

IV. Environmental Impact Analysis

H. Tribal Cultural Resources

1. Introduction

This section of the Draft EIR provides an analysis of the Project’s potential impacts on tribal cultural resources. Potential impacts to tribal cultural resources are based on coordination and consultation with California Native American tribes that are traditionally and culturally affiliated with the Project Site. This section is also based on the *Tribal Cultural Resources Report for the 1546 Argyle Avenue Project* (TCR Report) prepared by Dudek (March 2019) included as Appendix K of this Draft EIR.

2. Environmental Setting

a. Regulatory Framework

California law protects Native American burials, skeletal remains, and associated grave goods regardless of the antiquity and provides for the sensitive treatment and disposition of those remains.

(1) Assembly Bill 52

On September 25, 2014, Governor Edmund G. “Jerry” Brown signed into law Assembly Bill (AB) 52, which amended Public Resources Code (PRC) Section 5097.94 and added Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to establish that an analysis of a project’s impact on cultural resources include whether the project would impact “tribal cultural resources.” As set forth in PRC Section 21074:

(a) *“Tribal cultural resources” are either of the following:*

(1) *Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*

(A) *Included or determined to be eligible for inclusion in the California Register of Historical Resources.*

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.¹

(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 Section 5024.1.² In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2,³ or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2⁴ may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

For a project for which a notice of preparation for a Draft EIR was filed on or after July 1, 2015, the lead agency is required to consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project, if: (1) the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area; and (2) the tribe requests consultation, prior to the release of a negative declaration, mitigated negative declaration or environmental impact report for a project. PRC Section 21080.3.1(b) defines “consultation” with a cross-

¹ Per subdivision (k) of PRC Section 5020.1, “local register of historical resources” means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.

² Subdivision (c) of PRC Section 5024.1 provides the National Register criteria for listing of historical resources in the California Register.

³ Per subdivision (g) of PRC Section 21083.2, a unique archaeological resource means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; or (2) has a special and particular quality such as being the oldest of its type or the best available example of its type; or (3) is directly associated with a scientifically recognized important prehistoric or historic event or person.

⁴ Per subdivision (h) of PRC Section 21083.2, a nonunique archaeological resource means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

reference to Government Code Section 65352.4, which applies when local governments consult with tribes on certain planning documents and states the following:

“Consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

The new provisions in PRC Section 21080.3.2(a) enumerate topics that may be addressed during consultation, including identification of the significance of tribal cultural resources, determination of the potential significance of Project impacts on tribal cultural resources and the type of environmental document that should be prepared, and identification of possible mitigation measures and Project alternatives.

PRC Section 21084.3 also states that public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. This section of the PRC also includes examples of mitigation measures that may be considered to avoid or minimize the significant adverse effects.

Consultation ends when either of the following occurs prior to the release of the environmental document:⁵

1. Both parties agree to measures to avoid or mitigate a significant effect on a tribal cultural resource. Agreed upon mitigation measures shall be recommended for inclusion in the environmental document (PRC Section 21082.3(a)); or
2. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached (PRC Sections 21080.3.2(b)(1)-(2) and 21080.3.1(b)(1)).

(2) Human Remains

With regard to human remains, CEQA Guidelines Section 15064.5 addresses consultation requirements if an initial study identifies the existence of, or the probable

⁵ Governor’s Office of Planning and Research, *Tribal Consultation Guidelines, Supplement to General Plan Guidelines*, November 14, 2005.

likelihood of Native American human remains within the project site. This section of the CEQA Guidelines as well as Health and Safety Code Section 7050.5 and PRC Section 5097.9 also address treatment of human remains in the event of accidental discovery.

b. Existing Conditions

(1) Current Project Site Conditions

The Project Site is currently occupied by six commercial building and parking areas and includes limited ornamental landscaping. With regard to the underlying geological and soil conditions, the Project Site is approximately 1.2 miles south of the Santa Monica Mountains, 4.8 miles west of the Los Angeles River, 6 miles north of Baldwin Hills, and 12 miles east of the Pacific Ocean. The soil underlying the existing development in the vicinity of the Project Site is classified by the U.S. Department of Agriculture (USDA) as Urban land—Palmview-Tujunga, gravelly complex, which is associated with discontinuous human-transported material over young alluvium derived from sedimentary rock.⁶ Due the size and nature of past development associated with the Project Site and vicinity, all native subsurface soils with potential to support the presence of cultural deposits have likely been substantially disturbed. Historical maps indicate the presence of tar pits (La Brea) and ponds to the southwest, and small drainages within approximately 2.5 miles east of the Project Site.

Specifically, the Project Site is underlain by soil on top of older Quaternary Alluvium, derived as alluvial fan deposits from the Hollywood Hills immediately to the north.⁷ Fill earth material is present within the Project Site to depths of approximately 3 to 7.5 feet and consists of silty sands and sandy silts with minor clayey silts and silty clays that are dark brown, moist, medium dense, fine grained and stiff.⁸ The Project proposes excavations up to 50 feet below grade for the construction of the subterranean parking levels and building foundations. It is estimated that approximately 89,000 cubic yards of export would be hauled from the Project Site during the excavation phase.

⁶ U.S. Department of Agriculture, Natural Resources Conservation Service Soils Soil Survey Geographic Database, SoilWeb Online Viewer accessed using Google Earth, <https://casoilresource.lawr.ucdavis.edu/gmap/>, accessed December 27, 2018.

⁷ Written correspondence from Samuel A. McLeod, Ph.D., Vertebrate Paleontology, Los Angeles County Natural History Museum, April 21, 2017.

⁸ Geotechnologies, Inc., Geotechnical Engineering Investigation, Proposed Mixed Use Development 1546 Argyle Avenue, Los Angeles, California, November 10, 2016.

(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. Additionally, it is important to note that while many of those providing information for these early ethnographies were able to provide information based on personal experience, a significantly large proportion of these informants were born after 1850, by which time Native Americans would have had considerable contact with Europeans. This is important to note when examining these ethnographies since considerable culture change had undoubtedly occurred by 1850 among the Native American survivors of California. This is also a particularly important consideration for studies focused on tribal cultural resources, where concepts of “cultural resource” and the importance of traditional cultural places are intended to be interpreted based on the values expressed by present-day Native American representatives and may vary from archaeological values.

Based on ethnographic information, it is believed that at least 88 different languages were spoken from Baja California Sur to the southern Oregon state border at the time of Spanish contact. Tribes in the Los Angeles region have traditionally spoken Takic languages that may be assigned to the large Uto-Aztecan family. These groups include the Gabrieleño, Cahuilla, and Serrano.

The archaeological record indicates that the Gabrieleño arrived in the Los Angeles Basin around 500 B.C. Surrounding native groups included the Chumash and Tataviam to the northwest, the Serrano and Cahuilla to the northeast, and the Juaneño and Luiseño to the southeast. The name “Gabrielino” or “Gabrieleño” denotes those people who were administered by the Spanish from the San Gabriel Mission, which included people from the Gabrieleño area proper as well as other social groups. Therefore, in the post-Contact period, the name does not necessarily identify a specific ethnic or tribal group. The names by which Native Americans in southern California identified themselves have, for the most part, been lost. Many modern Gabrieleño identify themselves as descendants of the indigenous people living across the plains of the Los Angeles Basin and refer to themselves as the Tongva, within which there are a number of regional bands. This term

(Tongva) is used in the remainder of this section to refer to the pre-Contact inhabitants of the Los Angeles Basin and their descendants.

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

The nearest large ethnographic Tongva village was that of Yanga (also known as Yaangna, Janga, and Yabit), which was in the vicinity of the Pueblo of Los Angeles. This village was reportedly first encountered by the expedition led by Captain Gaspar de Portola in 1769. In 1771, Mission San Gabriel was established, and Mission records indicate that 179 Gabrieleño inhabitants of Yanga were recruited to San Gabriel Mission. Based on this information, Yanga may have been the most populated village in the Western Gabrieleño territory. The Cahuenga village, second in size but less thoroughly documented, was located slightly closer, just north of the Cahuenga Pass.

The Tongva subsistence economy was centered on gathering and hunting. The surrounding environment was rich and varied, and the tribe exploited mountains, foothills, valleys, deserts, riparian, estuarine, and open and rocky coastal eco-niches. For many native Californians, acorns were the staple food and part of an established industry by the time of the early Intermediate Period. Acorns were supplemented by the roots, leaves, seeds, and fruits of a wide variety of flora (e.g., islay, cactus, yucca, sages, and agave). Fresh water and saltwater fish, shellfish, birds, reptiles, and insects, as well as large and small mammals, were also consumed.

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

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

At the time of Spanish contact, the basis of Tongva religious life was the 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. He later withdrew into heaven, where he rewarded the faithful and punished those who disobeyed his laws. While the Chinigchinich religion seems to have been relatively new when the Spanish arrived, it spread south into the Southern Tadic groups even as Christian missions were being built. As such, the Chinigchinich religion may represent a mixture of native and Christian belief and practices.

Deceased Tongva were either buried or cremated, with burial more common on the Channel Islands and the neighboring mainland coast and cremation predominating on the remainder of the coast and the interior. Cremation ashes have been found buried within stone bowls and in shell dishes, as well as scattered among broken ground stone implements. These archaeological finds correspond with ethnographic descriptions of an elaborate mourning ceremony that included a wide variety of offerings, including seeds, stone grinding tools, otter skins, baskets, wood tools, shell beads, bone and shell ornaments, and projectile points and knives. Offerings varied with the sex and status of the deceased. At the behest of the Spanish missionaries, cremation essentially ceased during the post-Contact period.

(3) Assembly Bill 52 Consultation

In compliance with the requirements of AB 52, the City provided formal notification of the Project on June 6, 2017. Letters were sent via FedEx and certified mail to the following California Native American tribes that requested notification:

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

One response was received by the City on June 20, 2017, from Mr. Andrew Salas, Chairman of the Gabrieleño Band of Mission Indians—Kizh Nation. No communication or request for consultation was received from any other of the notified tribes within the 30-day response period, which ended on July 6, 2017.

A record of the letters, mailings, and correspondence received is provided in the TCR Report included as Appendix K of this Draft EIR. The response to the letter is also included in Appendix K and is summarized in the impact analysis below.

(4) Background Research

(a) Sacred Lands File Review

A Sacred Sites/Lands File Search was conducted by the Native American Heritage Commission (NAHC) for the Project on April 11, 2017 (Appendix B of the TCR Report). The results of the Sacred Sites/Lands File search indicated negative results. However, the records maintained by the NAHC and the California Historical 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. All tribal representatives identified by the NAHC, which was consistent with the City's AB 52 notification list, as provided in Appendix B of the TCR Report, were notified of the Project.

(b) California Historical Resources Information System Review

A California Historical Resources Information System records search at the South Central Coastal Information Center (SCCIC) was conducted as part of the preparation of the TCR Report for the Project. The records search included SCCIC's collections of mapped prehistoric, historic, and built environment resources, Department of Parks and Recreation site records, technical reports, and ethnographic references. Additional consulted sources included historical maps of the Project Site vicinity, the National Register, the California Register, the California Historic Property Data File, and the lists of California State Historical Landmarks, California Points of Historical Interest, and the Archaeological Determinations of Eligibility.

(i) Previously Conducted Cultural Resource Studies

Results of the records search indicated that 23 previous cultural resource studies have been conducted within 0.5-mile of the Project Site area between 1983 and 2013. Of these, three studies are mapped as overlapping the Project Site area (LA-4909, LA-8020, and LA-11797). The most pertinent of these overlapping investigations, as well as one nearby large-scale study (LA-1578), have been summarized below based on their ability to provide important information relating to the Project Site and the broader area's relative sensitivity to contain unanticipated buried cultural resources.

Furthermore, numerous studies were conducted in the 1980s as part of the environmental documentation required for the Southern California Rapid Transit District's

Metro Rail Project. The project proposed the construction of a 150-mile rapid transit system that planned to serve the greater Los Angeles region. The starter line consisted of 18.6 miles linking centers in downtown Los Angeles, the Wilshire corridor, Hollywood, and the San Fernando Valley.

LA-1578 (Los Angeles Rail Rapid Transit Project Draft EIS/EIR): As part of the initial Draft Environmental Impact Statement and Environmental Impact Report (Draft EIS/EIR) prepared for the Metro Rail Project, WESTEC Services, Inc. conducted a cultural resources study of the proposed alignment. The purpose of the study was to compile the known archaeological record through a review of ethnographic and historic records, previously recorded records of archaeological sites, and previously conducted archaeological studies, consultation and interviews with local historic groups and archaeologists, and a reconnaissance level field survey.

Little information pertaining to archaeological resources was gleaned from the study due primarily to the extensively urbanized landscape and the lack of archaeological survey prior to development of the area. Only three archaeological sites were previously recorded in the vicinity of the Metro rail route, none of which were in the vicinity of the current Project. No previously unrecorded sites were identified as a result of the pedestrian survey.

The ethnographic and historic review provided the best reference for the probability of encountering archaeological sites along the Metro rail; however, the presence of these sites was hypothesized and could not be confirmed. Prehistoric sites would be expected to occur in a variety of places along the proposed route, as these sites are generally located upon river and stream terraces, above flood plains, adjacent to springs, and at the mouths of canyons. For instance, the probability of encountering prehistoric sites within the alignment running through downtown Los Angeles was high given the past discoveries of prehistoric artifacts within the area and the suggested presence of the prehistoric village of Yangna. In contrast, WESTEC Services, Inc. suggested that there were no significant landforms in the Hollywood area (near the current Project Site) that were likely to support prehistoric settlements. Additionally, no prehistoric artifacts were turned over to local repositories over the years despite the continued development of the Hollywood area.

LA-8020 (Los Angeles Rail Rapid Transit Project "Metro Rail" Core Study): In 1987, the Southern California Rapid Transit District prepared environmental documentation for the Metro Rail Project "Core Study". The study consisted of a literature review of the 17 specific station areas and zones of transition included in the "Core Study" to identify any known archaeological resources and/or evidence of potential archaeological resources that may be impacted by Metro rail construction. The Southern California Rapid Transit District prepared a supplemental report in 1987 (LA-8020) which clarified the "Core Study" Areas of

Potential Effects (APE) that was first defined in the Greenwood and Associates cultural studies of the same year.

The Project Site falls near the “Core Study” APE known as Alignment 4, Sunset/Vine Station. The APE consists of a one lot bump out to the north and south of Sunset Boulevard between Wilcox Avenue and Vine Street. The area of proposed impact was considered the entrance to a proposed station at the northwest corner of Sunset Boulevard and Vine Street. As such, the cultural study focused on the four corners of Sunset Avenue and Vine Street and did not specifically study the Project Site, although it was within the APE. The study determined that the area of proposed impacts had an extremely low probability of yielding significant archaeological resources. This determination was based on the findings of the archival map review, which showed continued development and redevelopment of the area from 1919 to the present.

LA-11797 (The Hollywood Redevelopment Project): Chattel Architecture, Planning & Preservation, Inc. prepared historic context statements and intensive-level assessment surveys for the Hollywood Redevelopment Project Area. The Hollywood Redevelopment Project Area is 1,107 acres and located approximately six miles northwest of the Los Angeles Civic Center at the foot of the Hollywood Hills. The Project Site is within the Hollywood Redevelopment Project Area. While the study did not address archaeological resources within the redevelopment area, it did provide insight into the historic development of the Project Site and vicinity. Sunset Boulevard was considered the “main road to Los Angeles” and the commercial spine of the redevelopment area.

(ii) Previously Recorded Cultural Resources

A large number of previously recorded cultural resources are within 0.25 mile of the Project Site, none of which are within the Project Site. All but one of the resources are historic-age built environment resources, the majority of which are buildings associated with the Hollywood Boulevard and Entertainment District (P-19-174178). No prehistoric archaeological resources have been previously recorded within 0.25 mile of the Project Site.

The single archaeological resource (P-19-003545) identified through this records search is located one block west of the Project Site. This site consists of historic-age features indicative of pre-World War II occupants of the 1500 block of Vine Street. During the study in 2002, 11 features were identified, including deposits of domestic refuse and building material, wall segments, a cellar, and three septic tanks. Based on the recovered temporally diagnostic artifacts and a review of Sanborn Maps, the mean date of occupation at this site ranges from 1919 to 1938.

(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 K of this Draft EIR). Based on this map, the Project Site is immediately west of El Camino Real, south of two Native American Villages (the nearest mapped approximately 0.5 mile away), and approximately 1.6 miles northeast of the nearest of the tar pits associated with the La Brea Tar Pit area. It should be noted that this map is highly generalized due to scale and age, and may be somewhat inaccurate with regard to distance and location of mapped features. Additionally, this map was prepared based on review of historic documents and notes more than 100 years following secularization of the missions in 1833. Although the map contains no specific primary references, it matches with the details documented by the Portola expedition (circa 1769–1770). While the map is a valuable representation of post-mission history, substantiation of the specific location and uses of the represented individual features would require review of archaeological or other primary documentation on a case-by-case basis. No information relating to the two village sites mapped nearest to the Project was provided within the technical reports reviewed as part of the records search for this study, although it appears likely that these villages are those mentioned in the diary excerpts written by Father Crespi, a member of Portola's expedition of the 18th Century.

At the time of Portola's expedition, and through the subsequent mission period, the area surrounding the Project Site would have been occupied by Western Gabrieleño/Tongva inhabitants. The village site nearest to the Project was Cabuepet (or Cahuenga), located approximately 3.4 miles to the north near the opening of the Cahuenga Pass. This village was located near what is now Universal Studios. The second nearest, and largest village in the vicinity, was likely Yabit (or Yanga), located approximately 5.5 miles to the southeast. In general, the mapped position of both Yanga and Cahuenga have been substantiated through archaeological evidence, although the archaeological record has been substantially compromised by rapid and early urbanization throughout much of the region. No archaeological evidence of the two nearest villages on the 1938 Kirkman-Harriman map was provided in the SCCIC records search results or review of other archaeological information; however, these fell outside of the archaeological records search area. Based on review of relevant academic and ethnographic information, the Project falls within the boundaries of the Gabrieleño/Tongva traditional territory, and no Native American tribal cultural resources have been previously documented in areas that may be impacted by the Project.

3. Project Impacts

a. Thresholds of Significance

(1) State CEQA Guidelines Appendix G

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.***

(2) 2006 L.A. CEQA Thresholds Guide

The *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 provided above.

b. Methodology

A California Historical Resources Information System records search was conducted for the Project Site and surrounding quarter mile area to determine potential impacts associated with tribal cultural resources. The records search included a review of mapped prehistoric, historic, and built environment resources; Department of Parks and Recreation Site Records; technical reports; ethnographic references; historical maps; the California Historic Property Data File; the National Register of Historic Places, California Register of Historical Resources, California State Historical Landmarks, and California Points of

Historical Interest listings; and the Archaeological Determinations of Eligibility. Pertinent academic and ethnographic literature was also reviewed for information pertaining to past Native American use of the Project area. Pursuant to AB 52, the City mailed out Project notification letters to applicable Native American Tribes as specified by NAHC. In addition, a Sacred Lands Files search was conducted by the NAHC to determine the presence of any recorded tribal cultural resources on the Project Site.

c. Analysis of Project Impacts

(1) Project Design Features

No specific project design features are proposed with regard to tribal cultural resources.

(2) Analysis of Project Impacts

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

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

In compliance with the requirements of AB 52, the City provided formal notification of the Project on June 6, 2017, to the tribes listed above in Subsection 2.b.(3). The response period for the consultation requests concluded after 30 days on July 6, 2017.

As noted above, the City received a response from Mr. Andrew Salas, Chairman of the Gabrieleño Band of Mission Indians—Kizh Nation, who asserted the following:

Your project lies within our ancestral tribal territory, meaning descending from, or 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 June 20, 2017, pursuant to AB 52, the City received a request for tribal consultation from the Gabrieleño Band of Mission Indians—Kizh Nation Tribe (Tribe). The City emailed the Tribe on June 21, 2017, and requested that tribal consultation for this Project be included as part of the upcoming June 28, 2017, conference call (which included other projects in the Hollywood area). The City requested that if the Tribe had any issues and/or concerns with including the Project on the upcoming June 28, 2017, consultation call to please contact the City. The Tribe did not respond to the City's request and thus on June 28, 2017, initial consultation occurred between the City and the representatives from the Tribe by phone conference.

Prior to the consultation phone call, the City provided the Tribe with general information about the Project, including the projected depth of grading activities and existing Project Site conditions, including existing on-site structures. Department of City Planning staff, Tribal Chairman Salas, and a biologist representing the tribe, Mr. Matthew Teutimez, participated in the AB 52 consultation conference call and discussed the Tribe's concerns regarding tribal cultural resources as they relate to the Project Site. Specifically, Tribal Chairman Salas and Mr. Teutimez noted that they were not aware of any tribal cultural resources in the vicinity of the Project, but indicated that the area was known to have been in proximity to prehistoric trade routes and was attributed with unique ecological conditions that supported the presence of important traditional natural resources. In discussion of the 1938 Kirkman-Harriman Historic Map (see Figure 3 of the TCR Report), Tribal Chairman Salas noted that a traditional trade route ran along Sunset Boulevard through Cahuenga Canyon. In addition to the presence of trading routes, Tribal Chairman Salas called attention to the historic presence of numerous springs throughout the Hollywood area, as indicated by the name of Fountain Avenue. These springs as well as the local foothills were observed to have represented environments that provided the Gabrieleño with valuable resources. In support of this reference, the City was sent a LA Weekly article entitled *Lost Streams of Los Angeles* that discussed historic trends in drainage improvements and channelization of the Los Angeles River.⁹ During the conference call on June 28, 2017, Tribal Chairman Salas and Mr. Teutimez discussed "transition zones" that were associated with area-specific biological and ecological resources. City staff requested that the tribal representative provide any documents regarding the location of springs and/or transition zones. Mr. Teutimez followed up the following day with an article entitled, *Living on the Edge: Ecological and Cultural Edges as*

⁹ McWilliams, Carey, "The Lost Streams of Los Angeles," *LA Weekly*, November 8, 2006.

Sources of Diversity for Social–Ecological Resilience.¹⁰ In this paper, Turner et al. contend that human communities occupying and exploiting resources in ecological transitions zones are likely to be more culturally diverse and successful. As a final note during the conference call, Mr. Teutimez explained the need for tribal monitoring at construction sites is in part because construction workers often are not aware of certain soil attributes that can represent the presence of tribal ancestor remains, including a change in soil color and/or broken stones.

The City reviewed the articles and provided the Tribe with a synopsis of topics discussed on during the conference call. On June 29, 2017, Mr. Teutimez confirmed receipt of the City's email.

On July 23, 2018, the City, via email requested additional information regarding the potential for tribal cultural resources within the Project area. A representative of the Tribe responded that day via email with two historic maps showing the trade routes and villages present in the vicinity of the area. These maps included an 1881 map of Los Angeles prepared by H.J. Stevenson and the 1938 Kirkman-Harriman Historical Map. In addition to these maps, mitigation measures proposed by the Tribe were sent to the City. The proposed mitigation measures included retaining a Native American Monitor approved by the Tribe, and measures to be implemented in the event of the unanticipated discovered of various types of tribal cultural or archaeological resources.

On January 11, 2019, the City sent a follow-up email and requested that the Tribe submit any evidence of the presence of tribal cultural resources within the Project area within 14 days of receipt of the email. No response to this request was received. On February 22, 2019, the City sent a notification letter to the Tribe, stating the completion of consultation for the Project, pursuant to AB 52. The letter summarized the consultation efforts and stated that a review of the documents submitted by the Tribe and/or the information included in the TCR Report did not find substantial evidence to suggest that there are existing tribal cultural resources within the Project area. Additionally, the City found that there was no sufficient evidence to consider the Project Site sensitive enough to require monitoring.

Tribal Chairman Salas, having reviewed the Draft EIR's summary of consultation and the City's proposed management strategy for tribal cultural resources (as discussed below), expressed disagreement by email on February 22, 2019. Tribal Chairman Salas indicated that oral history and documentation provided by the Tribe did meet the threshold

¹⁰ Turner, Nancy, Iain Davidson-Hunt, and Michael O'Flaherty. 2003. *Living on the Edge: Ecological and Cultural Edges as Sources of Diversity for Social–Ecological Resilience*. Published in *Human Ecology*, Vol. 31, No. 3, September.

of substantial evidence required to be determined a TCR landscape. While the process of ongoing consultation did further illustrate the Tribe expressed cultural value of the surrounding area, no new information relating to a specific geographically defined TCR, defined in its size and scope, was identified. Sufficient information required for evaluation pursuant of subdivision PRC Section 5024.1(c) was not provided through consultation. Based on information reviewed, it appears that no known on-site TCR has been identified to date that could be impacted by the Project. The City, acting in good faith and after reasonable effort, has concluded that mutual agreement cannot be reached (as provided for in PRC Section 21080.3.2(b)(1)-(2)). Consultation is considered concluded; however, the City welcomes any additional information relating to TCRs that may be provided through the duration of the Project.

In summary, while it is evident from the information provided by the Tribe that the Hollywood area has been traditionally occupied and utilized for its resources by the Tribe, government-to-government consultation initiated by the City, acting in good faith and after a reasonable effort, has not resulted in the identification of a known tribal cultural resources within or near the Project Site that would be impacted. As such, with the close of tribal consultation by the City on February 22, 2019, the City has fulfilled the requirements of AB 52. Documents related to the AB 52 consultation are included in Appendix B of the TCR Report.

In addition, as presented above in Subsection 2.b.(4), the results of the records searches (i.e., SCCIC and NAHC) conducted for the Project Site and the independent analysis of correspondence and materials relative to potential tribal cultural resources on the Project Site (included in the TCR Report) demonstrate that there is no record or evidence of tribal cultural resources on the Project Site or in its vicinity. Furthermore, based on the information and materials received from the Tribe, the City has determined that sufficient substantial evidence has not been provided to demonstrate that impacts to tribal cultural resources would occur pursuant to PRC Section 21074(2). As also discussed in Section IV.B, Cultural Resources, of this Draft EIR, there are no listed or eligible historic resources located on the site and construction/operation of the Project would not result in a significant impact to any historic resource. CEQA only requires mitigation measures if substantial evidence exists of potentially significant impacts. CEQA Section 15126.4(a)(4)(A) states that there must be an essential nexus between the mitigation measure and a legitimate governmental interest (i.e., potential significant impacts). Based on the above, the Project Site does not contain any resources determined by the City, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1, and, as such, impacts related to tribal cultural resources would be less than significant.

Nonetheless, the City has established a standard condition of approval to address inadvertent discovery of tribal cultural resources. Should tribal cultural resources be

inadvertently encountered, this condition of approval provides for temporarily halting construction activities near the encounter and notifying the City and Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project. If the City determines that the object or artifact appears to be a tribal cultural resource, the City would provide any affected tribe a reasonable period of time to conduct a site visit and make recommendations regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources. The Project Applicant would then implement the tribe's recommendations if a qualified archaeologist reasonably concludes that the tribe's recommendations are reasonable and feasible. The recommendations would then be incorporated into a tribal cultural resource monitoring plan and once the plan is approved by the City, ground disturbance activities could resume. In accordance with the condition of approval, all activities would be conducted in accordance with regulatory requirements. As a result, potential impacts to tribal cultural resources would continue to be less than significant.

4. Cumulative Impacts

As provided in Section III, Environmental Setting, of this Draft EIR, a total of 108 related development projects have been identified in the vicinity of the Project Site through 2023 (the Project buildout year). These related projects consist of a variety of land uses, including office, residential, commercial, and mixed use. In addition, Related Project No. 109, the Hollywood Community Plan Update, is identified.

As discussed in Section III, Environmental Setting, of this Draft EIR, the projected growth reflected by Related Project Nos. 1 through 108 is a conservative assumption, as some of the related projects may not be built out by 2023 (i.e., the Project buildout year), may never be built, or may be approved and built at reduced densities. To provide a conservative forecast, the future baseline forecast assumes that Related Project Nos. 1 through 108 are fully built out by 2023, unless otherwise noted. Related Project No. 109 is the Hollywood Community Plan Update, which once adopted, will be a long-range plan designed to accommodate growth in Hollywood until 2040. Only the initial period of any such projected growth would overlap with the Project's future baseline forecast, as the Project is to be completed in 2023, well before the Community Plan Update's horizon year. Moreover, 2023 is a similar projected buildout year as many of the 108 related projects that have been identified. Accordingly, it can be assumed that the projected growth reflected by the list of related projects, which itself is a conservative assumption as discussed above, would account for any overlapping growth that may be assumed by the Community Plan Update upon its adoption.

The Project and the related projects are located within an urbanized area that has been disturbed and developed over time. Although impacts to tribal cultural resources tend

to be site-specific, cumulative impacts would occur if the Project, related projects, and other future development within the Community Plan area affected the same tribal cultural resources and communities. As discussed above, there are no tribal cultural resources located on the Project Site and all Project development would remain onsite. However, in the event that tribal cultural resources are uncovered, each related project would be required to comply with the applicable regulatory requirements discussed in detail above in Subsection 2.a on page IV.K-1. Any cumulative impacts to tribal cultural resources would be reduced by compliance with applicable regulatory requirements and the City's standard condition of approval 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, cumulative impacts to tribal cultural resources would be less than significant and would not be cumulatively considerable.

5. Mitigation Measures

Project-level and cumulative impacts related to tribal cultural resources would be less than significant with compliance with regulatory requirements. Therefore, no mitigation measures are required.

6. Level of Significance After Mitigation

Project-level and cumulative impacts related to tribal cultural resources would be less than significant.