

IV. Environmental Impact Analysis

J. Tribal Cultural Resources

1. Introduction

This section of the Draft EIR provides an analysis of the Project's potential impacts on tribal cultural resources. Potential impacts to tribal cultural resources are 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 Lands File (SLF) records search conducted by the Native American Heritage Commission (NAHC). This section is also based on the *Tribal Cultural Resources Evaluation and Impact Assessment for the 5420 Sunset Project* (TCR Report) prepared by Statistical Research, Inc. (SRI) in December 2018 and included in Appendix Q of this Draft EIR.

2. Environmental Setting

a. Regulatory Framework

California law including Assembly Bill (AB) 52, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code (PRC) Section 5097.9 require consultation with Native American tribes and protect Native American burials, skeletal remains, and associated grave goods regardless of the antiquity and provides for the sensitive treatment and disposition of those remains.

(1) Assembly Bill 52

On September 25, 2014, Governor Jerry Brown signed into law AB 52, which amended 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:

(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 5020.1.¹*
- (2) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1.² 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 21083.2,³ or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2⁴ may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).*

For a project for which a notice of preparation for a Draft EIR was filed on or after July 1, 2015, the lead agency is required to consult with a 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

¹ Per subdivision (k) of PRC Section 5020.1, “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.

² Subdivision (c) of PRC Section 5024.1 provides the National Register criteria for listing of historical resources in the California Register.

³ Per subdivision (g) of PRC Section 21083.2, 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.

⁴ Per subdivision (h) of PRC Section 21083.2, a nonunique archaeological resource means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

proposed projects in that geographic area; and (2) the tribe requests consultation, prior to the release of a negative declaration, mitigated negative declaration or environmental impact report for a project. 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:⁵

1. Both parties agree to measures to avoid or mitigate a significant effect on a tribal cultural resource. Agreed upon mitigation measures shall be recommended for inclusion in the environmental document (PRC Section 21082.3(a)); or
2. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached (PRC Sections 21080.3.2(b)(1)-(2) and 21080.3.1(b)(1)).

⁵ Governor’s Office of Planning and Research, *Tribal Consultation Guidelines, Supplement to General Plan Guidelines, November 14, 2005.*

(2) Human Remains

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 the project site. This section of the CEQA Guidelines, as well as Health and Safety Code Section 7050.5 and PRC Section 5097.9, also address treatment of human remains in the event of accidental discovery.

b. Existing Conditions

(1) Existing Project Site Conditions

The Project Site is currently occupied by a one-story grocery store, vacant commercial space, and a one-story fast-food restaurant that together comprise approximately 100,796 square feet and associated parking areas. The Project Site is underlain by fill varying in depth from 3 to 6 feet.⁶ Beneath the fill, native soils consist of clayey silts, silty clays, and sandy silts.⁷ As noted in the TCR Report, no known tribal cultural resources are present on-site. The Project Site does not appear in the NAHC's Sacred Land Files and is not listed on the National Register of Historic Places, the California Register of Historical Resources, or the California State Historic Resources Inventory, and is not listed as a California Historical Landmark, California Point of Historical Interest, or Los Angeles Historic-Cultural Monument.

(2) City of Los Angeles Ethnographic Context

The following discussion is based on the TCR Report, included as Appendix Q of this Draft EIR, which provides supporting information including relevant maps.

Southern California has been populated since at least 12,000 years before present by several related yet distinct cultural groups. At the end of the Millingstone period, between 3,500 years before present and 1,500 years before present, Tatic language speakers began entering the region.

Among these groups, the Gabrielino/Tongva occupied much of present day Orange and Los Angeles Counties, as well as Santa Catalina, San Clemente, and San Nicolas

⁶ *Geotechnologies, Inc., Geotechnical Investigation Proposed Multiple Use Development 5420 Sunset Boulevard, Los Angeles, California, June 21, 2017. See Appendix IS-4 of the Project's Initial Study included as Appendix A of this Draft EIR.*

⁷ *Geotechnologies, Inc., Geotechnical Investigation Proposed Multiple Use Development 5420 Sunset Boulevard, Los Angeles, California, p.3 June 21, 2017. See Appendix IS-4 of the Project's Initial Study included as Appendix A of this Draft EIR*

Islands and portions of Riverside and San Bernardino Counties, with territory including “the watersheds of the Los Angeles, San Gabriel, and Santa Ana rivers, several smaller intermittent streams in the Santa Monica and Santa Ana Mountains, all of the Los Angeles Basin, [and] the coast from Aliso Creek to Topanga Creek in the north.”

At the time of European contact and for many years thereafter, the Gabrielino/Tongva engaged in an intensive hunter-gatherer lifestyle and exploited a wide range of plant and animal resources, from acorns, deer, yucca, and cacti in the interior of their territory to a wealth of fish and shellfish species associated with the southern California kelp beds and coastline. With the arrival of Europeans and the expansion of the California mission system, however, pressure from Europeans to turn aside traditional lifeways to work at the various ranchos and missions became too great. By 1800, most of the Gabrielino/Tongva were colonized, and many had died from violence, imported illnesses (e.g., smallpox), or illnesses associated with the cramped mission dormitories (e.g., tuberculosis and dysentery). Those who did not submit to the mission system, fled the area to live in remote refuges or work on secular ranches and farms. Many Gabrielino/Tongva still survive, but their numbers are far fewer today than they were at the time of colonization.

Although “no traditional names are recalled for the Hollywood area” specifically, there were three named Gabrielino/Tongva villages located within approximately 5 miles of the Project Site. The most important of these was Yanga (also Yaanga or Yangna), a large village located in downtown Los Angeles between Union Station and City Hall, approximately 4.85 miles southeast of the Project Site. Approximately 4.25 miles northwest of the Project Site and on the other side of the Santa Monica Mountains was the village of Cahuenga in present-day Studio City. Finally, the village of Maungna was located in Elysian Park within the current Los Angeles Police Department Academy grounds, approximately 4 miles east/southeast of the Project Site. In the immediate Hollywood area, no named villages were recorded historically, although settlements existed in the foothills to the north, as demonstrated by prehistoric site CA-LAN-1096 in Fern Dell Canyon. Generally, Gabrielino/Tongva settlements were located near reliable streams and springs.

Historic maps were also reviewed. An 1873 map of the vicinity shows numerous roads, creeks, and streams. Specifically, the map depicts a creek approximately one mile southeast of the Project Site which emanates from “Two Springs” near a structure identified as “Sullivan’s House.” A second creek is mapped between the Project Site and the springs, running roughly northwest to southeast. West of the Project Site, two roads are identified roughly following the path of the Hollywood Freeway (US-101). An 1881 map does not include the details of the 1873 map but does include a small dot labeled “Old Mound” at the base of a canyon approximately 2 miles west/northwest of the Project Site.

In some early American maps, “mound” or “mounds” can sometimes indicate prehistoric sites, although in this case, “mound” may simply denote a natural rise.

(3) Assembly Bill 52 Consultation

In compliance with the requirements of AB 52, the City provided formal notification of the Project on April 27, 2017 (refer to Appendix Q). All tribal representatives identified by the NAHC, as provided in Appendix B of the TCR Report, of this Draft EIR, were notified of the Project in compliance with AB 52. Letters were sent via FedEx and certified mail to the following California Native American tribes that requested notification:

- Gabrielino Tongva Indians of California Tribal Council
- Gabrieleño Band of Mission Indians—Kizh Nation
- Gabrielino/Tongva Nation (2 contacts)
- Gabrielino/Tongva San Gabriel Band of Mission Indians
- Gabrielino-Tongva Tribe
- San Fernando Band of Mission Indians
- Soboba Band of Luiseño Indians
- Torres Martinez Desert Cahuilla Indians
- Fernandeño Tataviam Band of Mission Indians

In response, a letter dated May 9, 2017, was received from the Gabrieleño Band of Mission Indians—Kizh Nation requesting consultation. No communication or request for consultation was received from any other of the notified tribes within the 30-day response period, which ended on May 27, 2017.

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.***

In assessing impacts related to tribal cultural resources in this section, the City will use Appendix G as the thresholds of significance, as set forth above. The *L.A. CEQA Thresholds Guide* does not specifically address tribal cultural resources and thus, does not provide additional guidance in addressing the Appendix G thresholds of significance.

b. Methodology

As part of the TCR Report, a cultural resource records search was conducted at the South Central Coastal Information Center (SCCIC), a regional repository of the California Historical Resources Information System (CHRIS). The purpose of the records search was to identify all previously recorded buildings and structures and relevant reports of the Project area and surrounding 0.5-mile radius, as well as all previously recorded archaeological resources in the Project area and surrounding 1-mile radius. The reviewed records included all investigative reports and resource records from the following sources: the National Register of Historic Places, the California Register of Historical Resources, California Historical Landmarks, California Points of Historical Interest, the California State Historic Resources Inventory, and the Los Angeles Historic-Cultural Monuments.

A Sacred Lands File search for the Project parcel was also requested from the NAHC. The NAHC reviewed their records of traditional-use areas and sacred sites and provided a list of Native American groups or individuals culturally affiliated with the Project area. SRI contacted each individual or group, provided information about the proposed Project, and requested input regarding the presence of tribal cultural resources or other cultural sensitivity. This search and contact program was conducted separately from the formal tribal consultation undertaken by the City as the Lead Agency for this Project under CEQA. SRI also conducted archival and background research that focused on the identification of tribal cultural resources within the vicinity and on the potential for resources to be uncovered on the Project Site.

Consultation with California Native American Tribes was conducted by the City to address potential impacts associated with Native American resources in accordance with the requirements of AB 52.

c. Project Design Features

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

d. Analysis of 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.***

(1) Impact Analysis

In compliance with the requirements of AB 52, the City provided formal notification of the Project on April 27, 2017, to the tribes listed above in Subsection 2.b. The 30-day response period for consultation requests concluded on May 27, 2017.

As noted above, the City received a response from the Gabrieleño Band of Mission Indians—Kizh Nation's on May 9, 2017. Andrew Salas, Chairman of the Gabrieleño Band of Mission Indians—Kizh Nation noted that the Project Site lies within their ancestral tribal territory. Mr. Salas stated the Project is located within a sensitive area with the potential to adversely affect tribal cultural resources and requested consultation with the City.

Consultation took place on June 28, 2017, with City staff and representatives of the Gabrieleño Band of Mission Indians—Kizh Nation, including Mr. Salas, Matt Teutimez

(Biologist), and Gary Stickel (Archaeologist). Mr. Salas and Mr. Teutimez explained that Sunset Boulevard was a cultural trading route. In response, the City referenced a 1938 Los Angeles County Map, noting Sunset Boulevard is not shown on the map as a trading route. Mr. Salas and Mr. Teutimez then clarified that the Cahuenga Pass was a cultural trading route along what is now Sunset Boulevard.

City staff asked if Mr. Salas, Mr. Teutimez, and/or Mr. Stickel were aware of any tribal cultural resources that have been uncovered in the Hollywood Area. The tribal representatives stated that they are not aware of any discoveries in the vicinity of the Project Site but that, prior to AB 52, regulations were not in place that afforded them the opportunity to monitor private development. Lastly, Mr. Teutimez explained that construction workers are often not aware of certain soil attributes that can represent the presence of tribal ancestral remains, including a change in soil color and/or broken stones.

In addition to the presence of trading routes, Mr. Salas noted the presence of numerous historic springs throughout the Hollywood area, as indicated by the name of Fountain Avenue. These springs, as well as the local foothills, provided their tribal ancestors with valuable resources and also served as transition zones with biological and ecological resources that were not available elsewhere. The City requested any available documents regarding the location of springs and/or transition zones. The tribal representatives stated more information may be available in the future and reiterated that these three features (springs, transition zones, and foothills) were all present in the vicinity of the Project Site. Mr. Stickel also noted the village of Maungna when discussing the Project Site and stated that artifacts could be found in the villages' service areas/secondary exploration areas. The City reiterated the CEQA definition of a tribal cultural resource and requested additional information. After the call, Mr. Teutimez provided three articles to City staff for further review: "Aboriginal Pathways and Trading Routes Were California's First Highways," "The Lost Streams of Los Angeles," and "Living on the Edge: Ecological and Cultural Edges as Sources of Diversity for Social-Ecological Resilience." These articles are included in Confidential Appendix B of the TCR Report and are on file at the Department of City Planning. As of the publication of this Draft EIR, no additional information has been received. On May 11, 2021, the City notified Mr. Salas of its intent to conclude consultation and requested any additional materials within 14 days. Having received none, the City formally closed consultation in a letter dated June 15, 2021. The City will, therefore, rely on the findings of the TCR Report and has fulfilled the requirements of AB 52.

The TCR Report includes the results of an SCCIC records search conducted on August 10, 2017. As noted therein, there are no known archaeological sites within 0.5 mile of the Project Site, but one prehistoric archaeological site was recorded one mile north of the Project Site. The site (CA-LAN-1096) is located north of the Project Site in Griffith Park and is described as a "Gabrielino [sic] Indian site" with midden deposits. CA-LAN-1096 was designated as City of Los Angeles Historic-Cultural Monument No. 122 on February

21, 1973. No other prehistoric archaeological sites have been recorded within one mile of the Project Site.

A review of relevant ethnohistoric-resources literature providing overviews of the Gabrieleño/Tongva identified three named villages in the region but none within Hollywood. The villages of Yanga, Cahuenga, and Maungna are located 4.85 miles, 4.25 miles, and 4 miles from the Project Site, respectively. While no villages were located in the Hollywood area, settlements existed in the foothills to the north, as demonstrated by the prehistoric site CA-LAN-1096 in Griffith Park.

As previously discussed, a Sacred Lands File search was conducted by the NAHC on August 1, 2017, as part of the TCR Report (see Appendix Q of this Draft EIR). The results of the Sacred Sites/Lands File search indicated negative results. However, the records maintained by the NAHC and the CHRIS are not exhaustive, and a negative response to these searches does not preclude the existence of a cultural place. As part of their data gathering for the TCR Report, SRI reached out to the tribal contacts provided by NAHC on August 11, 2017. Four contacts representing Gabrieleño/Tongva and Fernandeno Tataviam tribal groups indicated they had ancestral ties to the area and considered it sensitive for tribal cultural resources. All of these contacts recommended Native American monitoring during ground-disturbing activities and requested that they be contacted with Project updates. However, none of the tribes contacted during this process identified specific tribal cultural resources on or near the Project Site.

The Sacred Lands File search, ethnohistoric-resources literature review, and AB 52 consultation did not identify specific tribal cultural resources that might be impacted by the Project. As such, government to government consultation 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. CEQA only requires mitigation measures if substantial evidence exists of potentially significant impacts. 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). **Therefore, based on these negative results, 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 to address inadvertent discovery of tribal cultural resources. Should tribal cultural resources be inadvertently encountered, this condition of approval provides for temporarily halting construction activities near the encounter and notifying the City and Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project. If the City determines that the object or artifact 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 Applicant would then implement the tribe's recommendations if a qualified archaeologist reasonably concludes that the tribe's recommendations are reasonable and feasible. The recommendations would then be incorporated into a tribal cultural resource monitoring plan and once the plan is approved by the City, ground disturbance activities could resume. In accordance with the condition of approval, all 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.

(2) Mitigation Measures

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

(3) Level of Significance After Mitigation

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

e. Cumulative Impacts

(1) Impact Analysis

As provided in Section III, Environmental Setting, of this Draft EIR, a total of 100 related development projects have been identified in the vicinity of the Project Site. Collectively, the related projects near the Project Site involve a mix of residential, commercial/retail, and office uses, consistent with existing uses 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 would occur if the Project, related projects, and other future development within the area affected the same tribal cultural resources and communities. As discussed above, there are no tribal cultural resources located on the Project Site. However, in the unlikely event that tribal cultural resources are uncovered, each related project would be required to comply with the applicable regulatory

requirements discussed in detail above in Subsection IV.J.2.a on page IV.J-1, as well as the City's standard condition of approval. 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 would not be cumulatively considerable.**

(2) Mitigation Measures

Cumulative impacts related to tribal cultural resources would be less than significant without mitigation. Therefore, no mitigation measures are required.

(3) Level of Significance After Mitigation

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