



## 4.18 TRIBAL CULTURAL RESOURCES

This section of the Environmental Impact Report (EIR) evaluates the potential for Development Project implementation on the Development Site to impact tribal resources in the City of Banning (City). This section also discusses the existing tribal cultural resource environment and sets forth the relevant regulatory requirements that apply to the analysis of the Development Project's impacts on tribal cultural resources. According to California Public Resources Code (PRC) Section 21074 and Chapter 532, Statutes 2014 (i.e., Assembly Bill 52), "tribal cultural resources" are defined as the following:

1. Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either: (A) included or determined to be eligible for inclusion in the California Register of Historical Resources; or (B) included in a local register of historical resources as defined in subdivision (k) of [PRC] Section 5020.1.
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of [PRC] Section 5024.1.

Tribal consultation and the process involved with consultation is explained in further detail below under the definition of Senate Bill (SB) 18 in **Section 4.18.4.2**. This section summarizes information obtained from Assembly Bill (AB) 52 and SB 18 Native American consultation efforts. Analysis pertaining to other historic and archaeological cultural resources is presented in **Section 4.5** of this EIR.

While development of the Mt. San Jacinto College (MSJC) Site is not anticipated at this time, a programmatic discussion of potential impacts to tribal cultural resources that may result from future development of the MSJC Site is provided in **Chapter 5.0** of this EIR.

### 4.18.1 Scoping Process

The City received nine comment letters during the public review period of the Notice of Preparation (NOP). For copies of the NOP comment letters, refer to **Appendix A** of this EIR. One comment letter included comments related to tribal resources. The letter from the Native American Heritage Commission (NAHC) received on July 29, 2020 outlined State procedures for compliance with AB 52, SB 18, and other State regulations related to tribal resources and the California Environmental Quality Act (CEQA). No public comments related to tribal cultural resources were made during the February 18, 2021 Public Scoping meeting.

### 4.18.2 Methodology

The NAHC was contacted on July 28, 2020 to conduct a Sacred Lands File (SLF) search and provide a Native American Contact List for the Development Site pursuant to AB 52 and SB 18. The NAHC responded on July 29, 2020, stating that an SLF search was completed for the Development Site with negative results. The NAHC recommended that 20 Native American individuals representing the Cahuilla, Cahuilla Serrano, Cahuilla Luiseño, Luiseño, and Quechan groups be contacted for information regarding cultural resources that could be affected by the Development Project. Additionally, nine more individuals were added to the Development Project's tribal outreach list, which included additional contacts for the Cahuilla and Luiseño groups.



In total, 31 individuals were contacted through letters sent via Priority Mail on August 5, 2020 to inform these tribal contacts about the Development Project and to request any information each individual may have had regarding Native American cultural resources near the Development Site. It was noted in these initial correspondence letters that the letters they were receiving were part of the information gathering/exchange process for cultural resource studies and were not part of the AB 52 or SB 18 processes. From this initial correspondence, a total of three responses were received, with two responses being from individuals representing Cahuilla groups (Santa Rosa Band of Cahuilla Indians and Cabazon Band of Mission Indians) and one response from an individual representing a Quechan group (Quechan Tribe of the Fort Yuma Reservation). All correspondence received indicated that their respective tribal groups did not have any responses or that no specific archival information at the Development Site indicated that it may be a sacred site or other site of Native American traditional cultural value.

Further, on November 30, 2020 the City reached out to 31 individuals representing the same tribes provided by the NAHC to formally request Tribal Consultation for the Development Project pursuant to AB 52 and SB 18. In response to the City's outreach, the Rincon Band of Luiseño Indians responded on December 23, 2020 to indicate that their tribe had no additional information to provide regarding the Development Project and that contact with a tribe closer to the Development Site is recommended. However, the City received three responses from the Morongo Band of Mission Indians on January 28, 2021, the Soboba Band of Luiseño Indians on January 15, 2021, and the Agua Caliente Band of Cahuilla Indians on December 29, 2020 requesting formal consultation with the City regarding the Development Project. No response was received from the San Manuel Band of Mission Indians. After the initial consultation request was received from the Agua Caliente Band of Cahuilla Indians, no further consultation responses have been received.

#### **4.18.3 Existing Environmental Setting**

The area that is now the City of Banning was prehistorically occupied by Native Americans. This area is within the traditional boundaries of the Cahuilla and Luiseño tribal groups.

A cultural resources record search was completed on September 11, 2020, by staff at the Eastern Information Center (EIC), located at the University of California, Riverside (UCR). The EIC record search included the Development Site and the areas within 1 mile of the Development Site. The record search included reviews of known cultural resource surveys and excavation reports in that area. In addition, the National Register of Historic Places (NRHP) and the Office of Historic Preservation (OHP) Built Environment Resources Directory (BERD) were examined as well as land patent records, held by the Bureau of Land Management (BLM) and accessible through the BLM General Land Office (GLO). The record search identified that 30 cultural resource studies have been conducted within a 1-mile radius of the Development Site, 5 of which included the Development Site. The search also identified 68 cultural resources located within 1 mile of the Development Site. Of the 68 previously recorded cultural resources, only 1, an isolate, was determined to be prehistoric, while the remaining 67 are historic sites, buildings, and features. The single isolate (P-33-025809) identified was not located within the limits of either the Development Site or the MSJC Site.

The historic resources consist of 39 single-family residences, 3 multifamily residential properties, 8 commercial buildings, 1 ranch complex, 2 remnant ranch foundations/features, 1 motel, 2 industrial



building complexes, 1 transmission line, 1 road, 1 railroad alignment, 6 erosion control features/water conveyance systems, and 2 trash scatters. Two of the previously recorded resources (P-33-013778 Historic Ranch Foundations/Features and RIV-7544 Historical erosion control feature(s)/water conveyance system) are located within the Development Site. A pedestrian survey was also conducted between August 31 and September 2, 2020 at the Development Site and identified disturbances that are detailed further in **Section 4.5**. The two previously recorded resources on site, a series of water conveyance and erosion control features (RIV-7544) and the remnants of a farm/ranch complex (P-33-013778), were revisited during the survey and previously determined as not eligible for the NRHP or California Register of Historical Resources (CRHR) (see **Section 4.5.6.1**).

#### 4.18.4 Regulatory Setting

##### 4.18.4.1 Federal Regulations

There are no federal regulations that are applicable to tribal cultural resources relevant to the Development Project.

##### 4.18.4.2 State Regulations

**California Register of Historical Resources (PRC Section 5020 et seq.).** State law also protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources in CEQA documents. A cultural resource is an important historical resource if it meets any of the criteria found in *CEQA Guidelines* Section 15064.5(a). These criteria are nearly identical to those for the NRHP, which are listed above.

The State Historic Preservation Officer (SHPO) maintains the CRHR. Properties listed, or formally designated eligible for listing, on the NRHP are nominated to the CRHR and then selected to be listed on the CRHR, as are State Landmarks and Points of Interest.

Per Section 5024.1(c), a resource may be listed as an historical resource in the California Register if it meets any of the following National Register of Historic Places criteria:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- Is associated with the lives of persons important in our past.
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- Has yielded, or may be likely to yield, information important in prehistory or history.

In addition to meeting one or more of the above criteria, the CRHR requires that sufficient time has passed since a resource's period of significance to "obtain a scholarly perspective on the events or individuals associated with the resource." Fifty years is used as a general estimate of time needed to develop the perspective to understand the resource's significance (California Code of Regulations [CCR] 4852[d][2]).



The CRHR also requires that a resource possess integrity, which is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance” (CCR 4852[c]). To retain integrity, a resource should have its original location, design, setting, materials, workmanship, feeling, and association. Which of these factors is most important depends on the particular criterion under which the resource is considered eligible for listing.

**Senate Bill 18.** SB 18, signed into law in September 2004, requires local (city and county) governments to consult with California Native American tribes to aid in the protection of traditional tribal cultural places through local land use planning. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting or mitigating impacts to cultural places. The consultation and notice requirements apply to adoption and amendment of both general plans (Government Code Section 65300 et seq.) and specific plans (Government Code Section 65450 et seq.). Specifically, Government Code Section 65352.3 requires local governments, prior to making a decision to adopt or amend a general plan, to consult with California Native American tribes identified by the NAHC for the purpose of protecting or mitigating impacts to cultural places. The NAHC is the State agency responsible for the protection of Native American burial and sacred sites.

**Assembly Bill 52 Tribal Consultation.** California PRC Section 21080.3.1 and Chapter 532, Statutes 2014 (i.e., AB 52), require that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment. The bill requires a lead agency to begin consultation with each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report is required for a project. The bill specifies examples of mitigation measures that may be considered to avoid or minimize impacts on tribal cultural resources. The bill makes the above provisions applicable to projects that have a Notice of Preparation, or a notice of Negative Declaration or Mitigated Negative Declaration filed on or after July 1, 2015. By requiring the lead agency to consider these effects relative to tribal cultural resources and to conduct consultation with California Native American tribes, this bill imposes a State-mandated local program.

#### 4.18.4.3 Regional Regulations

There are no regional regulations that are applicable to tribal cultural resources relevant to the Development Project.

#### 4.18.4.4 Local Regulations

There are no local regulations that are applicable to tribal cultural resources relevant to the Development Project.



#### 4.18.5 Thresholds of Significance

The City has not established local CEQA significance thresholds for this impact area as described in Section 15064.7 of the *CEQA Guidelines*. Therefore, significance determinations utilized in this section are from Appendix G of the *CEQA Guidelines*. According to Section XVII of Appendix G to the *CEQA Guidelines*, the Development Project would result in a significant impact to tribal cultural resources if the Development Project or any Development Project-related component would:

**Threshold 4.18.1:** 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 Public Resources Code section 5020.1(k).

**Threshold 4.18.2:** 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: A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

#### 4.18.6 Impact Analysis

##### 4.18.6.1 Tribal Cultural Resources on the California Register of Historical Resources

***Threshold 4.18.1: Would the Development 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: 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)?***

Ground disturbance at depths up to 12 feet below existing grade on the Development Site is required to accommodate the development of buildings, infrastructure, and ancillary features.

In addition to the record search described above, Native American consultation was conducted by the City in compliance with AB 52 and SB 18. As part of the initial consultation process, a review of the SLF by the NAHC yielded negative results. Subsequently, a total of 31 Native American representatives were contacted by the City to determine their desire to consult on the Development Project. The City received consultation requests from the Morongo Band of Mission Indians (MBMI), the Soboba Band of Luiseño Indians, the Agua Caliente Band of Cahuilla Indians, and the San Manuel Band of Mission



Indians. Initial consultation meetings were held on April 7, 2022 with MBMI and on April 20, 2022 with the Soboba Band of Luiseño Indians.

Because there was no further follow up from the Agua Caliente Band of Cahuilla Indians after the initial consultation request, and the San Manuel Band of Mission Indians did not respond to the initial request, tribal consultation efforts did not move forward beyond the initial tribal consultation request that was received.

The tribal representatives who attended the initial consultation meeting held on April 7, 2022 with MBMI emphasized the importance of including archaeological and Native American monitoring in order to thoroughly assess if there are any tribal cultural resources that could be 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) and located at the Development Site. MBMI representatives also discussed the mitigation measures included within the Cultural Resources Assessment version that was current at the time and explained that their comments and concerns would be further detailed in a follow-up letter to the City following the initial consultation meeting. In their follow-up letter, MBMI representatives provided their review of the Development Project's Cultural Resources Assessment and stated that the Development Project is located within the ancestral territory and traditional use area of the Cahuilla and Serrano people of the Morongo Band of Mission Indians. These concerns about the Development Project being located within a tribally sensitive area were brought up during the initial consultation meeting held on April 20, 2022 with the Soboba Band of Luiseño Indians, whose representatives emphasized the importance of their concerns regarding the treatment and disposition of tribal cultural resources that may be uncovered at the Development Site.

Because the Development Site is located in an area considered to be sensitive for tribal cultural resources, ground disturbance associated with implementation of the Development Project has a potential to affect undiscovered tribal cultural material. As such, the Development Project has the potential to result in a substantial adverse change in the significance of a tribal cultural resource, as defined in this threshold.

Due to the potential presence of tribal cultural resources at the Development Site, the City is engaged in ongoing consultation efforts with MBMI and the Soboba Band of Luiseño Indians and will continue to consult with them as Development Project construction occurs in the event that a tribal cultural resource is encountered. If identified, procedures outlined in **MM CUL-1 to MM CUL-6** will be followed, as appropriate. Therefore, the Development Project is not expected to cause a substantial adverse change in the significance of a tribal cultural resource.

However, as mentioned in **Section 4.5**, implementation of the Development Project would have a potentially significant impact on unique archaeological resources, including tribal cultural resources, unless mitigation described under **MM CUL-1 through MM CUL-6** are incorporated. These measures would: (1) require the retention of a qualified archaeologist during all ground disturbance activities and the conduct of a pre-construction archaeological sensitivity training; (2) mandate development of an archaeological monitoring treatment plan; (3) establish a Native American monitoring agreement detailing the presence, extent, and authority of Native American monitoring during ground disturbance activities; (4) identify the notification process related to human burials; (5) establish a



process for the treatment and disposition of archaeological or Native American cultural material (including human remains); and (6) ensure disclosure of all project-related cultural data to consulting Native American parties. Implementation of these mitigation measures would reduce impacts to tribal cultural resources within the Development Site to a ***less than significant*** level.

**Level of Significance Prior to Mitigation:** Potentially Significant Impact.

**Regulatory Compliance Measures and Mitigation Measures:** The following Mitigation Measures as identified in **Section 4.5** are also identified as Cultural Resource Conditions in the Development Project's Cultural Resources Assessment and are considered standard project procedures to be conducted if a cultural resource is encountered during construction to reduce potential impacts to undiscovered archaeological resources:

- MM CUL-1** The applicant shall retain a qualified professional archaeological monitor who meets U.S. Secretary of the Interior (SOI) Standards. The monitor shall be present during all ground-disturbing activities to identify any known or suspected archaeological and/or cultural resources. The monitor will conduct an Archaeological Sensitivity Training "Sensitivity Workshop," in conjunction with the Consulting Tribe(s)'s Tribal Historic Preservation Officer (THPO). The training session will focus on the archaeological and tribal cultural resources that may be encountered during earthmoving activities and the procedures to be followed in such an event.
- MM CUL-2** The qualified archaeologist shall develop an Archaeological Monitoring and Treatment Plan to address the details, timing, and responsibility of all archaeological and cultural resource activities that occur on the Development Site, in coordination with the Consulting Tribe(s).
- MM CUL-3** Prior to the issuance of grading permits, the applicant shall enter into a Native American monitoring agreement with one of the Consulting Tribes for the Development Project. The Native American Monitor shall be on site during all initial ground-disturbing activities, including clearing, grubbing, vegetation removal, grading, and trenching, within native soils. The Native American Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources. The applicant shall meet and confer with the Tribe on the consideration of a "Sensitivity Workshop" training on possible things that could come up in case a Native American Monitor is not on site to monitor at certain times.
- MM CUL-4** In the event of discovery of human remains during grading or other ground disturbance, work in the immediate vicinity (within a 100-foot buffer of the discovery) shall cease and the applicant shall comply with State Health and Safety Code § 7050.5 and Public Resources Code (PRC) § 5097.98. In the event human remains are found and identified as Native American, the applicant shall also



notify the City Planning Department so that the City can ensure PRC § 5097.98 is followed.

**MM CUL-5** In the event that archaeological or tribal cultural resources are unearthed during ground-disturbing activities, ground-disturbing activities shall stop (within a 100-foot buffer of the discovery) or shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist. A treatment plan shall be developed by a qualified archaeologist (meeting SOI standards) in consultation with the Tribe and the City Planning Department to include relinquishment of all artifacts through one of the following methods:

- A fully executed reburial agreement with the appropriate culturally affiliated Native American tribe or band. This reburial area should be away from any future impacts. Reburial shall not occur until all cataloguing, analysis, and any necessary special studies have been completed on the cultural resources. Details of contents and location of the reburial shall be documented in a final report.
- Curation at a Riverside County Curation facility that meets federal standards per 36 CFR Part 79 and therefore will be professionally curated and made available to other archaeologists/researchers and tribal members for further study. The collection and associated records shall be transferred, including title, and are to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be provided in the form of a letter from the curation facility identifying that archaeological materials have been received and that all fees have been paid.

**MM CUL-6** Any and all cultural documents created as a part of the Development Project (Archaeological Monitoring and Treatment Plans, isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to the Consulting Tribe.

**Level of Significance After Mitigation:** Less Than Significant Impact.

#### [4.18.6.2 Tribal Cultural Resources of Public Resources Code Section 5024.1](#)

***Threshold 4.18.2: Would the Development 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: 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.***





As indicated above, Native American consultation was conducted in compliance with AB 52 and SB 18. As part of the consultation process, a review of the SLF by the NAHC yielded negative results.

Following the initial consultation meeting between the City and MBMI, MBMI has provided its review of the Development Project's Cultural Resources Assessment and has stated that the Development Project is located within the ancestral territory and traditional use area of the Cahuilla and Serrano people of the Morongo Band of Mission Indians. Though there are no known human remains at the Development Site, the potential to unearthing such remains during construction cannot be ruled out. In the event that human remains are identified during Development Project construction, these remains would be treated in accordance with Section 7050.5 of the California Health and Safety Code and PRC Section 5097.98, as appropriate. Adherence to previously identified **MM CUL-1 through MM CUL-5** would ensure compliance with the State's Health and Safety Code for the treatment of human remains and the appropriate coordination with the Native American Heritage Commission. With implementation of and compliance with the above stated mitigation measures, impacts would be *less than significant*.

**Level of Significance Prior to Mitigation:** Potentially Significant Impact.

**Regulatory Compliance Measures and Mitigation Measures:** **MM CUL-1 through MM CUL-5** from **Section 4.5** are also identified as Cultural Resource Conditions in the Development Project's Cultural Resources Assessment and are considered standard project procedures to be conducted if a cultural resource is encountered during construction to reduce potential impacts to undiscovered archaeological resources.

**Level of Significance After Mitigation:** Less Than Significant Impact.



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