

CHAPTER 11.0

Cultural Resources

Introduction

As a result of comments (see Table 1-2 of Chapter 1.0 “Introduction”) received during the NOP public scoping phase of the Proposed Project, specific effects on cultural resources have been considered as part of the impact analysis. For example, the Native American Heritage Commission suggested that the EIR address impacts to Native American cultural resources, and contact local Native American organizations and individuals.

Environmental Setting

This section provides an overview of the prehistoric, ethnographic, and historic setting of the Planning Area.

Prehistoric Setting

Although a relatively small amount of information is known concerning the earliest occupants of the City of Tulare region, it is clear that much of the San Joaquin Valley and Sierra foothills have been occupied throughout most of the Holocene Epoch (~10,000 B.P. [before present] to the present). The reconstruction of cultures inhabiting the subject area during the late Paleo-Indian to early Archaic Periods (~9,000 B.P. to ~3,000 B.P.) has proven difficult, due to erosion and depositional patterns of the San Joaquin. Over the millennia, these processes have in some instances re-deposited or deeply buried the evidence of much of those early cultures.

A number of investigations into San Joaquin Valley prehistory have been conducted in the vicinity of the City of Tulare. Much of the literature has supported the notion that the inhabitants of the area were concentrated fairly densely along the banks of the major waterways, wetlands, and streams that punctuate the area. Although certain sites are fairly obvious, many of the earliest archaeological records for the region have likely been buried beneath the vast alluvial deposits created by erosion and depositional processes indicative of the valley and Sierra foothills, especially over the last 9,000 years.

Ethnographic Setting

The area where the City of Tulare is presently located was originally inhabited by the Southern Valley Yokuts, a Penutian-speaking group closely related to other Yokuts groups to the north and

east (Wallace:1978). Most information regarding the Southern Valley Yokuts is based on Spanish government and Franciscan mission records of the 18th and 19th centuries, and on studies conducted during the 1900s to 1930s by American and British ethnographers. The Southern Valley Yokuts occupied a large territory defined roughly by the crest of the Diablo Range on the west and the foothills of the Sierra Nevada on the east, and from the Kings River on the north to the Tehachapi Mountains on the south.

Historic Setting

California's coast was initially explored by Spanish military expeditions during the late 1500s. However, European settlement did not occur until the arrival into southern California of land-based expeditions originating in Spanish Mexico. The early groups arrived during the 1760s and consisted of Spanish military, Mexican Indians, Franciscan missionaries, and citizen colonists. Thus began what is today known as the Spanish Period (1769-1822). This period includes the establishment of a chain of 21 Franciscan missions, constructed in old California from San Diego to Sonoma. With the establishment of the missions came the exertion of Spanish religious and military authority over California's indigenous population, and the development of presidios, civilian ranchos, and pueblos throughout California. Although the region known today where the City of Tulare is located did not come under the jurisdiction of a mission proper, periodically, small numbers of aboriginal tribal members fleeing the control of distant missions would enter the valley.

In 1822, the colonial territory of Mexico won its independence from Spain and established a republic. Because it lay strategically situated within the new republic's northern frontier, California remained a territory of Mexico and home to a new group of ranchers and settlers that arrived to take advantage of large land grants being offered by the new government.

In 1846, hostilities between Mexico and the United States led to war. Two years later (1848), war ended, and the United States and Mexico signed the Treaty of Guadalupe Hidalgo. As part of the post-war arrangements, Mexico ceded California and the Southwest to the United States. In 1848-1849, the discovery of gold in northern California brought tens of thousands of itinerant miners, merchants, and speculators. By 1850, the huge influx of prospective citizens allowed California to skip the usual stage of territorial status and enter the union as a state. Two years later (1852), Tulare County was formed from the southern portion of Mariposa County. Over the next 40 years, several other counties were carved from Tulare, including Fresno (1856), Kern (1860), Inyo (1866), and Kings Counties (1893).

Initial settlement in the area that would later make up the City of Tulare focused on ranching. However, on July 25, 1872, the City of Tulare was founded when the Southern Pacific Railroad entered the area, connecting the San Joaquin Valley with markets in the north and east. With the advent of rail service, the City of Tulare became the hub of all rail traffic in the San Joaquin Valley. Accordingly, by 1875 this new status as a railroad town brought much needed jobs and revenue to the new city. About the same time, valley settlers constructed a series of water conveyance systems (canals, dams, and ditches) across the valley. With ample water supplies and the assurance of rail transport for commodities such as grain, row crops, and fruit, a number of

farming colonies soon appeared throughout the region. Colonies such as Mt. Whitney, Orosi, Oakview, Holliday, Vina, and McCall's offered affordable farmland, water, and modern transportation links with valley centers such as Tulare, Visalia, Porterville, and Hanford. By 1890, the City of Tulare boasted a population of 2,697. New transportation links such as Highway 99 (completed during the 1950s), affordable housing, light industry, and agricultural commerce brought steady growth to the City and the valley. The U.S. Census Bureau estimated the 2004 City of Tulare population to be 48,697.

Existing Cultural and Historic Resources

The City of Tulare's known and recorded cultural resources were identified through historical records, including those found in the National Register of Historic Places, the HABS/HAER, the California Register of Historic Resources, California Historical Landmarks, and the City of Tulare Historical Society list of historic resources.

The Southern San Joaquin Valley Information Center at California State University of Bakersfield houses records associated with reported cultural resources surveys, including records of archaeological sites which are generally considered sensitive information, available on a "need to know" basis only. Only qualified professionals and other parties such as selected representatives of the region's Native American community can access such records. These sites include burial grounds, village sites, and other buried prehistoric and historic resources protected under state and federal laws.

A review of the available cultural resource databases indicates the City of Tulare contains a diverse assemblage of historic built environment resources. While the number of prehistoric archeological finds within the City limits is limited, there is always a potential to encounter previously unidentified buried archaeological resources within the area encompassed by the City of Tulare. Any activities or program undertaken by the City of Tulare or within the aegis of its authority should include the education of project participants, agency representatives, and concerned citizens as to the applicable local, state and federal laws, codes, ordinances and regulations that guide the appropriate treatment of cultural resources.

Regulatory Setting

Federal Regulations

National Historic Preservation Act (NHPA)

Most applicable federal regulations concerning historic resources have been established to comply with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) of 1966, as amended. The NHPA established guidelines to "preserve important historic, cultural, and natural aspects of our national heritage, and to maintain, wherever possible, an environment that supports diversity and a variety of individual choice." The NHPA includes regulations specifically for federal land-holding agencies, but also includes regulations (Section 106) which pertain to all projects that are funded, permitted, or approved by any federal agency

and which have the potential to affect cultural resources. All projects that are subject to NEPA are also subject to compliance with Section 106 of the NHPA and NEPA requirements concerning cultural resources can be addressed through compliance with Section 106 of the NHPA process. Provisions of NHPA establish a National Register of Historic Places (The National Register) maintained by the National Park Service, the Advisory Council on Historic Preservation, State Offices of Historic Preservation, and grants-in-aid programs.

American Indian Religious Freedom Act and Native American Graves and Repatriation Act

The American Indian Religious Freedom Act recognizes that Native American religious practices, sacred sites, and sacred objects have not been properly protected under other statutes. This act establishes as national policy that traditional practices and beliefs, sites (including right of access) and the use of sacred objects shall be protected and preserved. Additionally, Native American remains are protected by the Native American Graves and Repatriation Act of 1990.

Secretary of the Interior's Standards

The Secretary of the Interior is responsible for establishing professional standards and providing guidance related to the preservation and protection of all cultural resources listed in, or eligible for, listing in the National Register of Historic Places. The Secretary of the Interior's Standards for the Treatment of Historic Properties apply to all grant-in-aid projects assisted through the National Historic Preservation Fund, and are intended to be applied to a wide variety of resource types, including buildings, structures, sites, objects, and districts. The treatment standards, developed in 1992, were codified as 36 CFR 68 entitled, "The Secretary of the Interior's Standards for Historic Preservation Projects." The standards address four treatments:

- Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time (protection and treatment are also considered under this treatment).
- Rehabilitation as a treatment focuses on the repair and replacement of deteriorated features; when alterations or additions to the property are planned for a new or continued use; and when a depiction of a property at a particular point in time is not appropriate.
- Restoration is the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time, through the removal of features from other periods in its history and reconstruction of missing features from the target reconstruction period.
- Reconstruction addresses those aspects of treatment necessary to re-create an entire non-surviving building using new material.

Other Federal Legislation

Historic preservation legislation was initiated by the Antiquities Act of 1966, which aimed to protect important historic and archaeological sites. It established a system of permits for conducting archaeological studies on federal land, as well as setting penalties for noncompliance. This permit process controls the disturbance of archaeological sites on federal land. New permits are currently issued under the Archeological Resources Protection Act (ARPA) of 1979. The purpose of ARPA is to enhance preservation and protection of archaeological resources on public and Native American lands. The Historic Sites Act of 1935 declared that it is national policy to "Preserve for public use historic sites, buildings, and objects of national significance."

State of California Regulations

California Environmental Quality Act (CEQA)

CEQA requires that lead agencies determine whether projects may have a significant effect on archaeological and historical resources. This determination applies to those resources which meet significance criteria qualifying them as "unique," "important," listed on the California Register of Historical Resources (CRHR), or eligible for listing on the CRHR. If the agency determines that a project may have a significant effect on a significant resource, the project is determined to have a significant effect on the environment, and these effects must be addressed in the appropriate environmental document. If a cultural resource is found not to be significant or unique under the qualifying criteria, it need not be considered further in the planning process.

CEQA emphasizes avoidance of archaeological and historic resources as the preferred means of reducing potential significant environmental effects resulting from projects. If avoidance is not feasible, an excavation program or some other form of mitigation must be developed to reduce the impacts. In order to adequately address the level of potential impacts, and thereby design appropriate mitigation measures, the significance and nature of the cultural resources must be determined. The following are steps typically taken to assess and mitigate potential impacts to cultural resources for the purposes of CEQA:

- identify cultural resources,
- evaluate the significance of the cultural resources found,
- evaluate the effects of the project on cultural resources, and
- develop and implement measures to mitigate the effects of the project on cultural resources that would be significantly affected.

California Register of Historic Resources (CRHR)

California State law also provides for the protection of cultural resources by requiring evaluations of the significance of prehistoric and historic resources identified in CEQA documents. Under CEQA, a cultural resource is considered an important historic resource if it meets any of the criteria found in Section 15064.5(a) of the CEQA Guidelines. Criteria identified in the CEQA Guidelines are similar to those described under the NHPA. The State Historic Preservation

Office (SHPO) maintains the CRHR. Historic properties listed, or formally designated for eligibility to be listed, on The National Register are automatically listed on the CRHR. State Landmarks and Points of Interest are also automatically listed. The CRHR can also include properties designated under local preservation ordinances or identified through local historic resource surveys.

State Laws Pertaining to Human Remains

Section 7050.5 of the California Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the county coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission. CEQA Guidelines (Public Resources Code Section 5097) specify the procedures to be followed in case of the discovery of human remains on non-federal land. The disposition of Native American burials falls within the jurisdiction of the Native American Heritage Commission.

Tribal Consultation Guidelines (Senate Bill 18)

Senate Bill 18 (SB 18), authored by Senator John Burton and signed into law by Governor Arnold Schwarzenegger in September 2004, requires local (city and county) governments to consult with California Native American tribes, when amending or adopting a general plan or specific plan, or designating land as open space, in order to aid in the protection of traditional tribal cultural places (“cultural places”). SB 18 also requires the Governor’s Office of Planning and Research (OPR) to include in the General Plan Guidelines advice to local governments for how to conduct these consultations. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early stage in the planning process, for the purpose of protecting, or mitigating impacts to, cultural places. These consultation and noticing requirements apply to the adoption and amendment of both general plans (defined in Government Code §65300 et seq.) and specific plans (defined in Government Code §65450 et seq.).

Local Regulations

City of Tulare Code of Ordinances

Chapter 10.96 – Historic Combining District, that promotes historic preservation. The purpose of this chapter is to identify a zoning district wherein properties, structures, buildings or objects that are listed, or have the potential to be listed, on the National Register, the State Register, local register, or State Landmarks Listing, can be preserved and protected.

Methodology

The assessment of impacts to cultural resources is a qualitative review of the existing cultural resource conditions (including historic, Native American, and paleontological resources) within the Planning Area and a determination of whether the Proposed Project includes adequate provisions to ensure continued protection of these resources. Impacts on particular properties or

areas are not identified because specific information concerning the location and design of future development is unknown at this time. The impact analysis for the Proposed Project is general in nature, consistent with the methodology for updating the General Plan. Overall, the preferred approach for reducing impacts to cultural resources is to anticipate and avoid the specific resources if possible.

Native American Consultation

Cultural resource identification inquiries also included a letter to the Native American Heritage Commission requesting a review of the sacred lands file in regards to the Planning Area and a list of Native American contacts within the region. The Commission's March 16, 2006 response stated that the Sacred Lands file indicated the presence of confidential sacred sites within the Planning Area. The NAHC response also included six contacts who have requested information on projects such as this and who may have knowledge of cultural resources within the Planning Area (please refer to Appendix A). On October 11, 2007, ESA sent letters to designated contacts with information about the City's General Plan Update and a request that they contact us if there were any questions or concerns. To date, no responses have been received.

Standards of Significance

The proposed City of Tulare 2030 General Plan Update will establish development guidelines against which future projects will be judged for consistency. The significance criteria for this analysis were developed from criteria presented in Section 15064.5 and Appendix G of the CEQA Guidelines and based on the professional judgment of the City and its consultants.

CEQA offers directives regarding impacts to historical resources and unique archaeological resources. CEQA states that if implementation of a project would result in significant environmental impacts, then public agencies should determine whether such impacts can be substantially lessened or avoided through feasible mitigation measures or feasible alternatives. However, only significant cultural resources (e.g., historical resources and unique archaeological resources) need to be addressed. The CEQA Guidelines define a historical resource as, among other things "a resource listed or eligible for listing on the California Register of Historical Resources" (CRHR) (State CEQA Guidelines §15064.5(a)(i); Public Resources Code §§5024.1, 21084.1). A historical resource may be eligible for inclusion on the CRHR, as determined by the State Historical Resources Commission or the lead agency, if the resource:

- is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; or
- is associated with the lives of persons important in our past; or
- 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; or
- has yielded, or may be likely to yield, information important in prehistory or history.

(CEQA Guidelines, §15064.5, subds. (a)(1), (a)(3).) In addition, a resource is presumed to constitute a “historical resource” if it is included in a “local register of historical resources” unless “the preponderance of evidence demonstrates that it is not historically or culturally significant.” (CEQA Guidelines, §15064.5, subd. (a)(2)).

In addition, the State CEQA Guidelines require consideration of unique archaeological sites (§15064.5) (see also Public Resources Code §21083.2). A “unique archaeological resource” is defined as:

an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information. (2) Has a special and particular quality such as being the oldest of its type or the best available example of its type. (3) Is directly associated with a scientifically recognized important prehistoric or historic event or person. [Public Resources Code, § 21083.2, subd. (h)].

If an archaeological site does not meet the criteria for inclusion on the CRHR but does meet the definition of a unique archeological resource as outlined in the Public Resource Code section 21083.2, it is entitled to special protection or attention under CEQA. Treatment options under section 21083.2 include activities that preserve such resources in place in an undisturbed state. Other acceptable methods of mitigation under section 21083.2 include excavation and curation or study in place without excavation and curation.

CEQA Guidelines section 15064.5, subdivision (e), requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner be called in to assess the remains. If the county coroner determines that the remains are those of Native Americans, the Native American Heritage Commission must be contacted within 24 hours. At that time, the lead agency shall consult with the appropriate Native Americans as identified by the Native American Heritage Commission. Under certain circumstances, the Native American Heritage Commission may direct the lead agency (or applicant) to develop an agreement with the Native Americans for the treatment and disposition of the remains.

For historical structures, section 15064.5, subdivision (b)(3), indicates that a project that follows the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, or the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), shall mitigate impacts to a level of less-than-significant. Potential eligibility also rests upon the integrity of the resource. Integrity is defined as the retention of the resource’s physical identity that existed during its period of significance. Integrity is determined through considering the setting, design, workmanship, materials, location, feeling and association of the resource.

In light of this legal background, the project (or the project alternatives) would result in a significant impact if it would:

- Cause a substantial adverse change in the significance of an historical resource as defined in Section 15064.5;
- Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

CEQA Guidelines section 15064 defines “substantial adverse change” as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings.

Impacts and Mitigation Measures

Impact CR-1: The Proposed Project could cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.

Impact Summary

Level of Significance Before Mitigation: <i>Potentially Significant</i>
Required Mitigation Measures: <i>Revised Policy COS-5.5 “Historic Structures and Sites”</i>
Level of Significance After Mitigation: <i>Significant and Unavoidable</i>

Impact Analysis

The City of Tulare contains forty-six designated or eligible historic properties, including two NRHP listed properties (the Tulare Union High School Auditorium and the Tulare Union High School), and one CRHR listed property (Tulare Temporary Assembly Center, which was used to assemble interned Japanese Americans at the onset of World War II). Existing identified historic resources or those considered potentially eligible for National Register of Historic Resources listing within City areas could be affected through implementation of the Proposed Project; although, most existing known historic resources are located within established Urban Area Boundaries and are not considered as susceptible to future growth and development impacts resulting from the Proposed Project. Potential impacts to these resources could result from the following development-related activities or project design elements:

- ***Ground-disturbing activities.*** Project-related excavation, grading, trenching, or other sub-surface disturbance could damage or destroy buried archaeological resources including prehistoric and historic remains or human burials.

- **Damage, destruction, or alteration of historic buildings or structures.** Project-related demolition, damage, or alteration of historic buildings or structures or their immediate surroundings could impair the significance of a historic resource or adversely alter those physical characteristics of an historical resource that convey its historical significance.

In developing the Proposed Project, the City has taken a key role in the preservation and enhancement of its historic resources with the development of several policies contained in the Land Use and Open Space & Conservation Elements. For example, Policies LU-5.3 and LU-5.4 promote the preservation and adaptive reuse of historic buildings and areas to preserve the City’s unique historic heritage. Similar policies (see Policies LU-13.12, COS-5.8, and COS-5.16) encourage the restoration, preservation, and integration of cultural resources into the development of existing and new communities within the unincorporated communities. The Conservation & Open Space Element also contains a number of policies (see Policies COS-5.2, COS-5.6, and COS-5.7) designed to protect cultural or historic resources through utilization and adherences to state and federal programs and designations for historic structures. However, even with implementation of the above mentioned policies, this impact is still considered *potentially significant*.

LAND USE AND CONSERVATION & OPEN SPACE ELEMENTS	
Policies designed to preserve and maintain historic resources in the City of Tulare include the following:	
LU-13.12 Architectural Heritage LU-5.3 Historic Preservation LU-5.4 Historic Buildings IMPLEMENTATION MEASURE LU-12	COS-5.2 Evaluation of Historic Resources COS-5.5 Historic Structures and Sites COS-5.7 State Historic Building Code COS-5.8 Design Compatibility with Historic Structures COS-5.11 Mitigation Monitoring for Historical Resources Implementation Measure COS-13
Policies designed to preserve and maintain area historical and archaeological sites include the following:	
COS-5.6 Protection of Resources with Potential State or Federal Designations COS-5.10 Impact Mitigation COS-5.12 Alteration of Sites with Identified Cultural Resources COS-5.13 Education Program Support COS-5.16 Cooperation of Property Owners	

Required Mitigation Measures

In addition to the above mentioned policies and implementation measures, the following revisions to COS-5.5 “Historic Structures and Sites” are required to address this impact:

- **COS-5.5 Historic Structures and Sites**
 The City shall support public and private efforts to preserve, rehabilitate, and continue the use of historic structures, *sites, and districts. Where applicable, preservation efforts shall conform to the current Secretary of the Interior’s Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Building. [Revised Draft EIR Analysis].*

Significance after Implementation of Mitigation for Impact CR-1

As stated above, the City will continue to ensure that a variety of preservation efforts are implemented (including the revised Policy COS-5.5 “Historic Structures and Sites”) under all future development projects to minimize impacts to historic resources (as defined in Section 15064.5). However, implementation of the Proposed Project may ultimately result in a “substantial adverse change” (physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings) through various development activities for which no possible mitigation may be available to maintain the historic integrity of the affected resource or its surroundings. For this reason, impacts to historical resources would still result in a **significant and unavoidable** impact. No additional feasible mitigation is currently available.

Impact CR-2: The Proposed Project could cause a substantial adverse change in the significance of a unique archaeological resource as defined in Section 15064.5 and/or disturb any human remains, including those interred outside of formal cemeteries.

Impact Summary

Level of Significance Before Mitigation: <i>Potentially Significant</i>
Required Mitigation Measures: <i>Revised Policy COS-5.9 “Discovery of Archaeological Resources”, and new Policies COS-5.17 “Archaeological Resource Surveys” and COS-5.18 “Discovery of Human Remains”</i>
Level of Significance After Mitigation: <i>Significant and Unavoidable for “Archaeological Resources” and Less-than-Significant for “Human Remains”</i>

Impact Analysis

Most prehistoric settlement in the area was focused along major waterways, such as the North Tule River watershed, with most settlements generally occurring between the 2,000- to 4,000-foot elevation range. Evidence from previous survey activities and site investigations in Tulare County indicate that most prehistoric sites would consist of the following: bedrock milling stations, petroglyphs, lithic flakes, and projectile points. Although certain sites are fairly obvious, many of the earliest archaeological records for the region have likely been buried beneath the vast alluvial deposits created by erosion and depositional processes indicative of the valley and Sierra foothills, especially over the last 9,000 years. Archaeological resources and/or human remains could be damaged or inadvertently unearthed during ground-disturbing activities such as grading, trenching, or use of staging areas.

In developing the Proposed Project, the City has taken a key role in addressing archaeological resources. Policies within the proposed Conservation and Open Space Element establish protocols to address archaeological resources including pre-project activities (i.e., solicitation of input from local Native American) and resource protection measures (i.e., impact mitigation, confidentiality policies, and public education, etc.). A variety of resource protection measures are outlined in Policies COS-5.9, COS-5.12, and COS-5.15. Policy COS-5.13, “Education Program

Support,” demonstrates the City’s continued involvement in a variety of educational programs designed to encourage continued public support of local cultural and archaeological resources. To address local Native American issues and resources, Policy COS-5.15 requires that the City consult with representatives of the Native American Heritage Commission at the onset of specific projects. However, even with implementation of the below mentioned policies, this impact is still considered *potentially significant*.

CONSERVATION & OPEN SPACE ELEMENTS
Policies designed to preserve and maintain archaeological resources in the City of Tulare include the following:
COS-5.1 Archaeological Resources COS-5.9 Discovery of Archaeological Resources COS-5.14 Solicit Input from Local Native Americans COS-5.15 Confidentiality of Archaeological Sites Implementation Measure COS-12
Policies designed to preserve and maintain area historical and archaeological sites include the following:
COS-5.6 Protection of Resources with Potential State or Federal Designations COS-5.10 Impact Mitigation COS-5.12 Alteration of Sites with Identified Cultural Resources COS-5.13 Education Program Support COS-5.16 Cooperation of Property Owners

Required Mitigation Measures

In addition to the above mentioned policies, the following revisions to Policy COS-5.9 “Discovery of Archaeological Resources” and Mitigation Measure CR-1 are required to address this impact:

- COS-5.9 Discovery of Archaeological Resources.** In the event that archaeological/*paleontological* resources are discovered during site excavation, grading, or construction, the City shall require that work on the site be suspended within 100 feet of the resource until the significance of the features can be determined by a qualified archaeologist/*paleontological*. If significant resources are determined to exist, an archaeologist shall make recommendations for protection or recovery of the resource. *City staff shall consider such recommendations and implement them where they are feasible in light of project design as previously approved by the City. [New Policy – Draft EIR Analysis].*

Mitigation Measure CR-1. Adopt Policies to Address Archaeological Resources and Discovery of Human Remains Impacts. To mitigate archaeological resources and discovery of human remains impacts resulting from implementation of the Proposed Project, the City shall amend the General Plan to include the following new policies:

- COS-5.17 Archaeological Resource Surveys.** *Prior to project approval, the City shall require project applicant to have a qualified archeologist conduct the following activities: (1) conduct a record search at the Regional Archaeological Information Center located at California State University Bakersfield and other appropriate historical repositories, (2) conduct field surveys where appropriate, and (3) prepare technical reports, where appropriate, meeting California Office of Historic Preservation Standards (Archeological Resource Management Reports). [New Policy – Draft EIR Analysis].*

- **COS-5.18 Discovery of Human Remains.** Consistent with Section 7050.5 of the California Health and Safety Code and CEQA Guidelines (Section 15064.5), if human remains of Native American origin are discovered during project construction, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). If any human remains are discovered or recognized in any location on the project site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - The Tulare County Coroner/Sheriff has been informed and has determined that no investigation of the cause of death is required; and
 - if the remains are of Native American origin,
 - The descendants of the deceased Native Americans have made a timely recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98,
 - The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission, or
 - The landowner or his or her authorized representative rejects any timely recommendations of the descendent, and mediation conducted by the Native American Heritage Commission has failed to provide measures acceptable to the landowner. [New Policy – Draft EIR Analysis].

Significance after Implementation of Mitigation for Impact CR-2

As stated above, the City will continue to ensure that a variety of preservation efforts are implemented (including the new Policies COS-5.17 “Archaeological Resource Surveys and COS-5.18 “Discovery of Human Remains,” and the revision to COS-5.9 “Discovery of Archaeological Resources”) under all future development projects to minimize impacts to archaeological resources (as defined in Section 15064.5), or human remains. Under CEQA, however, any “substantial adverse change in the significance of an historical resource” (e.g., the destruction of such a resource) is considered a significant environmental effect as a matter of law. Because it is possible that, after City decision-makers have approved a development project, grading activities in an area identified for development reveal an archaeological resource meeting the definition of an historical resource, and that such a previously unknown historical resource cannot be preserved or avoided without substantial redesign at significant cost, the City cannot be sure that impacts on all such archaeological resources can be mitigated to less-than-significant levels. For this reason, impacts to archaeological resources would still result in a ***significant and unavoidable*** impact. No additional feasible mitigation is currently available.

Similar considerations do not apply to unique archaeological resources such as human remains, which therefore can be fully mitigated through data recovery where avoidance or preservation is infeasible or unnecessary. Therefore, implementation of the Proposed Project including the adoption of the policies listed above would result in *less-than-significant* impacts with respect to human remains.