

## **4.0 Environmental Impact Analysis**

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### **4.10 Tribal Cultural Resources**

#### **4.10.1 Introduction**

This section of the 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 the coordination and consultation with California Native American tribes that are traditionally and culturally affiliated with the Project Site, a California Historical Resources Information System (CHRIS) records search completed by the South Central Coastal Information Center (SCCIC), as well as a review of the Sacred Land File (SLF) records conducted by the Native American Heritage Commission (NAHC), and consultation with the Gabrieleño Band of Mission Indians—Kizh Nation.<sup>1</sup> The records searches completed by the SCCIC and NAHC are included in Appendix I of this Draft EIR.

#### **4.10.2 Environmental Setting**

##### **4.10.2.1 Regulatory Framework**

###### **4.10.2.1.1 Tribal Cultural Resources under CEQA**

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

Government Code Section 65352.3 (SB 18) requires local governments to consult with California Native American tribes identified by the California Native American Heritage Commission prior to the adoption or amendment of a general plan for the purpose of protecting traditional tribal cultural places. In addition, on September 25, 2014, Governor 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

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<sup>1</sup> *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.*

cultural resources include whether the project would impact “tribal cultural resources.” As set forth in PRC Section 21074:

- (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.<sup>2</sup>*
  - (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.<sup>3</sup> 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,<sup>4</sup> or a “nonunique archaeological resource” as defined in subdivision (h) of*

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<sup>2</sup> 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.

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

<sup>4</sup> 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.”

*Section 21083.2<sup>5</sup> may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).*

AB 52 requires lead agencies 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 proposed projects in that geographic area; and (2) the tribe timely requests consultation on a project. The consultation procedures set forth in AB 52 largely parallel those in Senate Bill 18. 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 provisions in PRC Section 21080.3.2(a) list 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, 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:<sup>6</sup>

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<sup>5</sup> *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.”*

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)).*

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 occurring 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.

#### **4.10.2.1.2 Beverly Hills General Plan**

The Beverly Hills General Plan Historic Preservation Element, adopted in January 2010, includes Policies HP-1.8 for the protection of archaeological resources and HP-2.1 to support partnerships for public education on local historic resources. As stated in Policy HP-1.8, it is the City's policy to temporarily suspend all earth disturbing activity within 100-feet of a potential resource, if any such resources are discovered during construction-related earth-moving activities, to assess the significance of the find, and require appropriate mitigation before work resumes, with the associated Goal HP-1 for well-preserved and maintained historic and cultural resources that provide a sense of permanence, foster civic pride and stewardship, and contribute to the unique identity and charm of the City. Additionally, Goal HP-2 and Policy HP-2.1 recognize the City's efforts for acknowledging the City's wealth of historic resources by developing educational programs in partnership with local private and nonprofit historic preservation groups to sponsor walking tours, self-guided tours, promotional brochures, historic fairs and festivals, plaques, awards and similar recognition programs sponsored by the City, private organizations, or partnerships.<sup>7</sup>

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<sup>6</sup> *Governor's Office of Planning and Research, Tribal Consultation Guidelines, Supplement to General Plan Guidelines, November 14, 2005.*

<sup>7</sup> *City of Beverly Hills General Plan, Conservation Element, January 2010, p. 63.*

## 4.10.2.2 Existing Conditions

### 4.10.2.2.1 Current Project Site Conditions and Setting

The Project Site is located at 456 and 468 North Rodeo Drive, 461–465 North Beverly Drive, and 449, 451, and 453 North Beverly Drive in the Business Triangle of the City of Beverly Hills, California. The Project Site also includes a portion of the existing north-south alley located east of North Rodeo Drive and west of North Beverly Drive. The Project Site is currently occupied by commercial and institutional uses comprising approximately 56,787 square feet. Specifically, 456 North Rodeo Drive is developed with a two-story, 6,895-square-foot commercial structure and nine surface parking spaces, 468 North Rodeo Drive is currently developed with a two-story, 20,265-square-foot commercial structure and six surface parking spaces, 461–465 North Beverly Drive is currently developed with a two-story, 23,351-square-foot institutional use and five surface and 45 underground parking spaces, and 449, 451, and 453 North Beverly Drive is developed with a one-story, 6,276-square-foot commercial structure. As part of the construction of these existing structures, excavation occurred on the Rodeo Drive properties and the southern property on North Beverly Drive to place building foundations. In addition to foundation work, the building which formerly housed the Paley Center for Media underwent excavation associated with the construction of one subterranean level of parking.

### 4.10.2.2.2 City of Beverly Hills Prehistory

The Project Site is located within the City of Beverly Hills. The prehistoric chronological sequence that is applicable to near-coastal and many inland areas within southern California is generally divided into four periods: Early Man, Milling Stone, Intermediate, and Late Prehistoric. The Early Man–Horizon I period (ca. 10,000 to 6000 BCE) is represented by numerous pre-8,000 B.C. sites identified along the mainland coast and Channel Islands (Erlandson 1991; Johnson et al. 2002; Moratto 1984; Rick et al. 2001). Early Man–Horizon I sites are generally associated with a greater emphasis on hunting than in later periods, though recent data indicates that the economy was a diverse mixture of hunting and gathering, including a significant focus on aquatic resources (Wallace 1978; Jones et al. 2002; Moratto 1984).

The Milling Stone–Horizon II period (ca. 6,000 to 3,000 BCE) is characterized by subsistence strategies centered on collecting plant foods and small animals, including an apparent importance of seed processing suggested by the appearance and abundance of stone grinding implements, namely milling stones and hand stones (Kowta 1969; Byrd and Raab 2007). The Intermediate–Horizon III period (ca. 3,000 BCE to CE 500) is characterized by a shift toward a hunting and maritime subsistence strategy, along with a wider use of plant foods. A pronounced trend occurred toward greater adaptation to

regional or local resources including an increased variety and abundance of fish, land mammals, and sea mammals along the coast (Warren 1968; Rogers, D. 1929; Moriarty 1966; Rogers, M. 1939, 1945). Tool kits for hunting, fishing, and processing food and other resources reflect this increased diversity, with larger knives, flake scrapers, shell fishhooks, drill-like implements, and various projectile points being more common than in the preceding period. Mortars and pestles also became more common, indicating an increasing reliance on acorns (Koerper and Drover 1983; Glassow et al. 1988; True 1993; Glassow 1997).

The Late Prehistoric–Horizon IV period (ca. CE 500 to Historic Contact) experienced further increases in the diversity of resource procurement demonstrated by more classes of artifacts, including finely-sharpened projectile points associated with usage of the bow and arrow. Other items include steatite cooking vessels and containers, a variety of bone tools, and personal ornaments made from shell, bone, and stone. This period experienced an increase in population size accompanied by the advent of larger, more permanent villages (Wallace 1955, 1978; Drover 1971, 1975; Meighan 1954).

#### **4.10.2.2.3 City of Beverly Hills Ethnographic Context**

The Project Site is located within the ethnographic territory of the Gabrielino, who occupied much of the present-day Orange and Los Angeles Counties, as well as Santa Catalina, San Clemente, and San Nicolas Islands and portions of Riverside and San Bernardino Counties. Early ancestors of the Gabrielino likely arrived in coastal southern California at the end of the Millingstone period, ca. 1500 B.C., with the initial entry of the Takic-language speakers into the region.

The Gabrielino people were so named by the Spanish because many of the tribe's members were baptized and converted at Mission San Gabriel Archangel. Historical accounts suggest that the people known as the Gabrielino did not have a singular name for themselves. Many records indicate that individuals referred to themselves as coming from or being affiliated with specific villages rather than as part of a larger linguistic or cultural group. Researchers have identified the terms Tongva and Kizh as possible native terms synonymous with Gabrielino, although neither is considered a perfect fit. Today, the terms Gabrielino, Gabrieleño, Tongva, and Kizh are used variously by descendant groups to identify themselves and their heritage.

The Gabrielino generally lived in permanent villages. Gabrielino villages (also sometimes called *rancherías*) generally maintained their own territories and were located in defensible locations adjacent to subsistence resources and water. Coastal Gabrielino villages often contained more than 200 residents, and their houses could hold as many as 50 people each. At the time of European contact, the Gabrielino occupied at least 50 to

100 villages (with an average population of 50 to 100 per village), for an estimated total population of roughly 5,000 people. Gabrielino villages were often composed of several lineages, each with its own leader. Each village had a hereditary chief who was the leader of the village's most dominant (or only) lineage. The chief acted as both religious and political leader and was responsible for conducting ceremonial affairs, determining where and when to hunt and gather, collecting goods for communal use, arbitrating disputes, and leading war parties.

Houses were typically dome-shaped, thatched structures set over shallow depressions. Houses ranged in diameter from 15 feet to 60 feet, depending on the number of people living inside. They were primarily used for sleeping and storage, because most daily activities took place outdoors, around the house or in the shade of a ramada (an unwallled roofed space). Each village also contained a sweathouse, which served as a gathering place. For public ceremonial activities, the Gabrielino used an open-air, fenced enclosure.

At the time of contact, Gabrielino subsistence was based on foraging. Acorns provided a staple of the diet for the Gabrielino. Seeds, greens, roots, bulbs, fruits, berries, flowers, and fungi supplemented the plant-food diet for all groups. Large game was hunted primarily with the bow and arrow, and small game was taken with curved, flat sticks, snares, traps, and deadfalls. Fishing employed hooks, gorges, nets, basketry traps, spears, and the bow and arrow. In places with suitable bedrock outcroppings, the Gabrielino used bedrock mortars to pound acorns. Where bedrock was not available, portable stone mortars and pestles were used.

Like most native California groups, the Gabrielino made a wide variety of utilitarian, ceremonial, and decorative basketry. Small, handheld baskets were used for gathering berries and bird eggs; large, round bottomed baskets were used for carrying bulkier items; shallow trays were used for winnowing or parching seeds; large baskets were used for storage; and globular, flat-bottomed baskets were used for keeping utensils and trinkets. The Gabrielino also made water jugs coated with asphaltum and urn-shaped ceremonial baskets for grave offerings.

The Gabrielino did not use pottery until just before the arrival of the Spanish, but they did have access to steatite (heat-treated soapstone) from Santa Catalina Island, which they used to create cooking and serving vessels. In addition to utilitarian items, the Gabrielino carved pipes, ornaments, animal figurines, and ceremonial bowls out of steatite. The Gabrielino also made needles, awls, scrapers, and flakers from bone or shell; projectile points, scrapers, drills, and knives from stone; and saws from deer scapulae.

The Gabrielino were avid traders and exchanged food, utilitarian items, and ceremonial items among themselves and with their neighbors. Generally, obsidian, furs, hides, nuts, and seeds moved westward, and shell beads, tourmaline, steatite, asphaltum, sea otter pelts, and dried fish moved eastward. The Cocomaricopa Trail connected Southern California with the Southwest, bringing turquoise, southwestern pottery, grooved axes, and agricultural products to the region. In turn, Gabrielino shells and steatite traveled as far east as central Arizona. The Gabrielino conducted trade with their coastal neighbors by boat but otherwise did not travel into the territories of others to trade. Olivella-shell beads were used as a general medium of exchange throughout the region, but barter was also common. Clamshell disk beads replaced Olivella-shell beads as the standard currency for the Gabrielino during the historical period.

By 1800, most of the surviving Gabrielino had become missionized, although many had died from violence, imported illness (e.g., smallpox), or illness associated with the poor living conditions at the missions (e.g., tuberculosis and dysentery). Those who did not submit to the mission system fled the area to live in remote refuges or to work on secular ranches and farms. All Native American groups experienced dramatic population decline and loss of traditional territory as a result of colonization, but the effects were particularly dramatic among the Gabrielino, who were considered essentially wiped out by the turn of the last century. Although many Gabrielino descendants and tribal organizations survive today, the Gabrielino have never been officially recognized or provided tribal reservation lands by the U.S. government.

#### **4.10.2.2.4 Senate Bill 18 and Assembly Bill 52 Consultation**

In compliance with the requirements of SB 18 and A B 52, the City of Beverly Hills (City) Department of Community Development provided formal notification of the Project on October 16, 2020, to the Native American tribes traditionally affiliated with the area. Letters were sent via certified mail and email to the following California Native American tribes:

- Gabrieleño Band of Mission Indians—Kizh Nation
- Gabrielino/Tongva San Gabriel Band of Mission Indians
- Gabrielino/Tongva Nation (Sandonne Goad, Chairperson)
- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino–Tongva Tribe
- Santa Rosa Band of Cahuilla Indians
- Soboba Band of Luiseño Indians

Tribal Chairman Andrew Salas, on behalf of the Gabrieleño Band of Mission Indians—Kizh Nation, responded to the Project notification conducted by the City requesting consultation. No communication or request for consultation was received from any of the other notified tribes within the response period.

On February 11, 2021, representatives of the City and the Tribe engaged in formal consultation pursuant to the requirements of AB 52 and SB 18, with follow-up consultation communication occurring during the months of February, March, and July 2021. During the consultation, which remains ongoing, the tribal representatives observed that the Project Site is within the geographic boundaries of the Tribe’s ancestral territory (as well as cultural, traditional, and historical territory). The tribal representatives provided supporting documentation including excerpts from literary sources and historical maps. The Gabrieleño Band of Mission Indians—Kizh Nation also provided the City with mitigation language recommended for the management of tribal cultural resources, which the Tribe indicated may be present even without surface indications of cultural data. Due to the potential presence of tribal cultural resources, a qualified archaeologist and a tribal monitor are required to be present during ground disturbance activities, as described further in the mitigation measures below. As discussed further below, consultation between the City and the Kizh Nation remains ongoing.

#### **4.10.2.2.5 Background Research**

##### **4.10.2.2.5.1 California Historical Resources Information System Review**

A CHRIS records search was conducted by staff at the SCCIC at California State University Fullerton in December 2020 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 include historical maps of the Project Site vicinity, the National Register of Historic Places (National Register), the California Register of Historical Resources (California Register), the California Historical Landmarks list, the California Points of Historical Interest list, and the Office of Historic Resources Built Environment Resources Directory.

As provided in the SCCIC records search, 23 cultural resource investigations have been completed within a 0.5-mile radius of the Project Site. Of these 23 studies, none were performed within the Project Site boundaries.

The SCCIC identified 37 built-environment resources located within 0.5 mile of the Project Site. In addition, 13 cultural resources are located within the 0.25-mile records-search radius which are listed on the California Register of Historical Resources,

one of which is also listed on the National Register of Historical Resources. These resources are discussed in more detail in Section 4.3, Cultural Resources, of this Draft EIR.

As summarized above, while numerous historical-period resources were identified during the records search, no prehistoric archaeological resources or historical-period Native American resources were identified within the Project Site or within 0.25 mile of the Project Site.

#### **4.10.2.2.5.2 Sacred Lands File Review**

As part of the process of identifying cultural resources within or near the Project Site, on October 6, 2020, a letter describing the Project was sent to the Native American Heritage Commission requesting a search of the Sacred Lands File (SLF) and a list of Native American contacts appropriate for the Project. The NAHC responded in a letter emailed on October 8, 2020, which stated that their search of the SLF revealed no known Native American cultural resources within the Project Site or its vicinity. Contact information was provided for seven Native American tribes culturally affiliated with the Project area.

As noted above, consultation letters were sent to the contacts listed in the NAHC letter, and the City received correspondence from Mr. Andrew Salas, chair of the Gabrieleño Band of Mission Indians—Kizh Nation, stating that “the project location is within our Ancestral Tribal Territory; therefore, our Tribal Government requests to schedule a consultation with you as the lead agency, to discuss the project and the surrounding location in further detail.” On February 11, 2021, representatives of the City and the Tribe engaged in consultation pursuant to the requirements of AB 52 and SB 18, with follow-up communication occurring through February, March, and July 2021. During the consultation, the tribal representatives observed that the Project Site is within the geographic boundaries of the Tribe’s ancestral territory (as well as cultural, traditional, and historical territory). The tribal representatives provided supporting documentation including excerpts from literary sources and historical maps. The Gabrieleño Band of Mission Indians—Kizh Nation also provided the City with mitigation language recommended for the management of tribal cultural resources, which the Tribe indicated may be present even without surface indications of cultural data. Due to the potential presence of tribal cultural resources, a qualified archaeologist and a tribal monitor are required to be present during ground disturbance activities, as described further in the mitigation measures below. As discussed further below, consultation between the City and the Kizh Nation remains ongoing. No other written responses were received.

### 4.10.3 Project Impacts

#### 4.10.3.1 Thresholds of Significance

The Project would have a significant impact related to tribal cultural resources if the Project would:

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

- i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or***
- ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.***

#### 4.10.3.2 Methodology

A CHRIS records search was conducted at the SCCIC on December 8, 2020, in order to determine potential impacts associated with tribal cultural resources. This search encompassed a 0.5-mile radius beyond the Project Site. The records search included a review of mapped prehistoric, historic, and built environment resources; DPR Site Records; technical reports; archival resources; and ethnographic references. Historic aerial photographs were reviewed to identify the past history of development at the Project Site, and pertinent academic and ethnographic literature was reviewed for information pertaining to past Native American use of the Project Site. Pursuant to SB 18 and AB 52, California Native American Tribes were notified and provided an opportunity to request consultation in order to address potential impacts associated with Native American resources. As described above, the City received correspondence from Mr. Andrew Salas, chair of the Gabrieleño Band of Mission Indians—Kizh Nation. In addition, an SLF search was conducted by the NAHC to determine the presence of any recorded tribal cultural resources on the Project Site.

### 4.10.3.3 Project Design Features

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

### 4.10.3.4 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.***

#### 4.10.3.4.1 Impact Analysis

##### 4.10.3.4.1.1 Construction Impacts

The estimated depth of excavation for the subterranean parking and building foundations would be approximately 44 feet below grade. It is estimated that approximately 124,920 cubic yards of soil would be exported and hauled from the Project Site during the excavation phase, including approximately 34,564 cubic yards during Phase 1 and 90,356 cubic yards during Phase 2.

As discussed above in Subsection 4.10.2.2, Existing Conditions, no pre-historic archaeological sites, or other resources documented to be related to past Native American activity, have been previously recorded within the Project Site according to the SLF and SCCIC records searches conducted for the Project. Furthermore, the Project Site has been previously excavated to install building foundations, and in the case of the Paley Center, to construct one level of underground parking. Thus, native subsurface soils with potential to support the presence of cultural deposits have been disturbed by prior demolition and development activities that historically occurred on the Project Site. As

such, no known or suspected tribal cultural resources or known cultural resources have been identified that could be impacted by the Project. Nevertheless, based on information provided to the City during the tribal consultation process, the Project Site is located in the ancestral tribal territory of the Gabrieleño Band of Mission Indians—Kizh Nation and the tribe considers this area, including the Project Site, to be highly sensitive to tribal cultural resources. In addition, as previously discussed, construction of the Project would require ground disturbance and excavation to a depth of 44 feet to accommodate three subterranean levels, which would extend below the existing maximum depth of disturbance at the Project Site associated with one subterranean level at 461 N. Beverly Drive. As such, the Project could potentially uncover undiscovered significant tribal cultural resources. **Therefore, the Project could potentially 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 or a resource determined by the City to be significant pursuant to Public Resources Code Section 5024.1. As such, impacts to tribal cultural resources would be potentially significant without mitigation.**

On February 11, 2021, the Community Development Department contacted the Kizh Nation regarding the City's review of the documents provided by the tribe and notified the tribe of the mitigation measure to be imposed on the Project. The tribe requested further information regarding the Project Site. Follow up communication with the tribe occurred on February 23, 2021, during which time the tribe indicated that they would provide recommendations on mitigation and information regarding ancestral affiliation with the Project Site location. The tribe thereafter provided supporting documentation including excerpts from literary sources and historical maps. The Gabrieleño Band of Mission Indians—Kizh Nation also provided the City with mitigation language recommended for the management of tribal cultural resources, which the tribe indicated may be present even without surface indications of cultural data. Due to the potential presence of tribal cultural resources, a qualified archaeologist and a tribal monitor are required to be present during ground disturbance activities, as described further in the mitigation measures below. Specifically, the tribe requested that the City: (1) adopt and fully enforce the provided mitigation measures and include them in the project mitigation monitoring and reporting plan (MMRP), as required by CEQA; (2) adopt and fully enforce the proposed mitigations as conditions of approval (COA); and (3) in the event the Project fails to comply with all or any part of the mitigations, take any/all steps necessary to correct the non-compliance and ensure the Project's future compliance. While the City and the Kizh Nation agree that the Kizh Nation is the Monitoring Tribe, consultation remains ongoing and may result in revision to the specific language used with regard to tribal monitoring as defined in Mitigation Measure MM-TCR-3.

The City continues to work with the Kizh Nation to conclude the consultation process. 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, refer to Section 4.3, Cultural Resources, of this Draft EIR.

#### 4.10.3.4.1.2 Operational Impacts

Operation of the Project would not include on-going ground disturbing activities; therefore, operation of the Project would not impact undiscovered significant tribal cultural resources. Impacts from operation of the Project would be less than significant.

#### 4.10.3.4.2 Mitigation Measures

The following mitigation measures incorporate recommended mitigation language received during consultation with the Gabrieleño Band of Mission Indians—Kizh Nation and would reduce potential impacts to tribal cultural resources to less than significant levels.

- MM-TCR-1:** Retain a Qualified Principal Investigator. A qualified principal investigator, defined as an archaeologist who meets the Secretary of the Interior's Standards for professional archaeology and has a minimum of 10 years of experience as a principal investigator working with Native American archaeological sites in southern California, shall be retained by the Applicant or their successor to carry out all mitigation measures related to archaeological and historical resources (hereafter qualified archaeologist). The qualified archaeologist shall be contacted in the event of an inadvertent archaeological discovery. Following completion of construction, the qualified archaeologist shall provide an archaeological monitoring report to the City and SCCIC with the results of the cultural monitoring program.
- MM-TCR-2:** Preconstruction Worker Training. At the Project kickoff and before construction activities begin, the qualified archaeologist or their designee shall provide training to construction personnel on information regarding regulatory requirements for the protection of cultural resources including tribal cultural resources. As part of this training, construction personnel will be briefed on proper procedures to follow should unanticipated cultural resources discoveries be made during construction. Workers will be provided contact information and protocols to follow in the event that inadvertent discoveries are made. If necessary, the qualified archaeologist can create a training video, PowerPoint presentation, or printed literature that can be shown to new workers and contractors to avoid continuous training throughout the course of the Project.
- MM-TCR-3:** Retain Native American Monitoring. Native American monitoring shall be retained by the Applicant or their successor and conducted by a representative of the Gabrieleño Band of Mission Indians-Kizh Nation,

hereafter referred to as the “Monitoring Tribe”. Monitoring shall occur during all Project-related, initial ground-disturbing construction activities (i.e., grubbing, pavement removal, tree removal, boring, grading, excavation, potholing, drilling and trenching etc.). The tribal monitor shall complete daily monitoring logs that shall provide descriptions of the day’s activities, including construction activities, locations, soil and any cultural materials identified. Once excavation is completed for a portion of the Project Site and entered into the daily monitoring log, the monitoring of an area shall be considered complete. The on-site monitoring shall end when all ground-disturbing activities at the Project Site are completed, or when the representatives of the Monitoring Tribe has indicated that all upcoming ground-disturbing activities at the Project Site have little to no potential for impacting Tribal Cultural Resources of their Tribe. Should the Gabrieleño Band of Mission Indians—Kizh Nation not have sufficient qualified staff, or not provide monitoring services at market rates, after consultation between the Tribe and the City’s Director of Community Development, the Applicant may contract with a different firm to provide a Native American monitor, subject to approval by the City of Beverly Hills Director of Community Development and reasonable and timely concurrence of the Gabrieleño Band of Mission Indians-Kizh Nation. Native American and Archaeological monitoring during construction projects will be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of Tribal Cultural Resources shall be taken.

- MM-TCR-4:** Unanticipated Discovery of Tribal Cultural Resources. In the event a Native American monitor identifies cultural or archaeological resources, the monitor shall be given the authority to temporarily halt construction in the immediate vicinity and within 50 feet of the discovery and to contact the qualified archaeologist to investigate the find and determine if it is a Tribal Cultural Resource under CEQA by the City of Beverly Hills in consultation with the ancestrally related tribe(s) and qualified archaeologist. Construction activities can continue in areas 50 feet away from the find and not associated with the cultural resource location. In the event of a find during ground disturbing activities, the Gabrieleño Band of Mission Indians- Kizh Nation shall be notified by the City and will retain it/them in the form and/or manner the Tribe deems appropriate, for educational, cultural and/or historic purposes. A Cultural Resources Monitoring and Mitigation Plan shall be developed to outline monitor procedures.
- MM-TCR-5:** Unanticipated Discovery of Human Remains. In the event that human remains are encountered at the Project Site, all work within 100 feet of the burial must cease, and any necessary steps to ensure the integrity of the immediate area shall be taken, including the placement of an

exclusion zone around the discovery location. The Los Angeles County Coroner will be immediately notified. Human remains and grave/burial goods shall be treated alike per PRC section 5097.98(d)(1) and (2). In ancient as well as historic times, Tribal Traditions included, but were not limited to, the preparation of the soil for burial, the burial of funerary objects with the deceased, and the ceremonial burning of human remains. The prepared soil and cremation soils are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects. The Coroner must then determine whether the remains are Native American. Should the Coroner determine the remains are Native American, the Coroner has 24 hours to notify the Native American Heritage Commission (NAHC), who shall in turn, notify the person they identify as the most likely descendent (MLD). Further actions shall be determined in part by the recommendations of the MLD. The MLD has 48 hours of being granted access to the Project Site to complete their inspection and make recommendations or express preferences for treatment of the remains. If the MLD does not make recommendations within 48 hours, the owner shall, with appropriate dignity, re-inter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC. Procedures of conduct following the discovery of human remains have been mandated by Health and Safety Code Section 7050.5, PRC Section 5097.98, and the CEQA Guidelines Section 15064.5(e) (CEQA).

- MM-TCR-6:** Reburial Treatment Measures. Prior to the continuation of ground disturbing activities where human remains and/or ceremonial objects have been identified, the Developer shall arrange a designated site location within the footprint of the Project for the respectful reburial of the human remains and/or ceremonial objects. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains shall be covered with muslin cloth and a steel plate that can only be moved by heavy equipment shall be placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard shall be posted outside of working hours. If feasible, the Project shall be diverted to keep the remains in situ and protected. If the Project cannot be

diverted, it may be determined that burials will be removed. The MLD shall work with the qualified archaeologist to ensure that the excavation is treated carefully, ethically, and respectfully. If data recovery is approved by the MLD, documentation shall be taken which includes at a minimum detailed descriptive notes and sketches. Additional types of documentation shall be approved by the MLD for data recovery purposes. Cremations shall either be removed in bulk or by means as necessary to ensure complete recovery of all material. If the discovery of human remains includes four or more burials, the location is considered a cemetery and a separate treatment plan shall be created. Once complete, a final report of all activities is to be submitted to the MLD and NAHC. The MLD does not authorize any scientific study or utilization of any invasive and/or destructive diagnostics on human remains. Each occurrence of human remains and associated funerary objects shall be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony shall be removed to a secure container on site if possible. These items should be retained and reburied within six months of recovery. The site of reburial/repatriation shall be, to the extent feasible, on the Project Site but at a location agreed upon between the MLD and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.

#### **4.10.3.4.3 Level of Significance After Mitigation**

Project-level impacts related to tribal cultural resources would be less than significant with the implementation of Mitigation Measures MM-TCR-1 through MM-TCR-6.

#### **4.10.3.5 Cumulative Impacts**

##### **4.10.3.5.1 Impact Analysis**

As identified in Section 3.0, Environmental Setting, of this Draft EIR, a total of 47 related projects are located in the vicinity of the Project Site. The Project and related projects are located within a highly urbanized area that has been extensively disturbed and developed over time. Although impacts to tribal cultural resources tend to be site-specific, cumulative impacts would occur if the Project, related projects, and other future development within the general area were to affect the same tribal cultural resources and communities. In the event any tribal cultural resources are uncovered, each related project would be required to comply with the applicable regulatory requirements 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 (and SB 18, as applicable) 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.**

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, refer to Section 4.3, Cultural Resources, of this Draft EIR.

#### **4.10.3.5.2 Mitigation Measures**

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

#### **4.10.3.5.3 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.