



## 4.16 TRIBAL CULTURAL RESOURCES

This section provides a discussion of the existing tribal cultural resource environment and an analysis of potential impacts to tribal cultural resources from implementation of the Cypress City Center project (proposed project). According to California Public Resources Code (PRC) Section 21080.3.1 and Chapter 532, Statutes 2014 (i.e., Assembly Bill 52), “tribal cultural resources” are defined as the following:

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

This section summarizes information obtained from Senate Bill (SB) 18 and Assembly Bill (AB) 52 Native American consultation efforts. The record of these consultation efforts is contained in Appendix J of this Environmental Impact Report (EIR).

### 4.16.1 Methodology

#### 4.16.1.1 Senate Bill 18

The Native American Heritage Commission (NAHC) was contacted on July 11, 2019, to conduct a Sacred Lands File (SLF) search and provide a Native American Contact List for the project site pursuant to SB 18. The NAHC responded on August 1, 2019, stating that an SLF search was completed for the project site with negative results. The NAHC recommended that 21 Native American individuals representing the Cahuilla, Gabrielino, Juaneño, Luiseño, Cupeño Luiseño, and Cahuilla Luiseño groups be contacted for information regarding cultural resources that could be affected by the project. These 21 individuals were contacted via letter sent on August 26, 2019, and contacted again between September 9, 2019, and September 27, 2019, via email or phone as a follow-up. Responses were received from Agua Caliente Band of Cahuilla Indians, Gabrieleno Band of Mission Indians – Kizh Nation, Pala Band of Mission Indians, Pechanga Band of Luiseño Indians, Rincon Band of Luiseño Indians, and San Luis Rey Band of Mission Indians. Of those responses, only one was a request to consult on the project – received from the Gabrieleno Band of Mission Indians – Kizh Nation. SB 18 consultation with the Gabrieleno Band of Mission Indians – Kizh Nation was conducted concurrently with AB 52 consultation.

#### 4.16.1.2 Assembly Bill 52

The NAHC was contacted on November 18, 2019, to conduct an SLF search and provide a Native American Contact List for the project site pursuant to AB 52. The NAHC responded on December 4, 2019, stating that an SLF search was completed for the project site with negative results. The NAHC also recommended that 29 Native American individuals representing the Cahuilla, Diegueño, Gabrielino, Juaneño, Luiseño, Cupeño Luiseño, Cahuilla Luiseño, and Kumeyaay groups be contacted for information regarding cultural resources that could be affected by the proposed project. These 29 individuals were contacted by the City of Cypress (City) via a letter sent on December 11, 2019.



Letters were also sent to three individuals who had requested to be notified of projects during AB 52 consultation, representing the Gabrielino, Juaneño, and Luiseño groups. Two of the additional letters were sent via mail on December 16, 2019, and the third letter was sent via email on December 13, 2019, as no mailing address was provided. With the exception of the Gabrieleno Band of Mission Indians – Kizh Nation, no responses were received. AB 52 consultation with the Gabrieleno Band of Mission Indians – Kizh Nation was conducted concurrently with SB 18 consultation.

#### 4.16.2 Existing Environmental Setting

The area that is now the City of Cypress was prehistorically occupied by Native Americans. This area is within the traditional boundaries of the Gabrielino.

#### 4.16.3 Regulatory Setting

##### 4.16.3.1 Federal Regulations

There are no federal regulations that are applicable to tribal cultural resources relevant to the proposed project.

##### 4.16.3.2 State Regulations

**Senate Bill 18 (SB 18) Tribal Consultation.** California Government Code Section 65352.3 (adopted pursuant to the requirements of SB 18) requires local governments to contact, refer plans to, and consult with tribal organizations prior to making a decision to adopt or amend a General or Specific Plan. The tribal organizations eligible to consult have traditional lands in a local government's jurisdiction and are identified, upon request, by the NAHC. As noted in the Governor's Office of Planning and Research's *Tribal Consultation Guidelines, Supplement to General Plan Guidelines* (2005)<sup>1</sup>, "The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places."

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

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<sup>1</sup> Governor's Office of Planning and Research (OPR). 2005. *Tribal Consultation Guidelines, Supplement to General Plan Guidelines*. April 15, 2005. Website: [https://www.parks.ca.gov/pages/22491/files/tribal\\_consultation\\_guidelines\\_vol-4.pdf](https://www.parks.ca.gov/pages/22491/files/tribal_consultation_guidelines_vol-4.pdf) 9 (accessed January 2, 2020).



agency to consider these effects relative to tribal cultural resources and to conduct consultation with California Native American tribes, this bill imposes a State-mandated local program.

#### 4.16.3.3 Regional Regulations

There are no regional regulations that are applicable to tribal cultural resources relevant to the proposed project.

#### 4.16.3.4 Local Regulations

There are no local regulations that are applicable to tribal cultural resources relevant to the proposed project.

#### 4.16.4 Thresholds of Significance

The thresholds for tribal cultural resources impacts used in this analysis are consistent with Appendix G of the *State of California Environmental Quality Act (CEQA) Guidelines* and the City's *Initial Study/Environmental Checklist*. The proposed project may be deemed to have a significant impact with respect to tribal cultural resources if it would:

**Threshold 4.16.1:** Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).

**Threshold 4.16.2:** Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

#### 4.16.5 Project Impacts

**Threshold 4.16.1:** 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: 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)?**

**No Impact.** A cultural resources record search was completed on January 9, 2020, at the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System (CHRIS) at California State University, Fullerton. It included a review of all prehistoric and historic archaeological sites within a 0.25-mile radius of the project site, as well as a review of known cultural resource survey and excavation reports in that area. The California State Historic Resources Inventory (HRI), National Register of Historic Places (National Register), California Historical Landmarks (SHL), California Points of Historical Interest (SPHI), and various local historical registers were examined. The SCCIC record search included the project site and the areas within 0.25 mile of the project site. No archaeological resources have been previously recorded within the project site. There has been one archaeological resource previously recorded within 0.25 mile of the project site, the historic-period Navy Golf Course in Seal Beach (P-30-176854). One previous study (an archaeological pedestrian field survey) included the project site.

Native American consultations were conducted in compliance with SB 18 and AB 52. As part of these consultations, review of the SLF by the NAHC yielded negative results. Subsequently Native American representatives were contacted by the City to determine their desire to consult on the proposed project. During that process, the Gabrieleno Band of Mission Indians – Kizh Nation (Tribe) stated that the project site is within their tribal territory and requested consultation with the City. During a January 16, 2020, phone consultation meeting with City staff, Chairperson Andrew Salas of the Tribe was provided with a summary of the project and its location. Chairperson Salas provided the City staff who participated in the meeting with the history of his Tribe and the context in which they lived in the area, and indicated specific areas that were prehistoric travel routes for the Tribe. Due to concerns regarding the lack of historical development on the project site and the level of fill, the Tribe sent the City proposed mitigation measures for tribal cultural resources. On January 17, 2020, the City received the Tribe's proposed mitigation measures. The Tribe's recommendations were incorporated into draft mitigation measures for the proposed project by City staff and shared with the Tribe on January 29, 2020. On January 30, 2020, the Tribe accepted the proposed mitigation measures and indicated that consultation has concluded.

No information regarding specific known tribal cultural resources on the project site was provided by the Tribe. Therefore, no tribal cultural resources listed or eligible for listing in the California Register of Historical Resources (California Register) or in a local register exist within the project area, and there are no known tribal cultural resources on the project site. The proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource defined as a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is listed or eligible for listing in the California Register of or in a local register of historical resources as defined in PRC Section 5020.1(k), and no mitigation is required.

**Threshold 4.16.2: 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 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.**

**Less Than Significant with Mitigation Incorporated.** Native American consultation was conducted in compliance with SB 18 and AB 52. As part of these consultations, review of the SLF by the NAHC yielded negative results. Subsequently Native American representatives were contacted by the City to determine their desire to consult on the proposed project. During that process, the Gabrieleno Band of Mission Indians – Kizh Nation Tribe stated that the project site is within their tribal territory and requested consultation with the City. As discussed above, the Tribe proposed mitigation measures during the AB 52 and SB 18 consultation processes. The Tribe’s recommendations have been incorporated into mitigation measures for the proposed project.

Regulatory Compliance Measure CUL-1 requires compliance with the State’s Health and Safety Code for the treatment of human remains. Adherence to regulatory standards included in Regulatory Compliance Measure CUL-1 would reduce the impact of the proposed project on human remains to less than significant and addresses tribal concerns regarding the treatment of human remains.

Mitigation Measure TCR-1 requires the retention of a Gabrieleno Native American Tribal representative to monitor ground-disturbing construction activities associated with pad grading of Retail Building C (the northernmost retail building proposed directly to the west of Winners Circle) and all geopier installation throughout the site. Mitigation Measure TCR-1 further requires the retained Gabrieleno Native American Tribal representative to be present at the cultural resources awareness training for construction personnel and provide additional tribal cultural resources awareness information. Mitigation Measure TCR-1 also requires tribal monitoring during excavation trenching for dry utilities, water, sewer, storm drain, and underground detention basin installation.

#### 4.16.6 Level of Significance Prior to Mitigation

No impacts to known tribal cultural resources listed or eligible for listing in the California Register or in a local register would occur. Prior to mitigation, the proposed project has the potential to result in significant impacts to previously undiscovered tribal cultural resources.

#### 4.16.7 Regulatory Compliance Measures and Mitigation Measures

##### 4.16.7.1 Regulatory Compliance Measures

Refer to Regulatory Compliance Measure CUL-1 in Section 4.4, Cultural Resources.

##### 4.16.7.2 Mitigation Measures

###### **Mitigation Measure TCR-1**

**Tribal Cultural Resources.** Prior to the issuance of a grading permit, the Applicant/Developer shall retain a Gabrieleno Native American Tribal representative to monitor ground-disturbing construction activities



associated with pad grading of Retail Building C (the northernmost retail building proposed directly to the west of Winners Circle) and all geopier installation throughout the site. The retained Gabrieleno Native American Tribal representative shall be present at the cultural resources awareness training to construction personnel, and shall provide additional tribal cultural resources awareness information at the same meeting. Ground-disturbing activities associated with pavement removal and initial site-wide grading (at a maximum anticipated depth of 1 to 2 feet deep) shall not require tribal monitoring. However, if tribal cultural resources are encountered during the unmonitored excavation activities previously specified, contractors shall stop work in the immediate area of the find and contact the retained Gabrieleno Native American Tribal representative to assess the find. Tribal monitoring shall also be required during excavation trenching for dry utilities, water, sewer, storm drain, and underground detention basin installation. Tribal monitoring shall not be conducted after initial excavation of native (previously undisturbed) soil has occurred (i.e., no tribal monitoring shall be required for landscaping activities occurring after completion of project grading and trenching, as this soil will have been previously monitored). On-site tribal monitoring shall be considered complete after project grading and trenching are completed, and no disturbance to native (previously undisturbed) soils is anticipated.

If tribal cultural resources are discovered during construction activities, ground-disturbing activities in the immediate vicinity of the find shall be halted until the find is assessed by the tribal monitor. The Applicant/Developer shall determine whether to contact the on-call archaeologist for his/her assistance in the assessment of the find. Ground-disturbing construction activities shall be allowed to continue in other portions of the project while the find is being assessed. If the find is determined to be a tribal cultural resource, the Gabrieleno Native American Tribe whose representative is responsible for tribal monitoring shall coordinate with the Applicant/Developer to determine appropriate treatment of the resource.



#### 4.16.8 Level of Significance after Mitigation

No impacts to known tribal cultural resources listed or eligible for listing in the California Register or in a local register would occur. Mitigation Measure TCR-1 would reduce potential impacts to newly discovered tribal cultural resources to a less than significant level.

#### 4.16.9 Cumulative Impacts

Potential impacts of the proposed project to unknown tribal cultural resources, when combined with the impacts of past, present, and reasonably foreseeable projects in the City of Cypress, could contribute to a cumulatively significant impact due to the overall loss of tribal cultural resources in the region. However, each development proposal received by the City is required to undergo environmental review pursuant to CEQA. If there were any potential for significant impacts to tribal cultural resources, an investigation would be required to determine the nature and extent of the resources and identify appropriate mitigation measures that would reduce or avoid significant impacts.

When resources are assessed and/or protected as they are discovered, impacts to these resources are less than significant. As such, adherence to the regulatory standards in Regulatory Compliance Measure CUL-1 and implementation of Mitigation Measure TCR-1 would ensure that the proposed project, together with the related projects, would not result in significant cumulative impacts to tribal cultural resources.



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