

## 4.4 CULTURAL AND TRIBAL RESOURCES

This section of the Draft Environmental Impact Report (EIR) provides a summary of the cultural, historical, and paleontological resources located in SOI Plan Update area, the applicable federal, state, and local regulatory setting, and the analysis of the potential impacts associated with the implementation of the proposed SOI Plan for the City and specifically, the Consensus Alternative on cultural resources. This section also provides contextual background information on historical resources within the City and SOI Plan Update area including the area's prehistoric, ethnographic, and historical settings. If needed, mitigation measures in addition to conformance with the LAFCo policies to address adverse impacts are included as needed.

A cultural resource is the physical or observable traces of past human activity including, prehistoric habitation and activities, historic-era sites and materials, and places used for traditional Native American observances or places with special cultural significance. Cultural resources, along with prehistoric and historic human remains and associated grave goods, must be considered under various federal, state, and local regulations, including the California Environmental Quality Act (CEQA) and the National Historic Preservation Act of 1966. The following sources provided the data to support this section:

- California Office of Historic Preservation (2019)
- National Park Service (2017)
- University of California Museum of Paleontology
- Nevada City General Plan
- Nevada County General Plan (1995)
- Five Views, An Ethnic Historic Site Survey for California (1998)

For the purposes of CEQA, "historical resources" generally refer to cultural resources that have been determined to be significant, either by eligibility for listing in State or local registers of historical resources, or by determination of a lead agency (see definitions below). Historical resources can also include areas determined to be important to Native Americans that qualify as tribal cultural resources as defined in Public Resources Code (PRC) Section 21074 (sites, landscapes, historical, or archeological resources). Paleontological resources are also considered within this section.

### Terminology

Below are definitions of key cultural resources terms used in this section:

- Alluvium: a fine-grained sedimentary unit of soil consisting of mud, silt, and sand deposited by flowing water on floodplains, in river beds, and in estuaries,
- Archaeological Site: A site is defined by the National Register of Historic Places (NRHP) as the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains. Archaeological remains usually take the form of artifacts (e.g.,

fragments of tools, vestiges of utilitarian, or non-utilitarian objects), features (e.g., remnants of walls, cooking hearths, or midden deposits), and ecological evidence (e.g., pollen remaining from plants that were in the area when the activities occurred). Prehistoric archaeological sites generally represent the material remains of Native American groups and their activities dating to the period before European contact. In some cases, prehistoric sites may contain evidence of trade contact with Europeans. Ethnohistoric archaeological sites are defined as Native American settlements occupied after the arrival of European settlers in California. Historic archaeological sites reflect the activities of non-native populations during the Historic period.

- **Artifact:** An object that has been made, modified, or used by a human being.
- **Cultural Resource:** A cultural resource is a location of human activity, occupation, or use identifiable through field inventory, historical documentation, or oral evidence. Cultural resources include archaeological resources and built environment resources (sometimes known as historic architectural resources) and may include sites, structures, buildings, objects, artifacts, works of art, architecture, and natural features that were important in past human events. They may consist of physical remains or areas where significant human events occurred, even though evidence of the events no longer remains. Cultural resources also include places that are considered to be of traditional cultural or religious importance to social or cultural groups.
- **Ecofact:** An object found at an archaeological site that has archaeological significance but has not been technologically altered, such as seeds, pollens, or shells.
- **Ethnographic:** Relating to the study of human cultures. “Ethnographic resources” represent the heritage resource of a particular ethnic or cultural group, such as Native Americans or African, European, Latino, or Asian immigrants. They may include traditional resource-collecting areas, ceremonial sites, value-imbued landscape features, cemeteries, shrines, or ethnic neighborhoods and structures.
- **Historic period:** The period that begins with the arrival of the first non-native population and thus varies by area. Modern history in Nevada County begins in 1848, when discovery of gold in California brought the first white settlers to Penn Valley and people of all nationalities came to work the mines (Nevada County, 2018g).
- **Historical resource:** This term is used for the purposes of CEQA and is defined in the CEQA Guidelines (§15064.5) as: (1) a resource listed in, or determined to be eligible for listing in the California Register of Historical Resources (CRHR); (2) a resource included in a local register of historical resources, as defined in Public Resources Code (PRC) §5020.1(k) or identified as significant in a historical resource survey meeting the requirements of PRC §5024.1(g); and (3) any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California by the lead agency, provided the lead agency’s determination is supported by substantial evidence in light of the whole record. Historical resources may also include tribal cultural resources including sites, features, places, cultural landscapes, sacred places, objects, and/or archeological resources with value to a California Native American Tribe per PRC §21074.

- Holocene: Of, denoting, or formed in the second and most recent epoch of the Quaternary period, which began 10,000 years ago at the end of the Pleistocene.
- Isolate: An isolated artifact or small group of artifacts that appear to reflect a single event, loci, or activity. Isolates typically lack identifiable context and thus have little interpretive or research value. Isolates are not considered to be significant under CEQA and do not require avoidance mitigation (CEQA Statute §21083.2 and CEQA Guidelines §15064.5).
- Lithic: Of or pertaining to stone. Specifically, in archaeology, lithic artifacts are chipped or flaked stone tools, and the stone debris resulting from their manufacture.
- Native American sacred site: An area that has been, or continues to be, of religious significance to Native American peoples, such as an area where religious ceremonies are practiced or an area that is central to their origins as a people.
- Paleontological Resources (Fossils): The physical remains of plants and animals preserved in soils and sedimentary rock units/formations. Paleontological resources contribute to the understanding of past environments, environmental change, and the evolution of life.
- Pleistocene (Ice Age): An epoch in the Quaternary period of geologic history lasting from 1.8 million to 10,000 years ago. The Pleistocene was an epoch of multiple glaciations, during which continental glaciers covered nearly one-fifth of the earth's land.
- Prehistoric period: The era prior to 1848. The record of California prehistory is divided into three broad temporal periods that reflect similar cultural characteristics throughout the state: Paleoindian (ca. 11,500–8000 B.C.), Archaic (8000 B.C.– A.D. 500), and Late Prehistoric (A.D. 500–Historic Contact). Although early occupation in the High Sierra occurred at least 9,000 years ago, some evidence identifies occupation occurred during the Paleoindian Period (Nevada County, 2012).
- Quaternary Age: The most recent of the three periods of the Cenozoic Era in the geologic time scale of the International Commission on Stratigraphy (ICS). It follows the Tertiary Period, spanning  $2.588 \pm 0.005$  million years ago to the present. The Quaternary includes two geologic epochs: the Pleistocene and the Holocene Epochs.
- Stratigraphy: The natural and cultural layers of soil that make up an archaeological deposit, and the order in which they were deposited relative to other layers.
- Unique Archaeological Resource: This term is used for the purposes of CEQA and is defined in the CEQA Guidelines (§15064.5) 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 either contains information needed to answer important scientific research questions; has a special and particular quality such as being the oldest of its type or the best available example of its type; or, is directly associated with a scientifically recognized important prehistoric or historic event or person.
- Unique Paleontological Resource: This term is defined as a fossil that meets one or more of the following criteria: (1) it provides information on the evolutionary relationships and developmental trends among organisms, living or extinct; (2) it provides data useful in determining the age(s) of

the rock unit or sedimentary stratum, including data important in determining the depositional history of the region and the timing of geologic events therein; (3) it provides data regarding the development of biological communities or interaction between plant and animal communities; (4) it demonstrates unusual or spectacular circumstances in the history of life; or (5) the fossils are in short supply and/or in danger of being depleted or destroyed by the elements, vandalism, or commercial exploitation, and are not found in other geographic locations.

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## 4.4.1 ENVIRONMENTAL SETTING

### Regional Setting

The SOI Plan Update area is located in unincorporated Nevada County (County) surrounding the City of Nevada City (City). Nevada County is bounded by the Middle Fork of the Yuba River and Sierra County on the north, the state of Nevada to the east, the Bear River and Placer County to the south, and Yuba County to the west. Within the 978 square mile boundary, Nevada County contains various environmental zones, geological characteristics, and geographical position that results in a rich and diverse history with a relatively large number of recorded prehistoric and historic sites. Urbanization within the County is primarily located within these Nevada City, the city of Grass Valley, and Town of Truckee. Uses outside these centers, such as in the SOI Plan Update area primarily consists low density and rural residential, open space, undeveloped land, agricultural uses and intermittently located commercial and industrial uses.

In relation to cultural resources, the County contains many prehistoric sites including native villages, multi-task camps, sites with task-specific resource such as bedrock mortar milling features, as well as sites that special use sites including hunting blinds, petroglyphs, and quarries. More modern historic areas within Nevada County are typically related to mining, water management, logging, transportation, emigrant travel, ranching and agriculture, and grazing. Cultural resources that are considered culturally sensitive, including architectural resources, within the County are generally located less than one-quarter mile from a source of water (i.e., streams, lakes, rivers), between 400 and 3,000 feet above mean sea level (amsl) and on the west side of the Sierra Nevada Mountains.

### Local Setting and Project Area

The City is in the western foothills of the Sierra Nevada Mountains, approximately 70 miles northeast of Sacramento, CA. Nevada City is within the western third of Nevada County in the valley of Deer Creek at an altitude of approximately 2,500 feet. Nevada City lies in this area of transition between the valley to the west and the generally steep, granitic terrain of the Sierra Nevada mountains further east. Nevada City was founded in 1850 and incorporated April 19, 1856. Nevada City started as a gold-mining community one hundred and fifty (150) years ago and is now characterized as a modern city but still with modest cottages, elegant Victorian houses and impressive classic brick buildings. Due to its rich history associated within the California gold rush, historic preservation is a priority and ordinances protect not only the downtown district, which is on the National Register of Historic Places, as well as homes in the residential areas. Nevada City maintains its identity as an entertainment, cultural, social, and recreational center based on this foundation as an historic, in addition to its history of compact growth and

surrounding wooded hills. According to the Nevada City 2017 Annexation Plan and Strategy, this identity drives the City's tourist-oriented economy and attracts the existing culture and entertainment.

Two major transportation routes provide regional connectivity through the City and include the generally east-west trending State Route 20 (SR-20) and north-south trending State Route 49 (SR-49). The highways are joined as they traverse through the City and provide access to the adjoining northerly, easterly, and southerly of unincorporated areas of the county. Both SR-20 and SR-49 are listed as eligible State Scenic Highways but are not officially designated.

Nevada County has 18 sites listed on the National Register, 20 California State Historical Landmarks, and 32 Points of Historical Interest. There are no sites within the County listed in the California Register of Historical Resources (California Register). The following provides the criteria for listing as one of the named resources.

**National Register of Historic Places (NRHP)** - National list of buildings, structures, objects, sites, and districts worthy of preservation because of their significance in American history, architecture, archeology, engineering, and culture.

**California Historical Landmarks (CHLs)** - Buildings, structures, sites, or places that have been determined to have statewide historical significance and meet specific criteria.

**California Points of Historical Interest** - Sites, buildings, features, or events that are of local (city or county) significance and have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value.

**California Register**- Encourages public recognition and protection of resources of architectural, historical, archeological and cultural significance, identifies historical resources for state and local planning purposes, determines eligibility for state historic preservation grant funding and affords certain protections under the California Environmental Quality Act

There one listed historical resources in immediate proximity that is on the NRHP. This site and brief description is as follows:

*Martin Luther Marsh House* - 254 Boulder Street – This site is on the NRHP and was registered on January 19, 1972. The site is located on an adjacent 1.53 acres parcel (005-420-045) to the west SOI Plan Update area within the City. Martin Luther Marsh House was constructed in 1973 and is listed for architectural significance.

### ***Other Historical Resources***

There are five sites Listed as California Historical Landmarks. Four of these sites occur within the City, and the fifth, (North Bloomfield Mining and Gravel Company) is located 28 miles outside Nevada City. The sites within the City limits are located in downtown Nevada City and are all between approximately 0.3 and 0.5 miles from the SOI Plan Update area boundary. These four sites and brief description are as follows:

*South Yuba Canal Office (No. 832)* – 134 Main Street. This site was the headquarters for the largest network of water flumes and ditches in the state. The South Yuba Canal Water Company was the first incorporated to supply water for hydraulic mining. The original ditch was in use in May 1850, and this company office was in use from 1857 to 1880. The company's holdings later became part of the vast PG&E hydroelectric system.

*Nevada Theater (No. 863)* – 401 Broad Street. This is California's oldest existing structure erected as a theater, which opened September 9, 1865. Celebrities such as Mark Twain, Jack London, and Emma Nevada have appeared on its stage. Closed in 1957, the theatre was later purchased through public donations and reopened May 17, 1968 to again serve the cultural needs of the community

*National Hotel (No. 899)* - 211 Broad Street. The National Exchange Hotel opened for business on August 20, 1856, the exterior is virtually unchanged since its construction as three brick buildings in 1856. The National is one of the oldest continuously operating hotels west of the Rockies.

*First Manufacturing Site of the Pelton Wheel (No. 1012)* -325 Spring Street. The Pelton Water Wheel, was first commercially manufactured here at George Allan's Foundry and Machine Works in 1879 and was a major advancement in water power utilization and greatly advanced hard-rock mining. By the late 1800s, the Pelton Wheels were providing energy to operate industrial machinery throughout the world. In 1888, Lester Pelton moved his business to San Francisco, but granted continuing manufacturing rights to Allan's Foundry, where the wheels were manufactured into the early 1900s (California Office of Historic Preservation, 2019b).

## **Project Site**

The project proposed is an update to the SOI Plan Update area for Nevada City. The plan area encircles the City and includes approximately 2,702 acres. Within its boundaries, the City provides a full portfolio of municipal services, including treated water, public sewer, police, fire protection, and recreation and park services. The westerly portion of SOI Plan Update area is accessed by local roadways that provide access to the mostly rural low-density residential uses. The landscape is moderately hilly and thickly vegetated by tall trees and dominated by species of evergreen. Commercial development in this area is limited and scattered in small pockets throughout the area and includes a self-storage facility and Nevada County Sportsmen's Club.

## **County Designated Landmarks**

The Nevada County Historical Landmarks Commission's (Commission) purpose is to "promote the general welfare of Nevada County and its citizens through official recognition, recording, marking, preserving and promoting the historical resources of Nevada County." The Commission developed an interactive map, with the support of the Nevada County Geographical Information Systems unit, that provides detailed information on each of the landmarks and is currently available online (Commission 2017). As of 2017, the Commission has recognized and designated 196 landmarks in Nevada County, including 65 within Nevada City and immediate vicinity. The 65 landmarks include the five sites listed above. No additional sites are located outside the City boundaries in the SOI Plan Update area.

### ***Ethnic Historic Sites***

California's five largest minorities from 1848 to 1898 were Native American, African American, Chinese American, Japanese American, and Mexican American. In order to improve representation of these ethnic minority properties, the Office of Historic Preservation created a document called *Five Views: An Ethnic Historic Site Survey for California* (2004). The survey was intended to highlight areas with important ethnic historical context throughout the state. Within Nevada County, the survey identified eight ethnic historic sites. The African Methodist Episcopal Church Site, Alexander Street, the Nevada City Chinese American Cemetery, are listed in Nevada City. No sites were located within the SOI Plan Update area.

### ***Prehistoric Setting***

Until relatively recent years, the study of Sierran archaeology lagged far behind the central valley and coastal areas in terms of developing a regional chronology and basic understanding of the prehistory of the area. In 1953, however, scientists began to synthesize Sierran archaeology and proliferated major archaeological projects due to work on water projects and other cultural resource management-based research efforts. Since then, there have been several archaeological reconnaissance surveys conducted and although they do not occupy the region surrounding Nevada City, they are useful for piecing together the prehistory of the area (Ritter 1970b).

Artifacts in some the lower stratum (C) were radiocarbon dated at about 1400 B.C., and contained an assemblage similar to the Martis Complex, as defined at high-elevation sites in the Sierra. Found artifacts include large projectile points (mostly of basalt and slate), atlatl (dart-thrower) weights, numerous core tools, and several varieties of grinding implements. The collection looks typical to the Martis Valley, as there was an emphasis on small game hunting and plant gathering, which allowed for the existence of more permanent villages in ecologically rich areas. The next stratum (B) is less easily defined and appears to represent a transition between cultures represented by the upper and lower strata. Some of this transitional appearance may be attributable to the physical mixing of deposits; however, the basic integrity of the site is consistent with the two radiocarbon dates from stratum B (A.D. 1039±80 and 976±90). The upper stratum contains small projectile points (arrowheads), hopper mortars, and other artifacts comparable to recent archaeological collections elsewhere in the northern foothills. Stratum A is, therefore, most likely a manifestation of the ancestral Nisenan, the Indian group inhabiting the area at the time of Euro-American contact.

### ***Ethnographic Setting***

The County of Nevada and specifically the proposed project area lies within the ethnographic territory of the Nisenan, or Southern Maidu. The Nisenan occupied the upper drainages and the adjacent ridges of the Yuba, the north, middle and south forks of the American, and at least the upper north side of the Cosumnes River. The territory is conventionally believed to extend to the crest of the Sierra to the east and the Sacramento River to the west.

Nisenan has three main dialects – Northern Hill, Southern Hill and Valley Nisenan, with three or four subdialects. The Hill Nisenan lived along the foothills of the Sierra Nevada, primarily in small villages with family groups living outside the area of the main village. The main village had a reported dance house,

Tuyi, and was located in the Grass Valley area, although the exact location has not been matched to a known archaeological site. The Nisenan were socially integrated at the village or community group level, with the group participating in the decision-making process. The villages would range in size from 15 to 25 people to over 500 people in the Valley Nisenan. A headman, respected by all and residing in the major village, had the authority to call upon the smaller associated groups in times of need, although the smaller groups did not always have to obey.

The Nisenan, as with other Sierra Native American groups, moved into the higher elevations during the hot summer months. The main activity was the collecting of pine nuts and numerous other species of nuts, roots and berries. This was done primarily by women and children. The foraging groups in a locale could range from small, extended family groups, composed of a woman, her immediate female kin and their adolescent children to whole villages. The men spent most of their time hunting or fishing for a wide variety of fish and animals. Hunting was noted as often involving communal drives, with the best archers of the village posted to do the killing. Individual hunters made extensive use of decoys and imitative sounds.

Most Nisenan people never left the territory used by their own village group. However, there were, in most large villages, at least some individuals who engaged in rather extensive trade with several valley groups as well as Sierra groups, such as the Washo. The Hill Nisenan most likely acquired obsidian and basketry from the east, in exchange for acorns from the Washo, but it is presently unclear whether they were visited by the Washo or they visited the Washo or both. Presumably, the exchange network functioned in the summer and fall.

### ***Paleontological Resources in Nevada County***

Paleontological resources are the mineralized (fossilized) remains of prehistoric plants and animals and the mineralized impressions (trace fossils) left as indirect evidence of the form and activity of such organisms. The fossil yielding potential of a particular area is highly dependent on the geologic age and origin of the underlying rocks. In general, older sedimentary rocks (more than 10,000 years old) are considered most likely to yield vertebrate fossils of scientific interest. When fossils are discovered at the earth's surface, it is because the material in which the organism was fossilized has been eroded away by natural processes or exhumed by humans. These resources are considered to be nonrenewable.

Soils within Nevada County are diverse and consistent with soils formed over very long periods of time from complex geologic and volcanic processes, as well as the introduction of vegetative organic plant materials. The area was once covered by a vast inland sea; through geologic movement and uplift, the water in the sea receded and geologic processes resulted in the formation of some of the existing rock formations. Subsequently, the area experienced intrusion by ultrabasic rock and the existing formations began a long period of erosion exposing the granite rock below. Volcanic activity resulted in ash deposits throughout the County, as well as discharges and flows of andesitic materials mostly mudflows, dust, and lava flows. During the Pleistocene era, approximately 2.5 million years ago, faulting in the eastern portion of the County formed the Sierra Nevada range. Water began to flow westward washing much of the volcanic debris downstream and cutting the deep canyons exposing the volcanic ridges and the underlying materials that are seen today (USDA, 1993).

Today, Nevada County consists of the lower and middle foothills of the Sierra Nevada Mountains and those areas within the Sierra Nevada Mountains that are defined by steeply dipping, faulted, and folded metamorphic rock that has been intruded by several types of igneous rock. Igneous rocks result from the solidification of magma (molten rock) in environments that cause magma creation. As magma reaches the surface as lava, contact with biological organisms usually results in their destruction; as such, there is no plant or animal material present to fossilize. Metamorphic rocks are created when subjected to high levels of heat and pressure, and fossils do not usually survive these extreme conditions. Rock units in which vertebrate or significant invertebrate, plant, or trace fossils have been previously recovered include sedimentary formations, low-grade metamorphic rocks, and volcanoclastic formations that are temporally (over 11,700 years old) and lithologically suitable for fossil preservation.

Fossils generally occur in the Sierra Nevada in rocks that are young in age (less than 50 million years). The University of California Museum of Paleontology identifies approximately 500 vertebrate and invertebrate paleontological specimens that have been collected from geological formations dating to the Eocene (56-34 Million Years Ago), Miocene (approximately 23-5.3 Million Years Ago), Pleistocene (approximately 1.8 Million Years Ago to 11,000 Years Ago) epochs in Nevada County.

## 4.4.2 REGULATORY SETTING

### Federal

#### ***National Historic Preservation Act and the National Register of Historic Places***

Archaeological resources are protected through the National Historic Preservation Act (NHPA) of 1966, as amended (54 USC 300101 et seq.); and its implementing regulation, Protection of Historic Properties (36 CFR Part 800), the Archaeological and Historic Preservation Act of 1974, and the Archaeological Resources Protection Act of 1979. The NHPA authorized the expansion and maintenance of the National Register of Historic Places (NRHP), established the position of State Historic Preservation Officer (SHPO), and provided for the designation of State Review Boards, set up a mechanism to certify local governments to carry out the purposes of the NHPA, assisted Native American tribes to preserve their cultural heritage, and created the Advisory Council on Historic Preservation (ACHP). Prior to implementing an “undertaking” (e.g., issuing a federal permit), Section 106 of the NHPA requires federal agencies to consider the effects of the undertaking on historic properties and to afford the ACHP and the SHPO a reasonable opportunity to comment on any undertaking that would adversely affect properties eligible for listing in the National Register of Historic Places (NRHP). As indicated in Section 101(d)(6)(A) of the NHPA, properties of traditional religious and cultural importance to a tribe are eligible for inclusion in the NRHP. Under the NHPA, a resource is considered significant if it meets the NRHP listing criteria at 36 Code of Federal Regulations (CFR) 60.4.

Cultural resources, along with prehistoric and historic human remains and associated grave goods, must be considered under the National Historic Preservation Act of 1966 (NHPA). A *historic property* is defined in the National Register [54 U.S.C. §300308] as any “prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places including artifacts, records, and material remains related to such a property or resource.” An *archaeological site* is defined

as “a location that contains the physical evidence of past human behavior that allows for its interpretation.” The term archaeological site refers to those that are eligible for or are listed on, as well as those that do not qualify, for the National Register.

Due to the considerable variety of properties associated with the prehistoric and historic past, a broad definition of National Register criteria and significance for evaluation of cultural resources was developed by the National Park System. In order for a property to be considered historically significant, the property must be:

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

The integrity of a historic property to convey its significance is also considered when applying the criterion. The aspects of integrity are location, setting, design, workmanship, feeling, and association. Section 106 of the NHPA provides provisions for the protection of historic properties, which is codified in Title 36 of the Code of Federal Regulations (CFR) part 800, as amended.

The National Register generally excludes resources less than fifty years old. If a resource was once determined ineligible for the National Register because they were less than 50 years of age would need to be re-evaluated for eligibility after they have aged.

### ***Native American Graves Protection and Repatriation Act of 1990***

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 sets provisions for the intentional removal and inadvertent discovery of human remains and other cultural items from federal and tribal lands. It clarifies the ownership of human remains and sets forth a process for repatriation of human remains and associated funerary objects and sacred religious objects to the Native American groups claiming to be lineal descendants or culturally affiliated with the remains or objects. It requires any federally funded institution housing Native American remains or artifacts to compile an inventory of all cultural items within the museum or with its agency and to provide a summary to any Native American tribe claiming affiliation.

### ***National Historic Landmarks***

National Historic Landmarks are districts, sites, buildings, structures, and objects designated by the Secretary of the Interior as possessing national significance in American history, architecture, archeology, engineering, and culture.

## State

### ***California Environmental Quality Act***

CEQA is the principal statute governing environmental review of projects occurring in the State and is codified at Public Resources Code (PRC) Section 21000 et seq. CEQA requires lead agencies to determine if a proposed project would have a significant effect on the environment, including significant effects on historical or archaeological resources.

CEQA offers Guidelines on determining the significance of impacts to archaeological and historical resources. CEQA states that if a project would have significant impacts on important cultural resources, then alternative plans or mitigation measures must be considered. However, only significant cultural resources (termed “historical resources”) need to be addressed. Section 15064.5(a) of CEQA Guidelines generally defines a historical resource as:

- a) a resource listed in, or determined to be eligible by the State Historical Resources Commission for listing in, the California Register of Historical Resources (California Register);
- b) a resource listed in a local register of historical resources or identified in a historical resource survey meeting the requirements in Public Resources Code (PRC) Section 5024.1(g); and
- c) any object, building, structure, site, area, place, record, or manuscript that a lead agency determines is historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, provided the determination is supported by substantial evidence in light of the whole record; or a resource determined by a lead agency to be “historical,” as defined in Public Resources Code Sections 5020.1(j) or 5024.1.

The fact that a resource does not meet the three criteria outlined above does not preclude the lead agency from determining that the resource may be a historical resource as defined in PRC Sections 5020.1(j) or 5024.1.

If a lead agency determines that an archaeological site is a historical resource, the provisions of PRC Section 21084.1 of CEQA and 14 CCR 15064.4 of the CEQA Guidelines apply. If a project may cause a substantial adverse change (defined as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired) in the significance of a historical resource, the lead agency must identify potentially feasible measures to mitigate these effects (14 CCR 15064.4(b)(1), 15064.4(b)(4)).

If an archaeological site does not meet the historical resource criteria contained in the CEQA Guidelines, then the site may be treated as a unique archaeological resource in accordance with the provisions of PRC Section 21083. As defined in PRC Section 21083.2 of CEQA, a unique archaeological resource is an archaeological artifact, object, or site for 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 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; or,
- 3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.

If an archaeological site meets the criteria for a unique archaeological resource as defined in PRC Section 21083.2, then the site is to be treated in accordance with the provisions of PRC Section 21083.2, which states that if the lead agency determines that a project would have a significant effect on unique archaeological resources, the lead agency may require reasonable efforts be made to permit any or all of these resources to be preserved in place (PRC Section 21083.1(a)). If preservation in place is not feasible, mitigation measures shall be required.

The CEQA Guidelines note that if an archaeological resource is neither a unique archaeological nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment (14 CCR 15064.4(c)(4)).

### ***California Register of Historical Resources***

The California Register of Historical Resources was created by an act of the State Legislature. Under the provisions of that legislation, the following resources are automatically included in the California Register (PRC Section 5024.1; Title 14 California Code of Regulations (CCR) Section 4852):

- 1) Resources formally determined eligible for, or listed in, the National Register of Historic Places through federal preservation programs administered by the OHP, including the National Register program; the Tax Certification program; NHPA Section 106 reviews of federal undertakings;
- 2) State Historical Landmarks numbered 770 or higher; and
- 3) Points of Historical Interest recommended for listing in the California Register by the State Historical Resources Commission (SHPO).

The OHP is responsible for maintaining a statewide inventory of identified and evaluated historical resources. The California Historical Resources Information System (CHRIS) includes the Historical Resources Inventory (HRI), information on resources which has been acquired and managed by OHP since 1975, as well as information and records maintained and managed by regional Information Centers (ICs) located throughout California and the maintained by OHP.

The eligibility criteria for the California Register are intended to serve as the definitive criteria for assessing the significance of historical resources for purposes of CEQA. The eligibility criteria for listing in the California Register are similar to those for National Register listing but focus on the importance of the resources to California history and heritage. In general, any building, site, structure, object or historic district over 50 years in age and meeting one or more of the following criteria may be eligible for listing in the California Register:

- a) is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- b) is associated with the lives of persons important in our past;

- c) 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
- d) has yielded, or may be likely to yield, information important in prehistory or history.

Eligibility for the California Register also depends on the integrity, or the survival of characteristics of the resource that existed during its period of significance. Eligible historical resources must meet one of the above criteria and retain enough of integrity to convey its period of historical significance. Seven aspects of integrity are evaluated with regard to location, design, setting, materials, workmanship, feeling and association.

Section 15064.5 of the State CEQA Guidelines defines “substantial adverse change” as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the resource would be materially impaired. The significance of a historical resource is materially impaired when a project results in demolition or material alteration in an adverse manner of those physical characteristics of a resource that:

- a) convey its historical significance and that justifies its inclusion in, or eligibility for inclusion in, the California Register;
- b) account for its inclusion in a local register of historical resources pursuant to Public Resources Code 5020.1(k) or its identification in a historical resources survey meeting the requirements of Public Resources Code 5024.1(g), unless the public agency reviewing the effects of the proposed project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
- c) convey its historical significance and that justifies its eligibility for inclusion in the California Register, as determined by a lead agency for purposes of CEQA.

For historical buildings, CEQA Guidelines (§ 15064.5[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. The California Register special considerations for certain property types are limited to moved buildings, structures, or objects; historical resources achieving significance within the past 50 years; and reconstructed buildings.

### ***California Historical Landmarks***

California Historical Landmarks are buildings, structures, sites, or places that have been determined to have statewide historical significance by meeting at least one of the following criteria:

- a) the first, last, only, or most significant of its type in the state or within a large geographic region (Northern, Central, or Southern California);
- b) associated with an individual or group having a profound influence on the history of California; or

- c) a prototype of, or an outstanding example of, a period, style, architectural movement or construction or is one of the more notable works or the best surviving work in a region of a pioneer architect, designer or master builder.

#### ***California Public Records Act, Sections 6254(r) and 6254.10***

Sections 6254(r) and 6254.10 of the California Public Records Act were enacted to protect archaeological sites from unauthorized excavation, looting, or vandalism. Section 6254(r) explicitly authorizes public agencies to withhold information from the public relating to “Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.” Section 6254.10 specifically exempts from disclosure requests for “records that relate to archaeological site information and reports, maintained by, or in the possession of the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission (NAHC), another State agency, or a local agency, including the records that the agency obtains through a consultation process between a Native American tribe and a State or local agency.”

#### ***California Penal Code, Section 622***

Title 14 Section 622 of the California Penal Code provides misdemeanor penalties for willfully injuring, disfiguring, or destroying any monument, or objects of historic or archaeological interest located on public or private lands, but specifically excludes the landowner.

#### ***California Public Resources Code, Section 5097.5***

Section 5097.5 of the California Public Resources Code defines as a misdemeanor the unauthorized disturbance or removal of archaeological, historic, or paleontological resources located on public lands or state lands.

#### ***California Health and Safety Code, Sections 7050.5 and 7052***

Section 7050.5 of the California Health and Safety Code defines as a misdemeanor if a person knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law. Section 7052 defines as a felony any person who willfully mutilates, disinters, or removes from the place of interment any remains known to be human. However, alkaline hydrolyzed or cremated human remains may be removed for disposition.

#### ***California Points of Historical Interest***

California Points of Historical Interest are sites, buildings, features, or events in history that are of local (city or county) significance and have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value. California Points of Historical Interest are recommended by the State Historical Resources Commission and are also listed in the California Register. To be eligible for designation as a Point of Historical Interest, a resource must meet at least one of the following criteria:

- a) the first, last, only, or most significant of its type within the local geographic region (city or county);

- b) associated with an individual or group having a profound influence on the history of the local area;  
or
- c) a prototype of, or an outstanding example of, a period, style, architectural movement or construction or is one of the more notable works or the best surviving work in the local region of a pioneer architect, designer or master builder.

## **SENATE BILL (SB) 18**

Senate Bill 18 (SB 18) went into effect January 1, 2005 and requires local governments (city and county) to consult with Native American tribes before making certain planning decisions and to provide notice to tribes at certain key points in the planning process. The intent 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.”

The purpose of involving tribes at these early planning stages is to allow consideration of cultural places in the context of broad local land use policy, before individual site-specific, project-level, land use designations are made by a local government. The consultation requirements of SB 18 apply to general plan or specific plan processes proposed on or after March 1, 2005.

According to the Tribal Consultation Guidelines: Supplement to General Plan Guidelines published by the Governor’s Office of Planning and Research, the following are the contact and notification responsibilities of local governments:

- Prior to the adoption or any amendment of a general plan or specific plan, a local government must notify the appropriate tribes (on the contact list maintained by the Native American Heritage Commission [NAHC]) of the opportunity to conduct consultations for the purpose of preserving, or mitigating impacts to, cultural places located on land within the local government’s jurisdiction that is affected by the proposed plan adoption or amendment. Tribes have 90 days from the date on which they receive notification to request consultation, unless a shorter timeframe has been agreed to by the tribe (Government Code Section 65352.3).
- Prior to the adoption or substantial amendment of a general plan or specific plan, a local government must refer the proposed action to those tribes that are on the NAHC contact list and have traditional lands located within the city or county’s jurisdiction. The referral must allow a 45-day comment period (Government Code Section 65352). Notice must be sent regardless of whether prior consultation has taken place. Such notice does not initiate a new consultation process.
- Local government must send a notice of a public hearing, at least ten (10) days prior to the hearing, to tribes who have filed a written request for such notice (Government Code Section 65092).

While Senate Bill 18 and the California Tribal Consultation guidelines does not specifically apply to a SOI, in keeping with the spirit of the intent of the legislation, and due to the potential for specific planning applications to result from the proposed project, the appropriate native groups were consulted with respect to the project’s potential impacts on Native American places, features, and objects.

## **ASSEMBLY BILL (AB) 52**

AB 52 went into effect on July 1, 2015 and requires CEQA lead agencies to engage in early consultation with California Native American Tribes on all projects. AB 52 creates a new CEQA resource: Tribal Cultural Resources, which include sites, features, places, cultural landscapes, sacred place, objects, or archeological resources with cultural value to a California Native American Tribe that is listed or eligible for listing in the national, California or local registers. AB 52 requires lead agencies to consider whether a project may cause a substantial adverse change in the significance of a Tribal Cultural Resource and to consider a tribe's cultural values when determining the appropriate environmental assessment, impacts and mitigation. AB 52 can draw upon SB 18's guidelines and can be completed in tandem. AB 52 applies to projects with a Notice of Preparation (NOP) or notice of a Negative Declaration or Mitigated Negative Declaration issued on or after July 1, 2015. Revisions to the CEQA Guidelines were adopted in 2016 in order to: (1) separate the consideration of paleontological resources from Tribal Cultural Resources and update the relevant sample questions and (2) add consideration of Tribal Cultural Resources with relevant sample questions.

On August 12, 2019, LAFCo received an AB 52 request from the United Auburn Indian Community (UAIC) formally requesting consultation regarding the SOI Plan Update area. The letter request specifically cited PRC 21080.3.2(a) and the type of environmental review proposed, project alternatives, significant effects, and mitigation measures for direct, indirect and cumulative impacts. The letter also indicated the tribe wishing to have input on design options to avoid impacts to tribal and cultural resources and that a UAIC tribal representative observe and participate in all cultural resource surveys. The UIAC was subsequently contacted by LAFCo to continue the consultation process. As of the publishing of this document, no response from UIAC was received.

## **LOCAL**

### **City of Nevada City**

The Nevada City General Plan (General Plan) notes the single most important purpose is to preserve the existing character and essence of the City. The General Plan further notes that growth has not detracted from the character of the historic town but recognizes that development pressure must be considerate of the historic qualities and it's preservation. In relation to the preservation of historic and cultural resources one of the four major City principles, enhancement of the historic core by appropriate complementary development such as visitor accommodations and infill residential. In sum, the General Plan provides constructive guidance toward community goals for the future of Nevada City.

The Historic Preservation element of the General Plan recognizes the importance of the gold rush as it strongly influences the historic character of both the city and setting. Goals relating to historic preservation include the following:

- The City aims to continue its efforts to preserve and enhance the architectural diversity of historic buildings in the central area, to maintain the remarkable collection of city-owned historic buildings and to encourage private efforts of historic preservation and restoration.

- Whereas many other Mother Load towns are being surrounded by modern subdivisions and commercial development, the Nevada City Basin remains nearly pristine. The city seeks means to preserve its sense of a historic town surrounded by open forest.
- As a city grows and new buildings are added outside the historic district, it is the City's aim to encourage design which is appropriate to our own age, but which is unassertive, allowing the dominance of the City's primary, nineteenth-century historic period.

The General Plan also provides more specific guidance in the form of Objectives and Policies. These are as follows:

#### Objectives

- Maintain the dominance of the City's primary, nineteenth-century historic period.
- Allow new development which is complementary to the form and scale of its content.
- Ensure continued concentration of public and cultural activities which reinforce the historic core as the "heart" of Nevada City.

#### Policies

- Encourage private efforts at historic rehabilitation and restoration.
- Seek innovative means to maintain and improve city-owned historic buildings.

### **Nevada City Municipal Code**

The Nevada City Municipal Code regulates development within the City in relation to among other things, development densities and design standards. The city uses allowable densities to facilitate protection of cultural and historic resources.

**Section 17.80.200** – Minimum Lot Sizes for Land Divisions states that the minimum lot size area is intended to be an absolute minimum lot size and applicants must show that development at that size may be raised if the health, safety and general welfare cannot be assured. In consideration of cultural and historic resources in relation to subdivisions, the decision to allow projects to proceed at the minimum standard is based on effects to the historical, cultural, aesthetic or archaeological value of the property proposed to be subdivided, including consideration of existing structures, improvements, landscaping, landforms and historical or cultural significance of the site.

**Chapter 17.68.010** Defines the purpose of combining districts which is to provide additional development standards for special cases. The combining district designation is combined with the base zoning district to achieve the desired level of development standards and land use application processing. -Section 17.68.020 defines the purpose of the Historical Combining District to preserve historic and aesthetic value of the places and buildings which are important historical exhibits and possess unique architecture. c This section further notes that Section 37361 of the California Government Code, provides special conditions and regulations for the protection, enhancement and perpetuation of places and buildings that have a special character or special historical or aesthetic interest or value. Some

appropriate and reasonable development restrictions controlling the appearance of neighboring properties is therefore, provided.

### 4.4.3 STANDARDS OF SIGNIFICANCE

#### SIGNIFICANCE CRITERIA AND THRESHOLDS

In accordance with the State CEQA Guidelines, the effects of a project are evaluated to determine whether they would result in a significant adverse impact on the environment. An EIR is required to focus on these effects and offer mitigation measures to reduce or avoid any significant impacts that are identified. The criteria used to determine the significance of impacts may vary depending on the nature of the project. According to Appendix G of the State CEQA Guidelines, the proposed project would have a significant impact related to cultural and tribal cultural resources, if it would:

- a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5.
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.?
- c) Disturb any human remains, including those interred outside of dedicated cemeteries.
- d) 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:
  - i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
  - ii. 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, the lead agency shall consider the significance of the resource to a California Native American Tribe.

#### Methodology

This analysis is based on the regional and site-specific information that is publicly available and relevant to the SOI Plan Update area. The evaluation of the project's potential effects on cultural or tribal cultural resources that may be present or associated with the project site stems from the prehistoric and historic context of the region and project site, the historical integrity the site exhibits, and association to significant people and or events.

Pertaining to tribal cultural resources, the NOP/IS was sent to the appropriate groups (refer to Appendix E of this EIR) and letters accordance with AB 52 were sent to tribal contacts that have requested consultation with respect to the proposed project's potential impacts on Native American places, features, and objects. In addition, based on responses from these individual. As mentioned above, one

response letter was received from the UIAC requesting consultation and to discuss the proposed project's potential impacts on Native American places, features, and objects. All relevant information has been evaluated against the thresholds of significance to determine the potential for environmental impacts.

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#### **4.4.4 PROJECT IMPACTS AND MITIGATION**

The proposed project consists of an update to the SOI Plan for the City. This EIR evaluates four project alternatives. The following impact evaluation focuses on the LAFCo/City Preferred Consensus Alternative (Consensus Alternative) which has been identified as the Preferred Alternative in accordance with CEQA requirements. Impacts for the other alternatives are discussed in Chapter 6.0 Alternatives. In some instances; however, impacts related to the overall SOI Plan update may be presented when applicable to help illustrate the environmental effects in the framework of the overall SOI Plan update. The impacts are discussed in terms of direct and indirect impacts. Direct impacts are those that occur upon initiation of a project such as ground disturbance or demolition of existing structure(s). Indirect impacts occur when a project would induce growth into areas such as through the extension of infrastructure and that extension could facilitate new development or result in an annexation that could enable future development.

The Impacts Discussion Overview describes the characteristics of the Consensus Alternative, development potential, assumptions for provision of services, and City and environmental review requirements related to cultural resources. This discussion is applicable to each impact, Impact CUL-1 through Impact CUL-5, below, but is provided here to avoid repetitive discussion.

##### **Impacts Discussion Overview**

The Consensus Alternative would update the SOI Plan area, and future development projects under City jurisdiction would occur only after being annexed to the City. The majority of these undeveloped areas within the Consensus Alternative area are designated for estate residential, rural residential, or open space with minor areas designated for planned development, employment centers, public uses, or service commercial. Development in these areas is anticipated to be consistent with the existing City designations.

Within the Consensus Alternative boundaries there are four priority annexation areas (Annexation Areas #1, #2, #3, and #4). These areas in general are already developed, are in close proximity to, or are already being served by existing water or wastewater lines. These areas are in logical locations for extension of City municipal services and represent a logical progression of City boundaries.

In addition, the six potential development areas identified by the City are discussed throughout this document. These sites do not yet have any development approval and the specific project footprints are unknown. Annexation and the anticipated timeline for build out would occur over a period of time and is anticipated to be at similar densities as to what is shown in the project description and in accordance with existing City planning documents. The majority of the remaining undeveloped areas within the Consensus Alternative area are designated for estate residential, rural residential, or open space with some areas designated for planned development, employment centers, public uses, or service commercial.

All future City development after annexation within the Consensus Alternative area would be subject to City design and review as part of City's project review process. All projects would be evaluated for consistency with the NCGP, Nevada City Municipal Code, and Nevada City Design Guidelines. The City also has authority to prezone all future annexations to Nevada City, and for annexations that include new development, the City would be able to specify conditions to ensure that future projects would incorporate all required elements of the listed development guidance documents related to protection of cultural resources. The project by project review also would include a City led CEQA analysis and as applicable, would require project-specific mitigation measures or binding conditions of approval to reduce impacts related to cultural and tribal resources.

## Project Impacts

### ***Impact CUL-1: Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?***

Cultural resources that are significant under Section 106 are evaluated in terms of eligibility for listing of in the NRHP. NRHP significance criteria applied to evaluate the cultural resources are defined in 36 CFR 60.4 as described in the Regulatory Settings above. The CRHR includes buildings, sites, structures, objects, and districts significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural history of California. To qualify for inclusion in the CRHR, a historical resource must meet the criteria previously described. If no eligible resources are identified within a project's area of potential effect (APE), then the project is not considered to have a significant impact on cultural resources.

The Consensus Alternative does not include any development proposals, new construction, new entitlements or improvements, and it would not change any existing land use designations. Therefore, the Consensus Alternative would not result in any direct impacts to the significance of a historical resource as defined in §15064.5.

The Consensus Alternative area does not to contain any existing historical resources listed on the National Register or California National Register of Historic Places, California Historical Landmarks (CHLs), California Points of Historical Interest, or the California Register. Priority Annexation Area #4 does contain the Pine Grove Cemetery, but this location is not listed on the aforementioned historical resources list and no development or disturbance within the cemetery is proposed. The Forest View Cemetery is located on the northerly side of Red Dog Road and adjacent to Priority Annexation Area #4. This location also is not shown in the resources list and no development or disturbance in the cemetery is proposed. Priority Annexation Areas #1, #2, and #3, contain the Caltrans facility, County Juvenile Hall, and an area developed with rural residential uses and a few undeveloped parcels, respectively. These areas do not contain any known historical resources.

Regarding the six potential development areas and other undeveloped areas within the Consensus Alternative, annexation could result in subsequent improvements and development. Development and construction activities could result in damage to unknown historic resources should they be present on future projects sites or in adjacent areas. The City also has authority to prezone all future annexations

which would enable the City to specify conditions to ensure future projects incorporate all requirements related to preservation of cultural resources. All future annexations and developments would be reviewed by the City when development plans are submitted, and/or application(s) filed. This would provide a screening mechanism for the City to determine when and if historical resources are located on the site.

As required by the City Municipal Code, all future annexations would include a site-specific CEQA evaluation. In addition, as part of the annexation process, the City would implement MM-CUL-1, which requires, when applicable, an evaluation of future project sites for the potential to contain historical or archaeological resources. MM-CUL-1 requires evaluation by a qualified archaeologist and if needed development of a mitigation plan with performance standards. Implementation of MM-CUL-1 would reduce impacts in this regard to less than significant.

***Mitigation Measures:*** Implement MM-CUL-1

**MM-CUL-1:** Prior to LAFCo approval of an annexation involving new non-ministerial development and construction, the City shall ensure that the project has been reviewed by a qualified archaeologist for its potential to damage, destroy, or harm the integrity of a historical, cultural, or archaeological resource. After initial review, if necessary, the City shall require the applicant to have a qualified archaeologist conduct a review of the project site and determine the appropriate level of study (e.g., Cultural Resources Report, Cultural Resources Study, or Technical Memorandum) needed to evaluate the potential for presence and/or protection measures for cultural resources either known or unknown. If a formal study is required, all California Native American tribes that are traditionally or culturally affiliated with the geographic area or that have requested notification, shall be contacted. If requested by any tribal group, the City will agree to all mandatory consultation requirements.

As part of the Cultural Resources evaluation or study, the qualified archaeologist shall include all reasonable steps needed to fully document, recover, or preserve in place resources within the project site and develop a mitigation plan to prevent damage or destruction to the resource(s). These measures could include, but not be limited to the following:

Cultural Resources Protection Measures Implemented Prior to Construction:

- Review archival records at the NAHC, etc.;
- Consultation with culturally affiliated tribes or other Native American representative(s);
- Use of Native American monitors during ground disturbing activities;
- Demarcation and preservation in place of any known prehistoric/Native American archaeological, or historical resource;

- Evaluation of the historical archaeological site or resources for potential listing on the National Register of Historic Places (NRHP);
- Implement a Construction Worker Environmental and Cultural Awareness Training Program meeting or exceeding the Secretary of the Interior's Standards for professional archaeology;

Cultural Resources Protection Measures Implemented During Construction:

- Demarcation and preservation in place of any previously unknown located prehistoric/Native American archaeological, or historical resource;
- Cessation of ground disturbance with 50 feet of any located resource (s);
- Preservation of resources in place if possible;
- If resources are not able to be preserved in place, they shall be appropriately documented and recovered;
- Preparation of a report documenting the resource(s);

Cultural Resources Preservation Performance Standards:

- Retention of distinctive materials, features, spaces and spatial relationships;
- Retain and preserve the historical character of the site and/or resources;
- Preservation of distinctive materials, finishes, and/or construction techniques;
- Recordation and documentation of the resources.

**Level of Impact After Mitigation:** Less Than Significant Impact with Mitigation Incorporated.

**Impact CUL-2:** *Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?*

The Consensus Alternative does not include any development proposals, new construction, new entitlements or improvements, and it would not change any existing land use designations. Therefore, the Consensus Alternative would not result in any direct impacts to the significance of an archeological resource as defined in §15064.5.

The Consensus Alternative contains approximately 2,072 acres. Native American tribes are known to have occupied the area and it is likely that there may be unknown archaeological resources within the SOI Plan Update area. The Consensus Alternative area has the potential to contain known and unknown archaeological resources. Priority Annexation Areas #1 and #2 contain a Caltrans facility and County Juvenile Hall facility. These sites are largely developed, and no additional development is proposed. Priority Annexation Areas #3 and #4 contains a cemetery and rural residential development. Within these areas and the six potential development areas there may be unknown archaeological resources. While there are no approved developments or entitlements, adoption of the Consensus Alternative could induce indirect impacts and disturbance to to unknown resources could occur.

Once future projects are proposed or entitled, and specific development footprints are known, the potential for the annexation sites to contain archeological resources would be evaluated. The sites would be evaluated to determine if any constituents would qualify for listing under Section 106. The evaluations would include archival research, solicitation of comment from interested parties and stakeholders, and evaluation of previous surveys proximate to future annexation sites. This information would be used to determine the environmental context of the site and assessment of the sensitivity of the site. Based on information from these sources as determined by a qualified archaeologist, mitigation plans, and conditions of approval would be incorporated, as needed, to protect archaeological resource. Implementation of MM-CUL-1 and conformance with all other regulations and standards related to the protection and preservation of archaeological resources would reduce impacts in this regard to less than significant.

**Mitigation Measures:** Implement MM-CUL-1

**Level of Impact After Mitigation:** Less Than Significant Impact with Mitigation Incorporated.

**Impact CUL-3: *Disturb any human remains, including those interred outside of dedicated cemeteries?***

The Consensus Alternative consists of an adjustment to the SOI boundary of the City. The Consensus Alternative does not propose any new development or include any entitlements that would lead to development or direct impacts to unknown buried human remains.

The location of gravesites and Native American remains can occur outside of dedicated cemeteries or burial sites. Future ground-disturbing and construction activities could uncover previously unknown human remains, which could be archaeologically or culturally significant. Indirect impacts to buried human remains due to annexation and future potential development could occur from adoption of the Consensus Alternative should the resources be uncovered during construction.

Approval of the Consensus Alternative would remove an obstacle to future development within the SOI and could lead to annexation of Priority Annexation Areas #1, #2, #3, and #4, the six potential development areas, and other sites within the Consensus Alternative. Future development of these areas could result in grading and soil disturbing activities that if present, could disturb these resources. Priority Annexation Areas #1 and #2 are developed with a Caltrans facility and County Juvenile Hall and no development is proposed. Priority Annexation Areas #3 and #4 could experience minimal development on a few undeveloped lots. In addition, the six potential development areas and other areas within the Consensus Alternative also could disturb such resources. This would be a potentially significant impact and mitigation would be required.

As part of the project approval process the City would specify conditions to protect the remains. In addition, all future annexations would require a City led CEQA analysis and as applicable, would require project-specific mitigation measures or binding conditions of approval to reduce impacts related to such resources. Implementation of MM-CUL-2 and conformance with all other regulations and standards

related to the inadvertent discovery of human remains would reduce impacts in this regard to less than significant.

**Mitigation Measures:** Implement MM-CUL-2

**MM-CUL-2:** Prior to LAFCo approval of an annexation involving new non-ministerial development and construction, the City shall ensure the applicant will conform to the following measure: If human remains are uncovered during any ground disturbing activities, all construction activities onsite shall cease. The construction contractor shall immediately contact the Nevada County Coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5 (e)(1) of the CEQA Guidelines. The City Planning Department shall be contacted immediately after the coroner. If the County coroner determines that the remains are Native American, the Native American Heritage Commission shall be notified, in accordance with Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by AB 2641). No further construction activity shall occur until consultation is complete with the most likely descendent, the Coroner and the City staff. Authorization to resume construction shall only be given by the City after concurrence with the most likely descendent and shall include implementation of all appropriate measures to protect any possible burial sites or human remains.

**Level of Impact After Mitigation:** Less Than Significant Impact.

**Impact CUL-4:** *Would the project Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource, Defined in PRC 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 americian tribe, and that is:*

- I. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in prc section 5020.1(k)?*
- II. 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 PRC Section 50241.1. In applying the criteria set forth in subdivision (c) of PRC Section 50241.1, the lead agency shall consider the significance of the resource to a California Native American Tribe?*

As discussed in Impacts CUL-1 and CUL-2, above, the Consensus Alternative does not propose any construction activities and would not entitle any new development that would result in direct impacts to any cultural or archaeological resources. Similarly, the Consensus Alternative would not result in any direct impacts to a site, feature, place, or cultural landscape that is geographically defined by size and

scope of the landscape as a sacred place, or object with cultural value to a California native American tribe.

A formal survey for the SOI Plan Update area for the presence of cultural resources was not conducted. Because of the scale of the project and the fact it is unknown what areas may be disturbed as part of potential future annexation and potential development projects, such a study was not feasible and appropriate. Should future development occur after annexation, MM-CUL-1 would address potential impacts by requiring a mitigation plan as part of the required CEQA review that would occur on a project by project basis.

As of the publication of this DEIR, LAFCo received one comment from the UAIC. The letter was received on August 12, 2019, requesting consultation regarding the SOI Plan Update area. The letter request specifically cited PRC 21080.3.2(a) and asked for additional information regarding the project, requested the tribe have the ability to provide input on design option, and that a UAIC tribal representative observe and participate in all cultural resource surveys. The UAIC was subsequently contacted by LAFCo and a meeting was later held. During the conversation all of UAIC's previous questions were responded to and as per their letter, mitigation has been included to satisfy requests. During the meeting UAIC noted that certain known sites were within the SOI Plan Update area. Due to resource protection requirements, the precise locations have been omitted from this document. If development does proceed in these areas a mitigation plan in accordance with MM-CUL-1 shall be prepared.

No other comments have been received with respect to the proposed project's potential impacts on Native American places, features, and objects. As discussed in Section 4.4.1: Environmental Setting, the prehistoric and archaeological setting of the project area consists of a diverse history throughout the region. If, during potential subsequent construction activities tribal and cultural resources are located, all required protection measures shall be implemented. Implementation of MM-CUL-1 would ensure impacts remain less than significant.

**Mitigation Measures:** Implement MM-CUL-1

**Level of Impact After Mitigation:** Less Than Significant Impact with Mitigation Incorporated.

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## 4.4.5 CONCLUSION

It is anticipated that some future projects, if not properly mitigated, would result in the loss or destruction of historical, cultural and tribal resources, human remain, and paleontological resources. Mitigation measures MM-CUL-1, and MM-CUL-2 have been included and would reduce impacts to less than significant. Because the exact footprint and design of future projects are not known, site-specific mitigation cannot feasibly be proposed and could not account for all potential impacts. MM-CUL-1 presents a process and procedure that would require site-specific review by a qualified archaeologist that can be tailored for each future project to enable protection of cultural resources. MM-CUL-1 requires the project site to be evaluated and, if needed, implementation of a mitigation plan with performance standards for all applicable future annexation project required to be evaluated under CEQA. It should be

noted that not all sites will require formal mitigation. For example, if a site is to be annexed with no associated improvements, CEQA review under a categorical exemption may be appropriate and additional evaluation may not be required. In all instances where ground disturbance would occur, MM-CUL-1 shall apply. MM CUL-1 would reduce impacts to unknown cultural resources and paleontological resources to less than significant.

Therefore, based on the absence of known existing archaeological, cultural, and tribal cultural resources within the project site, and incorporation of mitigation to reduce impacts to unknown resources should they be discovered during site disturbance activities, impacts to these resources would be less than significant.

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#### **4.4.6 CUMULATIVE IMPACTS**

For these resources, impacts are site-specific and not generally subject to cumulative impacts unless multiple projects impact a common resource, or an affected resource extends off-site, such as a historic townsite or district. The cumulative analyses for historical, archaeological, and tribal cultural resources considers whether the Consensus Alternative, in combination with the past, present, and reasonably foreseeable projects, could cumulatively affect any common cultural or paleontological resources.

The proposed project could result in potential site-specific impacts to currently unknown archaeological, cultural, and tribal cultural resources. Other projects within the cumulative study area also have the potential to result in damage and/or loss to these resources. The combination of the proposed project as well as past, present, and reasonably foreseeable projects in the City and SOI Plan Update area would be required to comply with all applicable State, federal, and County and local regulations concerning preservation, salvage, or handling of cultural and paleontological resources, including compliance with required mitigation. Similar to the proposed project, these projects also would be required to implement and conform to mitigation measures, which would be likely to reduce impacts to less than significant. Although in the process of development, some known or unknown resources may be lost, it is not anticipated that these impacts would be cumulatively considerable. In addition, implementation of Mitigation Measures CUL-1 through CUL-2 would reduce project-specific impacts to a less than significant level. Therefore, the project's contribution to cumulative impacts would be less than significant.