

IV. Environmental Impact Analysis

L. Tribal Cultural Resources

1. Introduction

This section identifies and evaluates potential impacts on tribal cultural resources. The analysis in this section is based on the results of consultation with California Native American Tribes conducted by the City of Los Angeles (City) for the Project, as required by the California Environmental Quality Act (CEQA) as amended by Assembly Bill (AB) 52, as well as the results of the analysis of resources in the *Tribal Cultural Resources Report* (TCR Report) included in Appendix N of this Draft EIR.¹ The Native American consultation documentation is provided in Appendix N of this Draft EIR. For an analysis of the Project's potential impacts on cultural resources, including historic and archaeological resources, as well as human remains, refer to Section IV.B. Cultural Resources, of this Draft EIR.

2. Environmental Setting

a. Regulatory Framework

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

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

(1) State

(a) *Assembly Bill 52*

Assembly Bill (AB) 52 was approved on September 25, 2014. The act amended California Public Resources Code (PRC) Section 5097.94, and added PRC Sections

¹ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022*. See Appendix N of this Draft EIR.

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.² Tribes interested in consultation must respond in writing within 30 days from receipt of the lead agency’s formal notification and the lead agency must begin consultation within 30 days of receiving the tribe’s request for consultation.³

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

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

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

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

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.⁵

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

Confidentiality does not apply to data or information that are, or become publicly available, are already in lawful possession of the 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.⁶

(b) California Public Resources Code

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

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

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

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.

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

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

b. Existing Conditions

(1) Current Project Site Conditions

The Project Site is comprised of five parcels totaling 74,063 square feet (1.70 acres) at 2136–2148 and 2159 E. Bay Street, and 2145–2161 E. Sacramento Street in the Arts District area of the City of Los Angeles. The Project Site is currently developed with three buildings (referred to herein as Building 1, Building 2, and Building 3) comprising a total of 39,328 square feet of floor area. Specifically, Building 1 includes 7,106 square feet of office uses, Building 2 includes 6,584 square feet of light industrial uses, and Building 3 includes 25,638 square feet of light industrial and creative office uses. Other smaller structures at the Project Site include shipping containers that have been converted into offices and conference rooms, tents used for welding operations and meetings, and stacked parking systems. In addition, designated areas for storage of industrial byproducts and materials associated with on-site uses are located on the south side of Building 3. The Project Site also includes surface parking on the northern and eastern portions of the Project Site. The Project Site is relatively flat with limited ornamental landscaping. Existing adjacent land uses include Bay Street, followed by industrial development to the north; Sacramento Street, followed by industrial development to the south; industrial development to the west; and industrial development followed by a rail yard and the Los Angeles River to the east.

The Project Site is situated in the Arts District area of the City of Los Angeles, approximately 14 miles northeast of the Pacific Ocean and directly west of the Los Angeles River. The existing development is underlain by Quaternary alluvium and marine deposits, generally dating between the Pliocene and the Holocene epochs. The soils are predominantly classified by the U.S. Department of Agriculture as Urban land, commercial, complex, which are associated with low-slope alluvial conditions.⁷ Specifically, the soils underlying the Project Site consist of alluvial sediments generally comprised of mixtures of sand, silt, and clay, with varying amounts of gravels.⁸ Based on the Project's Preliminary Geotechnical Assessment, some amounts of existing fill soils may overlie the alluvium in and around the Project Site.⁹ Any cultural deposits that are or may have been present within the Project Site would likely have been located on or near the surface, within the younger

⁷ U.S. Department of Agriculture, Natural Resources Conservation Service Soils Soil Survey Geographic Database, SoilWeb Online Viewer.

⁸ Geotechnologies, Inc., *Preliminary Geotechnical Assessment—Proposed Commercial Development, 2159 Bay Street, Los Angeles, California, November 21, 2017*. See Appendix IS-3 of Appendix A.1 of this Draft EIR.

⁹ Geotechnologies, Inc., *Preliminary Geotechnical Assessment—Proposed Commercial Development, 2159 Bay Street, Los Angeles, California, November 21, 2017*. See Appendix IS-3 of Appendix A.1 of this Draft EIR.

Quaternary alluvium that makes up the surficial deposits within the Project Site.¹⁰ Due to the size and nature of past development associated with the Project Site, much of the deposits with potential to support the presence of cultural deposits have likely been disturbed.¹¹

(2) City of Los Angeles Ethnographic Context

According to the TCR Report, 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. In addition, 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 survivors of California.

It is believed that at least 88 different languages were spoken from Baja California Sur to the southern Oregon state border at the time of Spanish contact. Tribes in the Los Angeles region have traditionally spoken Takic languages that may be assigned to the large Uto-Aztecan family. These groups include the Gabrieleño, Cahuilla, and Serrano. Past archaeological investigations indicate 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” denotes those people who were administered by the Spanish from the San Gabriel Mission, which included people from the Gabrielino area proper, as well as other social groups, and does not necessarily identify a specific ethnic or tribal group. The names by which Native Americans in southern California identified

¹⁰ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022*. See Appendix N of this Draft EIR.

¹¹ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022*. See Appendix N of this Draft EIR.

themselves have, for the most part, been lost. Many modern Gabrielino or Gabrieleño identify themselves as descendants of the indigenous people living across the plains of the Los Angeles Basin and refer to themselves as the Tongva, within which there are a number of regional bands. The term, Tongva, is used in the remainder of this section to refer to the inhabitants of the Los Angeles Basin and their descendants prior to contact with the Europeans.

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, and Yabit), which was in the vicinity of downtown Los Angeles. This village was reportedly first encountered by the expedition led by Captain Gaspar de Portola in 1769. In 1771, Mission San Gabriel was established, and Mission records indicate that 179 Gabrieleño inhabitants of Yanga were recruited to San Gabriel Mission. Based on this information, Yanga may have been the most populated village in the Western Gabrieleño territory.

The environment surrounding the Tongva included mountains, foothills, valleys, deserts, riparian, estuarine, and open and rocky coastal eco-niches. As with most native Californians, acorns were the staple food and 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. The Tongva also 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. Catalina Island steatite was used to make ollas and cooking vessels. Plank canoes and tule balsa canoes were used for fishing, travel, and trade between the mainland and the Channel Islands.

At the time of Spanish contact, the basis of Tongva religious life was the cult of Chinigchinich, who was considered an important heroic mythological figure. Chinigchinich was known to give instruction on laws and institutions, as well as dance, which was the primary religious act for the Tongva society. While the Chinigchinich religion seems to have been relatively new when the Spanish arrived, it spread south into the Southern Takic

groups even as Christian missions were being built. As such, the Chinigchinich religion may represent a mixture of native and Christian belief and practices.

Deceased Tongva were either buried or cremated, with burial more common on the Channel Islands while cremation predominating on the neighboring mainland 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, that varied with the sex and status of the deceased. However, at the behest of the Spanish missionaries, cremation essentially ceased.

(3) Assembly Bill 52 Notification and Consultation

In compliance with the requirements of AB 52, the City provided formal notification of the Project on August 8, 2018. Letters were sent to the following California Native American tribes that requested notification:

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

One response letter was received by the City on September 7, 2018 from Mr. Andrew Salas, Chairman of the Gabrieleño Band of Mission Indians—Kizh Nation. The letter states the following and requested consultation with the City:

Your project lies within our ancestral tribal territory, meaning belonging to or inherited from, which is a higher degree of kinship than traditional or cultural affiliation. Your project is located within a sensitive area and may cause a substantial adverse change in the significance of our tribal cultural resources.

On October 11, 2018, consultation occurred between Department of City Planning staff and the representatives from the Gabrieleño Band of Mission Indians—Kizh Nation. During the consultation, the tribal representatives stated that the Project Site is located within a highly sensitive area and within the vicinity of the Yaagna Village and Los Angeles River. Chairman Salas referenced a separate project that was being completed in the area with mitigation measures implemented that would reduce potential impacts to tribal cultural resources. The City followed-up on this information and determined that the information Chairman Salas provided could not be substantiated and relayed this to the Tribe on November 8, 2018. Additionally, City staff requested more information to aid in validating the separate project that was referenced and the submittal of any information regarding the Yaagna Village and/or Los Angeles River for City review and record. No communication or request for consultation was received from any other tribes within the 30-day response period, which ended on September 7, 2018. Copies of notification letters, verification of mailing, correspondence received from the Gabrieleño Band of Mission Indians—Kizh Nation, and a summary of the consultation are included in Appendix N of this Draft EIR. On November 29, 2018, City staff sent a follow-up e-mail to the Tribe requesting the previously requested information to be provided to the City within 14 days of receipt of the email. No additional information was submitted by the Tribe to the City after the November 29, 2018 email. The City issued an AB 52 Completion of Consultation Letter addressed to the Gabrieleño Band of Mission Indians—Kizh Nation on January 23, 2019. This letter is included in Appendix C of the TCR Report which is included in Appendix N of this Draft EIR.

(4) Background Research

(a) Sacred Lands File Review

A Sacred Lands File (SLF) Search request was submitted to the NAHC for the Project on July 10, 2018. The NAHC replied via email on July 12, 2018 stating that the Sacred Lands File search was completed with negative results.¹² However, the records maintained by the NAHC and the California Resources Information System are not exhaustive, and a negative response to these searches does not preclude the existence of a cultural place. The NAHC recommended contacting tribes associated with the Project Site in order to avoid unforeseen discoveries once the Project has started and provided a list of tribal representatives to contact for additional information. As stated above, all California Native American tribes that requested notification were contacted as part of the AB 52 notification and consultation process. The NAHC SLF search results are included as Appendix B of the TCR Report which is included in Appendix N of this Draft EIR.

¹² *Dudek, Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022. See Appendix N of this Draft EIR.*

(b) California Historical Resources Information System Review

A California Historical Resources Information System (CHRIS) records search at the South Central Coastal Information Center (SCCIC) was conducted for a 0.5-mile radius from the Project Site as part of the preparation of the TCR Report for the Project on August 28, 2018. The records search included SCCIC's collections of mapped prehistoric, historical, and built environment resources; Department of Parks and Recreation site records; technical reports; archival resources; and ethnographic references. The CHRIS SCCIC records search results are included as Appendix A of the TCR Report which is included in Appendix N of this Draft EIR.

(i) Previously Conducted Cultural Resource Studies

Results of the cultural resources records search indicated that 39 previous cultural resource studies have been conducted within the 0.5-mile radius of the Project Site between 1990 and 2017. None of the studies overlap the Project Site or identify any tribal cultural resources on the Project Site.¹³

(ii) Previously Recorded Cultural Resources

A total of 78 previously recorded cultural resources are within the 0.5-mile record search area, none of which are within the Project Site. Of these, 74 resources are historic-era buildings or structures. The remaining four resources are historic-era archaeological sites consisting of refuse scatters dating to between 1850 and 1945. No prehistoric sites or resources documented to be of specific Native American origin have been previously recorded on the Project Site or within the 0.5-mile record search area.¹⁴

(c) Ethnographic Research and Review of Academic Literature

As part of the preparation of the Project's TCR Report, academic and ethnographic literature and materials were reviewed for information pertaining to past Native American use of the Project Site. This review included consideration of sources commonly identified through consultation, notably the 1938 Kirkman-Harriman Historical Map often referenced by the Gabrieleño Band of Mission Indians—Kizh Nation (see Figure 3 of the TCR Report, included in Appendix N, of this Draft EIR). Based on this map, the Project Site is located near the intersection of two segments of the "Road of 1810" and approximately 0.7 mile

¹³ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022*. See Appendix N of this Draft EIR.

¹⁴ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022*. See Appendix N of this Draft EIR.

west of El Camino Real and 5 miles northwest of the nearest mapped Native American settlement.

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 (Figures 4 and 5 of the TCR Report included in Appendix N of this Draft EIR). Use of Gabrieleño 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 which allowed for the identification of clusters of tribal villages (settlements) with greater relative frequencies of related or married individuals than surrounding areas (Figure 6 of the TCR Report included in Appendix N of this Draft EIR). Traditional cultural use area boundaries, as informed by other ethnographic and archaeological evidence, were then drawn around these clusters. According to these maps, the village site nearest to the Project was Yanga (or Yabit), located approximately 1.2 miles northeast of the Project Site in roughly the area of the Los Angeles Plaza Church. After the founding of Los Angeles, Yanga was forcibly moved, and the Native Americans in the area formed a new community near the northwest corner of Los Angeles and First Street, approximately 1.5 miles northwest of the Project Site. This second location, known by its Spanish name as Rancheria de los Poblanos, was only occupied until about 1836. The Native American communities in Los Angeles were relocated again, this time east of the Los Angeles River. After 1836, Native Americans were forcibly relocated another three times, in 1845, 1846, and 1847. Yanga, though not depicted on the Kirkman-Harriman map, is referenced in several archaeological and ethnographic works and was reportedly first encountered by the Portola expedition in 1769.

In general, position of Yanga has been substantiated through archaeological evidence, although the archaeological record has been substantially compromised by rapid and early urbanization throughout much of the region. Nonetheless, evidence suggests that the village of Yanga may have been the most populated village in the Western Gabrieleño territory. As previously noted, the village of Yanga was reported to have been identified multiple times throughout the 19th century within the area located north of present day Temple Street as far as Union Station, approximately 1.2 miles to 2 miles north of the Project Site. However, no archaeological evidence of the village of Yanga or the nearest village on the 1938 Kirkman-Harriman map was provided in the SCCIC records search results or review of other archaeological information as these fell outside of the archaeological records search area. Furthermore, as indicated previously: (1) the ethnographic research and review of academic literature does not indicate or suggest that tribal cultural resources occur at the Project Site; (2) no tribal cultural resources have been recorded on-site in SCCIC or SLF; and (3) the AB 52 tribal consultations did not identify any tribal cultural resources on-site.

Based on review of relevant academic and ethnographic information, the Project falls within the boundaries of the Gabrieleño/Tongva traditional territory and the Project Site is located near several natural resources that may have been utilized by prehistoric and protohistoric peoples, particularly the Los Angeles River, which is directly east of the Project Site. However, no Native American tribal cultural resources have been previously documented in areas that may be impacted by the Project.¹⁵

3. Project Impacts

a. Thresholds of Significance

In accordance with Appendix G of the State CEQA Guidelines, the Project would have a significant impact related to Tribal Cultural Resources if the project would:

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

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

b. Methodology

A review was conducted of the existing and past physical conditions (including soil conditions) at the Project Site. A CHRIS records search was also conducted at the SCCIC on August 28, 2018 in order to determine potential impacts associated with tribal cultural resources. This search encompassed a 0.5-mile radius beyond the Project Site. The records search included a review of mapped prehistoric, historic, and built environment

¹⁵ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022*. See Appendix N of this Draft EIR.

resources; Department of Parks and Recreation Site Records; technical reports; archival resources; and ethnographic references. Pertinent academic and ethnographic literature was also reviewed for information pertaining to past Native American use of the Project Site. Pursuant to AB 52, California Native American Tribes were notified and provided an opportunity to request consultation in order to address potential impacts associated with Native American resources. In addition, an SLF search was conducted by the NAHC to determine the presence of any recorded tribal cultural resources on the Project Site. The results of the physical conditions review, CHRIS (SCCIC) records search, ethnographic literature review, AB 52 consultation process, and NAHC SLF search, as well as the conclusions by the tribal cultural resources consultant (Dudek) based on the results of this research, are documented in the TCR Report included in Appendix N 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

As described in Section II, Project Description, of this Draft EIR, the Project would have a maximum excavation depth of 42 feet below the ground surface (bgs) and would require approximately 140,000 cubic yards of soil to be removed from the Project Site. While much of the deposits with potential to support the presence of cultural deposits have

likely been disturbed, there may be potential for the discovery of tribal cultural resources during Project construction. As discussed above in Subsection 2.b.(4)(b)(ii) on page IV.L-10, no prehistoric sites or resources documented to be of specific Native American origin have been previously recorded on the Project Site or within 0.5 mile of the Project Site.¹⁶ Therefore, there are no tribal cultural resources that are listed or eligible for listing in the California Register of Historical Resources or in a local register of historical resources on or within 0.5 mile of the Project Site. As such, the Project would not cause a substantial adverse change in the significance of a tribal cultural resource 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.

Furthermore, as previously described in Subsection 2.b.(3), no tribal cultural resources were identified based on tribal consultation requirements of AB 52.

As presented above in Subsection 2.b.(4), the results of the records searches (i.e., SCCIC and NAHC) conducted for the Project Site (included as Appendices A and B, respectively, of the TCR Report), and the independent analysis of correspondence and materials relative to potential tribal cultural resources on the Project Site (included in the TCR Report main body and Appendix C of the report), demonstrate that there is no record or evidence of tribal cultural resources on the Project Site or in its vicinity.¹⁷ In addition, while the information and materials received from the Gabrieleño Band of Mission Indians—Kizh Nation provide evidence of the village of Yanga approximately 1.2 miles northeast of the Project Site, no known geographically-defined resources were identified within, or in the immediate vicinity of, the Project Site, and the AB 52 consultations failed to identify any known tribal cultural resources that would be impacted by the Project.¹⁸ In addition, the Project Site and surrounding neighborhoods have been extensively developed throughout the twentieth century.¹⁹ As such, no tribal cultural resources or known cultural resources have been identified that could be impacted by the Project. **Based on the above, the City, in its discretion and supported by substantial evidence, finds the Project Site does not contain any resources determined by the City to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. Accordingly, the Project would not cause a substantial adverse change in**

¹⁶ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project*, September 2022. See Appendix N of this Draft EIR.

¹⁷ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project*, September 2022. See Appendix N of this Draft EIR.

¹⁸ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project*, September 2022. See Appendix N of this Draft EIR.

¹⁹ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project*, September 2022. See Appendix N of this Draft EIR.

the significance of a tribal cultural resource with cultural value to a California Native American tribe. As such, impacts related to tribal cultural resources would be less than significant.²⁰

Nonetheless, the City has established a standard condition of approval to address inadvertent discovery of tribal cultural resources during construction. Should tribal cultural resources be inadvertently encountered, this condition of approval provides for temporarily halting construction activities near the encounter and notifying the City and Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project. In accordance with the condition of approval, all activities would be conducted in accordance with regulatory requirements.

(2) Mitigation Measures

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

(3) Level of Significance After Mitigation

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

e. Cumulative Impacts

(1) Impact Analysis

As provided in Section III, Environmental Setting, of this Draft EIR, a total of 72 related projects have been identified in the vicinity of the Project Site. The Project and the related projects are located within an urbanized area that has been disturbed and developed over time. Although impacts to tribal cultural resources tend to be site-specific, cumulative impacts would occur if the Project, related projects, and other future development affected the same tribal cultural resources and communities. The closest related projects to the Project Site are Related Project Nos. 9, 39, 54, and 65.

Related Project No. 39, located at 2110 Bay Street, directly adjacent to the Project Site, includes the demolition of an existing surface parking lot and manufacturing building and development of new residential, commercial, and office uses. As determined in the

²⁰ Dudek, *Tribal Cultural Resources Report for the 2159 Bay Street Project, September 2022*. See Appendix N of this Draft EIR.

Draft EIR prepared for Related Project No. 39,²¹ the proposed development would result in less-than-significant impacts to tribal cultural resources.

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 unanticipated tribal cultural resources are uncovered, the Project would be required to comply with the applicable regulatory requirements discussed in detail above in Subsection 2.a. Similarly, each related project would also be required to comply with the same regulatory requirements as the Project and the City's standard condition of approval for the inadvertent discovery of tribal cultural resources during construction. As such, any cumulative impacts to tribal cultural resources would be reduced by compliance with applicable regulatory requirements in the event of inadvertent discovery. 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, based on the above, the Project and related projects would not result in significant cumulative impacts on tribal cultural resources during construction and operation. As such, the Project's contribution would not be cumulatively considerable, and cumulative impacts would be less than significant.

(2) Mitigation Measures

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

(3) Level of Significance After Mitigation

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

²¹ City of Los Angeles, Department of City Planning, 2110 Bay Street Mixed Use Project, ENV-2016-3480-EIR, https://planning.lacity.org/eir/2110_Bay_Street/Deir/DEIR%202110%20Bay%20Street%20Mixed%20Use%20Project.html, accessed March 17, 2022.