ For ease of reference, the roadways in the Project vicinity may be referred to herein without a directional indicator (e.g., Broadway, 2nd Street, and Spring Street). Furthermore, directional references have been simplified (i.e., Broadway actually borders the Project Site to the northwest but is described herein as the west).

⁸ Pursuant to a right-of-entry agreement, Metro has had exclusive control and use of the surface parking area since March 2015 and will continue to use it as a construction staging/laydown location for the Regional Connector project until up to September 2021. At that time, control of the surface parking lot (with the exception of the portal area), will revert back to the Applicant (CA-LATS South, LLC). Metro's current plans call for the restoration of a paved surface area on those areas of the northern portion of the Project Site outside of the new Metro portal and plaza area following the completion Metro's construction activities.

⁹ Los Angeles County Metropolitan Transportation Authority, Regional Connector Transit Corridor Final Design Submittal 2nd/Broadway Station SOE Design, Utility Plan, July 8, 2016.

The Project Site is surrounded by a mix of commercial office, government and civic office, retail, and residential uses contained in a range of low-rise to high-rise buildings, which are physically separated from the Project Site by local roadways. Immediately to the west is an existing surface parking lot and 10-story office building fronting Broadway. To the immediate north across 2nd Street is Los Angeles Times Square, which includes an 11-story office building and a six-level parking structure fronting 2nd Street. East of the Project Site across Spring Street are single-story commercial buildings and a six-level parking structure. To the south is a surface parking lot and six-story apartment building (Hosfield Building, now known as the Victor Clothing Building) fronting Broadway, as well as a surface parking lot and five-story apartment building (Douglas Building Lofts) fronting Spring Street.

The Project Site is situated in Downtown Los Angeles, approximately seven miles east of the La Brea Tar Pits and 14 miles east of the Pacific Ocean. Historical maps indicate the presence of at least one major drainage within the vicinity of the Project Site, the Los Angeles River; however, this river is channelized approximately 0.6 miles to the east. Existing development is underlain by a soil category referred to as Urban Land and Commercial Complex (e.g., soil introduced as a result of construction or imported fill), which is associated with discontinuous human-transported material over young alluvium derived from sedimentary rock. Due the size and nature of past development associated with existing paved areas and surrounding structures, all native subsurface soils with potential to support the presence of cultural deposits have likely been disturbed.

(2) City of Los Angeles Ethnographic Context

According to the TCR Report, the history of the Native American communities in the Los Angeles region prior to the mid-1700s has largely been reconstructed through later mission-period and early ethnographic accounts. The first records of the Native American inhabitants of the region come predominantly from European merchants, missionaries, military personnel, and explorers. These brief, and generally peripheral, accounts were prepared with the intent of furthering respective colonial and economic aims and were combined with observations of the landscape. They were not intended to be unbiased accounts regarding the cultural structures and community practices of the newly encountered cultural groups. The establishment of the missions in the region brought more extensive documentation of Native American communities, though these groups did not become the focus of formal and in-depth ethnographic study until the early 20th century. Additionally, it is important to note that while many of those providing information for these early ethnographies were able to provide information based on personal experience, a significantly large proportion of these informants were born after 1850, by which time Native Americans would have had considerable contact with Europeans. This is important to note when examining these ethnographies, since considerable culture change had undoubtedly occurred by 1850 among the Native American survivors of California. This is

also a particularly important consideration for studies focused on tribal cultural resources, where concepts of “cultural resource” and the importance of traditional cultural places are intended to be interpreted based on the values expressed by present-day Native American representatives and may vary from archaeological values.

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. Tribes in the Los Angeles region have traditionally spoken Takic languages 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. The 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 of at least 5,000 persons has been estimated, but recent ethnohistoric work suggests a number approaching 10,000 persons. Houses constructed by the Tongva were large, circular, domed structures made of willow poles thatched with tule that could hold up to 50 people. Other structures served as sweathouses, menstrual huts, ceremonial enclosures, and probably communal granaries. Cleared fields for races and games, such as lacrosse and pole throwing, were created adjacent to Tongva villages. Archaeological sites composed of villages with various sized structures have been identified.

The nearest large ethnographic Tongva village was that of Yanga (also known as Yaangna, Janga, or Yabit), which was in the vicinity of the Pueblo of Los Angeles. This village was reportedly first encountered by the expedition led by Captain Gaspar de Portola

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. 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, centered on the last of a series of heroic mythological figures. Chinigchinich was known to give instruction on laws and institutions as well as dance, which was the primary religious act for the Tongva society. He later withdrew into heaven, where he rewarded the faithful and punished those who disobeyed his laws. While the Chinigchinich religion seems to have been relatively new when the Spanish arrived, it spread south into the southern Takic groups even as Christian missions were being built. As such, 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 mainland 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) Assembly Bill 52 Consultation

In compliance with the requirements of AB 52, the City of Los Angeles (City) Department of City Planning provided formal notification of the Project on January 6, 2017. Letters were sent via FedEx and certified mail to the following California Native American tribes that were on the City's AB 52 contact list:

- Fernandeano Tataviam Band of Mission Indians
- Gabrieleño Band of Mission Indians—Kizh Nation
- Gabrielino/Tongva San Gabriel Band of Mission Indians
- Gabrielino-Tongva Tribe
- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino/Tongva Nation (Sam Dunlap, Cultural Resources Director)
- Gabrielino/Tongva Nation (Sandonne Goad, Chairperson)
- 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, was the only tribal representative who responded to the Project notification conducted by the City. No communication or request for consultation was received from any of the other notified tribes within the 30-day response period, which ended on February 5, 2017, or to date.

A record of the correspondence and related documents is included in Appendix C of the TCR Report. The tribal response to the Project notification letter is summarized in the impact analysis below, followed by a summary of the subsequent consultation and correspondence between tribal representatives and the City.

(4) Background Research

(a) Sacred Lands File Review

As part of the process of identifying cultural resources within or near the Project site, an NAHC review of the SLF was requested. The NAHC emailed a response on February 2, 2017, which stated that the SLF search identified sites within the area of potential effect that may be impacted by the Project. The NAHC recommended that the lead agency contact Ernie Salas or Andrew Salas of the Gabrieleño Band of Mission Indians—Kizh Nation for more information about the sites. Because the SLF search does not include an exhaustive list of Native American cultural resources, the NAHC also suggested contacting all of the Native American individuals and/or tribal organizations who may have direct knowledge of cultural resources in or near the Project Site. The NAHC provided contact information for five persons and entities with the SLF search results, and all tribal representatives identified by the NAHC were notified of the Project in compliance with AB 52. Documents related to the NAHC SLF search are included in Appendix B of the TCR Report.

(b) California Historical Resources Information System Review

A CHRIS records search was completed by staff at the SCCIC at California State University Fullerton on November 20, 2017 for the Project Site and a surrounding 0.5-mile radius. This search included the SCCIC's collections of mapped prehistoric, historic, and built environment resources, California Department of Parks and Recreation Site Records, technical reports, and ethnographic references. Additional consulted sources included historical maps of the Project Site vicinity, the California Points of Historical Interest, the California Historical Landmarks, the California Register of Historical Resources (California Register), the National Register of Historic Places (National Register), the California State Historic Properties Directory, the City of Los Angeles Historic-Cultural Monuments, and the Archaeological Determinations of Eligibility. The results of the records search are included in Appendix A of the TCR Report. However, certain aspects of the CHRIS records search have been kept confidential as requested by SCCIC staff. One previous cultural resources technical study has included the Project Site. While SCCIC records indicate a total of 18 previously recorded cultural resources are within 0.5 mile of the Project Site (none of which are recorded within or likely to intersect the Project Site itself), no prehistoric archaeological sites or other resources related to past Native American activity have been previously identified within the Project Site or the surrounding 0.5-mile records search buffer.

(i) Previously Conducted Cultural Resource Studies

As noted above, one previous study has been conducted within the Project Site, and an additional 160 previous cultural resource studies have been conducted within 0.5 mile of the site between 1978 and 2013. Of these, 43 studies were located adjacent to the Project Site. These studies are summarized in Table 1 of the TCR Report. The one previous study conducted on-site is summarized below:

LA-12584 (Restoration of Historic Streetcar Service in Downtown Los Angeles)—The United States Department of Transportation Federal Transit Administration (FTA) initiated consultation, in compliance with National Historic Preservation Act Section 106, for the Restoration of the Historic Streetcar Service Project area of potential effect, located in Downtown Los Angeles, with the State Historic Preservation Office (SHPO) in 2013. The project involved the construction and implementation of streetcar services along a one-way loop running from 1st Street on the north to 11th Street on the south. The project included two build alternatives (Locally Preferred Alternative, or LPA, and 9th Street Alternative) and a no-build alternative that would be part of phase I and phase II studies for the identification of historic properties. SHPO accepted the phased effort for the identification of historic properties and continued consultation with the FTA.

(ii) Previously Recorded Cultural Resources

No previously recorded cultural resources are located within the Project Site, and none have been identified during construction of the Metro Regional Connector 2nd Street/Broadway rail station and portal on-site.¹⁰ However, 18 previously recorded cultural resources are located within 0.5 mile. Of these, 10 are historic-era buildings or structures (concrete foundations/pads). One historic-era site (P-19-001575), located 0.5 mile from the Project Site, is the Chinatown site that contains materials dating between 1860 and the 1930s. Two historic-era cemeteries dating from the early to mid-19th century (P-19-003566 and P-19-004218) are also located within the search radius. Four resources consist of refuse deposits with temporally diagnostic material dating from the late 19th century to the early 20th century (P-19-003097, P-19-003129, P-19-003337, and P-19-004171). One resource contains a segment of a Spanish and Mexican-era water conveyance system known as the Zanja Madre (P-19-004112).¹¹ However, no prehistoric

¹⁰ *Personal communication between Dudek archaeologist Adam Giacinto, Metro Environmental Specialist Andrina Dominguez, and Metro archeologist Gino Ruzi, December 20, 2017. Refer to page 31 of the TCR Report included as Appendix M of this Draft EIR.*

¹¹ *See Section IV.C, Cultural Resources, of this Draft EIR for discussion of the Zanja Madre, which is considered an archaeological resource.*

sites or resources of specific Native American origin have been recorded within 0.5 mile of the Project Site.

(c) Ethnographic Research and Review of Academic Literature

In preparing the TCR Report, academic and ethnographic literature and materials were reviewed for information pertaining to past Native American use of the Project Site. This review included consideration of sources identified by the Gabrieleño Band of Mission Indians—Kizh Nation during present and past consultations with the City, notably the 1938 Kirkman-Harriman historical map (see Figure 3 of the TCR Report). Based on this map, the Project Site is in the vicinity of the Portola expedition's route on August 2, 1769. It also falls in the vicinity of the El Camino Real route and near a number of roads labeled as "very ancient trail." Heading northeast, these routes intersect at the historic location of El Pueblo de Los Angeles, mapped approximately 1 mile away. However, this map is highly generalized due to scale and age and may be somewhat inaccurate with regard to distance and location of mapped features. Additionally, this 1938 map was prepared more than 100 years following secularization of the missions (in 1833). While the map is a valuable representation of post-mission history, substantiation of the location and uses of the represented individual features would require review of archaeological or other primary documentation on a case-by-case basis.

At the time of the Portola expedition and through the subsequent mission period, the area surrounding the Project Site was occupied by western Gabrieleño/Tongva inhabitants (see Figures 4 and 5 of the TCR Report). One study made an effort to map the traditional Gabrieleño cultural use area through documented family kinships and Native American recruitment numbers documented in mission records. 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. The nearest village to the Project Site was Yanga, discussed above in Subsection IV.K.2.b.(2). As noted above, mission records indicate that 179 Gabrieleño inhabitants of Yanga were recruited to San Gabriel Mission, indicating that it may have been the most populated village in the western Gabrieleño territory. In general, the mapped position of this village has been substantiated through archaeological evidence, although the archaeological record has been substantially compromised by rapid and early urbanization throughout much of the region. In consultation, Tribal Chairman Salas indicated that the presence of numerous Native American neophyte burials approximately 0.5 mile from the Project Site may provide evidence of the village of Yanga at this location. While this does perhaps speak to a relatively large Native American population in this area, the referenced burials were within a formal historic cemetery and were not representative of a traditional Gabrieleño village. As such, the burials should not

be considered evidence of the location of the village itself, though these buried individuals may very well have been from Yanga.

Archaeological evidence has suggested that the village of Yanga may have been located anywhere between Dodger Stadium and the Bella Union Hotel (constructed circa 1870), though likely centered around Union Station (constructed circa 1939). Technical studies completed for the Los Angeles Rapid Transit project are some of the most informative with regard to the distribution of archaeological finds in this area. Cultural material indicative of habitation activities characteristic of a village such as Yanga have been encountered throughout this area but have been more extensively documented within approximately 1,000 feet surrounding Union Station. While this may be partially the result of a greater relative amount of archaeological attention, evidence suggests that there has been both intensive prehistoric and historic era (notably Spanish/Mexican period) use of this area. The broader area would have been used by Native American inhabitants, and the location of the village of Yanga may have shifted to multiple locations based on the route of the meandering Los Angeles River over thousands of years. Spanish/Mexican inhabitants who settled here were undoubtedly situated in areas prehistorically occupied by the Gabrieleño but were more spatially constrained (at least in the initial years) to the area around what is now El Pueblo de Los Angeles State Park and Union Station. During consultation, Tribal Chairman Salas referenced J.M. Guinn's Historical and Biographical Record of Southern California, which suggests "the Indian village of Yang-na was located within the present limits of Los Angeles City. It was a large town, as Indian towns go. Its location was between what is now Aliso and First Street, in the neighborhood of Alameda Street." This would place the village approximately 0.5 mile east of the Project Site. Regardless of the most intensively used portion of the Native American village of Yanga, ethnographic, historical, and archaeological evidence does not indicate that the boundaries of this habitation area were within the Project Site. Furthermore, as noted above, first-hand information provided through archaeological monitoring of work currently occurring on and directly adjacent to the Project Site by Metro suggests that the area has been disturbed to 20 to 30 feet below the surface by historic construction, and the monitoring has not identified any Native American cultural resources.

3. Project Impacts

a. Methodology

A CHRIS records search was conducted by Dudek to determine potential impacts associated with tribal cultural resources within 0.5 mile of the Project Site. 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, California Register, 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 Site. 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. The Gabrieleño Band of Mission Indians—Kizh Nation was the only tribe to request consultation, which was conducted as requested. In addition, an SLF search was conducted by the NAHC to determine the presence of any recorded tribal cultural resources on the Project Site.

b. Thresholds of Significance

(1) State CEQA Guidelines Appendix G

In accordance with the State CEQA Guidelines Appendix G (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.***

(2) 2006 L.A. CEQA Thresholds Guide

The *L.A. CEQA Thresholds Guide* does not specifically address tribal cultural resources. In assessing impacts related to tribal cultural resources in this section, the City will use Appendix G as the thresholds of significance.

c. Analysis of Project Impacts

(1) Project Design Features

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

(2) Relevant Project Characteristics

As discussed in detail in Section II, Project Description, of this Draft EIR, the Project proposes to develop a 30-story mixed-use building consisting of 107 residential units (comprising an estimated 137,347 square feet), plus 7,200 square feet of ground level commercial retail uses, and 534,044 square feet of office uses in Downtown Los Angeles. Construction activities would require excavation to a maximum depth of 25 feet and approximately 7,000 cubic yards of grading, all of which would be exported off-site.

(3) Project Impacts

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? 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?***

In compliance with the requirements of AB 52, the City provided formal notification of the Project on January 6, 2017 to the tribes listed above in Subsection IV.K.2.b.(3). The required 30-day response period for the consultation requests concluded on February 5, 2017.

As noted above, the City received a response from Tribal Chairman Salas, on behalf of the Gabrieleño Band of Mission Indians—Kizh Nation, who sent two letters dated January 10 and January 26, 2017. The City and Tribal Chairman Salas communicated via email beginning on January 10, 2017, with correspondence dated January 10, January 23, January 24, January 26, and February 2, 2017. Subsequently on March 23, 2017, representatives of the City and the Tribe engaged in a conference call during which the Project (among other proposed development projects located in the City) was discussed as part of the AB 52 consultation process. Following that call, email correspondence continued between the City and Tribal Chairman Salas on April 5, April 10, and April 11, 2017, as well as later on August 6 and August 7, 2018. During the consultation process, Tribal Chairman Salas provided detailed information pertaining to the Gabrieleño Band of Mission Indians—Kizh Nation’s traditional use of the area. This information includes examples of archaeological studies that did not adequately address culturally sensitive areas, as well as references to, and descriptions of, a number of maps, including the following: Los Angeles—Kirkman 1938; Bird’s Eye View 1877; Blum’s Bicycle Map 1896; Eddy’s Gorgeous “History of LA” 1929; Los Angeles from the East 1877; Plan of Los Angeles 1849; Stevenson’s cadastral survey of Los Angeles 1884; Ranchos of Los Angeles; and Roads of the Missions. These studies and maps are publicly available.

Of the information provided, the following is of greatest pertinence to AB 52: Tribal Chairman Salas suggested that the village of Yangna is just over 0.5 mile from the Project Site, as indicated by the presence of numerous Native American neophyte burials that were disturbed when accidentally encountered by a previous project. Tribal Chairman Salas provided evidence of the numerous prehistoric trails, previous villages sites, and the highly modified environmental conditions throughout the area from review of historic maps. To ensure that all unearthed cultural resources be treated appropriately, Tribal Chairman Salas has requested that a certified Gabrieleño Band of Mission Indians—Kizh Nation Native American Monitor be present during all ground-disturbing activities associated with the Project. While Tribal Chairman Salas provided valuable information through the consultation, no known, geographically-defined resources were identified within or in the immediate vicinity of the Project Site. As such, no tribal cultural resources or known cultural resources have been identified that could be impacted by the Project.

AB 52 requires a tribal cultural resource to have tangible, geographically defined properties that can be impacted by an undertaking. No confirmed Native American resources have been identified within the Project area or a surrounding 0.5-mile search radius through the records search completed at the SCCIC or through a search of the SLF. Furthermore, monitoring of Metro’s construction site has not yielded any Native American cultural resources. This information suggests that subsurface conditions within the Project Site have little potential to support the presence of unanticipated cultural resources or tribal cultural resources.

To date, no response has been received from any of the other tribal contacts regarding tribal cultural resources or other concerns about the Project. Based on the lack of other responses to the AB 52 notification sent by the City, government-to-government consultation requested by the Gabrieleño Band of Mission Indians—Kizh Nation and initiated by the City, acting in good faith and after a reasonable effort, has not resulted in the identification of a tribal cultural resource within or near the Project Site. As such, with the close of tribal consultation by the City on October 19, 2018, the City has fulfilled the requirements of AB 52. Documents related to the AB 52 consultation are included in Appendix C of the TCR Report.

An appropriate approach to potential impacts to tribal cultural resources is developed in response to the identified presence of a tribal cultural resource by California Native American tribes through the consultation process. Government-to-government consultation requested by the Gabrieleño Band of Mission Indians—Kizh Nation and initiated by the City, acting in good faith and after a reasonable effort, has not resulted in the identification of a tribal cultural resource within or near the Project area. No geographically defined tribal cultural resource was identified that might be impacted by the Project. CEQA only requires mitigation measures if substantial evidence of potentially significant impacts exists. CEQA Guidelines Section 15126.4(a)(4)(A) states that there must be an essential nexus between the mitigation measure and a legitimate government interest (i.e., potential significant impacts). Based upon the record, the City has determined that no substantial evidence exists to support a conclusion that the Project may cause a significant impact on tribal cultural resources. On October 19, 2018 the City concluded that mutual agreement cannot be reached between the Tribe and City for purposes of AB 52 and therefore the City has no basis under CEQA to impose any related mitigation measures. The Tribe responded to the City (on the same day) and requested that if the Project results in ground disturbance that the Tribe be consulted. The City responded on November 15, 2018 and confirmed that consultation for the Project had occurred and closed. Additionally, the City responded that the Tribe may submit comments on the EIR as long as the comments are received prior to approval of the document.

Therefore, based on these negative results, the Project would not cause a substantial adverse change in the significance of a tribal cultural resource. Impacts to tribal cultural resources would be less than significant, and no mitigation measures are required.

While no tribal cultural resources are anticipated to be affected by the Project, the City has established a standard condition of approval under its police power and land use authority to address any inadvertent discovery of a tribal cultural resource. For purposes of this analysis, it is assumed the City would impose this condition on the Project as part of its land use approvals. Should tribal cultural resources be inadvertently encountered during

Project construction, this condition of approval requires the temporarily halting of construction activities near the encounter and notification of the City and any Native American tribes traditionally and culturally affiliated with the geographic area of the Project. If the City determines that the potential resource appears to be a tribal cultural resource (as defined by PRC Section 21074), the City would provide any affected tribe a reasonable period of time to conduct a site visit and make recommendations regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources. The Project Applicant would then be required to implement the tribe's recommendations if a qualified archaeologist concludes that the tribe's recommendations are reasonable and feasible. The recommendations would be incorporated into a tribal cultural resources monitoring plan, and once the plan is approved by the City, ground disturbance activities would be permitted to resume. In accordance with this condition of approval, all related activities would be conducted in accordance with regulatory requirements.

Although the Project would result in less-than-significant impacts to tribal cultural resources, with implementation of the City's established condition of approval to address any inadvertent discovery of a tribal cultural resource, the less-than-significant impacts to tribal cultural resources would be further reduced.

For a discussion of potential impacts related to historic resources, including resources that are listed or eligible for listing in the California Register of Historical Resources or in a local register of historical resources, please refer to Section IV.C, Cultural Resources, of this Draft EIR.

4. Cumulative Impacts

As identified in Section III, Environmental Setting, of this Draft EIR, a total of 173 related projects are located in the vicinity of the Project Site. Much of this growth is anticipated by the City and will be incorporated into the Central City Community Plan update, known as the DTLA 2040 Plan, which the Department of City Planning is in the process of preparing (refer to Section IV.F, Land Use, of this Draft EIR for further discussion). According to the DTLA 2040 projections, an additional approximately 125,000 people, 70,000 housing units, and 55,000 jobs will be added to the Downtown area by the year 2040.¹² A map of the related project locations is provided in Figure III-1 in Section III, Environmental Setting, of this Draft EIR.

¹² *Growth projections current as of December 2018. Source: City of Los Angeles, DTLA 2040, About This Project, www.dtl2040.org/, accessed December 6, 2018.*

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, related projects, and other future development within the general area were to affect the same tribal cultural resources and communities. As discussed above, there are no tribal cultural resources known to occur on the Project Site. However, 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. 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, cumulative impacts to tribal cultural resources would be less than significant, and the Project's contribution to cumulative impacts would not be cumulatively considerable.

For a discussion of potential cumulative impacts related to historic resources, including resources that are listed or eligible for listing in the California Register of Historical Resources or in a local register of historical resources, please refer to Section IV.C, Cultural Resources, of this Draft EIR.

5. Mitigation Measures

Project-level and cumulative impacts related to tribal cultural resources would be less than significant. Therefore, no mitigation measures are required.

6. Level of Significance After Mitigation

Project-level and cumulative impacts related to tribal cultural resources would be less than significant.