

IV. Environmental Impact Analysis

I. Tribal Cultural Resources

1. Introduction

This section identifies and evaluates potential Project impacts on tribal cultural resources. The analysis in this section is based on the results of consultation with California Native American Tribes conducted by the City of Los Angeles (City) for the Project, as required by the California Environmental Quality Act (CEQA) as amended by Assembly Bill (AB) 52, as well as the results of the analysis of resources in the Tribal Cultural Resources Report included as Appendix K of this Draft EIR.¹ The Native American consultation documentation is also provided in Appendix K of this Draft EIR.

2. Environmental Setting

a. Regulatory Framework

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

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

(1) Assembly Bill 52

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

¹ *Dudek, Tribal Cultural Resources Report for the Sunset and Wilcox Project, June 2022.*

places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe” that are either included or determined to be eligible for inclusion in the California Register or included in a local register of historical resources, or a resource that is determined to be a tribal cultural resource by a lead agency, in its discretion and supported by substantial evidence. A tribal cultural resource is further defined by PRC Section 20174(b) as a cultural landscape that meets the criteria of PRC Section 20174(a) to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. PRC Section 20174(c) provides that a historical resource described in PRC Section 21084.1, a unique archaeological resource as defined in PRC Section 21083.2(g), or a “nonunique archaeological resource” as defined in PRC Section 21083.2(h) may also be a tribal cultural resource if it conforms with the criteria of PRC Section 20174(a).

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

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

In addition to other CEQA provisions, the lead agency may certify an EIR or adopt a Mitigated Negative Declaration for a project with a significant impact on an identified tribal cultural resource, only if a California Native American tribe has requested consultation pursuant to PRC Section 21080.3.1 and has failed to provide comments to the lead agency, or requested a consultation but failed to engage in the consultation process, or the

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

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

⁴ *Public Resources Code, Section 21080.3.2(b).*

consultation process occurred and was concluded as described above, or if the California Native American tribe did not request consultation within 30 days.⁵

PRC Section 21082.3(c)(1) states that any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.

Confidentiality does not apply to data or information that are or become publicly available are already in lawful possession of the Applicant before the provision of the information by the California Native American tribe, are independently developed by the Applicant or the Applicant's agents, or are lawfully obtained by the Applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.⁶

(2) California Public Resources Code

PRC Section 5097.98, as amended by AB 2641, provides procedures in the event human remains of Native American origin are discovered during project implementation. PRC Section 5097.98 requires that no further disturbances occur in the immediate vicinity of the discovery, that the discovery is adequately protected according to generally accepted cultural and archaeological standards, and that further activities take into account the possibility of multiple burials. PRC Section 5097.98 further requires the Native American Heritage Commission (NAHC), upon notification by a County Coroner, designate and notify a Most Likely Descendant (MLD) regarding the discovery of Native American human remains. Once the MLD has been granted access to the site by the landowner and inspected the discovery, the MLD then has 48 hours to provide recommendations to the landowner for the treatment of the human remains and any associated grave goods. In the event that no descendant is identified, or the descendant fails to make a recommendation for disposition, or if the land owner rejects the recommendation of the descendant, the

⁵ *Public Resources Code, Sections 21082.3(d)(2) and (3).*

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

landowner may, with appropriate dignity, reinter the remains and burial items on the property in a location that will not be subject to further disturbance.

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

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

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

(3) California Penal Code

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

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

b. Existing Conditions

(1) Existing Project Site Conditions

The Project Site is located in a highly urbanized area in the Hollywood community in the City of Los Angeles. The Project Site is currently occupied with approximately 26,261 square feet of office and retail uses and associated surface parking. The existing buildings on the Project Site comprise approximately 26,261 square feet of floor area, consisting of a one-story, 16,932-square-foot building along Sunset Boulevard and Wilcox Street/Cole Place, a one-story, 4,446-square-foot building along Wilcox Street, and a two-story, 4,883-square-foot building along Cole Place and De Longpre Avenue. The Project Site is relatively flat with limited ornamental landscaping. The area surrounding the Project Site is developed primarily with a mix of low- to high-intensity residential, commercial, and mid-rise office buildings.

With regard to the underlying geological and soil conditions, the Project Site is approximately 1 mile south of the Hollywood Hills within the Santa Monica Mountains, 6.6 miles north of Baldwin Hills, and 12.25 miles northeast of the Pacific Ocean. The soils underlying the existing development in the vicinity of the Project Site are classified by the U.S. Department of Agriculture (USDA) as the Urban Land—Grommet–Ballona complex, which are typically associated with discontinuous human-transported material over young alluvium derived from sedimentary rock.⁷ This type of material has been intentionally and significantly modified by humans for an intended purpose (i.e., construction, mining, transportation, or commerce). As discussed in the Tribal Cultural Resources Report included as Appendix K of this Draft EIR, due to the size and nature of past development associated with the Project Site and vicinity, all native subsurface soils with potential to support the presence of cultural deposits have been substantially disturbed. Historical maps indicate that the nearest drainage is approximately 2.24 miles east of the Project Site, and the Los Angeles River, prior to channelization, is mapped approximately 6 miles to the east. Post channelization, the Los Angeles River is approximately 5 miles east of the Project Site.

Artificial soils are present within the Project Site to depths of approximately 2 feet below existing grade.⁸

⁷ *United States Department of Agriculture, Natural Resources Conservation Service: Web Soil Survey. Electronic Resource, <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>, accessed September 2020.*

⁸ *Group Delta Consultants, Inc., Geotechnical Feasibility Proposed Sunset + Wilcox Project 6450 Sunset Blvd, 1429 & 1423 Wilcox Ave., and 1413 Cole Pl., Los Angeles, California, May 15, 2020. Refer to Appendix IS-2 of the Project's Initial Study included as Appendix A of this Draft EIR.*

(2) City of Los Angeles Ethnographic Context

The following discussion is based on the Tribal Cultural Resources Report, included as Appendix K of this Draft EIR, which provides extensive supporting information and maps regarding the ethnographic context of the City.

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 an important consideration 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 “Gabrieliño” or “Gabrieleño” denotes those people who were administered by the Spanish from the San Gabriel Mission, which included people from the Gabrieleño area proper as well as other social groups. Therefore, in the post-Contact period, the name does not necessarily identify a specific ethnic or tribal group. The names by which Native Americans in southern California identified themselves have, for the most

part, been lost. Many modern Gabrieleño identify themselves as descendants of the indigenous people living across the plains of the Los Angeles Basin and refer to themselves as the Tongva, within which there are a number of regional bands. This term (Tongva) is used in the remainder of this section to refer to the pre-Contact inhabitants of the Los Angeles Basin and their descendants.

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

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. Second in size, and less thoroughly documented, the village of Cahuenga was located slightly closer, just north of the Cahuenga Pass.

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 and part of an established industry by the time of the early Intermediate Period. Acorns were supplemented by the roots, leaves, seeds, and fruits of a wide variety of flora (e.g., islay, cactus, yucca, sages, and agave). Fresh water and saltwater fish, shellfish, birds, reptiles, and insects, as well as large and small mammals, were also consumed.

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

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

At the time of Spanish contact, the basis of Tongva religious life was the religion of Chinigchinich, who was considered an important heroic mythological figure. 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 Tadic 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 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 provided formal notification of the Project on August 17, 2020. All tribal representatives identified by the NAHC, as provided in Appendix K.2 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
- Gabrielino/Tongva San Gabriel Band of Mission Indians
- San Fernando Band of Mission Indians
- Soboba Band of Luiseño Indians
- Torres Martinez Desert Cahuilla Indians
- Fernandeño Tataviam Band of Mission Indians

Chairman Andrew Salas, on behalf of the Gabrieleño Band of Mission Indians—Kizh Nation, was the only tribal representative who requested tribal consultation pursuant to AB 52. No communication or request for consultation was received from any other of the notified tribes to date and within the 30-day response period, which ended on September 16, 2020.

A record of the AB 52 request for consultation letters is included in Appendix K.2 of this Draft EIR.

(4) Background Research

(a) Sacred Lands File Review

A Sacred Lands File (SLF) search was requested on June 16, 2020 and conducted by the NAHC on June 29, 2020 (Appendix B of the Tribal Cultural Resources Report). The results of the SLF search indicated negative results. However, the records maintained by the NAHC and the California Historical Resources Information System (CHRIS) are not exhaustive, and a negative response to these searches does not preclude the existence of a cultural resource. The NAHC recommended contacting tribes associated with the Project Site in order to avoid unforeseen discoveries once the Project has started and provided a list of tribal representatives to contact for additional information. As noted above, all tribal representatives identified by the NAHC, as provided in Appendix B of the Tribal Cultural Resources Report, were notified of the Project by the City in compliance with AB 52.

(b) California Historical Resources Information System Review

A CHRIS records search was completed by the South Central Coastal Information Center (SCCIC) on July 22, 2020. No Native American resources were identified within 0.5 mile of the Project Site.

The records search included SCCIC's collections of mapped prehistoric, historic, and built environment resources, Department of Parks and Recreation site records, technical reports, and ethnographic references. Additional consulted sources included historical maps of the Project Site vicinity, the 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.

(i) Previously Conducted Cultural Resource Studies

Results of the records search indicated that 39 previous cultural resource studies have been conducted within the records search area between 1983 and 2013. Of these,

five studies overlap the Project Site. Refer to the Tribal Cultural Resources Report included as Appendix K of this Draft EIR for more details.

(ii) Previously Recorded Cultural Resources

A total of two previously recorded cultural resources have been documented within the vicinity of the Project Site. None of these resources overlap, intersect, or is adjacent to the Project Site. Both resources identified are historic-era sites. No prehistoric sites or resources have been previously recorded within the Project Site or records search area of 0.5 mile of the Project Site.

(c) Ethnographic Research and Review of Academic Literature

As part of the preparation of the Tribal Cultural Resources Report for the Project, academic and ethnographic literature and materials were reviewed for information pertaining to past Native American use of the Project 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 (Figure 3 of the Tribal Cultural Resources Report). Based on this map, the Project Site is approximately 0.5 mile west of the nearest El Camino Real route, south of two Native American Villages (the nearest mapped approximately 1.3 miles to the north of the Project Site), and approximately 1.3 miles northeast of the nearest mapped tar pits associated with the La Brea Tar Pit area. As discussed in the Tribal Cultural Resources Report, Father Juan Crespi of the Portola Expedition passed through the area on August 3, 1769, describing in his diary the tar pits to include about 40 tar springs and pools distributed over an unspecified area. Although the map contains no specific primary references, Kirkman–Herriman undoubtedly used this same information to help approximate where to visually represent the mapped features. It should be noted that this map is highly generalized due to scale, age, and the nature of the source material, and may be somewhat inaccurate with regard to distance and location of mapped features. Additionally, this map was prepared based on review and interpretation of historic documents and notes 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 specific location and uses of the represented individual features would require review of archaeological or other primary documentation on a case-by-case basis. No information related to the two village sites mapped nearest to the Project Site was provided within the technical reports reviewed as part of the records search for the Tribal Cultural Resources Report, although it appears likely that these villages are mentioned in the diary excerpts written by Father Crespi, a member of Portola’s expedition of the 18th Century.

At the time of Portola’s expedition, and through the subsequent mission period, the area surrounding the Project Site would have been occupied by Western Gabrieleño/Tongva inhabitants. Use of Gabrielino as a language has not been documented since the

1930s. One study made an effort to map the traditional Gabrieleño/Tongva cultural use area through documented family kinships and Native American recruitment numbers documented in mission records.⁹ 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 site to the Project Site was Cabuepet (or Cahuenga) located less than 2 miles from the Project Site near the northern opening of the Cahuenga Pass. This village was located near what is now Universal Studios. Mission records indicate that 123 Native American neophytes came from this village, second only to the number of recruits from Yanga in the Western Gabrieleño territory. In this vicinity was also Campo de Cahuenga, where the 1847 treaty between General Andres Pico and Lieutenant-Colonel John C. Fremont marked the surrender of Mexican California to the United States. In addition, the La Brea Tar Pits area was a known area of Native American use for hunting and the gathering of tar. The largest village in the vicinity was likely Yanga, located approximately 5 miles to the southeast. 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 positions of both Yanga and Cahuenga have been substantiated through archaeological evidence, although the archaeological record has been substantially compromised by rapid and early urbanization throughout much of the region. No archaeological evidence of the two nearest villages on the 1938 Kirkman–Harriman map was provided in the SCCIC records search results or review of other archaeological information; however, most of these fell outside of the archaeological records search area.

Based on review of pertinent academic and ethnographic information included in the Tribal Cultural Resources Report, the Project Site falls within the boundaries of the Gabrieleño/Tongva traditional territory. However, no Native American tribal cultural resources have been previously documented in areas that may be impacted by the Project.

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:

⁹ *Northwest Economic Associates (NEA) and Chester King, Ethnographic Overview of the Angeles National Forest: Tataviam and San Gabriel Mountain Serrano Ethnohistory, 2014.*

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

A CHRIS records search was conducted to determine potential impacts associated with tribal cultural resources. The records search included a review of mapped prehistoric, historic, and built environment resources; Department of Parks and Recreation Site Records; technical reports; ethnographic references; historical maps; the California Historic Property Data File; the National Register, 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 as part of the Tribal Cultural Resources Report. Project notification letters were sent out to California Native American Tribes as required by AB 52. On behalf of the Gabrieleño Band of Mission Indians—Kizh Nation, Chairman Andrew Salas requested tribal consultation with the City. In addition, an SLF search was conducted by the NAHC.

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 August 17, 2020, to the tribes listed in Subsection IV.J.2.b.(3) on page IV.I-8. The response period for the consultation requests concluded after 30 days on September 16, 2020. A record of this notification is included in Appendix K.2 of this Draft EIR.

As noted above, the City received a response from Andrew Salas on September 1, 2020, on behalf of the Gabrieleño Band of Mission Indians—Kizh Nation, who stated the following:

Thank you for your letter dated August 17, 2020 regarding AB52 consultation. The above proposed 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. Please contact us at your earliest convenience.

On September 4, 2020, the City confirmed receipt of the request for consultation and proceeded to schedule a consultation conference call with the tribe to be held on October 8, 2020. On October 7, 2020, the tribe submitted two documents to the City. The first is a letter from the SCCIC describing the California Historical Resources Information System (CHRIS). Specifically, the SCCIC states that through the CHRIS, the SCCIC provides

archaeological archival research for their clients who have projects throughout the state of California. The SCCIC further notes that their clients who use SCCIC's services need to know if their project may have an effect on these types of cultural resources. The SCCIC assists in answering this question, at least in part, through the record search process. The SCCIC also states that when they report that no archaeological resources are recorded in a project area or within a specified radius around a project area; that does not mean that there is no possibility of archaeological sites being present. Surface or buried artifacts may be found during a survey of the property or ground-disturbing activities. Accordingly, the SCCIC recommends contacting the Native American Heritage Commission (NAHC), and local tribes who may have knowledge of tribal cultural resources and areas of sensitivity in the vicinity of a project. The second document submitted by the Gabrieleño Band of Mission Indians—Kizh Nation on October 7, 2020, is an email from the NAHC that indicated that a negative search result in NAHC's Sacred Lands File letters does not preclude the existence of sites in the search area. NAHC's email further states that NAHC's Sacred Lands File letters recommend that the requestor contact all tribes on the contact/consultation list. Following this submittal by the tribe, the City confirmed receipt and provided a project summary document to the tribe.

On October 8, 2020, a phone call between the City and the Gabrieleño Band of Mission Indians—Kizh Nation occurred where the Gabrieleño Band of Mission Indians—Kizh Nation briefly discussed the history of the Project Site; stated that the Project Site is within a travel route to fulvic acid; noted that tar from the La Brea Tar Pits, located approximately 1.3 miles from the Project Site, is considered a cultural resource; and expressed interest in the native soil below the ground of the Project Site. The Gabrieleño Band of Mission Indians—Kizh Nation also agreed to provide maps and historical documents that identify the potential tribal resources discussed with the City.

Following the consultation call, the Gabrieleño Band of Mission Indians—Kizh Nation sent an email to the City that included screen shots of five historic map images along with a review of each map and screen shots of four pages of text from literary sources. The tribe did not provide explanatory text for any of the literary sources; however, the sources appear to be in reference to rancherias and villages, though specificity on how this information relates to the Project Site was not provided. Refer to Table 3 in the Tribal Cultural Resources Report included in Appendix K of this Draft EIR for a summary of each of the maps provided by the tribe.

In addition to the historical maps, the Gabrieleño Band of Mission Indians—Kizh Nation provided the City with a letter from Dr. E. Gary Stickel of Environmental Research Archaeologists (ERA) regarding proper CRM monitoring (dated August 22, 2018). In this letter, Dr. Stickel discusses the inadequacy of an archaeological pedestrian survey for the identification of subsurface cultural material, the use of ground penetrating radar (GPR) to detect unknown burials prior to Project construction, and the reliability of the use of a GPR,

and a statement of the use of a monitoring program for Project compliance. Additionally, Dr. Stickel states that the only exception of a monitoring program would be when a subject property has been extensively disturbed and all soil deposits to contain cultural material have been removed and/or destroyed. Based on the above documents submitted by the tribe, the Gabrieleño Band of Mission Indians—Kizh Nation believes that there is a higher than average potential to impact tribal cultural resources within the Project Site. As such, Chairman Salas of the Gabrieleño Band of Mission Indians—Kizh Nation provided the City with proposed mitigation measures for the Project, including retaining a Native American monitor to be present during all ground disturbing activities and implementing various protocols and procedures in the event that tribal cultural resources or archaeological resources and human remains are identified within the Project Site.

As detailed in the Tribal Cultural Resources Report included in Appendix K of this Draft EIR, no resources of Native American origin or association have been identified within the Project Site or immediate vicinity through the CHRIS records search conducted at the SCCIC (completed July 22, 2020) or NAHC SLF review (completed June 29, 2020). The comments provided by the Gabrieleño Band of Mission Indians—Kizh Nation during AB 52 consultation were reviewed as part of the Tribal Cultural Resources Report to determine whether the Project would cause a substantial adverse impact to tribal cultural resources. The following is the evaluation included in the Tribal Cultural Resources Report to address the comments and associated documentation provided by the Gabrieleño Band of Mission Indians—Kizh Nation.

The Gabrieleño Band of Mission Indians—Kizh Nation provided screenshots of the 1871, 1898, 1900, and 1938 maps and stated that that there are trade routes near the Project Site that often included isolated burials and cremations. Based on the archaeological record, as documented by CHRIS records search results, no isolated burials or cremations were identified within or in the immediate vicinity of the Project Site. The referenced maps are spatially generalized (i.e., the location and relative distance to these trade routes in relation to the Project Site may vary significantly). Also of importance to consider, early maps, such as the 1938 Kirkman-Harriman map, are intended to represent cartographic interpretation of often brief historical descriptions. The locations of prehistoric trade routes, in particular, should be understood as the cartographer's best guess at connecting key map elements or known points of interest. As such, these maps do not provide material evidence that the Project could potentially impact a tribal cultural resource.

The Gabrieleño Band of Mission Indians—Kizh Nation also provided screenshots of the 1898 and 1900 maps with the intent of demonstrating the Project Site's close proximity to a railroad and suggested that railroad corridors were placed along optimal travel routes also used by prehistoric people. While this is an interesting concept and it is possible that portions of railroads fell along prehistoric routes of travel, no specific correlation is documented or otherwise substantiated between historical/modern and prehistoric travel

routes in this region through the archaeological evidence. Additionally, no railroads were identified within or in close proximity to the Project Site, and the work as proposed would be limited to the boundaries of the existing developed Project Site. As such, these maps also do not provide material evidence that the Project could potentially impact a tribal cultural resource.

The 1894 and 1938 maps were also provided by the Gabrieleño Band of Mission Indians—Kizh Nation to show the hydrography and waterways that existed around the Project Site area, which provided for seasonal or permanent seasonal or permanent hamlets, trade depots, and ceremonial and religious sites. Further, the Gabrieleño Band of Mission Indians—Kizh Nation stated that these waterways are considered “cultural landscapes” and have the potential to encounter human remains during ground-disturbing activities. A review of the 1938 map indicates that the nearest waterways to the Project Site are more than 2 miles to the east and nearly 3 miles to the southwest; however, the map provided appears to be highly generalized, and, therefore, the distance of these waterways in relation to the Project Site may vary significantly. The CHRIS records search results did not identify isolated burials or cremations within, or in the immediate vicinity of, the Project Site. As such, these maps also do not provide material evidence that the Project could potentially impact a tribal cultural resource.

According to the Gabrieleño Band of Mission Indians—Kizh Nation, the 1938 Kirkman-Harriman map shows that the Project Site is located within the sacred village of Maawnga/Cahuenga. However, the village of Cahuenga is documented through mission-era records near the northern opening of the Cahuenga Pass, less than 2 miles north and outside of the Project Site. Therefore, this map does not provide material evidence that the Project could potentially impact a tribal cultural resource.

As previously discussed, the Gabrieleño Band of Mission Indians—Kizh Nation provided a letter from Dr. Stickel regarding the reliability of an archaeological pedestrian survey, the use of a GPR to identify burials, and the implementation of a monitoring program for project compliance. Additionally, a letter from the SCCIC was provided regarding the potential to encounter subsurface archaeological resources regardless of the negative CHRIS records search results. These are important reminders to appropriately consider each project and its related potential to encounter unrecorded cultural resources; however, they do not provide any substantial Project-specific information relating to cultural resources or tribal cultural resources. For these reasons, the maps and text submitted by the Gabrieleño Band of Mission Indians—Kizh Nation do not constitute substantial evidence that the Project could potentially cause a substantial adverse change in the significance of any tribal cultural resources.

As set forth in the Tribal Cultural Resources Report included in Appendix K of this Draft EIR, no Native American resources have been identified within the Project Site or

one-half mile of the Project Site in the records search conducted at the SCCIC. The NAHC Sacred Lands File search likewise did not indicate the presence of Native American resources on or in close proximity to the Project Site. As reflected by the records searches and past disturbance of the Project Site and vicinity to construct existing structures, subsurface soils are unlikely to support intact tribal cultural resources. In addition, no tribal cultural resources have been identified within the Project Site through tribal consultation that would be impacted.

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 process of consultation. 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. No geographically defined tribal cultural resource was identified that might be impacted by the Project. 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). **As determined in the Tribal Cultural Resources Report, based on the information received and lack of substantial evidence, the Project would not cause a substantial adverse change in the significance of a tribal cultural resource, and the Project's impact to tribal cultural resources would be less than significant.**

On March 24, 2022, the City provided the Gabrieleño Band of Mission Indians—Kizh Nation a letter summarizing the City's and the tribe's combined efforts during tribal consultation and documenting the conclusion of the tribal consultation process, pursuant to Public Resources Code Section 21080.3.2 (refer to Appendix C of the Tribal Cultural Resources Report). As concluded by the City, a review of the documents submitted by the tribe did not find substantial evidence of an existing tribal cultural resource within the Project Site. No evidence was submitted that considers the specific location of the Project Site, and no criteria were provided to indicate why the Project Site should be considered sensitive enough such that mitigation measures for tribal cultural resources would be required to avoid adverse impacts. Furthermore, the City has reviewed the suggested measures provided by the Tribe. The City's standard Inadvertent Discovery Condition of Approval, discussed further below, would not provide less protection of any finds in the event of inadvertent discovery of a prospective resource. As such, 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. Therefore, the City has no basis under the California Environmental Quality Act to impose any related mitigation measures. However, as an additional protection, the City will implement the City's condition of approval under its police powers to protect the inadvertent discovery of tribal cultural resources. The Condition of Approval has incorporated elements of the requested

measures the Tribe had provided, including specific notification requirements for the Tribes which requested consultation.

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 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 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 resources 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.

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

(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 or included, and the impact level would remain less than significant.

e. Cumulative Impacts

(1) Impact Analysis

As indicated in Section III, Environmental Setting, of this Draft EIR, there are 55 related projects in the vicinity of the Project Site. While the majority of the related projects are located a substantial distance from the Project Site, as shown in Figure III-1 in Section III, Environmental Setting, of this Draft EIR, several related projects are located in proximity to 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 Community Plan area affected the same tribal cultural resources and communities. As discussed above, the Project would result in less-than-significant impacts to tribal cultural resources all Project development would occur on-site. However, in the 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.I-1. In addition, related projects would be required to comply with AB 52 consultation requirements to determine and mitigate any potential impacts to tribal cultural resources. **Therefore, the Project's contribution to impacts on tribal cultural resources would not be cumulatively considerable, and cumulative impacts to tribal cultural resources would be less than significant.**

(2) Mitigation Measures

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

(3) Level of Significance After Mitigation

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