

March 2012

Figure 3-6: Archaeological APE for LPA Alignment (Map 5 of 7)

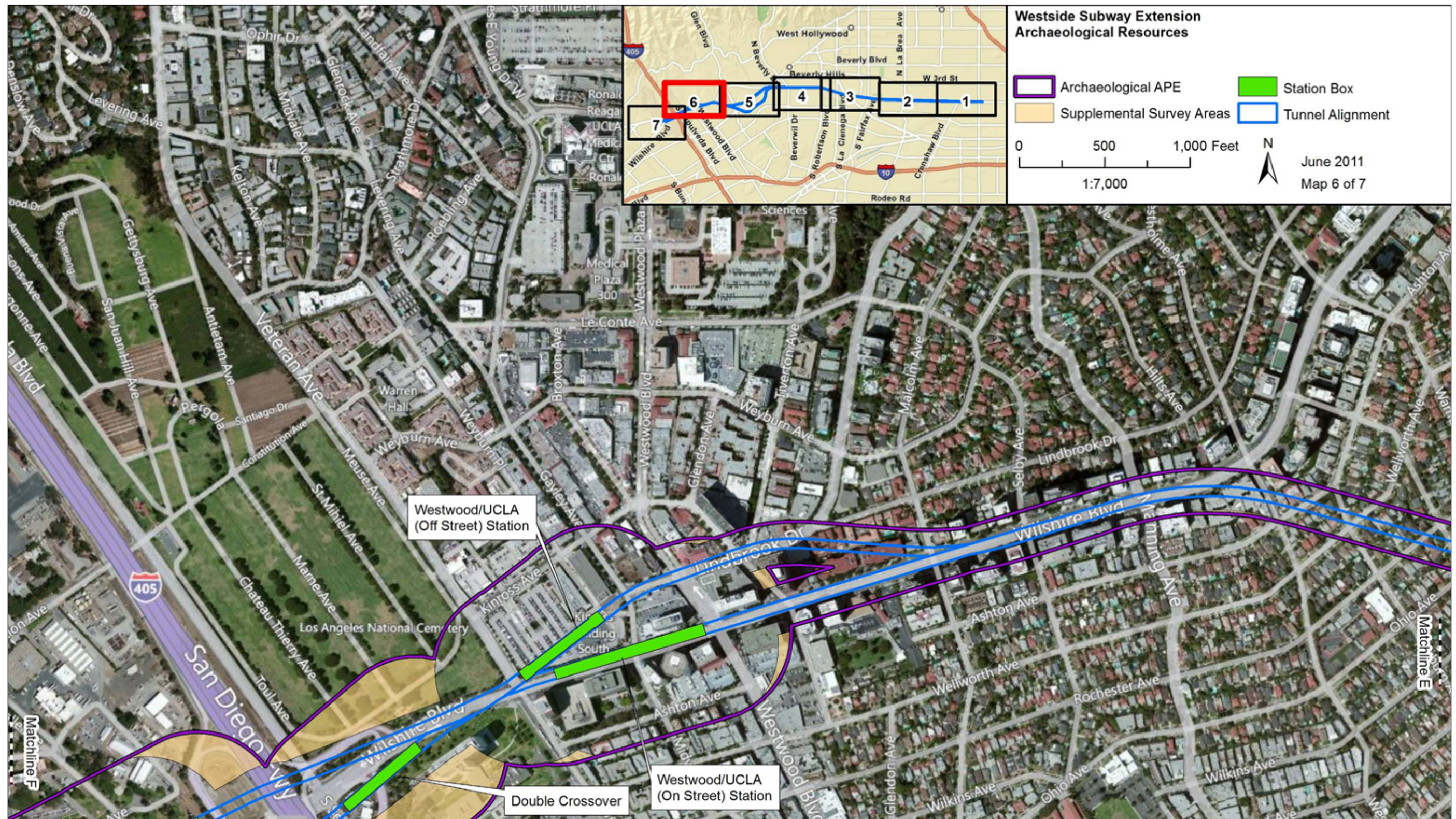
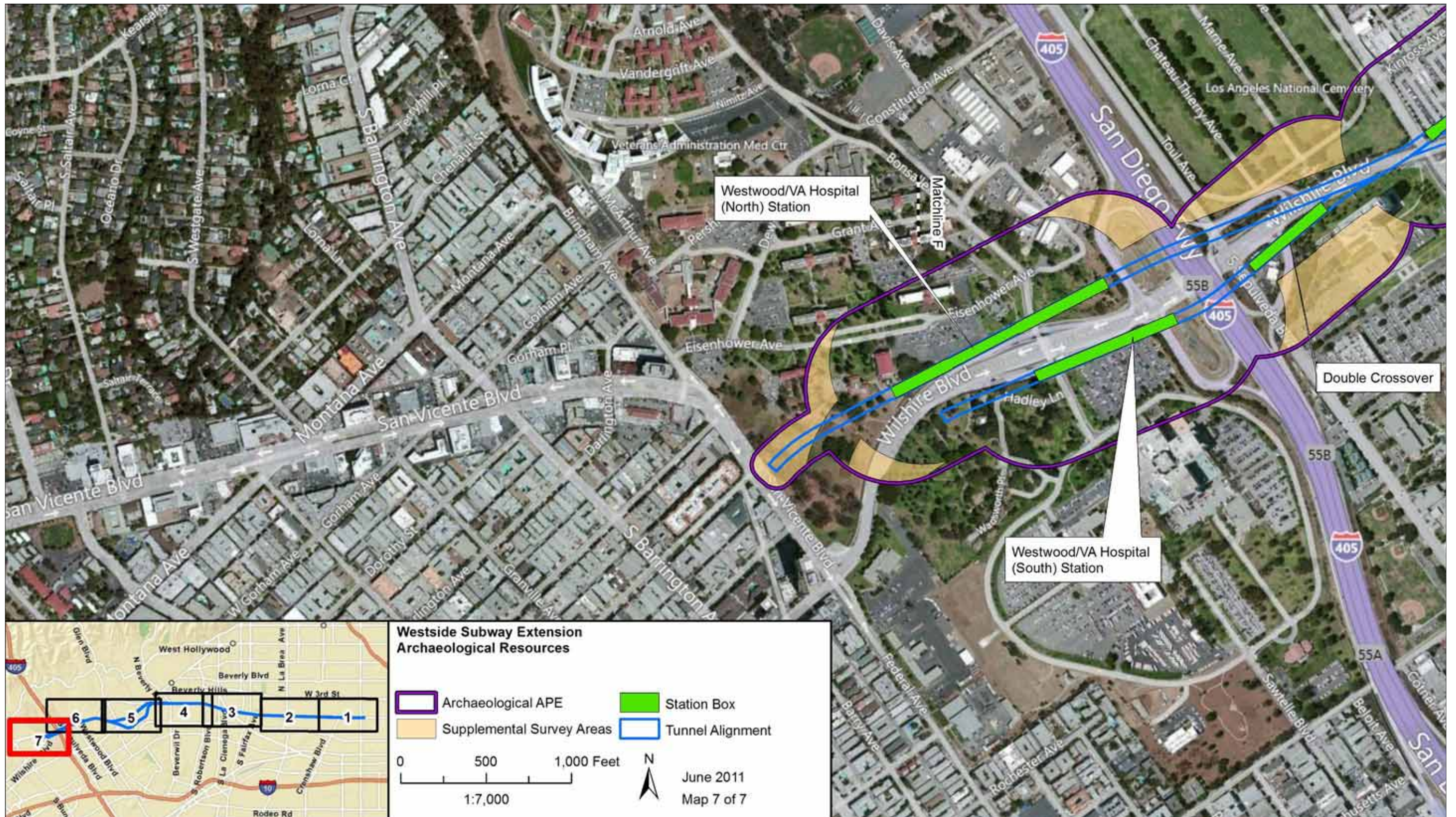
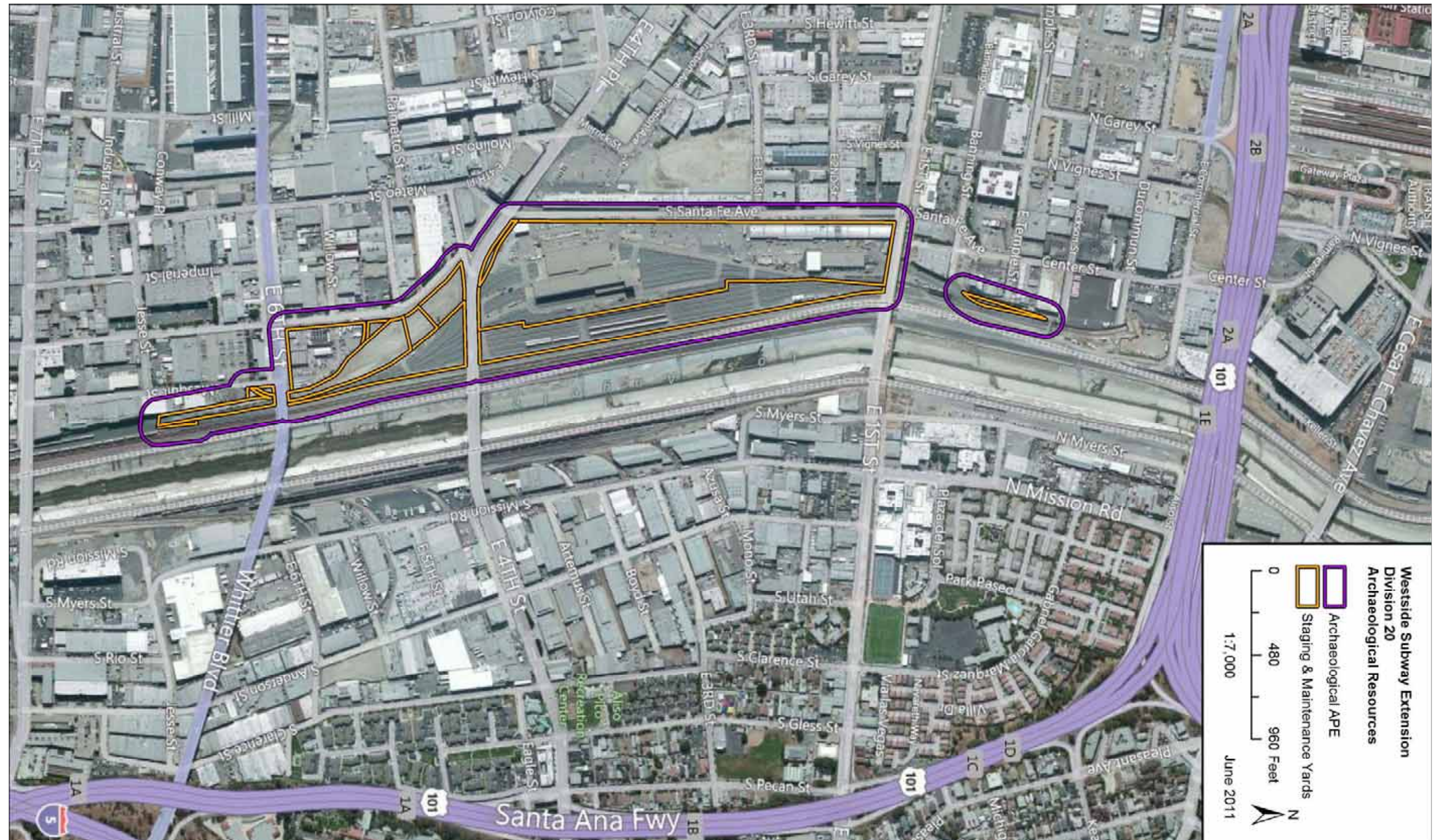


Figure 3-7: Archaeological APE for LPA Alignment (Map 6 of 7)



March 2012

Figure 3-8: Archaeological APE for LPA Alignment (Map 7 of 7)



March 2012

Figure 3-9: Archaeological APE for Division 20 Facility



4.0 REGULATORY FRAMEWORK

Several federal, state, and local laws apply to the identification, treatment, and protection of archaeological resources. Because Metro is seeking Federal funds from the FTA, the FTA is the lead federal agency for the Project and the following laws and regulations are applicable.

4.1 Federal

4.1.1 National Environmental Policy Act (NEPA)

NEPA addresses Federal government actions in relation to all aspects of the human environment, which is defined as the “natural and physical environment and the relationship of people with that environment” (40 CFR 1508.14). NEPA requires consideration of any potentially adverse environmental effects that could result from proposed federal action.

4.1.2 National Historic Preservation Act (NHPA)

The NHPA establishes a general policy for supporting and encouraging the preservation of prehistoric and historic resources for present and future generations. Under NHPA, Section 106 requires that Federal agencies take into account the effects of their actions on historic properties, including traditional cultural properties, which refers to the beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. Given this perspective, a historic property’s traditional cultural significance is derived from the role it plays in a community’s historically rooted beliefs, customs, and practices (Parker and King 1998:1).

Section 106 declared a national policy of historic preservation and encourages such preservation. It established an Advisory Council on Historic Preservation (ACHP) and provided procedures for the federal agency to follow if a federal undertaking could affect a property included or eligible for inclusion in the NRHP. The ACHP’s development of 36 Code of Federal Regulations (CFR) Part 800 helps define how federal agencies could meet their statutory responsibilities under the NHPA (ACHP 2006).

For this project, the FTA is the federal agency responsible for conducting consultation under the Section 106 process with the State Historic Preservation Officer (SHPO). In consultation with the SHPO, the FTA is responsible for determining the APE, identifying other consulting parties, gathering information, determining whether a property/resource is eligible for the NRHP for Section 106 purposes, and determining the effect of the undertaking on historic properties. In accordance with 36 CFR Part 800.3, FTA and Metro initiated the Section 106 process with the SHPO and personnel from the OHP on June 22, 2009, via a notification letter.

4.1.3 National Register of Historic Places (NRHP)

The NRHP is the official list of historic properties recognized for their significance and deemed worthy of preservation. The NRHP Criteria for Evaluation offers guidance for 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. As established in the NHPA, to be listed in the NRHP, or to be determined eligible for listing, properties must meet certain criteria for historic or cultural significance. Qualities of significance may be found in aspects

of American history, architecture (interpreted in the broadest sense to include landscape architecture and planning), archaeology, engineering, and culture.

For cultural resources, a property is eligible for the NRHP if it is significant under one or more of the following criteria defined in 36 CFR Part 60.4 as follows: *The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects of state and local importance that possess integrity of location, design, setting, materials, workmanship, feeling, association, and*

- 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.
- D—It has yielded, or may be likely to yield, information important in prehistory or history.

4.2 State

4.2.1 California Environmental Quality Act (CEQA)

Section 15064.5(c) of CEQA, “Determining the Significance of Impacts on Historical and Unique Archaeological Resources” applies to project-related impacts on archaeological resources:

- When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource,
- If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the California Public Resources Code (PRC), and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the California PRC do not apply.
- If an archaeological site does not meet the criteria defined in subdivision (a), but does meet the definition of a unique archaeological resource in Section 21083.2 of the California PRC, the site shall be treated in accordance with the provisions of Section 21083.2. The time and cost limitations described in PRC Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.
- If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the EIR, but they need not be considered further in the CEQA process.

In addition, Section 15064.5(d) addresses the process of treatment of Native American human remains and the general prohibition of disinterring, disturbing, or removing human remains from any location other than the dedicated cemetery.

**4.2.2 California Penal Code, Section 622.5**

Section 622.5 of the California Penal Code establishes a misdemeanor penalty for injuring or destroying objects of historical or archaeological interest located on public or private lands, but specifically excludes the landowner.

4.2.3 California Public Resources Code, Section 5097.5

Section 5097.5 of the California PRC establishes a misdemeanor penalty for the unauthorized disturbance or removal of archaeological, historical, or paleontological resources located on public lands.

4.2.4 California Register of Historic Resources (CRHR)

The CRHR is used as a guide by state and local agencies, private groups, and citizens to identify the state's cultural and historical resources, including archaeological resources, and to indicate which properties are to be protected, to the extent prudent and feasible, from substantial adverse change. The CRHR, as instituted by the California PRC, automatically includes all California properties already listed in the NRHP and those formally determined to be eligible for the NRHP. The CRHR also may include various other types of resources that meet the criteria for eligibility, including one or more of the following:

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

4.2.5 State Historic Resources Commission and the Office of Historic Preservation

In accordance with state law (California PRC Section 5020.4), the primary responsibility of the State Historical Resources Commission (SHRC) is to review applications for listing historic and archaeological resources on the NRHP, the CRHR, and the California Historical Landmarks and California Points of Historical Interest registration programs.

The SHRC is also charged with the responsibilities of conducting a statewide inventory of historical, including archaeological, resources and maintaining comprehensive records of these resources; and establish policies and guidelines for a comprehensive statewide historical, including archaeological, resources plan, among others.

The OHP is the governmental agency primarily responsible for the statewide administration of the historic preservation program in California. The chief administrative officer for the OHP is the SHPO. The SHPO is also the executive secretary of the SHRC. The mission of the OHP and the SHRC, in partnership with the people of California and governmental agencies, is to preserve and enhance California's irreplaceable historic heritage as a matter of public interest so that its vital

legacy of cultural, educational, recreational, aesthetic, economic, social, and environmental benefits will be maintained and enriched for present and future generations (OHP 2011).

The OHP is responsible for carrying out its mission by meeting the following goals:

- Identifying, evaluating, and registering historic properties, including archeological sites
- Ensuring compliance with federal and state regulatory obligations
- Cooperating with traditional preservation partners while building new alliances with other community organizations and public agencies
- Encouraging the adoption of economic incentives programs designed to benefit property owners
- Encouraging economic revitalization by promoting a historic preservation ethic through preservation education and public awareness, and, most significantly, by demonstrating leadership and stewardship for historic preservation in California

4.3 Regional

Archaeological resource (cultural resource) regulations are articulated in both regional and local plans. The Southern California Association of Governments (SCAG) defines cultural resources as well as principles for the treatment of identified resources.

SCAG serves as the Metropolitan Planning Organization (MPO) for the region. The SCAG Regional Transportation Plan (RTP), updated in 2008, and the Regional Comprehensive Plan and Guide (RCPG), updated in 2008, are tools used for identifying the transportation priorities of the Southern California region. The cultural resources mitigation program outlined in the SCAG RTP includes the following measures:

- Obtaining consultations from qualified cultural and paleontological resource experts to identify the need for surveys and preservation of important historical, archaeological, and paleontological resources
- Implementing design and siting measures that avoid disturbance of cultural and paleontological resource areas, such as creating visual buffers/landscaping or capping/filling the site to preserve the contextual setting of the resource
- Consulting local tribes and the Native American Heritage Commission for project impacts to sacred lands and burial sites

Further, the SCAG RCPG identifies as a Best Practice that SCAG “should encourage the implementation of measures aimed at the preservation and protection of recorded and unrecorded cultural resources and archaeological sites.”

4.4 Local

4.4.1 City of Los Angeles

The Historic Preservation Element of the General Plan for the City of Los Angeles (2001) contains ordinances for the preservation of archaeological, built, and paleontological resources. The City of



Los Angeles is strongly committed to historic preservation and has established a Cultural Heritage Commission to identify and protect the city's history and cultural heritage.

Section 12.20.3 of the City's Municipal Code contains procedures for the designation and protection of Historic Period Overlay Zones (HPOZ), areas that have structures, natural features, or sites of historic, architectural, cultural, or aesthetic significance and are otherwise known as historic districts. Twenty-nine areas of the city are presently classified as HPOZs, and eleven other areas are under active consideration or study (OHR 2011).

4.4.2 City of Beverly Hills

The recently amended City of Beverly Hills General Plan (2010) outlines the policies for identifying and protecting cultural resources within the city.

As defined by the Beverly Hills Municipal Code (Section 10-3-3202-Definition of Landmark), a "historical or cultural landmark" is any site (including significant trees or other plant life located thereon), building, or structure of particular historic or cultural significance to the City, such as historic structures or sites in which the broad cultural, political, economic, or social history of the nation, state, or community is reflected or exemplified, or which are identified with historic personages or with important events in the main currents of national, state, or local history, or which embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period style or method of construction, or a notable work of a master builder, designer, or architect whose individual genius reflects his age.

4.4.3 County of Los Angeles

Cultural resources within Los Angeles County include historic buildings, structures, artifacts and archaeological sites. They also include districts of historic, architectural, archaeological, or paleontological significance. Recognized resources are important parts of the built and natural environments within Los Angeles County (Los Angeles County 2007:138).

Within the Goal C/OS 12 of the County of Los Angeles is the protection of cultural heritage resources goal. There are four key policies. Policy C/OS 12.1 supports an inter-jurisdictional collaborative system that protects and enhances the County's cultural heritage resources. Policy C/OS 12.2 supports initiatives that improve the effectiveness of the Los Angeles County Landmarks Commission and the preservation of historic buildings. Policy C/OS 12.3 ensures proper notification procedures to Native American tribes in accordance with Senate Bill 18 (2004). Policy C/OS 12.4 promotes public awareness of the County's cultural heritage resources (Los Angeles County 2007:140).

4.4.4 Specific Plans

There are no Specific Plans within the study area that address cultural or historic resources.

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5.0 METHODOLOGY

The following sections discuss in detail the personnel, agency consultation, research methodology, field methodology, identification methodology, and sensitivity assessment methodology employed for this supplemental archaeological report.

5.1 Personnel

All cultural resources work for this supplemental survey has been conducted by personnel who meet the Secretary of the Interior's professional qualifications for archaeologists (National Park Service 1983).

Nancy Sikes served as the Principal Investigator for the project, supervised all work, and was the main author of this report. Dr. Sikes is a Registered Professional Archaeologist (RPA) with a Ph.D. in Anthropology from the University of Illinois, Urbana-Champaign. She has more than 20 years of experience in archaeology.

Molly Valasik and Amy Glover performed the records search and field survey. Valasik prepared all maps and contributed to portions of the report, including the records search, field methods, field findings, and consultation with Native American representatives. Glover contributed the records search portion of the report. Valasik is a RPA with a master's degree in Anthropology from Kent State and more than eight years of experience in archaeology, including over three in California. Glover has a bachelor's degree in Anthropology from the University of California at Riverside and over five years of experience in southern California archaeology.

Sherri Gust performed quality control review of this document. Ms. Gust is a RPA with 30 years of experience.

5.2 California Office of Historic Preservation

The Office of Historic Preservation (OHP) is the governmental agency primarily responsible for the statewide administration of the historic preservation program in California. The chief administrative officer for the OHP is the State Historic Preservation Officer (SHPO). The SHPO is also the executive secretary of the State Historical Resources Commission (SHRC). The mission of the OHP and the SHRC, in partnership with the people of California and governmental agencies, is to preserve and enhance California's irreplaceable historic heritage as a matter of public interest so that its vital legacy of cultural, educational, recreational, aesthetic, economic, social, and environmental benefits will be maintained and enriched for present and future generations (OHP 2011).

Coordination with the OHP was undertaken throughout the cultural resources analysis. A letter was submitted to OHP in June 2009 on behalf of FTA/Metro to initiate identification of historic properties for the Alternatives analysis. Additional efforts followed in 2009, 2010, and 2011. Coordination included guidance on establishment of the Archaeological APE, cultural resource identification methods, the effect the project may have on cultural resources, and mitigation measures to avoid or reduce project effects to cultural resources. A letter concurring with the APE was received from the SHPO on September 27, 2010.

In compliance with the Section 106 process (36 CFR Part 800), the FTA provided the SHPO with the APE for the refined LPA alignment, determination of eligibility, determination of effects and related

information by letter dated September 16, 2011. The FTA also recommended a Memorandum of Agreement (MOA) be prepared to resolve the adverse effects by the LPA on one built historic property.

5.3 By letters dated November 1, 2011, and December 8, 2011, the SHPO concurred with the historic property determinations and determination of effect made by the FTA. A MOA between the FTA and the SHPO specific to the refined LPA alignment was executed in 2012, with Metro as an invited signatory.

5.3 Records Search

A records search for this supplemental archaeological resources survey was conducted on April 21 and 28, 2011, in support of the Final EIS/EIR for the LPA. This additional records search supplemented the previous cultural resources record searches accomplished on May 14, 2008, and August, 20, 2009, in support of the Draft EIS/EIR and presented in the Final Cultural Resources Technical Report of August 2010 (URS 2010).

This supplemental archaeological resources records search covered the areas within the Archaeological APE for the LPA that were not contained within the quarter-mile radii of the searches conducted in 2008 and 2009. Archaeologists Amy Glover and Molly Valasik accomplished the supplemental records search.

The record searches were conducted at the California Historical Resources Information System (CHRIS) South Central Coastal Information Center (SCCIC) located at California State University, Fullerton (CSUF), and included a review of available documents, historic maps, prior reports, and cultural resource records within the APE and within a quarter-mile radius of the APE centerline (creating a half-mile corridor). The searches at the SCCIC included a review of the following sources of information:

- California Inventory of Historical Resources
- Historic Property Data File
- California Register of Historical Resources
- National Register of Historic Places
- California State Historical Landmarks
- California Points of Historical Interest
- Caltrans State and Local Bridge Inventory

A search of additional archival sources by Molly Valasik included a review of historic aerials. The aerial images were reviewed to ascertain the approximate year of former development of a series of now-vacant lots within the Archaeological APE for the LPA. Relevant archival research (e.g., Sanborn Fire Insurance maps, assessor parcel numbers) completed for the companion study for the Architectural APE (Cogstone 2012; URS 2010) were also consulted, as relevant to this study.



5.4 Native American Heritage Commission

A Sacred Lands File search with the California Native American Heritage Commission (NAHC) was undertaken for knowledge of sacred sites or cultural resources that may be affected by the LPA. An initial request in support of the alternatives in the Draft EIS/EIR was made on May 28, 2009, and the NAHC responded on June 3, 2009. That response did indicate the presence of Native American cultural resources within one-half mile of the APE for the proposed alignments (see URS 2010: Appendix A).

By subsequent letter dated September 8, 2010, in response to the Draft EIS/EIR for the Westside Subway Extension Project, however, the NAHC informed Metro that “**Native American Cultural Resources were not identified** within one-half mile radius of the ‘area of potential effect (APE).’” Accordingly, this corrected information was incorporated in Section 4.14 of the Final EIS/EIR (Metro 2011), acknowledged in the Response to Comments on the Draft EIS/EIR, and is the foundation for identification of effects to known Native American traditional cultural resources within the APE for the LPA.

With each response letter in 2009 and 2010, the NAHC provided a list of tribes, groups or individuals who may have knowledge of traditional cultural resources within or near the APE. Letters requesting information regarding the presence of sacred sites or cultural resources within the project vicinity were sent to each individual on the NAHC contact lists. If no response to the letters was received, follow-up telephone calls were made to each individual on the contact lists.

The California Native American tribes contacted included the Ti’At Society, Gabrielino Tongva Indians of California Tribal Council, Gabrielino Tongva Nation, Gabrielino/Tongva San Gabriel Band of Mission Indians, Gabrielino-Tongva Tribe, Shoshoneon Gabrieleno Band of Mission Indians, and Tongva Ancestral Territorial Tribal Nation. None of these groups meet the definition of Indian tribe pursuant to 36 CFR Part 800.16(m).

By letter dated February 22, 2011, Molly Valasik contacted each of the Native American individuals provided with the NAHC letter dated September 8, 2010, who were not on the list accompanying the NAHC letter dated June 3, 2009, and who had not been previously contacted for the Westside Subway Extension project. The individuals contacted in 2011 include Linda Candelaria, Chairwoman of the Gabrieleno-Tongva Tribe, and Andy Salas, Chairperson of the Shoshonean Gabrieleno Band of Mission Indians. Follow-up emails to both individuals were sent on March 17, 2011, and again on March 25, 2011. No responses have been received from these two Native American contacts.

The NAHC letter addressed to Metro and dated September 8, 2010, and all correspondence with tribal contacts made in 2011 is provided, along with a tracking log, as Appendix A to this report.

As documented by the prior Cultural Resources Technical Report in the support of the Draft EIS/EIR (URS 2010: Appendix A), eight tribal or individual contacts provided with the NAHC’s June 3, 2009, letter had been previously consulted. These included Ron Andrade, Los Angeles City/County Native American Indian Commission; Cindi Alvitre, Ti’At Society; John Tommy Rosas, Tongva Ancestral Territorial Tribal Nation; Anthony Morales, Gabrielino/Tongva San Gabriel Band of Mission Indians; Sam Dunlap, Gabrielino Tongva Nation; Robert Dorame, Gabrielino Tongva Indians of California Tribal Council; and Felicia Sheerman and Bernie Acuna of the Gabrielino-Tongva Tribe.

Responses by three of the eight Native American contacts were discussed in the body of the prior Cultural Resources Technical Report (URS 2010:4-9), and are provided below for reference.

Between July 27, 2009 and August 4, 2009, John Tommy Rosas wrote several emails asking procedural questions, objecting to the project and what was termed as its defective process, objecting to alleged violations to their indigenous rights, and objecting to the growth inducing negative impacts under CEQA. He objected to the claimed land titles by project (owners) because it is native land and thus the land claims are illegal. He wanted to see construction drawings of excavations when they become available.

Anthony Morales telephoned on July 30, 2009, to discuss preserving archaeological resources as part of the project, the importance of having a Native monitor onsite during excavations, and that areas near the La Brea Tar Pits and Century City are culturally sensitive because of previously identified village sites in those areas. Mr. Morales was also interested in how he could stay involved, and that he had previous negative experiences with Metro.

Ron Andrade telephoned on July 31, 2009, to relay that he had no concerns regarding cultural resources or Native American sacred sites within the project area. Mr. Andrade also said that he usually defers to the Gabrielino Tribe and that he would coordinate with Mr. Morales to see if there were any concerns.

5.5 Survey Methods

Molly Valasik and Amy Glover conducted an intensive-level pedestrian survey of portions of the Archaeological APE for the LPA on June 5, 2011 (Figure 5-1 through Figure 5-3 at 1:24,000 scale). The supplemental survey covered those portions of the refined APE that were not previously surveyed for archaeological resources in 2009 and 2010 in support of the Draft EIS/EIR, including vacant lots that were previously inaccessible (URS 2010). The archaeologists also examined the sidewalks within the supplemental survey area for stamp dates older than 45 years, and relocated a series of sidewalk stamps within the current refined APE that had been previously noted during the prior survey and provided on a series of figures in the prior report (URS 2010: Figures 4-4 through 4-14). The records search at the SCCIC indicated no archaeological sites or isolates had been previously recorded within the areas covered by the supplemental survey.

Located in an urban setting, the majority of the APE is developed, precluding observation of the ground surface. Within the undeveloped areas comprising approximately 20 percent of the APE, the archaeologists walked in parallel transects, spaced at approximately 15-meter intervals, while closely inspecting the ground surface. All undeveloped ground surface and exposed surface soils were examined for artifacts (e.g., flaked stone tools, tool-making debris, stone milling tools, or fire-affected rock), soil discoloration that might indicate the presence of a cultural midden, soil depressions and features indicative of the former presence of structures or buildings (e.g., postholes, foundations), or historic-era debris (e.g., metal, glass, ceramics). Ground disturbances (e.g., rodent burrows, road cuts, etc.) were visually inspected.

The vacant lots within the current refined APE for the LPA were initially identified by a windshield survey of the LPA alignment, including stations, staging and laydown areas. Molly Valasik also examined current aerial photographs dating to 2011 for evidence of vacant parcels. In addition, the notations on the figures in the prior technical report were taken into consideration (URS 2010: Figures 4-4 through 4-14). With the exception of one of the five vacant lots identified by these



methods, each of the vacant lots was then intensively surveyed on foot. The fifth vacant lot was not surveyed because it is completely covered with asphalt paving

Following the methods employed for the prior inventory (URS 2010:4-53), the structural built dates on sidewalk stamps were noted and used to estimate the level of subsurface disturbance and the potential for buried archaeological deposits within the refined APE for the LPA. Sidewalk stamps noted previously were relocated within the current refined APE using the text for Alternative 2 and the figures in the technical report (URS 2010:4-64, Figures 4-4 through 4-14). The archaeologists also examined the sidewalks located within the supplemental survey area for evidence of additional stamp dates older than 45 years.

Photographs of the study area, including ground surface visibility, were taken with a digital camera. Location data was recorded with a handheld Trimble GeoXH GPS unit.

