4.15 TRIBAL CULTURAL RESOURCES

INTRODUCTION

This section evaluates the potential impacts to tribal cultural resources associated with development of the Project Sites. The analysis is based in part on information provided in the archaeological data search prepared by the South Central Coastal Information Center ("SCCIC"), Department of Anthropology, California State University at Fullerton, dated March 6, 2017; the Sacred Lands File search prepared by the Native American Heritage Commission ("NAHC"), dated February 9, 2017, and consultation with a California Native American tribe. The SCCIC findings are included in Appendix 4.3-2, the NAHC report is included in Appendix 4.15-1, and copies of the notification letters sent to California Native American tribes are included in Appendix 4.15-2 to this Draft EIR.

ENVIRONMENTAL SETTING

Existing Conditions

The Project Sites are located within, but not necessarily limited to, a geographical area of interest identified by three California Native American tribes: Gabrieleño Band of Mission Indians - Kizh Nation, Gabrieleño Tongva San Gabriel Band of Mission Indians, and Fernandeño Tataviam Band of Mission Indians.

A resource records search for the Project was conducted by SCCIC and NAHC. The records search by SCCIC consisted of a review of all recorded archaeological and built-environment resources as well as a review of cultural resource reports on file. In addition, the California Points of Historical Interest, the California Historical Landmarks, the California Register of Historical Resources (the "California Register"), the National Register of Historic Places (the "National Register"), the California State Historic Properties Directory, and the City of Los Angeles Historic-Cultural Monuments listings were reviewed for the Project Sites and a half-mile radius. As set forth in Public Resources Code ("PRC") Section 21074, tribal cultural resources are either included or determined to be eligible for inclusion in the California Register or included in a local register of historical resources as defined in subdivision (k) of Section 5020.1. The results of the SCCIC records search are presented in Table 4.3.2-1 (Archaeological Resources Search Results) in Section 4.3.2 (Cultural Resources – Archaeological Resources). As shown on Table 4.3.2-1, no archaeological resources were recorded at any of the three Project Sites.

The Sacred Lands File search for the USGS Hollywood Quadrangle conducted by NAHC did not identify resources. The NAHC is a Statewide Trustee Agency for the protection and preservation of Native American cultural resources pursuant to PRC Section 21070. The Sacred Lands File search is a search of recorded Native American sacred sites and burial sites as defined by the NAHC and PRC Sections 55097.94(a) and 5097.96.

1 PRC Section 5020.1(k) states the following: “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.
Regulatory Framework

Federal

**Archaeological Resources Protection Act**

The Archaeological Resources Protection Act (United States Code, Title 16, Sections 470aa-mm) became law on October 31, 1979, and has been amended four times. It regulates the protection of archaeological resources and sites that are on federal and Indian lands.

**Native American Graves Protection and Repatriation Act**

The Native American Graves Protection and Repatriation Act (United States Code, Title 25, Sections 3001 et seq.) is a federal law passed in 1990 that provides a process for museums and federal agencies to return certain Native American cultural items, such as human remains, funerary objects, sacred objects, or objects of cultural patrimony, to lineal descendants and culturally affiliated Indian tribes.

**National Register of Historic Places**

The National Register of Historic Places (Code of Federal Regulations, Title 36, Chapter I, Part 60) was established by the National Historic Preservation Act as “an authoritative guide to be used by federal, state, and local governments, private groups and citizens to identify the Nation’s cultural resources and to indicate what properties should be considered for protection from destruction or impairment.” The National Register recognizes properties that are significant at the national, State, and/or local levels.

To be eligible for listing in the National Register, a resource must be significant in American history, architecture, archaeology, engineering, or culture. Four criteria for evaluation have been established to determine the significance of a resource.

a. It is associated with events that have made a significant contribution to the broad patterns of our history;
b. It is associated with the lives of persons significant in our past;
c. It embodies the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
d. It yields, or may be likely to yield, information important in prehistory or history.

Districts, sites, buildings, structures, and objects that are 50 years in age must meet one or more of the above criteria and retain integrity (i.e., convey their significance) to be eligible for listing on the National Register. Under the National Register, a property can be significant not only for the way it was originally constructed, but also for the way it was adapted at a later period, or for the way it illustrates changing tastes, attitudes, and uses over a period of time.

Within the concept of integrity, the National Register recognizes seven aspects or qualities that, in various combinations, define integrity: Location, Design, Setting, Materials, Workmanship, Feeling, and Association:
1. Location is the place where the historic property was constructed or the place where the historic event occurred. The relationship between the property and its location is often important to understanding why the property was created or why something happened. The actual location of a historic property, complemented by its setting, is particularly important in recapturing the sense of historic events and persons. Except in rare cases, the relationship between a property and its historic associations is destroyed if the property is moved.

2. Design is the combination of elements that create the form, plan, space, structure, and style of a property. It results from conscious decisions made during the original conception and planning of a property (or its significant alteration) and applies to activities as diverse as community planning, engineering, architecture, and landscape architecture. Design includes such elements as organization of space, proportion, scale, technology, ornamentation, and materials. A property’s design reflects historic functions and technologies as well as aesthetics. It includes such considerations as the structural system; massing; arrangement of spaces; pattern of fenestration; textures and colors of surface materials; type, amount and style of ornamental detailing; and arrangement and type of plantings in a designed landscape.

3. Setting is the physical environment of a historic property. Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the character of the place in which the property played its historic role. It involves how, not just where, the property is situated and its relationship to surrounding features and open space.

4. Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. It is the evidence of artisans’ labor and skill in constructing or altering a building, structure, object, or site. Workmanship can apply to the property as a whole or to its individual components.

5. Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. The choice and combination of materials reveal the preferences of those who created the property and indicate the availability of particular types of materials and technologies. A property must retain key exterior materials dating from the period of its historic significance.

6. Feeling is a property’s expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property’s historic character.

7. Association is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer.

To retain historic integrity, a property will always possess most of the aspects and depending upon its significance, retention of specific aspects of integrity may be paramount for a property to convey its significance. Determining which of these aspects are most important to a particular property requires

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2 The National Register defines a property as an “area of land containing a single historic resource or a group of resources, and constituting a single entry in the National Register of Historic Places.” A “Historic Property” is defined as “any prehistoric or historic district, site, building, structure, or object at the time it attained historic
knowing why, where, and when a property is significant. For properties that are considered significant under National Register Criteria A and B, *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation* ("National Register Bulletin 15") explains: “a property that is significant for its historic association is eligible if it retains the essential physical features that made up its character or appearance during the period of its association with the important event, historical pattern, or person(s).” In assessing the integrity of properties that are considered significant under National Register Criterion C, *National Register Bulletin 15* states, “a property important for illustrating a particular architectural style or construction technique must retain most of the physical features that constitute that style or technique.”

**State**

**CEQA - Native American Historic Resource Protection Act**

The Native American Historic Resource Protection Act (Assembly Bill ["AB"] 52) took effect July 1, 2015, and incorporates tribal consultation and analysis of impacts to tribal cultural resources into CEQA. It requires tribal cultural resources to be analyzed like any other CEQA topic and establishes a consultation process for lead agencies and California Native American tribes. Projects that require a Notice of Preparation of an EIR or Notice of Intent to adopt a ND or MND are subject to AB 52. A significant impact on a tribal cultural resource is considered a significant environmental impact, requiring feasible mitigation measures.

Tribal cultural resources are defined as either of the following:

8. Sites, features, places, cultural landscapes (must be geographically defined), 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 of Historic Resources or included in a local register of historical resources as set forth in PRC Section 21074(a)(1).

9. The lead agency, supported by substantial evidence, chooses to treat the resource as a tribal cultural resource as set forth in PRC Section 21074(a)(2)).

The first category requires that the tribal cultural resources qualify as a historical resource according to PRC Section 5024.1. The second category gives the lead agency discretion to qualify that resource granted that the lead agency supports its determination with substantial evidence and considers the resource’s significance to a California Native American tribe. The following is a brief outline of the process:

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3 "A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property’s historic character. Because feeling and association depend on individual perceptions, their retention alone is never sufficient to support eligibility of a property for the National Register.” *Ibid.*, page 46.

4 "A property that has lost some historic materials or details can be eligible if it retains the majority of the features that illustrate its style in terms of the massing, spatial relationships, proportion, pattern of windows and doors, texture of materials, and ornamentation. The property is not eligible, however, if it retains some basic features conveying massing but has lost the majority of the features that once characterized its style.” *Ibid.*

5 PRC Sections 21080.3.1 – 21080.3.3.
1) A California Native American tribe must first request in writing to be notified by lead agencies of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe.

2) Within 14 days of deciding to undertake a project or determining that a project application is complete, the lead agency must provide formal written notification to all tribes who have requested project notification.

3) A tribe must respond, in writing, within 30 days of receiving the notification if it wishes to request consultation.

4) The lead agency must initiate consultation within 30 days of receiving the request from the tribe.

5) Consultation concludes when both parties have agreed on measures to mitigate or avoid a significant effect to a tribal cultural resource; or a party, after a reasonable effort in good faith, decides that mutual agreement cannot be reached.

6) Regardless of the outcome of consultation, the CEQA document must disclose significant impacts on tribal cultural resources and discuss feasible alternatives or mitigation that avoid or lessen the impact.

**California Health and Safety Code Section 7050.5**

Under Health and Safety Code Section 7050.5, if human remains are discovered during any project activity, the county coroner must be notified immediately. If human remains are exposed, Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made the necessary findings as to the origin and disposition pursuant to PRC Section 5097.98. Construction must halt in the area of the discovery of human remains, the area of discovery shall be protected, and consultation and treatment shall occur as prescribed by law. If the remains are determined by the coroner to be Native American, the coroner is responsible for contacting the NAHC within 24 hours. The NAHC, pursuant to PRC Section 5097.98 will immediately notify those persons it believes to be most likely descended from the deceased person so that they can inspect the burial site and make recommendations for treatment or disposal.

**California Public Resources Code Sections 5020 – 5029.5**

This code continued the former Historical Landmarks Advisory Committee as the State Historical Resources Commission. The commission oversees the administration of the California Register of Historical Resources and is responsible for the designation of State Historical Landmarks and Historical Points of Interest.

**California Public Resources Code Sections 5097 – 5097.994**

Native American Historic Resource Protection Act; Archaeological, Paleontological, and Historical Sites; Native American Historical, Cultural, and Sacred Sites (Public Resources Code Section 5097-5097.994) specifies the procedures to be followed in the event of the unexpected discovery of human remains on non-federal public lands. California Public Resources Code 5097.9 states that no public agency or private party on public property shall “interfere with the free expression or exercise of Native American Religion.” The code further states that: “No such agency or party [shall] cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine...
except on a clear and convincing showing that the public interest and necessity so require. County and city lands are exempt from this provision, except for parklands larger than 100 acres.”

**California Register of Historical Resources**

The Office of Historic Preservation (“OHP”), as an office of the California Department of Parks and Recreation (“DPR”), implements the policies of the National Historic Preservation Act on a statewide level. OHP also carries out the duties as set forth in the PRC and maintains the Statewide Historical Resources Inventory and the California Register of Historical Resources (the “California Register”). The State Historic Preservation Officer (“SHPO”) is an appointed official who implements historic preservation programs within the State’s jurisdiction. Also implemented at the State level, CEQA requires projects to identify any substantial adverse impacts which may affect the significance of identified historical resources.

The California Register was signed into law on September 27, 1992. The California Register is an authoritative listing and guide to be used by State and local agencies, private groups, and citizens to identify the existing historical resources of the State and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change. The criteria for eligibility for the California Register are based upon National Register criteria. Certain resources are determined by the statute to be automatically included in the California Register by operation of law, including California properties formally determined eligible for, or listed in, the National Register.

The California Register consists of resources that are listed automatically and those that must be nominated through an application and public hearing process. The California Register automatically includes the following:

- California properties listed on the National Register and those formally Determined Eligible for the National Register;
- California Registered Historical Landmarks from No. 770 onward; or
- Those California Points of Historical Interest that have been evaluated by the OHP and have been recommended to the State Historical Commission for inclusion on the California Register.

Other resources which may be nominated to the California Register include:

- Individual historical resources;
- Historical resources contributing to historic districts;
- Historical resources identified as significant in historical resources surveys with significance ratings of Category 1 through 5; or
- Historical resources designated or listed as local landmarks, or designated under any local ordinance.

To be eligible for the California Register, a historic resource must be significant at the local, State, or national level, under one or more of the following four criteria.

1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embody 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; or

4. Has yielded, or may be likely to yield, information important in prehistory or history.

In addition, a historic resource eligible for listing in the California Register must meet one or more of the criteria of significance described above and retain enough of its historic character or appearance to be recognizable as a historic resource and to convey the reasons for its significance. Historical resources that have been rehabilitated or restored may be evaluated for listing. Integrity is evaluated with regard to the retention of seven aspects of integrity - similar to the National Register - location, design, setting, materials, workmanship, feeling, and association. Also, similar to the National Register, it must also be judged with reference to the particular criteria under which a resource is proposed for eligibility. Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance. It is possible that historical resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data.

ENVIRONMENTAL IMPACTS

Methodology

To evaluate potential impacts to tribal cultural resources, formal records searches were conducted to assess the presence of known archaeological and Native American sacred sites at the Project Sites by SCCIC and NAHC, respectively. The existing conditions and anticipated excavation depths were evaluated to determine the potential for inadvertent discovery of a resource. California Native American tribes who had previously contacted the County for inclusion to the AB52 notification process, and were determined to be traditionally and culturally affiliated with the geographic area containing the Project Sites based upon information provided by the Tribes, were contacted and notified of the Project to solicit requests for consultation in compliance with AB 52. The SCCIC findings are included in Appendix 4.3-2, the NAHC report is included in Appendix 4.15-1, and copies of the notification letters sent to California Native American tribes are included in Appendix 4.15-2 to this Draft EIR.

Thresholds of Significance

The potential for the Project to result in impacts associated with tribal cultural resources is based on the thresholds specified by Appendix G to the State CEQA Guidelines, which are addressed in this section. These significance thresholds are listed below.

Threshold 4.15-1: 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:

(a) 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
(b) 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 Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

An affirmative answer to this question would represent a significant impact.

Project Design Elements

Construction of the Project would involve underground excavations. As discussed in Section 4.3.2 Cultural Resources, Archaeological Resources, the Project would include an archaeological monitor during ground disturbing activities.

Impact Analysis

Threshold 4.15-1: 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:

(a) 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

(b) 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 Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

The County commenced tribal notification for this Project in accordance with AB 52 on May 8, 2017, via a mailing to tribal representatives of the following tribes that had requested notification of projects within the area including the Project Sites:

- Gabrieleno/Tongva San Gabriel Band of Mission Indians
- Gabrieleno Band of Mission Indians – Kizh Nation
- Fernandeño Tataviam Band of Mission Indians

The 30-day notification response window closed on June 8, 2017. A request for consultation was received from the Gabrieleno Band of Mission Indians—Kizh Nation on June 1, 2017. No communication or request was received from any other notified tribes within the 30-day response period.

Pursuant to the requirements of AB 52, the County initiated the consultation process on June 14, 2017 in a letter to the Gabrieleno Band of Mission Indians—Kizh Nation, sent via email and U.S. mail. On August 23, 2017, County staff held a phone consultation with representatives of the Gabrieleno Band of Mission Indians.
Indians—Kizh Nation to discuss potential resources in the area, impacts of the Project, and mitigation measures.

Consultation under AB 52 with the Gabrieleño Band of Mission Indians—Kizh Nation formally concluded on October 26, 2017. Based on the records search conducted for the Project and documentation/information provided by Mr. Andrew Salas, on behalf of the Gabrieleño Band of Mission Indians—Kizh Nation, the Project Sites are considered sensitive for potential tribal cultural resources. Project grading activities may encounter these resources and impacts may be potentially significant. With the implementation of MM-TCR-1, which would provide for Native American monitor during Project grading and excavation activities, impacts on tribal resources would be reduced to less than significant.

CUMULATIVE IMPACTS

The study area for cumulative impacts to tribal cultural resources is the extent of the geographic area with which the identified tribes are traditionally and culturally affiliated. The Project Sites do not contain any known tribal cultural resources, nor did search results by NAHC or SCCIC, provide substantial evidence as to the presence of tribal cultural resources on site. However, the Project Sites are considered sensitive for potential tribal cultural resources. Projects within this area requiring the preparation of an IS/ND, IS/MND, or EIR are subject to the requirements of AB 52, which includes notifying tribes to solicit consultation and to analyze potential impact of tribal cultural resources. Compliance with existing regulatory measures safeguarding tribal cultural resources would ensure potential impacts from inadvertent discovery would be reduced to a less-than-significant level. Any project sites that contain tribal cultural resources would be required to comply with regulations and/or safeguard mitigation measures to reduce potential impacts to the greatest extent feasible. Nonetheless, as impacts related to tribal cultural resources within the Project Sites would be less than significant, the Project would not result in a cumulatively considerable contribution to a significant cumulative impact.

PROJECT DESIGN FEATURES AND REGULATORY REQUIREMENTS

Project Design Features

No specific Project Design Features are relevant to tribal cultural resources.

Regulatory Requirements

No significant impacts related to tribal cultural resources have been identified; and no regulatory compliance measures are required.

MITIGATION MEASURES

MM TCR-1: Prior to issuance of a grading permit, the Applicant shall retain a qualified Native American Monitor (Monitor) from the Gabrieleno Band of Mission Indians-Kizh Nation to monitor all grading activities within the project site. The Monitor shall photo-document the grading activities and maintain a daily monitoring log that contains descriptions of the daily construction activities, locations and mappings of the graded areas, soils, and documentation of any identified tribal cultural resources. If tribal cultural resources are encountered during monitoring, all ground-disturbing activities within 50 feet of the find shall cease and the Monitor shall evaluate the significance of the find, and if significant, recommend appropriate measure(s) to mitigate impacts. Such measure(s) may include
avoidance, preservation in place, Phase III data recovery and associated documentation, or other appropriate measures. The County shall determine the appropriate and feasible measure(s) that will be necessary to mitigate impacts, in consideration of the measure(s) recommended by the Monitor. The Developer shall implement all measure(s) that the County determined necessary, appropriate and feasible. Within 60 days after grading activities are completed, the Monitor shall prepare and submit a final report to the County and the California Native American Heritage Commission. The report shall include documentation of any recovered tribal cultural resources, the significance of the resources, and the treatment of the recovered resources. In addition, the Monitor shall submit the monitoring log and photo documentation, accompanied by a photo key, to the County.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With implementation of MM TCR-1, Project impacts related to tribal cultural resources would be less than significant.

Cumulative impacts related to tribal cultural resources would be less than significant.