

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, the *Tribal Cultural Resources Report for the 1000 Seward Project* (TCR Report) prepared by Dudek (May 2022) included as Appendix L of this Draft EIR. The Native American consultation documentation is provided in Confidential Appendix D of the TCR Report.

2. Environmental Setting

a. Regulatory Framework

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

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

(1) State

(a) Assembly Bill 52

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

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

PRC Section 21080.3.1 requires that, within 14 days of a lead agency determining that an application for a project is complete, or a decision by a public agency to undertake a project, the lead agency provide formal notification to the designated contact, or a tribal representative, of California Native American Tribes that are traditionally and culturally affiliated with the geographic area of the project (as defined in PRC Section 21073) and who have requested in writing to be informed by the lead agency of projects within their geographic area of concern.¹ Tribes interested in consultation must respond in writing within 30 days from receipt of the lead agency’s formal notification and the lead agency must begin consultation within 30 days of receiving the tribe’s request for consultation.²

PRC Section 21080.3.2(a) identifies the following as potential consultation discussion topics: the type of environmental review necessary; the significance of tribal cultural resources; the significance of the project’s impacts on the tribal cultural resources; project alternatives or appropriate measures for preservation; and mitigation measures. Consultation is considered concluded when either: (1) the parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or (2) a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.³

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

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

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

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

concluded as described above, or if the California Native American tribe did not request consultation within 30 days.⁴

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

Confidentiality does not apply to data or information that are, or become publicly available, are already in lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the Applicant or the Applicant's agents, or are lawfully obtained by the Applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.⁵

(b) California Public Resources Code

PRC Section 5097.98, as amended by AB 2641, provides procedures in the event human remains of Native American origin are discovered during project implementation. PRC Section 5097.98 requires that no further disturbances occur in the immediate vicinity of the discovery, that the discovery is adequately protected according to generally accepted cultural and archaeological standards, and that further activities take into account the possibility of multiple burials. PRC Section 5097.98 further requires the Native American Heritage Commission (NAHC), upon notification by a County Coroner, designate and notify a Most Likely Descendant (MLD) regarding the discovery of Native American human remains. Once the MLD has been granted access to the site by the landowner and inspected the discovery, the MLD then has 48 hours to provide recommendations to the landowner for the treatment of the human remains and any associated grave goods. In the event that no descendant is identified, or the descendant fails to make a recommendation for disposition, or if the land owner rejects the recommendation of the descendant, the landowner may, with appropriate dignity, reinter the remains and burial items on the property in a location that will not be subject to further disturbance.

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

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

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

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

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

(c) California Penal Code

California Penal Code Section 622½ 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 (City), approximately one mile south of the Santa Monica

Mountains, approximately 5.2 miles north of Baldwin Hills, and approximately 12 miles northeast of the Pacific Ocean. The Project Site is currently developed with two one-story buildings totaling 10,993 square feet, comprised of a 2,551 square-foot restaurant and 8,442 square-foot studio and production space, along with surface parking areas.

As discussed in the TCR Report included as Appendix L of this Draft EIR, existing development is underlain by Urban land-Grommet-Ballona complex, associated with non-native material over young alluvium derived from sedimentary rock. Due 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.

(2) City of Los Angeles Ethnographic Context

The following discussion is based on the TCR Report, included as Appendix L of this Draft EIR, which provides extensive supporting information and maps.

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

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

The archaeological record indicates that the Gabrieleño arrived in the Los Angeles Basin around 500 B.C. Surrounding native groups included the Chumash and Tataviam to the northwest, the Serrano and Cahuilla to the northeast, and the Juaneño and Luiseño to the southeast. The name “Gabrielino” or “Gabrieleño” was first established by the Spanish from the San Gabriel Mission and included people from the established Gabrielino area as well as other social groups. While this population primarily included Native American individuals local to the immediate region, individuals from surrounding areas and other tribes are also shown from records to have been coerced into involuntary labor at the San Gabriel Mission. As such, post-mission Gabrieleño communities may have complex historical and cultural understandings, with associations to multiple ethnic groups. Therefore, in the post-colonization 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, in some cases, been lost. Today, many Gabrieleño identify themselves as the Tongva, within which there are a number of regional bands. Though the names “Tongva” or “Gabrieleño” are the most common names used by Native American groups today, and are recognized by the NAHC, there are groups within the region that self-identify differently. In order to be inclusive of the majority of tribal entities within the region, the name “Tongva” or “Gabrieleño” are used within the remainder of this section.

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 coerced into involuntary labor at the 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 colonization, the basis of Tongva religious life was the Chinigchinich religion, centered on the last of a series of heroic mythological figures. Chinigchinich gave instruction on laws and institutions, and also taught the people how to dance, which was the primary religious act for this society. He later withdrew into heaven, where he rewarded the faithful and punished those who disobeyed his laws. The Chinigchinich religion seems to have been relatively new when the Spanish arrived. It was spreading south into the Southern Takic groups even as Christian missions were being built and 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 following colonization.

(3) Assembly Bill 52 Consultation

In compliance with the requirements of AB 52, the City provided formal notification of the Project on November 12, 2020, to all NAHC-listed Native American tribal

representatives on their AB 52 Contact List. 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 Tribe
- 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

A record of the letters, mailings, and correspondence received is included as Confidential Appendix B of the TCR Report. Consultation was requested by the Gabrieleño Band of Mission Indians—Kizh Nation (Kizh Nation). The City also received one response from the Fernandeño Tataviam Band of Mission Indians dated November 12, 2020, deferring consultation to the Kizh Nation. A summary of this process is provided below.

(a) Gabrieleño Band of Mission Indians—Kizh Nation Consultation

On November 18, 2020, the Kizh Nation responded to initial outreach from the City requesting consultation, dated November 12, 2020. The City and the Kizh Nation initiated consultation on February 10, 2022. During consultation, representatives from the Kizh Nation and the City discussed the potential for encountering resources in previously developed areas, with the Kizh Nation providing examples of resources discovered at other projects sites (outside the City) that had been determined to have a low chance of discovery for tribal cultural resources. It is the Kizh Nation's position that even when resources and isolated finds are discovered in disturbed contexts, the cultural significance of the resource remains unchanged. The Kizh Nation also requested, and the City provided, information about previous removal of native soil from the Project Site and its replacement with artificial soil.

Following the initial consultation phone call, the Kizh Nation sent an email to the City on February 18, 2022, that included screen shots of four historic map images depicting the Hollywood area with hand drawn notes dated 1881, 1898, 1901, and 1938 along with the

tribe's notes on each map and screen shots of pages of text from numerous literary sources, along with proposed mitigation measures for potential resources in the Project area. The Kizh Nation did not provide explanatory text for any of the literary sources, or any discussion or context about whether or how this information relates to the Project or the Project Site. All documents relating to AB 52 Consultation are provided in Confidential Appendix C of the TCR Report, included as Appendix L of this Draft EIR. Table 3 in the TCR Report provides the Kizh Nation's summary for each of the maps sent on February 18, 2022, which depict trade routes, waterways, and villages.

In addition to the historical maps summarized in Table 3 of the TCR Report, on February 18, 2022, Chairman Andrew Salas of the Kizh Nation provided the City with a generalized letter from Dr. E. Gary Stickel of Environmental Research Archaeologists (ERA) dated August 22, 2018, regarding proper monitoring of cultural resources. 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, 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 has been removed and/or destroyed. However, as noted above, this letter is generalized and not specific to the Project. The Kizh Nation also provided a generalized, undated letter from the SCCIC, noting that the absence of archaeological resources within a specific area does not mean that no such resources exist and that there is always a chance that there are unrecorded archaeological resources on the surface or buried within an area.

On April 14, 2022 the City sent a letter to the Kizh Nation which included a brief summary of the tribal consultation that had occurred between the City and Kizh Nation thus far for the Project. As part of the letter, the City provided a copy of the administrative draft TCR Report for the Tribe's review. The City respectfully requested that the Tribe complete its review of the TCR Report and provide any comments by April 28, 2022. Additionally, the letter served to inform the Tribe of the City's intent to conclude consultation at the publication of the Draft EIR, in a subsequent notice to the Tribe. The City would then release the Draft EIR for the Project, thereby commencing the 45-day period during which interested parties, members of the public, and governmental agencies, such as the Tribe, may submit written comments on the adequacy of the Draft EIR. The Kizh Nation responded the same day to the City's letter noting that they disagreed with the City's conclusion, specifically that the City's inadvertent discovery condition of approval would protect the Kizh Nation's tribal cultural resources and that consultation could be

concluded.⁶ Further the Kizh Nation requested that consultation continue to discuss how the materials submitted thus far do not meet the substantial evidence threshold as required by AB 52.

On May 19, 2022, the City and the Kizh Nation continued consultation via a conference call. During this meeting, the Kizh Nation provided additional historical maps showing the Project Site in relation to Rancho La Brea, railroad lines, trade routes, villages, battle sites, oil wells, and local waterways. A summary of these maps is also included in Table 3 of the TCR Report. The Kizh Nation emphasized that railroads were constructed upon existing trade routes, which combined with the presence of the tar and the water sources would have constituted an area of human activity and a cultural landscape. In addition to the historic maps, the tribe also provided documents with information about the prehistoric use of tar pits and examples of artifacts found at the Rancho La Brea, as well as an excerpt from “Sources of Rebellion: Indian Testimony and the Mission San Gabriel uprising of 1785” by Steven Hackel. The Kizh Nation also reiterated their position that tribal cultural resources can be present in disturbed soils and that the disturbance does not necessarily alter the significance of the resource. The Kizh Nation discussed examples of locations (outside the City) where resources were discovered in disturbed soils.

Based on the summary provided in Table 3 of the TCR Report, as well as the letter from ERA and the SCCIC and other documents, the Kizh Nation believes that there is a higher than average potential to impact TCRs within the Project Site. As such, Chairman Salas 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, archaeological resources, or human remains are identified within the Project Site.

(4) Background Research

(a) SCCIC Records Search

On August 18, 2020, staff at the South Central Coastal Information Center (SCCIC), located on the campus of California State University, Fullerton, provided the results of a California Historical Resources Information System (CHRIS) records search for the Project Site and a 0.5-mile radius. Due to COVID-19, the SCCIC notified researchers that they are only providing data for Los Angeles County that are digital. The CHRIS records search results provided by the SCCIC included their digitized collections of search, which included mapped prehistoric and historic archaeological resources and historic built-environment

⁶ *The City’s letter did not conclude consultation or imply that consultation was being concluded through the letter.*

resources; Department of Recreation and Parks site records; technical reports; archival resources; and ethnographic references. Additional consulted sources included historical maps of the Project Site, the National Register of Historic Places (National Register), the California Register of Historical Resources (California Register), the California Historic Property Data File, and the lists of California State Historical Landmarks, California Points of Historical Interest, and the Archaeological Determinations of Eligibility. The SCCIC records were reviewed to determine whether the implementation of the Project would have the potential to impact known cultural resources. The confidential records search results are also provided in Confidential Appendix A of the TCR Report included as Appendix L of this Draft EIR.

(i) Previously Conducted Cultural Resource Studies

Results of the records search indicated that 21 previous cultural resource studies have been conducted within the records search area between 1966 and 2016. None of these intersect or overlap the Project Site. A complete list of the previous cultural resource studies is provided in Table 1 of the TCR Report included as Appendix L of this Draft EIR.

(ii) Previously Recorded Cultural Resources

The SCCIC records identified 34 previously recorded cultural resources within 0.5 mile of the Project Site. All but one of the resources within the record search area are historic-age build environment resources and/or districts. The remaining resource is the historic DeLongpre Park which was constructed in 1924. The SCCIC record for the historical resource DeLongpre Park, has the status code HP31, which is defined by the Office of Historic Preservation as an urban open space. No prehistoric archeological resources have been previously recorded within 0.5 mile of the Project Site.

(b) NAHC Sacred Lands File Search

As part of the process of identifying cultural resources within or near the Project Site, NAHC was contacted on June 5, 2020, to request a review of the sacred land file (SLF). The NAHC replied via email on June 19, 2020, stating that the SLF search was completed with negative results (completed June 17, 2020). Because the SLF search does not include an exhaustive list of Native American cultural resources, the NAHC suggested contacting eight Native American individuals and/or tribal organizations who may have direct knowledge of cultural resources in or near the Project site. In compliance with AB 52, the City has contacted all NAHC-listed traditionally geographically affiliated tribal representatives that have requested Project notification. Documents related to the NAHC SLF search are included in Appendix C of the TCR Report.

(c) *Ethnographic Research and Review of Academic Literature*

As part of the preparation of the Project TCR Report, pertinent academic and ethnographic literature for information pertaining to past Native American use of the Project Site and vicinity was reviewed. This review included consideration of sources commonly identified during AB 52 consultation between Tribes and the City, notably the 1938 Kirkman-Harriman Historical Map often referenced by the Kizh Nation (Figure 3 in the TCR Report included as Appendix L of this Draft EIR). Based on this map, the Project Site is south/southeast of two Native American Villages (the nearest mapped, the village of Cahuenga, approximately 1.4 miles away), approximately 0.8 mile east of the nearest of the tar pits associated with the La Brea Tar Pit area, approximately 0.9 mile west of Camino Road, and approximately 0.7 mile north of an August 27, 1770 “Indian Battle,” within the La Brea Tar Pit area.

Based on this map, the Project Site falls between two paths of Portola’s first expedition in California. Based on Crespi’s descriptions and diary entry date in relation to the location of the Project Site on the Kirkman-Harriman map, the Portola party traveled just south of the Project Site (approximately 2.4 miles) on August 2–3, 1769, moving westward from the Los Angeles River. The party stopped southwest of the tar pits on August 3, there continuing northward passing through Camino Real. The Project Site falls approximately 2 miles southwest of the Cahuenga Pass and less than 1 mile east of the nearest tar pit associated with the La Brea tar pits. Of the tar pits, Crespi noted in his diary entry for August 3, 1769, that “they came upon about forty springs of pitch, or tar, boiling in great surges up out of the ground, and saw very large swamps of this tar (Brown 2002:341). The area is known to have been a source of naturally occurring tar for prehistoric Native American people. A review of CHRIS records substantiates this; the remains of the La Brea Woman, believed to be 9,000 years old, were recovered within the boundaries of the La Brea Tar Pits (P-19-000159). Additionally, according to the Kirkman-Harriman map, the Portola party also traversed eastward towards the Los Angeles River, north of the Project Site (approximately 1.7 miles northeast) on January 16, 1770. In his diary entry for that date, Crespi notes that they encountered two villages and the party made camp there by the Cahuenga Pass.

No information relating 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 this study, though it appears likely that these are the villages mentioned in the excerpts of Father Crespi’s diary that were quoted in the ethnographic context above in this report as the village of Cahuenga. Because these villages are not documented in ethnographic sources subsequent to this initial documentation, nor have the villages been confirmed archaeologically, the mapped locations of these village should not be considered known cultural resources unless substantiated through future archaeological work. The initial documentation of these village locations was not necessarily intended to be geographically

precise, but rather to consolidate generalized historical information and visually represent broader relationships. Without corroboration by other sources of information, these mapped village locations are considered unconfirmed. Because the mapped villages are not documented in ethnographic or historical sources subsequent to this initial documentation, nor have the villages been confirmed archaeologically, the mapped locations of these villages, standard practice dictates that they should not be considered known cultural resources unless substantiated through future archaeological work. Furthermore, no information relating to the “Indian Battle” of August 27, 1770, was identified in the archival research through the available archaeological record.

The Kirkman-Harriman Map also indicates the presence of a trail to the east of the project area. While the specific routes would have varied throughout human prehistory based on changing topographic and environmental conditions, regional evidence from known archaeological sites clearly documents wide-spread patterns of exchange in goods and resources between neighboring tribes. Outside of areas with specific geographic or topographic constraints, prehistoric trails represented on this map should be interpreted as a cartographer’s tool for describing these connections between known use areas, and not specific or known prehistoric routes of travel. Furthermore, while prehistoric trails and linear features often overlap with those of subsequent transportation methods because they follow the most efficient path between locations, this is not specifically reflective of prehistoric use of areas now used for modern transportation without substantiation from the archaeological record.

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 (refer to Figures 4 and 5 in the TCR Report included as Appendix L of this Draft EIR). Use of Gabriellino 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 included in mission records. This process allowed for the identification of clusters of tribal villages (settlements) with greater relative frequencies of related or married individuals than surrounding areas (Figure 6 in the TCR Report included as Appendix L of this Draft EIR). Traditional cultural use area boundaries, as informed by other ethnographic and archaeological evidence, were then drawn around these clusters. The relative size of these villages was also inferred from their relative number of mission-period recruits. The nearest substantiated named village site to the Project was Cabuepet (or Cahuenga), located near the northern opening of the Cahuenga Pass approximately 1.4 miles to the north/northwest. This village was located near what is now Universal Studios. Mission records indicate that 123 Native American neophytes came from this village, second only in number to Yanga in the Western Gabrieleño territory. Campo de Cahuenga was also in this vicinity, which is the site where the 1847 treaty between General Andres Pico and Lieutenant-Colonel John C. Fremont marked the surrender of Mexican California to the United States. The La Brea Tar Pits

area was a known area of Native American use for hunting and the gathering of tar. The largest substantiated village in the vicinity was likely Yabit (or Yanga), located approximately 6 miles to the southeast. Mission records indicate that 179 Gabrieleño inhabitants of Yanga were coerced into involuntary labor at the San Gabriel Mission, indicating that it may have been the most populated village in the Western Gabrieleño territory. In general, the mapped position 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 for the Project Site.

Based on the above, a review of pertinent academic and ethnographic information indicates that the Project Site falls within the boundaries of the Gabrieleño/Tongva traditional territory. In addition, the Project Site is located relatively close to Native American villages, including that of Cabuepet (or Cahuenga) approximately 1.4 miles to the north/northwest and Yanga approximately 6 miles to the southeast. The Project Site is also located near tar pits, water sources, and routes that may have been utilized by Native Americans in both the prehistoric and protohistoric time period, however, no Native American tribal cultural resources have been previously documented on the Project Site.

(d) Review of Historic Maps and Aerials

As part of the TCR Report, historic topographic maps, aerial photographs, and Sanborn Fire Insurance Maps (Sanborn maps) were reviewed to understand development of the Project site and surrounding properties. Topographic maps are available for the years 1894, 1896, 1898, 1900, 1902, 1904, 1906, 1908, 1910, 1913, 1915, 1921, 1924, 1926, 1932, 1955, 1963, 1968, 1975, 1982, 1995, 2012, 2015, and 2018. Historic aerials are available for the years 1948, 1952, 1954, 1964, 1972, 1980, 1989, 1994, 2003, 2004, 2005, 2009, 2010, 2012, 2014, and 2016. Sanborn maps were available for the year 1919, and are included in Appendix B of the TCR Report.

The first USGS topographic map depicting the Project Site is from 1894 and shows roads and city blocks surrounding the Project Site, although no structures are shown within the Project Site. The topographic maps from the following years show no change until 1921. The 1921 topographic map shows an increase in roads to the east and west of the Project Site, as well structures within the Project Site. The 1924 topographic map shows two structures within the Project Site, both along Seward Street and Hudson Avenue. The 1926 topographic map shows no change to the Project Site. The 1932 topographic map shows a structure within the Project Site along Hudson Avenue; however, a structure is no longer depicted at the corner of Seward Street and Romaine Street. The 1955 topographic map does not depict any structures within the Project Site or surrounding city blocks. The

topographic maps from the following years show no change to the Project Site, since the 1955 topographic map.

The first historic aerial of the Project Site dates to 1948 and shows developed structures covering the majority of the Project Site. The following historic aerials remain unchanged until 1964. The 1964 historic aerial shows the upper northeast quadrant of the Project Site as a parking lot and is void of structures, however, structures were present within the western half and along the southern edge of the Project Site. The following historic aerials show no significant change to the Project Site until 1994. The 1994 historic aerial shows the eastern half of the Project Site as a parking lot and void of structures; however, structures remain within the western half of the Project Site. The remaining historic aerials show no change to the Project Site up through the twentieth and twenty-first centuries.

The 1919 Sanborn map shows the Project Site subdivided into three parcels from Seward Street to Hudson Street. Within the western parcel, located on the northeast corner of Seward Street and Romaine Street, there is a large structure, labeled “Radio Equipment Warehouse”. Within the parcels on the eastern half of the Project Site, where the current parking lot is located, there were five rectangular structures varying in size, though the maps do not provide information regarding their use. No additional years were available for review for the Project Site.

Historical maps indicate the presence of a small drainage approximately 2.4 miles east of the Project Site, and the Los Angeles River, prior to channelization, mapped approximately 6.7 miles to the east. Post channelization, the Los Angeles River is approximately 5.9 miles east of the Project Site.

(e) Geotechnical Report

The Project’s Geotechnical Investigation included as Appendix IS-2 of the Initial Study included as Appendix A of this Draft EIR details the results of two subsurface exploratory borings by an 8-inch-in-diameter hollow-stem auger drilling machine. These subsurface exploratory investigations were placed at the northwest and southeast corners of the paved parking lot within the Project Site, to a maximum depth of 60.5 feet below the existing ground surface to determine subsurface conditions. According to the Geotechnical Investigation, both exploratory borings were completed on November 11, 2019. The soils encountered include: (1) Artificial fill soils: characterized as dark clay that is moist and firm, encountered between surface and 4 feet from the existing ground surface; and (2) Native soils: characterized as Quaternary age alluvium that consists of dark brown to brown and reddish-brown interbedded clay, silt and sand of varying composition that is slightly moist to very moist, firm to hard or medium dense to very dense, and was, encountered beneath the fill soils. The Geotechnical Investigation states that the artificial fill encountered are likely a

product of previous grading or construction activities at the Project Site. The Geotechnical Investigation further notes that deeper fill soils may exist in other portions of the Project Site that were not investigated as part of the exploratory borings.

3. Project Impacts

a. Thresholds of Significance

In accordance with the State CEQA Guidelines Appendix G, the Project would have a significant impact related to tribal cultural resources if it would:

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

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

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

b. Methodology

The results of an SCCIC records search for the Project Site and 0.5-mile radius were evaluated 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 TCR Report. The Kizh Nation was the only tribe to request consultation. In compliance with AB 52, the City initiated and concluded consultation with the Tribe, as discussed further below. In addition, SLF search was conducted by NAHC to determine the presence of any recorded tribal cultural resources on the Project Site. The results of this analysis are provided in the TCR Report included as Appendix L of this Draft EIR.

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

A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (PRC Section 21084.2). AB 52 requires a tribal cultural resource to have tangible, geographically defined properties that can be impacted by an undertaking. No tribal cultural resources have been identified within the Project Site or the surrounding 500-foot radius through the records search at the SCCIC (completed August 18, 2020) or through a search of the NAHC SLF (completed June 17, 2020). A review of ethnographic

information for the general Project area identifies the area as being located near tar pits, water sources, and roads that may have provided important resources to prehistoric and protohistoric populations but did not result in the identification of any known TCRs within the Project Site. As noted above, the Project's Geotechnical Investigation stated that fill soils were found up to four feet beneath the existing ground surface followed by native soils within the northwest and southeast corners of the paved parking lot of the Project Site. Furthermore, the Geotechnical Investigation states that deeper fill may be encountered within the Project Site in areas that were not investigated. Current Project design, based on the geotechnical findings, anticipates the depth of excavation for the Project Site to be a minimum of 12 inches below the existing ground surface for paving activities and a maximum depth of 45 feet below the existing ground surface for the construction of the proposed subterranean parking levels. In consideration of these factors, it is Dudek's assessment that subsurface contexts within the Project Site are of low suitability to support the presence of tribal cultural resources.

Furthermore, based on the AB 52 consultation process with the applicable California Native American Tribes, there is no substantial evidence indicating that tribal cultural resources would be impacted by the Project. The materials provided by the Kizh Nation as part of the AB 52 consultation process did not identify any tribal cultural resources within the Project Site. The tribal cultural landscape, as proposed by the Kizh Nation during the AB 52 consultation call, is located within a highly urbanized setting and is not geographically defined in terms of the size and scope of the landscape. As such, the proposed tribal cultural landscape is not eligible or included in a state or local historical register pursuant to PRC Section 21074 (a)(1)(A)-(B) based upon the information provided.

Additionally, staff conducted an online search of projects within a half mile radius of the Project Site. The search found that projects with a mitigated negative declaration or an environmental impact report included no specific mitigations for tribal cultural resources. No discovery of tribal cultural resources has been reported to the City at these project sites during their grading and excavation activities

As such, government-to-government consultation initiated by the City, acting in good faith and after a reasonable effort, has not resulted in the identification of a tribal cultural resource within or near the Project Site. Given that no tribal cultural resources have been identified and based upon Dudek's assessment and the City's own research, no specific mitigation measures are necessary.

Based on the above, the City, in its discretion and supported by substantial evidence, finds that the Project Site does not contain any known resources or is a tribal cultural landscape determined by the City to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1 (e.g., tribal cultural resources). Accordingly, the Project would not cause a substantial adverse change in the

significance of a known tribal cultural resource with cultural value to a California Native American tribe. No impacts to known tribal cultural resources would occur.

Despite the above, the Project would include excavation to a maximum depth of approximately 45 feet below the ground surface which would extend below the existing fill at the Project Site, which extends to a maximum depth of four feet below ground surface,⁷ Excavation activities could potentially uncover unknown subsurface tribal cultural resources that may be present at the Project Site. The City has established a standard condition of approval (COA) to address inadvertent discovery of tribal cultural resources. Should a potential tribal cultural resource be inadvertently encountered during Project excavation and grading activities, this COA requires for temporarily halting of construction activities near the encounter and notifying the City and the Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed Project. If the City determines that a 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 Applicant would then implement the tribe's recommendations if a qualified archaeologist reasonably concludes that the tribe's recommendations are reasonable and feasible. The recommendations would then be incorporated into a tribal cultural resource monitoring plan and once the plan is approved by the City, ground disturbance activities could re-commence. In accordance with this COA, all activities would be conducted in accordance with regulatory requirements. If the Applicant does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist or by a culturally affiliated tribal monitor, the Applicant may request mediation by a mediator agreed to by the Applicant and the City who has the requisite professional qualifications and experience to mediate such a dispute. The Applicant shall pay any costs associated with the mediation. The Applicant may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by the qualified archaeologist and by a culturally affiliated tribal monitor and determined to be reasonable and appropriate. Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the SCCIC at California State University, Fullerton. **As such, with the implementation of this COA, potential Project impacts on any currently unknown tribal cultural resources that may be present at the Project Site would be less than significant.**

⁷ *Geocon West, Inc., Geotechnical Investigation, Proposed Mixed Use Development 1000–1006 Seward Street, 6565 West Romaine Street, and 1003, 1007, & 1013 North Hudson Avenue, Los Angeles (Footnote continued on next page)*

For a discussion of potential impacts related to historic resources, please refer to Section IV.B, Cultural Resources, of the Draft EIR.

(2) Mitigation Measures

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

(3) Level of Significance After Mitigation

Impacts were determined to be less than significant without mitigation. Therefore, no mitigation measures were required, and the impact level remains less than significant.

e. Cumulative Impacts

(1) Impact Analysis

As indicated in Section III, Environmental Setting, of this Draft EIR, there are 16 specific related projects in the vicinity of the Project Site, as well as Related Project No. 17, the Hollywood Community Plan Update. 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 and related projects affected the same tribal cultural resources and communities. As discussed above, there are no tribal cultural resources located on the Project Site and all Project development would remain 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.I.2.a on page IV.I-1. In addition, related projects would be required to comply with the consultation requirements of AB 52 to determine and mitigate any potential impacts to tribal cultural resources. **Therefore, cumulative impacts to tribal cultural resources would be less than significant and would not be cumulatively considerable.**

California, April 29, 2020. Refer to Appendix IS-2 of the Project's Initial Study included as Appendix A of this Draft EIR.

(2) Mitigation Measures

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

(3) Level of Significance After Mitigation

Impacts were determined to be less than significant without mitigation. Therefore, no mitigation measures were required, and the impact level remains less than significant.