



8.0 MITIGATION MEASURES

8.1 Locally Preferred Alternative (LPA) and Other Components of the LPA

The MOA sets forth measures to be implemented to reduce potential construction impacts within the APE to known archaeological historic properties and to undocumented archaeological resources, including human remains. The FTA, in consultation with the SHPO, determined that the undertaking will have No Adverse Effect on the one identified archaeological historic property, CA-LAN-2610, or to undocumented archaeological resources within the APE provided the measures described in the MOA are implemented (see Appendix B).

The following measures are incorporated into the MOA and their implementation will reduce impacts to the known historic property that may be affected in an unanticipated manner and to unanticipated discoveries made during implementation of the MOA and the undertaking within the APE.

As additionally stated in the MOA, Metro will ensure that all archaeological work for or by Metro is performed under the direct supervision of a person or persons who meet(s) or exceed(s) the pertinent qualifications in the Secretary of Interior's *Professional Qualifications Standards* (48 CFR Parts 44738 and 44739) specific to the work performed. Further, all written documentation of activities will conform to the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation*, as amended and annotated (48 CFR Parts 44716 to 44740), as well as to applicable standards and guidelines established by the SHPO.

AR-1 Unanticipated Discoveries

If previous unidentified cultural resources, including human remains, are encountered during construction or earth-disturbing activities, all activities at that location shall be halted until a qualified archaeologist can examine the resources and assess their significance. If the resources are determined to be significant, Metro will notify FTA and SHPO within 48 hours of the discovery to determine the appropriate course of action.

For resources determined eligible or assumed to be eligible for the NRHP by FTA, Metro will notify the FTA, ACHP, and SHPO of those actions that it proposes to avoid, minimize, or mitigate adverse effects. Consulting parties will have 48 hours to provide their views on the proposed actions. The FTA will ensure that timely-filed recommendations of consulting parties are taken into account prior to granting approval of the measures that the Metro will implement to resolve adverse effects. Metro will carry out the approved measures prior to resuming construction activities in the location of the discovery.

Metro will ensure that the expressed wishes of Native American individuals, tribes, and organizations are taken into consideration when decisions are made regarding the disposition of other Native American archaeological materials and records relating to Indian tribes.

Should Indian burials and related items be discovered during construction of the project, Metro will consult with the affected Native American individuals, tribes and organization regarding the treatment of cultural remains and artifacts. These will be treated in accordance with the requirements of the California Health and Safety Code. If the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery

shall be treated in accordance with the provisions of §§ 5097.98 (a) - (d) of the California Public Resources Code which provides for the notification of discovery of Native American human remains, descendants; disposition of human remains and associated grave goods.

With implementation of these mitigation measures, the construction of the LPA will not have adverse effects or significant impacts to archaeological resources under either scenario.

8.2 Impacts Remaining After Mitigation

Implementation of the above measures (AR-1 and AR-2) will ensure that any undocumented cultural resources or unanticipated discoveries of cultural resources during construction or ground-disturbing activities would be properly recorded and the significance of the resources documented, and would thus reduce potentially significant impacts to a known historic property affected in an unanticipated manner or to undocumented archaeological resources, including human remains, to a level that is less than significant.



9.0 REFERENCES

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APPENDIX A—NATIVE AMERICAN HERITAGE COMMISSION (NAHC)
COORDINATION

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95834
(916) 653-6251
Fax (916) 657-5300
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbel.net

September 8, 2010

Mr. David Mieger

Los Angeles County Metropolitan Transportation AuthorityOne Gateway Plaza, MS 99-22-3
Los Angeles, CA 90012-2952Re: SCH#2009031082 CEQA Notice of Completion; Draft Environmental Impact Report (DEIR) for the Westside Subway Expansion Project located in the City of Los Angeles, Los Angeles County, California.

Dear Mr. Mieger:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amendment effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines. Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance. The lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. State law also addresses Native American Religious Expression in Public Resources Code §5097.9.

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The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources were not identified within one-half mile radius of the 'area of potential effect (APE).' Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the culturally affiliated tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.

Furthermore the NAHC recommends that you contact the California Historic Resources Information System (CHRIS) of the Office of Historic Preservation (OHP), for archaeological data. (916) 653-7278.

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Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 (f)) *et seq.*, 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e).

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of

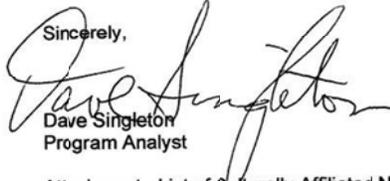
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any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Culturally Affiliated Native American Contacts

Cc: State Clearinghouse

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Native American Contacts
Los Angeles County
September 8, 2010

LA City/County Native American Indian Comm
Ron Andrade, Director
3175 West 6th Street, Rm.
Los Angeles, CA 90020
randrade@css.lacounty.gov
(213) 351-5324
(213) 386-3995 FAX

Gabrielino Tongva Nation
Sam Dunlap, Chairperson
P.O. Box 86908
Los Angeles, CA 90086
samdunlap@earthlink.net
Gabrielino Tongva
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Ti'At Society
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6515 E. Seaside Walk, #C
Long Beach, CA 90803
calvitre@yahoo.com
(714) 504-2468 Cell
Gabrielino

Gabrielino Tongva Indians of California Tribal Council
Robert F. Doramae, Tribal Chair/Cultural
P.O. Box 490
Bellflower, CA 90707
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562-761-6417 - voice
562-925-7989 - fax
Gabrielino Tongva

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
tattnlaw@gmail.com
310-570-6567
Gabrielino Tongva

Gabrielino-Tongva Tribe
Bernie Acuna
1875 Century Pk East #1500
Los Angeles, CA 90067
(310) 428-7720 - cell
(310) 587-2281

Gabrielino/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693
San Gabriel, CA 91778
GTTribalcouncil@aol.com
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 - FAX
Gabrielino Tongva

Shoshoneon Gabrieleno Band of Mission Indians
Andy Salas, Chairperson
PO Box 393
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626-926-4131
213) 688-0181 - FAX
Gabrieleno

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed SCH#2009 CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Westside Subway Expansion Project; located in the City of Los Angeles; Los Angeles County, California.

Native American Contacts
Los Angeles County
September 8, 2010

Gabrielino-Tongva Tribe
Linda Candelaria, Chairwoman
1875 Century Park East, Suite 1500
Los Angeles, CA 90067 Gabrielino
lcandelaria1@gabrielinoTribe.org
310-428-5767- cell
(310) 587-2281

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February 22, 2011

Linda Candelaria, Chairwoman
Gabrieleno-Tongva Tribe
1875 Century Park East, Suite 1500
Los Angeles, CA 90067

Re: Metro Westside Expansion

Dear Chairwoman,

The Metro Westside Expansion project proposes to construct a subway extending from Wilshire/Western along Wilshire Boulevard to the Westwood VA Hospital. The final phase of the environmental analysis is underway through preparation of a Final EIS/EIR. In October 2010, the Metro Board of Directors adopted the Locally Preferred Alternative (Alternative 2 of the Draft EIS/EIR). The project falls within the Beverly Hills and Hollywood USGS 7.5-minute quadrangles, as shown on the attached figures.

The Native American Heritage Commission (NAHC) responded to the Draft EIS/EIR on September 8, 2010. The NAHC has no record of Native American cultural resources in a half-mile radius of the projects area. The NAHC also provided a list of Native American tribes and individuals that may have knowledge of traditional or cultural resources within the project area and recommended that we contact you, among others.

I am requesting any information you may have regarding sacred lands or other heritage sites that might be impacted by the proposed project. All information provided regarding such resources or other areas of concern will be treated as confidential material. We would appreciate receipt of your response within two weeks. Please send your response via email (mvalasik@cogstone.com) or fax (714-974-8303), or phone me at one of the numbers listed below.

Thank you for your assistance.

Sincerely,

Molly Valasik, M.A.
Cultural Resources Field and Lab Technician

February 22, 2011

Andy Salas, Chairperson
Shoshonean Gabrieleno Band of Mission Indians
PO Box 393
Covina, CA 91723

Re: Metro Westside Expansion

Dear Chairperson,

The Metro Westside Expansion project proposes to construct a subway extending from Wilshire/Western along Wilshire Boulevard to the Westwood VA Hospital. The final phase of the environmental analysis is underway through preparation of a Final EIS/EIR. In October 2010, the Metro Board of Directors adopted the Locally Preferred Alternative (Alternative 2 of the Draft EIS/EIR). The project falls within the Beverly Hills and Hollywood USGS 7.5-minute quadrangles, as shown on the attached figures.

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Sincerely,

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Cultural Resources Field and Lab Technician