

## 4.14 Tribal Cultural Resources

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### 4.14.1 Introduction

This section identifies and evaluates the project’s potential impacts to tribal cultural resources as defined in Public Resources Code (PRC) Section 21074. The analysis in this section is based on the results of consultation with California Native American Tribes conducted by the Housing Authority of the City of Los Angeles (HACLA) for the project, as required by the California Environmental Quality Act (CEQA) as amended by Assembly Bill (AB) 52. This section is also based on information provided in the One San Pedro Specific Plan Supplemental Cultural Resources Assessment Report and Effects Analysis (hereafter “Rincon 2023 report;” Rincon 2023; see Appendix C of this EIR/EIS) (Appendix C). The Native American AB 52 consultation documentation is provided in Appendix H of the Rincon 2023 report.

### 4.14.2 Regulatory Setting

#### **a. State Regulations**

##### **Assembly Bill 52**

AB 52 was approved on September 25, 2014. The act amended 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<sup>1</sup>. 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<sup>2</sup>.

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<sup>1</sup> PRC Section 21080.3.1(b) and (c)

<sup>2</sup> PRC Sections 21080.3.1(d) and 21080.3.1(e)

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<sup>3</sup>.

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

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 Project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency<sup>5</sup>.

## **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 consider 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. If no descendant is identified, or the descendant fails to make a recommendation for disposition, or if the landowner 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.

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<sup>3</sup> PRC Section 21080.3.2(b)

<sup>4</sup> PRC Section 21082.3(d)(2) and (3)

<sup>5</sup> PRC 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.

### **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; or (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.

## 4.14.3 Environmental Setting

### **a. Ethnographic Context**

The project site lies in the traditional territory of the Tongva/Gabrieleño. The name “Gabrieleño” denotes those people who were administered by the Spanish from the San Gabriel Mission. It includes people from the Gabrieleño area proper, as well as other social groups nearby (Kroeber 1925; Bean and Smith 1978). The term Gabrieleño was imposed upon the Tribe by Spanish Missionaries. Thus, many descendants have chosen to use their original name, Tongva (Welch 2006). This term is used in the remainder of this section to refer to the pre-contact inhabitants of the Los Angeles Basin and their descendants. Archaeological evidence points to the Tongva arriving in the Los Angeles Basin sometime around 500 BCE, and the Tongva note their presence in the area going back thousands of years (Villa 2017). Today, the Tongva people are active in protecting their tribal cultural resources in the greater Los Angeles Basin and three Channel Islands: present-day San Clemente, San Nicolas, and Santa Catalina.

The Tongva language belongs to the Takic branch of the Uto-Aztecan language family, which can be traced to the Great Basin region (Mithun 2001). This language family includes dialects spoken by the

nearby Juaneño and Luiseño to the southeast, the Serrano and Cahuilla to the northeast, and the Tataviam to the northwest. Yet, it is considerably different from the Chumash people living to the northwest and the Diegueño people (including the Ipai, Tipai, and Kumeyaay) to the south.

The Tongva established large, permanent villages in the fertile lowlands along rivers and streams, and in sheltered areas along the coast. Tribal population is estimated to have been at least 5,000 in 1770 (Bean and Smith 1978) but recent ethnohistoric work suggests a number closer to 10,000 (O'Neil 2002). Political organization followed a patrilocal and patrilineal pattern. Typically, the oldest son would lead a family. Chieftainship was also passed down patrilineally. A *Chari*, or chief of a village or political grouping, was separated from religious leadership (King 2011).

At the time of Spanish contact, the basis of Tongva religious life was the Chinigchinich cult, centered on the last of a series of heroic mythological figures. Chinigchinich gave instruction on laws and institutions, and taught people how to dance, the primary religious act for this society. He later withdrew into heaven, where he rewarded the faithful and punished those who disobeyed his laws (Kroeber 1925). The Chinigchinich religion seems to have been relatively new when the Spanish arrived. It was spreading south into the Southern Takic groups as Christian missions were being built. Elements of Chinigchinich beliefs suggest it was a syncretic mixture of Christianity and native religious practices (McCawley 1996).

Houses constructed by the Tongva were large, circular, domed structures made of willow poles, thatched with tule and sheltered up to 50 people (Bean and Smith 1978). Other structures served as sweathouses, menstrual huts, ceremonial enclosures, and probable communal granaries. Cleared fields for races and games, such as lacrosse and pole throwing, were created adjacent to Tongva villages (McCawley 1996).

The Tongva subsistence economy was centered on gathering and hunting. The surrounding environment was rich and varied, and the Tribe exploited the mountains, foothills, valleys, deserts, and riparian and estuarine areas, as well as open and rocky coastal ecological niches. Like most Native Californians, acorns were the staple food. By the time of the early Intermediate Period, acorn processing was an established industry. Acorns were supplemented by the roots, leaves, seeds, and fruits of a wide variety of flora (e.g., islay, cactus, yucca, sages, and agave). Freshwater and saltwater fish, shellfish, birds, reptiles, insects, and large and small mammals were also consumed (Kroeber 1925; Bean and Smith 1978; McCawley 1996).

The Tongva used a wide variety of tools and implements to gather food resources. These included the bow and arrow, traps, digging sticks, nets, blinds, throwing sticks and slings, spears, harpoons, and hooks. The Tongva made oceangoing plank canoes (known as a *tí'at*) capable of holding six to 14 people and used for fishing, travel, and trade between the mainland and the Channel Islands. Tule reed canoes were employed for near-shore fishing (McCawley 1996). 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 (Kroeber 1925; McCawley 1996).

Deceased Tongva were either buried or cremated. Inhumation was more common on the Channel Islands and the neighboring mainland coast, and cremation was more predominate on the remainder of the coast and in the interior (Harrington 1942; McCawley 1996). At the behest of the Spanish missionaries, cremation essentially ceased during the Post-Contact Period (McCawley 1996).

## **b. Assembly Bill 52 Consultation**

HACLA initiated AB 52 consultation on January 26, 2021, by mailing letters via certified mail to the 10 Native American contacts from a total of nine tribes identified by the NAHC. The Native American tribes that received letters via certified mail included the following:

- Fernandeano Tataviam Band of Mission Indians
- Gabrieleño Band of Mission Indians – Kizh Nation
- Gabrieleño/Tongva San Gabriel Band of Mission Indians
- Gabrielino/Tongva Nation
- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino-Tongva Tribe
- San Fernando Band of Mission Indians
- Soboba Band of Luiseño Indians
- Torres Martinez Desert Cahuilla Indians

Due to the development and refinement of the project description, a second round of consultation letters were mailed to the same 10 contacts on August 11, 2022. An updated project description and map were included in the letters which stated that tribal contacts have 30 days from receipt of the letter to request in writing consultation regarding the project. Follow up via telephone and email was conducted in September and October 2022. Section 106 consultation is discussed in the Environmental Impact Statement Section 7.2.7, *Consultation with Native American Tribes*.

HACLA received a letter dated February 19, 2021, from the Gabrieleño Band of Mission Indians – Kizh Nation. The letter stated that the project is located within the Ancestral Tribal Territory of the Gabrieleño Band of Mission Indians – Kizh Nation. The letter requested consultation with the lead agency to discuss the project and surrounding location in further detail. A consultation meeting was held on June 23, 2021. During the consultation meeting, Andrew Salas, Chairperson for the Gabrieleño Band of Mission Indians – Kizh Nation requested copies of the California Historical Resources Information System (CHRIS) search, the Sacred Lands File (SLF) search conducted by the NAHC, and geotechnical study prepared in support of the project. Mr. Salas also emailed Rincon Consultants, Inc. several files, included several pages from “The First Angelinos” and “California Gabrielino Indians,” various ethnographic maps, and several other non-project specific letters that explain regulatory information and generic cultural resources sensitivity. On behalf of HACLA, the CHRIS search, NAHC SLF search, and geotechnical study was sent to Chairperson Salas via Rincon’s secure online portal on March 1, 2022. Chairperson Salas requested a Native American monitor from the Gabrieleño Band of Mission Indians – Kizh Nation be retained prior to commencement of ground-disturbing activities and provided procedures to follow in the event of a discovery of tribal cultural resources, human remains or grave goods. No additional requests were made during AB 52 consultation with the Gabrieleño Band of Mission Indians – Kizh Nation.

HACLA received an email dated February 25, 2021, from Mr. Jairo Avila of the Fernandeano Tataviam Band of Mission Indians (FTBMI). The email stated that the project is situated outside of FTBMI’s ancestral Tribal boundaries, and the tribe defers consultation to members of the Gabrielino Indian Tribe.

No requests for AB 52 consultation were received during the 2022 consultation period.

## **c. Background Research**

### **Sacred Lands File Review**

The following summarizes the results of a SLF search conducted by the NAHC for the OSP Specific Plan Site, previously completed and summarized in the 2019 Environmental Science Associates (ESA) *One San Pedro Master Plan Project, San Pedro, California-Historic Properties Inventory Report* (herein referred to as 2019 ESA report), in addition to a supplemental search requested by Rincon. ESA contacted the NAHC on May 28, 2019 and requested a search of the SLF and a list of tribes culturally affiliated with the project site. Results of the SLF search for the OSP Specific Plan Site were negative and provided to ESA on June 13, 2019, along with a list of five tribes culturally affiliated with the project site. As part of Rincon's supplemental research effort for the project, an updated SLF search of the OSP Specific Plan Site and 327 Harbor Site was requested from the NAHC. The NAHC responded on February 4, 2021, stating the results of the SLF returned negative results. As noted above, all tribal representatives identified by the NAHC, as provided in Appendix H of the Rincon 2023 report, were notified of the project by HACLA in compliance with AB 52.

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

A search of the CHRIS was conducted on May 21, 2019 by ESA for the OSP Specific Plan Site and an additional CHRIS search for the 327 Harbor Site was requested by Rincon and completed by SCCIC staff on May 24, 2022. The searches identified three prehistoric and one historical archaeological resource within a 0.5-mile radius of the project site. One historical archaeological resource (P-19-003801/CA-LAN-3801) was identified partially within the project study area and one prehistoric archaeological resource (P-19-000146/CA-LAN-146) was identified potentially within the project study area. Both resources are located outside of the project site. For additional information regarding these resources, refer to Section 4.3, *Cultural Resources*.

### **Ethnographic Research and Review of Academic Literature**

Academic and ethnographic literature were reviewed for information pertaining to Native American occupation of the project site. As part of the 2019 ESA report, a geoarchaeological review was conducted. The results of the geoarchaeological review indicated ethnographic data collected by J.P. Harrington suggests the presence of at least six Gabrielino villages in the San Pedro area, including one, according to some sources, which may have been located adjacent or within the immediate vicinity of the project site (ESA 2019). No other information was provided for the villages within the 2019 ESA report. Additional information obtained from Section 106 consultation and AB 52 consultation for this project by Robert F. Dorame, Chairperson for the Gabrielino Tongva Indians of California Tribal Council, and Andrew Salas, Chairperson for the Gabrieleño Band of Mission Indians – Kizh Nation, also noted the presence of villages within the vicinity of the project site. Chairperson Dorame identified the project area as being highly sensitive with three main villages (*Xujungna*, *Ataviantna*, and *Munikantna*) in the adjacent area in addition to one on Dead Man's Island. The village area of impact is *Xujungna*, sometimes spelled *Xuxungna*, known as the designated village, where the chief made tribal decisions for other villages in the region. Chairperson Salas indicated that the project site is located within and around the sacred community of *Chaawvenga*, adjacent to sacred water courses and major traditional trade routes, and the potential to impact tribal cultural resources still present within the soil from prehistoric activities that occurred within and around these tribal cultural landscapes is high. Chairperson Dorame and Chairperson Salas recommended archaeological and Native American monitoring during ground-disturbing activities associated with the project.

Rincon conducted supplemental research on the Gabrielino villages located in San Pedro area and found that the six villages in the in this area consist of *Xoyuunga* (*Xujungna*, *Xoyundgna*), *Kiingkenga* (*Kinkingna*), *Ataavyanga* (*Ataviantna*), *Chaawvenga*, *Harasngna* (*Haraasnga*), and *Munikangna* (*Munikantna*, *Moniikanga*) (Kirkman 1938, Johnston 1962, McCawley 1996, Pa'alat 2008, Tongva People n.d.). The exact location of many of the villages continues to be debated; however, most ethnographic maps and descriptions place the *Xoyuunga* village in proximity to the project study area likely located below areas that have been previously developed. In addition, the *Ataavyanga* and *Munikangna* villages are generally considered to be located west and north of the project study area, respectively. The remaining three villages (*Kiingkenga*, *Chaawvenga*, *Harasngna*) are mapped further away from the project area; ethnographic maps indicate the three villages are located near Point Fermin to the south of the project site, and the western coast of Palos Verdes, west of the project site; however, their exact location is debated (Kirkman 1938, Johnston 1962, McCawley 1996, Pa'alat 2008, Tongva People n.d.).

Academic literature includes few specifics about individual Gabrielino villages in the San Pedro area; however, this area is unusual for having a dense concentration of villages in a relatively small area. Generally, each Gabrielino village was entirely politically independent with a single chief ruling over the village but it is believed that there was likely a single chief ruling over most if not all of the villages in the San Pedro area (Johnston 1962). The villages in this area likely had smaller populations than the villages further inland and may have been secondary settlements due to the marshland and winter flooding along the exposed coast (McCawley 1996).

Most of the year, the subsistence pattern of the Gabrielino in the San Pedro Bay area would have consisted of shellfish gathering and fishing, with occasional trips inland to hunt game and gather plant foods. The Gabrielino in the San Pedro area would use oceangoing plank canoes (known as a *ti'at*) capable of holding six to 14 people and used for fishing, travel, and trade between the mainland and the Santa Catalina Island. Tule reed canoes were employed for near-shore fishing (McCawley 1996). Because the San Pedro Bay area is one of the shortest distances to the Santa Catalina Island, it was likely used a port for good brought to and from the Island (McCawley 1996). The storms and rough seas during the winter months made fishing and shellfish gathering impossible along the coast, so the people in these villages would have moved to inland camps. During these times, subsistence was oriented around acorns supplemented by the roots, leaves, seeds, and fruits of a wide variety of plants. Meat sources included large and small mammals, freshwater fishes, birds, reptiles, and insects (McCawley 1996).

The earliest descriptions of the Gabrielino and their villages in the San Pedro area come from Juan Manuel Cabrillo's expedition in 1542. Cabrillo's described the "Indians" they encountered as being friendly and helpful, and through sign language, directed them to the other Spaniards that were present to the north. Cabrillo pointed out that the "Indians" were present on both sides of the "Baia de los Fumos," or the "Bay of Smokes," on the islands and the mainland. It is believed that the smoke in this area was the result of smoke signals between the Gabrielino on Santa Catalina Island, and those in the mainland of what is today, San Pedro and Palos Verdes (Johnston 1962, McCawley 1996).

The next description of the Gabrielino and their villages in the San Pedro area comes from Sebastian Vizcaino's expedition in 1602. In the diary of Vizcaino and of Father Antonio de la Ascension, who documented the expedition, also noted that Native Americans were present on Santa Catalina Island, and what is today believed to be the San Pedro Bay and Palos Verdes Peninsula. They referred to this area as "Ensenada de San Andres," or "Bay of Saint Andrews" (McCawley 1996). Also depicted on a map by Father Ascension was the "Isla Raza de Buena Gente," or the "Island Race of Good People," which today is believed to be Rattlesnake Island/Dead Man's Island.

Previously recorded sites located in the San Pedro Bay area mostly consist of large shell midden. Some of these sites show that the Gabrielino occupied the area as early as 4,000 years ago, up until shortly after contact with the Spanish explorers (McCawley 1996).

### **Extended Phase I/Phase II Investigation Tribal Involvement**

Given the prehistoric archaeological sensitivity of the project site, Chairperson Dorame of the Gabrielino Tongva Indians of California Tribal Council, monitored the Extended Phase I (XPI) investigation at the 327 Harbor Site in the event that prehistoric archaeological deposits were encountered during trenching activities. Chairperson Dorame also monitored the subsequent Phase II investigation at the 327 Harbor Site. No tribal cultural resources as defined in Public Resources Code Section 21074 or subdivision (c) of Public Resources Code Section 5024.1 were identified during the XPI and Phase II investigations. For additional information regarding the XPI and Phase II investigations refer to Section 4.3, *Cultural Resources*, of this Draft EIR.

#### 4.14.4 Impact Analysis

##### **a. Significance Thresholds and Methodology**

##### **Significance Thresholds**

In accordance with Appendix G of the CEQA Guidelines, a project would result in a significant impact related to tribal cultural resources if it would:

1. 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:
  - Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k), or
  - 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 PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

The 2006 L.A. CEQA Thresholds Guide does not include any criteria to evaluate tribal cultural resources impacts. Thus, the potential for the Project to result in impacts related to tribal cultural resources is based on the State CEQA Guidelines Appendix G thresholds.

##### **Methodology**

The presence and significance of a potential tribal cultural resource is determined through consultation between lead agencies and local California Native Americans. Impacts to tribal cultural resources are highly dependent on the nature of the resource but, in general, could occur if there is destruction or alteration of the resource and its surroundings, restricted access to the resource, or other disturbances.

A records search of the CHRIS at the SCCIC for the project was conducted as part of the 2019 ESA report and the Rincon 2023 report (Appendix C). The records search consisted of a review of recorded archaeological and built-environment resources, as well as a review of cultural resource reports on



file. In addition, a records search of the NAHC's SLF was completed and California Native American tribes who had previously contacted HACL A for inclusion to the notification process were contacted.

The NAHC is a Statewide Trustee Agency for the protection and preservation of Native American cultural resources pursuant to PRC Section 21070. The SLF search is a search of recorded Native American sacred sites and burial sites as defined by the NAHC and PRC Sections 55097.94(a) and 5097.96. Pertinent academic and ethnographic literature was also reviewed for information pertaining to past Native American use of the project area. As set forth in PRC Section 21074, tribal cultural resources are either included or determined to be eligible for inclusion in the California Register or included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

### **b. Project Design Features**

The project would be implemented in accordance with applicable regulatory requirements, including tribal consultation requirements and requirements for the treatment of previously undiscovered tribal cultural resources during construction (refer to Section 4.14.2, *Regulatory Setting*). No specific project design features are proposed with regard to tribal cultural resources.

### **c. Project Impacts and Mitigation Measures**

**Threshold 1:** Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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:

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

**Impact TCR-1 THE PROJECT MAY CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A PREVIOUSLY UNKNOWN OR UNIDENTIFIED TRIBAL CULTURAL RESOURCE DUE TO PROJECT CONSTRUCTION ACTIVITIES. MITIGATION MEASURES TCR-1 AND TCR-2 WOULD ENSURE THAT MONITORING FOR TRIBAL CULTURAL RESOURCES IS COMPLETED DURING GROUND-DISTURBING CONSTRUCTION ACTIVITIES, AND THAT MEASURES ARE IN PLACE FOR THE PROPER TREATMENT OF ANY TRIBAL CULTURAL RESOURCES UNEARTHED. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION.**

As described in Section 2, *Project Description*, the proposed project would involve the phased demolition of existing structures on the OSP Specific Plan Site and the construction of up to 1,553 residential units, 85,000 sf of Neighborhood Serving Uses, and 45,000 sf of commercial retail uses. The 327 Harbor Site would be developed with 47 residential units to serve as replacement housing for current Rancho San Pedro residents during construction on the OSP Specific Plan Site.

The proposed project includes two development scenarios (see Section 2, *Project Description*) that would involve phasing the construction on the OSP Specific Plan Site in different ways. Under Scenario

A, the densest development would be located in Planning Areas 2 and 3, whereas under Scenario B, development would be densest in Planning Areas 1 and 2. Under both scenarios, the footprint of proposed development would be identical, construction and grading activities would be the same, and the overall buildout of the project site would involve the same types and amounts of land uses. Therefore, this analysis applies to both Scenario A and Scenario B.

As of the date of this Draft EIR/EIS, no specific tribal cultural resources have been identified within the project site during the background research or AB 52 consultation process. However, given the general archaeological sensitivity of the area, project related ground-disturbing activities have the potential to encounter previously undiscovered cultural resources of Native American origin that could be considered tribal cultural resources. As a result, impacts to such resources during construction would be potentially significant.

Upon completion of construction activities, ground-disturbing activities would cease, and project operation would not result in impacts to tribal cultural resources.

## **Mitigation Measures**

### *TCR-1 Native American Monitoring by the Gabrielino Tongva Indians of California Tribal Council*

Consistent with Mitigation Measure CUL-5 in Section 4.3, *Cultural Resources*, a Native American monitor representing the Gabrielino Tongva Indians of California Tribal Council shall be invited to monitor during ground-disturbing activities for project construction, including but not limited to site clearing, grubbing, demolition, trenching, and excavation, for the duration of the aforementioned activities or until the Project Archaeologist in consultation with the Native American monitor determines monitoring is no longer necessary based on soil conditions and negative findings, whichever occurs first. In the event a mutual agreement cannot be made between the Project Archaeologist and the Native American monitor to terminate monitoring services prior to the end of ground-disturbing activities, the Native American monitor shall be given the opportunity to continue monitoring for tribal cultural resources during ground-disturbing activities. The project Applicant shall notify the Gabrielino Tongva Indians of California Tribal Council at least 30 days prior to commencement of ground-disturbing construction activities and request monitoring services. The Tribe must respond to the request for monitoring within 30 days of the notification. The Applicant shall provide HACLA with a copy of the executed tribal monitoring agreement with the Gabrielino Tongva Indians of California Tribal Council prior to commencement of construction. If no response from the Gabrielino Tongva Indians of California Tribal Council is received within 30 days, project construction can commence without the monitoring services of the Gabrielino Tongva Indians of California Tribal Council for the duration of ground-disturbing construction activities.

The Native American monitor shall prepare daily monitoring logs that provide the location, type and description of the ground-disturbing construction activities performed, soil types, and cultural materials, if discovered. The daily monitoring logs shall describe Native American artifacts, remains, and places of significance, as well as any Native American human remains or burial goods, if identified. The Native American monitor shall submit weekly updates to HACLA. In addition, the Native American monitor shall prepare and submit a summary statement upon completion of monitoring to include in the Cultural Resources Monitoring Report prepared for the project. The Project Archaeologist and HACLA shall review and include the statement as part of the Cultural Resources Monitoring Report prepared for the project.

*TCR-2 Consultation with the Gabrielino Tongva Indians of California Tribal Council  
in the Event of Inadvertent Discovery of Tribal Cultural Resources*

In the event that cultural resources of Native American origin are identified during construction, work within a 100-foot radius of the find shall be halted and redirected. HACL A shall consult with the Project Archaeologist and initiate Native American consultation procedures with the project's consulting tribes. If HACL A, in consultation with the Native American monitor representing the Gabrielino Tongva Indians of California Tribal Council, determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with the Gabrielino Tongva Indians of California Tribal Council and other consulting tribes. The mitigation plan may include, but would not be limited to, avoidance, capping in place, excavation and removal of the resource, interpretive displays, sensitive area signage, and/or other mutually agreed upon measures. The mitigation plan shall be prepared within 30 days of discovery of the find(s) and approved by the HACL A Chief Executive Officer or their designee. Procedures for the unanticipated discovery of human remains and associated grave goods are outlined in Mitigation Measure CUL-7 in Section 4.3, *Cultural Resources*.

*TCR-3 Native American Monitoring by the Gabrieleño Band of Mission Indians –  
Kizh Nation*

Consistent with Mitigation Measure CUL-5 in Section 4.3, *Cultural Resources*, a Native American monitor representing the Gabrieleño Band of Mission Indians – Kizh Nation shall be invited to monitor during ground-disturbing activities for project construction, including but not limited to site clearing, grubbing, demolition, trenching, and excavation, for the duration of the aforementioned activities or until the Project Archaeologist in consultation with the Native American monitor determines monitoring is no longer necessary based on soil conditions and negative findings, whichever occurs first. In the event a mutual agreement cannot be made between the Project Archaeologist and the Native American monitor to terminate monitoring services prior to the end of ground-disturbing activities, the Native American monitor shall be given the opportunity to continue monitoring for tribal cultural resources during ground-disturbing activities. The project Applicant shall notify the Gabrieleño Band of Mission Indians – Kizh Nation at least 30 days prior to commencement of ground-disturbing construction activities and request monitoring services. The Tribe must respond to the request for monitoring within 30 days of the notification. The Applicant shall provide HACL A with a copy of the executed tribal monitoring agreement with the Gabrielino Tongva Indians of California Tribal Council prior to commencement of construction. If no response from the Gabrieleño Band of Mission Indians – Kizh Nation is received within 30 days, project construction can commence without the monitoring services of the Gabrieleño Band of Mission Indians – Kizh Nation for the duration of ground-disturbing construction activities.

The Native American monitor shall prepare daily monitoring logs that will provide the location, type and description of the ground-disturbing construction activities performed, soil types, and cultural materials, if discovered. The daily monitoring logs shall describe Native American artifacts, remains, and places of significance, as well as any Native American human remains or burial goods, if identified. The Native American monitor shall submit weekly updates to HACL A. In addition, the Native American monitor shall prepare and submit a summary statement upon completion of monitoring to include in the Cultural Resources Monitoring Report prepared for the project. The Project Archaeologist and HACL A shall review and include the statement as part of the Cultural Resources Monitoring Report prepared for the project.

*TCR-4 Consultation with the Gabrieleño Band of Mission Indians – Kizh Nation in the Event of Inadvertent Discovery of Tribal Cultural Resources*

In the event that cultural resources of Native American origin are identified during construction, work within a 100-foot radius of the find shall be halted and redirected. HACLA shall consult with the Project Archaeologist and initiate Native American consultation procedures with the project's consulting tribes. If HACLA, in consultation with the Native American monitor representing the Gabrieleño Band of Mission Indians – Kizh Nation, determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with the Gabrieleño Band of Mission Indians – Kizh Nation and other consulting tribes. The mitigation plan may include, but would not be limited to, avoidance, capping in place, excavation and removal of the resource, interpretive displays, sensitive area signage, and/or other mutually agreed upon measures. The mitigation plan shall be prepared within 30 days of discovery of the find(s) and approved by the HACLA Chief Executive Officer or their designee. Procedures for the unanticipated discovery of human remains and associated grave goods are outlined in Mitigation Measure CUL-7 in Section 4.3, *Cultural Resources*.

*TCR-5 Tribal Cultural Resource Finds Dispute Resolution*

In the event a resource(s) of Native American origin is identified during monitoring, including but not limited to projectile points, chipped stone, groundstone, beads, and shell artifacts, that cannot be directly associated with the Gabrielino Tongva Indians of California Tribal Council or the Gabrieleño Band of Mission Indians – Kizh Nation through analysis, such as deoxyribonucleic acid (DNA) analysis, HACLA shall request a consultation meeting with the Gabrielino Tongva Indians of California Tribal Council and the Gabrieleño Band of Mission Indians – Kizh Nation to consult on the disposition of the find(s). The tribes must respond within 30 days of the consultation request and the meeting shall occur no later than 45 days after HACLA transmits the request for a consultation meeting. As part of a good faith effort, HACLA shall reach out to the tribes via telephone up to two times during that 30-day period to attempt to schedule a consultation meeting. If any one tribe does not respond to HACLA's consultation request within 30 days, HACLA may consult with the responding tribe as to the disposition of the find(s). If both tribes respond to HACLA's consultation request within 30 days, HACLA shall consult with both tribes to determine final disposition of the find(s) and, if desired by the tribe(s), a reburial ceremony(ies).

Once the consultation effort is complete, HACLA shall notify the Gabrielino Tongva Indians of California Tribal Council and the Gabrieleño Band of Mission Indians – Kizh Nation in writing as to the final disposition of the find(s). The timing and location of any reburial efforts shall be determined by HACLA based on the construction schedule and availability of a reburial location. Construction activities may continue on site outside the 100-foot radius during the consultation effort and may resume at the location of the find(s) once the find(s) has been secured. In the event a mutual agreement on the treatment of the resource(s) cannot be made between the Gabrielino Tongva Indians of California Tribal Council and the Gabrieleño Band of Mission Indians – Kizh Nation within 30 days of the initial consultation meeting, the artifact(s) under review shall be reinterred on site in a location free from future ground-disturbing construction activities. In the event that neither tribe consults with HACLA on the find(s), HACLA shall rebury the artifact(s) on site in a location free from future ground-disturbing construction activities. This measure does not apply to the finding of human remains which must comply with California Health and Safety Code 7050.5.

## **Significance After Mitigation**

Implementation of Mitigation Measures TCR-1 and TCR-2 would reduce impacts to tribal cultural resources to a less than significant level by requiring documentation of known tribal cultural sites, monitoring for unknown sites during ground-disturbing construction activities, and continued consultation with local Native Americans if resources of Native American origin are unearthed during construction.

### **4.14.5 Cumulative Impacts**

A project's environmental impacts are "cumulatively considerable" if the "incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects" (CEQA Guidelines Section 15065[a][3]). Tribal cultural resources have the potential to extend across multiple project sites; therefore, the appropriate geographic scope for cumulative tribal cultural resources impacts includes development projects adjacent to the proposed project site, as well as within the surrounding region. The 12 cumulative projects listed in Table 3-1 in Section 3.4, *Cumulative Development*, were considered during the analysis of cumulative impacts.

The 12 cumulative projects would result in the potential to adversely impact tribal cultural resources. The cumulative projects would continue to disturb areas with the potential to contain tribal cultural resources. Cumulative projects are reviewed separately by the appropriate jurisdiction and undergo environmental review when it is determined that the potential for significant impacts exists. In the event that cumulative projects would result in impacts to known or unknown tribal cultural resources, impacts to such resources would be addressed on a case-by-case basis, and would likely be subject to mitigation measures similar to those imposed for the proposed project as a result of the CEQA compliance process. Cumulative impacts to tribal cultural resources would therefore be potentially significant but mitigable. As described under Impact TCR-1, Mitigation Measures TCR-1 and TCR-2 would reduce the proposed project's impacts to less than significant. Therefore, the proposed project's contribution to cumulative tribal cultural resources impacts would not be cumulatively considerable.

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