

This section provides a background discussion of the prehistoric period background, ethnographic background, and historic period background, as well as the known cultural resources in the region and the Plan Area. The purpose of this section is to disclose and analyze the potential impacts to cultural and tribal cultural resources associated with development of the proposed Specific Plan. Information in this section is derived primarily from the following:

- *Cultural and Paleontological Resource Assessment for the Fresno West Area Specific Plan Project* (Cogstone, October 2019 – included in **Appendix D**).

Two comments were received during the public review period or scoping meeting for the Notice of Preparation regarding this topic from the following: The Native American Heritage Commission (August 13, 2019) and the Table Mountain Rancheria Tribe (August 6, 2019). The portion of this comment letter which relates to this topic is addressed within this section. Full comments received are included in **Appendix A**.

KEY TERMS

Cultural and Historic Resources are defined as buildings, sites, structures, or objects that may have historical, architectural, archaeological, cultural, or scientific importance. Preservation of the city's cultural heritage should be considered when planning for the future.

Archaeology. The study of historic or prehistoric peoples and their cultures by analysis of their artifacts and monuments.

Ethnography. The systematic study of contemporary human cultures.

3.5.1 ENVIRONMENTAL SETTING

PREHISTORY

Humans are believed to have resided in Fresno County for at least the past 5,000 years. Archeologists who have studied these past cultures have uncovered evidence of widespread activities that allowed them to divide these previous 13,000 years into periods or phases based on the kinds of subsistence behaviors practiced.

Three periods have been identified with locally defined phases and regional cultures as identified below:

- Paleoindian and Lower Archaic Period, 11,500 – 5,550 B.C
- Upper Archaic Period, 550 cal B.C.– cal 1100 A.D.
- Emergent/Late Prehistoric Period, cal 1100 A.D. – Historic Contact.

Paleoindian and Lower Archaic Periods (11,500 – 5,550 B.C.)

Few archaeological sites that predate 5,000 years ago have been discovered in the region. Near the end of the Pleistocene (approximately 9,050 cal B.C.) and during the early Middle Holocene (approximately 5,550 cal B.C.), there were periods of climate change and associated alluvial deposition throughout the central California lowlands. Recent geoarchaeological studies have

verified that large segments of the Late Pleistocene landscape were removed or buried by periodic episodes of deposition or erosion during the Middle Holocene. This confirms hypotheses that Paleoindian and Lower Archaic sites were buried during the last 5,000 to 6,000 years by deposits of Holocene alluvium up to 10 meters thick along the lower stretches of the Sacramento River and San Joaquin River drainage systems. Archaeological evidence for the Paleoindian Period is scant, comprised primarily by fluted projectile points. The Lower Archaic Period is also mainly represented by isolated finds, such as at the Tulare Lake basin in the southern San Joaquin Valley. As a consequence of the natural alluvial deposition processes, only one site on the valley floor has produced cultural material dating to this period, and featured stone tools, remains of birds, fish and shellfish but no plant remains or milling tools. At two Lower Archaic Period sites in the foothills of Calaveras County, abundant handstones and milling slabs have been recovered.

Spears, angling hooks, composite bone hooks, and baked clay artifacts that may have been used as net or line sinkers represent the variety of fishing implements found at sites dating to this period. Other baked clay items include pipes and discoids, as well as cooking “stones.” Impressions of twined basketry, bone tools, shell beads, and ground and polished charmstones have also been recovered. A variety of grave goods accompanied burials in cemetery areas, which were separate from habitation areas. The presence during the Middle Archaic of an established trade network is indicated by a variety of exotic cultural materials, including obsidian tools, quartz crystals, and Olivella shell beads.

Upper Archaic Period (550 cal B.C – cal 1100 A.D)

The Upper Archaic Period features more specialized technology, with innovations and new types of bone tools, Olivella shell beads, Halotis ornaments, charmstones, and ceremonial blades. An abundance of grinding tools (mortars and pestles) and plant remains, accompanied by a decrease in slab milling stones and handstones, indicates a shift to a greater reliance on acorns as a dietary staple during the Upper Archaic Period. A wide variety of natural resources were exploited during this period. Subsistence strategies varied regionally, focusing on seasonally available resources suited for harvesting in bulk, such as salmon, shellfish, deer, rabbits, and acorns. Numerous large shell mounds dating to this period are located near fresh or salt water and indicate exploitation of aquatic resources was relatively intensive. The accumulations of cultural debris and habitation features, such as rock-lined ovens, house floors, burials, hearths, and fire-cracked rock, reflect long-term residential occupation.

In the western margins of the San Joaquin Valley, discrete cemeteries date to the Upper Archaic Period. In the southern San Joaquin Valley, villages on the shores of Buena Vista Lake were occupied year-round. Trade in marine shell beads and obsidian, among other items, continued to be important.

Emergent/Late Prehistoric Period (cal A.D. 1100 – Historic Contact)

The archaeological record in the Central Valley for the Emergent/Late Prehistoric Period documents an increase in the diversity and number of artifacts and in the number of archaeological sites. Along with an increase in sedentism and population that led to the development of social stratification, with an elaborate ceremonial and social organization, a number of cultural innovations shaped the

Emergent Period. These include the introduction of the bow and arrow and more diverse fishing equipment (bone fish hooks, harpoons, and gorge hooks). Fishing, hunting, and gathering plant foods continue as the foci of subsistence practices, including intensive harvesting of acorns and an increased emphasis on fishing. Hopper mortars and shaped mortars and pestles, as well as bone awls used for producing coiled baskets, are common. Locally made Cosumnes Brownware has been recovered from some sites in the lower Sacramento Valley, while pottery in the Tulare basin was obtained through trade. Baked clay balls, probably used for cooking in the absence of stone, remain common.

Ceremonial and ritual items include flanged tubular pipes and baked clay effigies representing humans and animals. Clamshell disk beads were used as currency and accompanied the development of extensive exchange networks. Mortuary practices included flexed burials, the cremation of high-status individuals, and pre-interment burning of offerings in grave pits. Overall, the cultural patterns known from historic period Native American groups inhabiting the Central Valley are reflected in the subsistence and land use patterns practiced during the Emergent Period.

ETHNOLOGY

The Plan Area is located within the traditional territory of the Yokuts. Historically, the Yokuts people collectively inhabited the San Joaquin Valley as well as the eastern foothills of the Sierra Nevada from the Calaveras River southward to the Kern River. Ethnographers and linguists have traditionally divided Yokuts into three geographic groups, based on linguistic similarities and differences: Northern Valley, Southern Valley, and Foothill. The Plan Area is located in the area historically occupied by the Northern Valley Yokuts according to Kroeber (1925: 462), who suggested that they lived along the San Joaquin River. The Northern Valley Yokuts tribes' territory extended southward from the Calaveras River to the upper San Joaquin River and from the crest of the Coast (Diablo) Range east to the Sierra Nevada foothills.

Information on the Yokuts lifeways has been compiled by Kroeber (1925:474-543), Wallace (1978:462-470), and Latta (1977) and is summarized here. The Northern Valley Yokuts grouping consisted of 11 or more tribes, each containing 300 or so people. Most members lived within a single settlement that often had the same name as the political unit. These were generally established on low rises along the major watercourses. The eastern side of the San Joaquin River was more heavily populated than the land to the west of the river, due to greater water availability. A village generally contained at least three types of structures – oval single-family dwellings made of tule, ceremonial chambers, and sweathouses. According to Kroeber's informants, a tribe of Yokuts known as the Hewchi lived close to the Plan Area, near Fresno River (1925: 470).

The fundamental economy of the Yokuts was subsistence fishing, hunting, and collecting plant foods. Acorns, collected in the fall and then stored in granaries, were a staple food (Wallace 1978:464). During the fall and spring runs, salmon was a dietary mainstay. Wildfowl, such as geese and ducks, were also an important staple. Additional dietary plant parts included seeds, berries and tule roots. Large game included deer, elk, antelope, and black bears.

A wide variety of tools, implements, and enclosures were used by the Northern Valley Yokuts to gather, collect, and process food resources. These included bow and arrows, nets, traps, slings, and blinds for hunting land mammals and birds; and harpoons, hooks, and nets, as well as tule rafts. Sharpened digging sticks and woven tools (seed beaters, burden baskets, and carrying nets) would have been used to collect plant resources and a variety of implements (stone mortars and pestles, bedrock and portable mortars, stone knives, and bone tools) used for processing resources. The Northern Valley Yokuts traded with neighboring groups for bows and arrows, baskets, shell ornaments and beads, obsidian, and mussels and abalone.

The San Joaquin Valley was never settled during the Spanish and Mexican periods, but influences from the coastal missions and presidios were felt inland by the late 1700s. By 1805, Northern Valley Yokuts were transported to the San José, Santa Clara, Soledad, San Juan Bautista, and San Antonio missions that were established during the Spanish era. Later, disease and military raids claimed many lives during the Mexican period, followed by displacement during the early American Period by gold seekers and farmers.

Pre-contact population density for Northern Valley Yokuts has been estimated at 25,000 to 31,000. In 1852, representatives of only three Northern Valley Yokuts tribes (including the Heuchi) remained to sign one of a series of statewide treaties. Today, people of Yokuts descent live on the Tule River Reservation in Tulare County and on three rancherias: Picayune in Madera County at Coarsegold, Santa Rosa in Kings County, and Table Mountain in Fresno County near Friant. Some Foothill Yokuts also live with Central Sierran Miwok on the Tuolumne Rancheria in Tuolumne County.

HISTORIC PERIOD BACKGROUND

The general history of the exploration and settlement of Fresno County has been documented in a number of sources. This section focuses on the specific history of Fresno and the Plan Area.

Spanish Exploration

Juan Cabrillo was the first European to sail along the coast of California in 1542 and was followed in 1602 by Sebastian Vizcaino (Bean and Rawls 1993). The Spanish colonization of what was then known as Alta California began with the 1769 overland expedition, led by Gaspar de Portolá, with a crew of 63 men, in order to explore the land between San Diego and Monterey. Between 1769 and 1822, the Spanish had colonized California and established missions, presidios, and pueblos and documented the people and landscape along the way (McCawley 1996).

Following the Portolá Expedition, vast tracts of land were granted to the missions. The goals of the missions were tri-fold: they establish a Spanish presence on the west coast, proselytize Christianity to the native peoples, and serve to exploit the native population as laborers. The Spanish also hoped each mission would become a town center, whereas, “the pueblo would receive a ground of four square leagues of land... and other property would be parceled out among the Indians”. The missionaries, or padres, would essentially serve as a mayor, or head of the town (Bean 1968).

Mexican Period

In 1821, Mexico won its independence from Spain and worked to lessen the wealth and power held by the missions. The Secularization Act was passed in 1833, appropriating the vast mission lands to the Mexican governor and downgrading the missions' status to that of parish churches. The governor then redistributed the former mission lands, in the form of land grants, to private owners (Bean and Rawls 1993). The lands were typically granted to soldiers who proved their loyalty to the Mexican government once liberated from the Spanish crown.

Fresno History

The County of Fresno was founded in 1856 from portions of Tulare, Merced, and Mariposa Counties. In 1872, Central Pacific Railroad, predecessor to the Southern Pacific Railroad Company, arrived in the San Joaquin Valley. The local train station, "Fresno Station," represented the epicenter of Fresno (Planning Resource Associates, Inc. 2008).

Fresno's original land plan was organized on a grid system which extended eastward from the Central Pacific Railroad tracks along what is currently H Street. In 1872, the Railroad began selling lots to entrepreneurs and by the end of the year Fresno consisted of a few residential homes, multiple livery stables, four restaurants and hotels, and two stores (Planning Resource Associates, Inc. 2008).

In 1874, the Fresno County seat was transferred from Millerton, which had experienced years of floods and a catastrophic fire, to the City of Fresno (Hoover & Kyle 2002). Fresno's new position as the County seat resulted in a boost of prosperity and by 1885 Fresno was incorporated with a population of approximately 2,000 (Victor Gruen Associates 1968).

Fresno's economic success came from its agricultural production in conjunction with the railroad. Fresno County became the number one agricultural producer in California in addition to one of the nation's best producers of cotton, figs, grapes, and raisins (Hoover & Kyle 2002). In 1911, the Sun-Maid Raisin Cooperative was founded in the City of Fresno as the principle packing center and hosted multiple packinghouses throughout the City (Hattersley-Drayton 2013). To this day, Fresno County is ranked as the nation's highest agricultural producer with annual sales totaling over \$3 billion per annum.

By the late 1890s and early 1900s, Fresno's population and economy continued to grow with the U.S. Census showing the City's population doubling from 12,470 in 1900 to 24,892 in 1910 (U.S. Census 1910). The Fresno City Board of Trustees approved the establishment of the City's first planning commission in 1916, in anticipation of further growth. By 1923, the plans were adopted and included parks and recreation centers, and streets to accommodate the increased population (Planning Resource Associates, Inc. 2008).

Fresno's early 20th century residential development located north of the downtown area caused the expansion of the electric Fresno Street Railway established in 1888. The Railway was later taken over by the Fresno City Railway Company in 1901 and built northward to connect the suburban areas

to the City's center. The electric streetcar would remain the primary form of mass transit in Fresno City until its replacement by the bus by 1939 (Planning Resource Associates, Inc. 2008).

During the Post-War Economic Boom (1945-1973), the population shifted from Fresno's center to the newly developed suburbs as a result of increased population and increase in personal car ownership. This shift in population caused the decline of the City's urban center and in the 1960s, Fresno began an urban revitalization project for downtown resulting in the construction of the Fulton Mall in 1964. This six-block pedestrian mall was considered an innovative model and effective response to what was considered at the time to be America's "Urban Crisis" (Victor Gruen Associates 1968).

During the 1970s to 1990s, development continued to expand outward from Fresno's City center.

Plan Area History

The Plan Area boundaries are defined by Clinton Avenue at its southern boundary, North Garfield Avenue at its western boundary, and the State Route 99 (SR-99) running northwest/southeast connecting the northern end of Garfield Avenue to the eastern end of Clinton Avenue. Historic topographic maps from 1923 (Bullard 7.5x15 minute) to approximately 1965 (Fresno North 7.5 minute) show the vast majority of the Plan Area occupied by farmland and various farmhouses. The Post-War Economic Boom (1945-1973) is depicted in historic aerials from 1962 and 1972 as an increase in tract homes on previous agricultural land as the population shifted from urban to suburban locations. The tract homes spread west of SR-99 through the Plan Area. By 1998, nearly a third of the Plan Area was developed and closely resembled the Plan Area's built environment at it exists today.

CULTURAL RESOURCES IN THE SPECIFIC PLAN AREA

California Historic Resources Information System

The purpose of the cultural records search is to identify all previously recorded cultural resources (prehistoric and historic archaeological sites, historic buildings, structures, objects, or districts) within the Plan Area. All cultural resources, as well as cultural resource surveys, performed within the Plan Area boundaries were reviewed.

A search of the California Historic Resources Information System (CHRIS) was requested from the Southern San Joaquin Valley Information Center (SSJVIC) located at California State University, Bakersfield on July 30, 2019, which included the entire Plan Area. Results of the record search indicate that 36 previous studies have been completed within the Plan Area (Table 3.5-1).

In addition to the SSJVIC records search, a variety of sources were consulted to obtain information regarding the cultural context of the Plan Area. Sources included the National Register of Historic Places (NRHP), the California Register of Historic Resources (CRHR), California Historical Resources Inventory (CHRI), California Historical Landmarks (CHL), and California Points of Historical Interest (CPHI). Specific information about the Plan Area, obtained from historic-era maps and aerial photographs, is presented in the Plan Area History section.

TABLE 3.5-1: PREVIOUS STUDIES WITHIN THE PLAN AREA

| <i>REPORT No. (FR-)</i> | <i>AUTHOR(S)</i> | <i>TITLE</i> | <i>YEAR</i> |
|-----------------------------|---|--|-------------|
| 00069 | Hudlow, Scott M. and de la Garza, Theresa | A Phase I Architectural Survey for the Highway City Specific Plan Area City of Fresno, California | 1996 |
| 00135 | Hatoff, Brian, Voss, Barb, Waechter, Sharon, Benté, Vance, and Wee, Stephen | Cultural Resources Inventory Report for the Proposed Mojave Northward Expansion Project. | 1995 |
| 00166 | Kus, James S. | Negative Archaeological Survey Report for Proposed Fresno Housing Authority Clinton Avenue Project | 1994 |
| 00191 | Wren, Donald G. | An Archaeological Survey: Central Unified School District Stadium Project | 1998 |
| 00271 | Bissonnette, Linda Dick | Cultural Resources Survey for Central Unified School District Adult School, Fresno County, California | 1991 |
| 00287 | Bissonnette, Linda Dick | Phase I Cultural Resources Assessment: Central Unified School District, Milburn/Dakota Elementary School Site, Fresno County, California | 1992 |
| 00294 | Bissonnette, Linda Dick | Cultural Resources Assessment for the Central Unified School District, New High School Project, Northwest of Dakota and Cornelia Avenues, Fresno County | 1993 |
| 00302 | Bissonnette, Linda Dick | Grantland Avenue Sewer Trunk and Herndon Expressway Cultural Resources Assessment | 1994 |
| 00393 | Dondero, Steven | Negative Archaeological Survey Report for the Herndon Avenue Overcrossing, Fresno County | 1988 |
| 00433 | Davis, Alan, Dick, Linda, and Varner, Dudley | An Archaeological Reconnaissance of the Gates Substation to the Proposed Gregg Substation 500 KV Transmission Line, Fresno and Madera Counties | 1977 |
| 00447 | Jackson, Scott R. | Environmental Impact Evaluation: An Archaeological Assessment of God's Family Church Property, Fresno County, California | 1990 |
| 00677 | Roop, William | A Cultural Resources Evaluation of Tracts 4488 (APN 311-03124) and 4581 (APN 404-071-17), Fresno, Fresno County, California | 1993 |
| 00760 | Varner, Dudley M. | Highway City Sewer Project (Improvement Dist. #166) | 1974 |
| 01640 | Binning, Jeanne Day | Negative Archaeological Survey Report Installation of Traffic Surveillance Stations along Interstate 5, State Route 41, and State Route 99 in Madera and Fresno Counties | 1999 |
| 01656 | Wren, Donald G. | A Cultural Resource Study: Stormwater Retention Basin EN and EO, Fresno County, California | 2000 |
| 01702 | Wren, Donald G. | A Cultural Resource Study: Basin CD Project, Fresno County, California | 2001 |
| 01710 | Szeto, Andy | Site Location Map and Site Description for PL-754-01 | 1998 |
| 01808 | Wren, Donald G. | An Archaeological Survey Central Unified Education Center, Fresno County, California | 2002 |
| 01811 | Hildebrand, Karen and Roper, C. Kristina | Hardpan and Adobe Brick: A National Register Evaluation of Two Highway City Adobe Buildings, Fresno, California | 1997 |
| 01942 | Hudlow, Scott M. and de la Garza, Theresa | A Phase I Architectural Survey for the Highway City Specific Plan Area, City of Fresno, California | 1996 |
| 01953 | Wren, Donald G. | Draft Environmental Impact Report: Central Unified Education Center: State Clearinghouse No. 2002021064 | 2002 |
| 02029 | Brady, Jon L. | Historic Property Survey for the Proposed La Estancia Housing Project, Fresno, California | 2004 |
| 02212 | Nettles, Wendy M. | Phase I Cultural Resources Study of Assessor's Parcel No. 311140-14, 5901 W. Shaw Avenue, Fresno, California | 2006 |
| 02227 | Losee, Carolyn | New Tower Submission Packet, FCC Form 620 | 2006 |

3.5 CULTURAL AND TRIBAL RESOURCES

| REPORT No. (FR-) | AUTHOR(S) | TITLE | YEAR |
|---------------------|---------------|--|------|
| 02256 | Hobbs, Kelly | Historic Property Survey Report: State Route 99/Shaw Avenue Interchange Improvement Project, Fresno, California | 2002 |
| 02256 | Brady, Jon | Underground Caverns 4951 N. Dale, Fresno California, Historic Evaluation and Determination of Significance | 2000 |
| 02256 | Kiaha, Krista | Archaeological Survey Report for the Shaw Avenue Interchange Reconstruction at State Route 99 Fresno County, California | 2001 |
| 02256 | Hobbs, Kelly | Historic Architecture Survey Report/Historic Resource Evaluation for State Route 99/Shaw Avenue Interchange Improvements | 2002 |

SOURCE: COGSTONE, 2019.

The results of the records search indicate a total of 82 cultural resources have been previously recorded within the Plan Area. Of these cultural resources, four are historic archaeological sites and 78 are historic built environment resources. No fossils are known from the Plan Area or the Fresno area. No prehistoric archaeological sites have been previously recorded within the Plan Area.

Four historical archaeological sites have been recorded in the Plan Area. Three of the historic archaeological sites are in the vicinity of Teague Elementary School and one historic archaeological site, the San Joaquin River Quarry, is located just south of Highway 99 in the northern portion of the Plan Area.

Historical resources include current and former locations of historic buildings, historical archaeological sites (often near historic use areas) and the location of extant historic homes more than 45 years old. The majority of the historic built resources are historic residences clustered around North Polk Avenue and West Acacia Avenue in the northern portion of the Plan Area.

NATIVE AMERICAN CONSULTATION

Pursuant to Senate Bill (SB) 18 and Assembly Bill (AB) 52, consultation letters were sent via certified mail on August 20, 2019 requesting information related to cultural resources or heritage sites within the Plan Area. Additional attempts at contact were made by email or phone on September 6 and September 19, 2019. The letters were sent to: the Native American Heritage Commission; Ms. Elizabeth D. Kipp, Chairperson, Big Sandy Rancheria of Western Mono Indians; Carol Bill, Chairperson, Cold Springs Rancheria; Mr. Robert Ledger Sr, chairperson, Dumna Wo-Wah Tribal Government; Mr. Benjamin Charley Jr., Tribal Chair, Dunlap Band of Mono Indians; Mr. Dick Charley, Tribal Secretary, Dunlap Band of Mono Indians; Mr. Stan Alec, Kings River Choinumni Farm Tribe; Mr. Ron Goode, Chairperson, North Fork Mono Tribe; Mr. Rueben Barrios Sr., Chairperson, Santa Rosa Rancheria Tachi Yokut Tribe; Ms. Leanne Walker-Grant, Chairperson, and Mr. Bob Pennell, Cultural Resources Director, Table Mountain Rancheria; Mr. David Alvarez, Chairperson, and Mr. Rick Osborne, Cultural Resources, Traditional Choinumni Tribe; and Mr. Kenneth Woodrow, Chairperson, Wuksache Indian Tribe/Eshom Valley Band. To date, three responses have been received and are summarized below. All consultation correspondence and a contact log are provided in Appendix C of **Appendix D**.

- On August 26, 2019 Mr. Charley, tribal secretary for the Dunlap Band of Mono Indians, responded via phone that the Plan Area is outside the Tribe's interest and that they would

not be commenting or requesting consultation. Mr. Charley recommended contacting Big Sandy or Table Mountain Rancheria for comments.

- On September 19, 2019 Mr. Alec of the Kings River Choinumni Farm Tribe, responded via phone that the Tribe has no concerns with the Specific Plan.
- On August 6, 2019, Mr. Pennell, Cultural Resources Director of the Table Mountain Rancheria, responded by letter stating that the Tribe is interested in the Specific Plan and requested any cultural resource reports received from the record search. Mr. Pennell requested that the City contact the Tribal office to coordinate a discussion and meeting date for the Specific Plan. On October 7, 2019 Cogstone replied to Mr. Pennell with the results of the cultural records search.

3.5.2 REGULATORY SETTING

There are a number of regulatory agencies whose responsibility includes the oversight of the cultural and tribal cultural resources of the state and nation including the California Register of Historic Resources (CRHR), National Register of Historic Places, and the California Native American Heritage Commission (NAHC). These agencies often oversee the preservation of historic, cultural and tribal cultural resources. The following is an overview of the federal, State and local regulations that are applicable to the proposed Specific Plan.

FEDERAL

National Historic Preservation Act

Most regulations at the Federal level stem from the National Environmental Policy Act (NEPA) and historic preservation legislation such as the National Historic Preservation Act (NHPA) of 1966, as amended. 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. Provisions of NHPA establish a National Register of Historic Places (The National Register) maintained by the National Park Service, the Advisory Councils on Historic Preservation, State Historic Preservation Offices, 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. It 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.

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

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 documents prepared pursuant to the California Environmental Quality Act (CEQA). Under CEQA, a cultural resource is considered an important historical 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 historical resource surveys.

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 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. If a cultural resource is found not to be significant under the qualifying criteria, it need not be considered further in the planning process.

CEQA emphasizes avoidance of archaeological and historical 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 mitigate 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.

Treatment of paleontological resources under CEQA is generally similar to treatment of cultural resources, requiring evaluation of resources in a project's area of potential affect, assessment of potential impacts on significant or unique resources, and development of mitigation measures for potentially significant impacts, which may include monitoring combined with data recovery and/or avoidance. Impacts to paleontological resources are discussed in Section 3.6, Geology and Soils.

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 (Section 15064.5) 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.

State Laws Pertaining to Paleontological Resources

Section 5097.5 of the California Public Resources Code prohibits "knowing and willful" excavation, removal, destruction, injury, and defacement of any "vertebrate paleontological site, including fossilized footprints," on public lands, except where the agency with jurisdiction has granted express permission. "As used in this section, 'public lands' means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof."

Section 30244 of the California Public Resources Code requires reasonable mitigation for impacts on paleontological resources that occur as a result of development on public lands.

The California Administrative Code relating to the State Division of Beaches and Parks affords protection to geologic features and "paleontological materials" but grant the director of the State park system authority to issue permits for specific activities that may result in damage to such resources, if the activities are in the interest of the State park system and for State park purposes (California Administrative Code, Title 14, Section 4307–4309).

Senate Bill 18 (Burton, Chapter 905, Statutes 2004)

Senate Bill (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 to aid in the protection of traditional tribal cultural places ("cultural places") through local land use planning. This legislation, which amended §65040.2, §65092, §65351, §65352, and §65560, and added §65352.3, §65352.4, and §65562.5 to the Government Code; also requires the Governor's Office of Planning and Research (OPR) to include in the General Plan Guidelines advice to local governments on 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 planning stage, for the purpose of protecting, or mitigating impacts to, cultural places. These consultation and notice requirements apply to adoption and amendment of both general plans (defined in Government Code §65300 et seq.) and specific plans (defined in Government Code §65450 et seq.).

Assembly Bill 52 (Chapter 532, Statutes of 2014)

Assembly Bill (AB) 52 establishes a formal consultation process for California tribes as part of CEQA and equates significant impacts on “tribal cultural resources” with significant environmental impacts (PRC Section 21084.2). AB 52 defines a “California Native American Tribe” as a Native American tribe located in California, and included on the contact list maintained by the Native American Heritage Commission. AB 52 requires formal consultation with California Native American Tribes prior to determining the level of environmental document if a tribe has requested to be informed by the lead agency of proposed projects. AB 52 also requires that the consultation address project alternatives and mitigation measures, for significant effects, if requested by the California Native American Tribe, and that consultation be concluded when either the parties agree to measures to mitigate or avoid a significant effect, or the agency concludes that mutual agreement cannot be reached.

LOCAL

Fresno General Plan

The Fresno General Plan identifies the following objectives and policies related to cultural and tribal resources:

HISTORIC AND CULTURAL RESOURCES ELEMENT

Objective HCR-1: Maintain a comprehensive, citywide preservation program to identify, protect and assist in the preservation of Fresno’s historic and cultural resource.

Policy HCR-1-a: Maintain the City’s status as a Certified Local Government (CLG), and use CLG practices as the key components of the City’s preservation program.

Policy HCR-1-b: Maintain the Preservation Office, Historic Preservation Commission, and preservation program to administer the City’s preservation functions and programs.

Policy HCR-1-c: Maintain the provisions of the City’s Historic Preservation Ordinance, as may be amended, and enforce the provisions as appropriate.

Objective HCR-2: Identify and preserve Fresno’s historic and cultural resources that reflect important cultural, social, economic, and architectural features so that residents will have a foundation upon which to measure and direct physical change.

Policy HCR-2-a: Work to identify and evaluate potential historic resources and districts and prepare nomination forms for Fresno’s Local Register of Historic Resources and California and National registries, as appropriate.

Policy HCR-2-b: Prepare historic surveys according to California Office of Historic Preservation protocols and City priorities as funding is available.

Policy HCR-2-c: Prior to project approval, continue to require a project site and its Area of Potential Effects (APE), without benefit of a prior historic survey, to be evaluated and reviewed for the potential for historic and/or cultural resources by a professional who meets the Secretary of Interior's Qualifications. Survey costs shall be the responsibility of the project developer. Council may, but is not required, to adopt an ordinance to implement this policy.

Policy HCR-2-d: Work with local Native American tribes to protect recorded and unrecorded cultural and sacred sites, as required by State law, and educate developers and the community-at-large about the connections between Native American history and the environmental features that characterize the local landscape.

Policy HCR-2-e: Develop and adopt Alternate Public Improvement Standards for historic landscapes to ensure that new infrastructure is compatible with the landscape; meets the needs of diverse users, including motorists, cyclists, and pedestrians; and provides for proper traffic safety and drainage.

Policy HCR-2-f: Consider State Office of Historic Preservation guidelines when establishing CEQA mitigation measures for archaeological resources.

Policy HCR-2-g: Review all demolition permits to determine if the resource scheduled for demolition is potentially eligible for listing on the Local Register of Historic Resources. Consistent with the Historic Preservation Ordinance, refer potentially eligible resources to the Historic Preservation Commission and as appropriate to the City Council.

Policy HCR-2-h: Continue to support enforcement of the minimum maintenance provisions of the Historic Preservation Ordinance, as may be amended, and enforce the provisions as appropriate.

Policy HCR-2-i: Consider creating a preservation mitigation fund to help support efforts to preserve and maintain historic and cultural resources.

Policy HCR-2-j: City staff will evaluate potential opportunities for identification of window replacements to ensure historic integrity is maintained while encouraging sustainability. In addition, city staff will evaluate window replacements in federally funded housing projects on a project-by-project basis with consideration for health, safety, historic values, sustainability, and financial feasibility.

Policy HCR-2-k: Maintain all City-owned historic and cultural resources in a manner that is consistent with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, as appropriate.

Policy HCR-2-l: Establish an inter-departmental Historic Preservation team to coordinate on matters of importance to history and preservation.

3.5 CULTURAL AND TRIBAL RESOURCES

Policy HCR-2-m: Recommend that property owners, who receive funds from the City of Fresno for rehabilitation of a property, consent to listing it on the Local Register of Historic Resources if the property meets the criteria for age, significance, and integrity. Publicly funded rehabilitation properties which may meet Local Register criteria will be presented to the City's Historic Preservation Commission for review.

Policy HCR-2-n: Identify all historic resources within the city designated on the Local, State, or National register, and potential significant resources (building, structure, object or site) in existence for at least 45 years, and provide this information on the City's website.

Objective HCR-3: Promote a "New City Beautiful" ethos by linking historic preservation, public art, and planning principles for Complete Neighborhoods with green building and technology.

Policy HCR-3-a: Promote the adaptive reuse and integration of older buildings into new projects as part of the City's commitment to nurturing a sustainable Fresno.

Policy HCR-3-a: Collaborate with the arts community to promote the integration of public art into historic buildings and established neighborhoods. Link arts activities (such as Art Hop) with preservation activities.

Policy HCR-3-c: Work with architects, developers, business owners, local residents and the historic preservation community to ensure that infill development is context sensitive in its design, massing, setbacks, color, and architectural detailing.

Objective HCR-4: Foster an appreciation of Fresno's history and cultural resources.

Policy HCR-4-a: Foster cooperation with public agencies and non-profit groups to provide activities and educational opportunities that celebrate and promote Fresno's history and heritage.

Policy HCR-4-b: Promote heritage tourism and the public's involvement in preservation through conferences, walking tours, publications, special events, and involvement with the local media.

Policy HCR-4-c: Provide training, consultation, and support in collaboration with Historic Preservation Commissioners to community members regarding Fresno's history, use of the U.S. Secretary of the Interior's Standards, and the California Historical Building Code, as time and resources allow.

Policy HCR-4-d: Maintain public archives that include information on all designated historic properties, as well as historic surveys, preservation bulletins, and general local history reference materials. Post survey reports, Historic Preservation Commission minutes and agendas, and other information of public interest on the historic preservation page of the City's website.

Policy HCR-4-e: Continue to recognize the best work in preservation and neighborhood revitalization as may be appropriate through programs such as the biennial Mayoral Preservation Awards program.

Policy HCR-4-f: Investigate the potential for developing a Mills Act program and possible sources of funding for the Historic Rehabilitation Financing Program.

City of Fresno Historic Preservation Ordinance

Article 16, Historic Preservation Ordinance, of Chapter 12 of the City's Municipal Code provides standards for historic and cultural resources in an effort to preserve, promote and improve the historic resources and districts of the City of Fresno for educational, cultural, economic and general welfare of the public; protect and review changes to these resources and districts which have a distinctive character or a special historic, architectural, aesthetic or cultural value to this City, state and nation; safeguard the heritage of the city by preserving and regulating its historic buildings, structures, objects, sites and districts which reflect elements of the City's historic, cultural, social, economic, political and architectural history; preserve and enhance the environmental quality and safety of these landmarks and districts; and to establish, stabilize and improve property values and to foster economic development.

The Ordinance establishes three categories of designation for properties in Fresno: Historic Resource, Heritage Property, and Local Historic District. The criteria for City of Fresno historic designation correspond closely with criteria established for State and National Register eligibility, and are as follows:

HISTORIC RESOURCE DESIGNATION

The City of Fresno Historic Preservation Commission and City Council may designate any building, structure, object or site as a Historic Resource if it is found to meet the following criteria:

It has been in existence more than 50 years and it possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:

- a) It is associated with events that have made a significant contribution to the broad patterns of our history; or
- b) It is associated with the lives of persons significant in or past; or
- c) It embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values; or
- d) It has yielded or is likely to yield, information important in prehistory or history.

Additionally, a property may be eligible for designation as a Historic Resource if it is less than 50 years old and meets the above-listed criteria, and is found to have exceptional importance within an appropriate historical context at the local, state, or national level.

3.5 CULTURAL AND TRIBAL RESOURCES

HERITAGE PROPERTY DESIGNATION

Any building, structure, object or site may also be eligible for designation as a Heritage Property by the City of Fresno Historic Preservation Commission if it is found by the Commission to be worthy of preservation because of its historical, architectural, or aesthetic merit.

LOCAL HISTORIC DISTRICT DESIGNATION

In order for a group of properties to be designated as a Local Historic District (LHD) by the City of Fresno, there must be a finite group of resources related to one another in a clearly distinguishable way; or a geographically definable area that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. Additionally, the proposed LHD must meet one or more of the following criteria:

1. It exemplifies or reflects special elements of the city's cultural, social, economic, political, aesthetic, engineering, or architectural heritage; or
2. It is identified with a person or group that contributed significantly to the culture and development of the city; or
3. It embodies the distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
4. Structures within the area exemplify a particular architectural style or way of life to the city; or
5. The area is related to a designated historic resource or district in such a way that its preservation is essential to the integrity of the designated resource or Local Historic District; or
6. The area has potential for yielding information of archaeological interest.

3.5.3 IMPACTS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

Consistent with Appendix G of the CEQA Guidelines, the proposed project is considered to have a significant impact on cultural and tribal resources if it will:

- Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5;
- Cause a substantial adverse change in the significance of archaeological resource pursuant to CEQA Guidelines §15064.5;
- Disturb any human remains, including those interred outside of dedicated cemeteries.
- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).
- A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Consistent with Appendix G of the CEQA Guidelines, impacts to paleontological resources are discussed in Section 3.6, Geology and Soils.

IMPACTS AND MITIGATION MEASURES

Impact 3.5-1: Specific Plan implementation may cause a substantial adverse change to a significant historical or archaeological resource, as defined in CEQA Guidelines §15064.5, or a significant tribal cultural resource, as defined in Public Resources Code §21074. (Less than Significant with Mitigation)

According to the *Cultural and Paleontological Resource Assessment*, a total of 82 cultural resources have been previously recorded within the Plan Area. Of these cultural resources, four are historic archaeological sites and 78 are historic built environment resources.

HISTORIC RESOURCES

The majority of the historic built resources within the Plan Area are historic residences clustered around North Polk Avenue and West Acacia Avenue. However, as full buildout of the Specific Plan would occur over several years, there is the potential for other buildings to reach 45 years old during implementation of the Specific Plan. Any future development within the Plan Area with the potential to impact a historic resource or potentially historic resource would be required to comply with the City's Historic Preservation Ordinance, CEQA Guidelines Section 15064.5 regarding determining significant impacts to historic resources, and Mitigation Measure 3.5-1. Project specific mitigation measures would be required to mitigate significant adverse changes in the significance of an historical resource. It is not anticipated that future ground disturbing activities associated with future development projects within the Plan Area would result in impacts to historical resources. However, future development in proximity to a historic resource or potentially historic resource would be reviewed for the potential to generate vibration that could result in damage to a historic resource pursuant to CEQA. Potential impacts to historic resources would be reduced to a ***less than significant level***.

ARCHAEOLOGICAL RESOURCES

Although no prehistoric archaeological sites have been recorded within the Plan Area, unknown resources may be present. Four historical archaeological sites have been recorded in the Plan Area.

3.5 CULTURAL AND TRIBAL RESOURCES

Three of the historic archaeological sites are in the vicinity of the Teague School and one historic archaeological site, the San Joaquin River Quarry, is located just south of SR 99 in the northern portion of the Plan Area. No other archaeological resources have been identified in the Plan Area. Ground disturbing activities associated with future development projects within the Plan Area could result in impacts to currently unknown archaeological resources. The implementation of Mitigation Measures 3.5-2 requiring ground disturbance activities to be halted, a qualified archaeologist to be retained, and mitigation measures for the handling of any resource to be implemented, would ensure that this potential impact is reduced to a *less than significant* level.

TRIBAL RESOURCES

According to the NAHC, there are no known sacred lands within the Plan Area. Consultation requests were made to Native American Tribes pursuant to SB 18 and AB 52 to ascertain the potential for tribal cultural resources to occur within the area. To date, three responses have been received and are summarized below.

- On August 26, 2019 Mr. Charley, tribal secretary for the Dunlap Band of Mono Indians, responded via phone that the Specific Plan is outside the Tribe's interest and that they would not be commenting or requesting consultation. Mr. Charley recommended contacting Big Sandy or Table Mountain Rancheria for comments.
- On August 6, 2019, Mr. Pennell, Cultural Resources Director of the Table Mountain Rancheria, responded with by letter stating that the Tribe is interested in the Specific Plan and requested any cultural resource reports received from the record search. Mr. Pennell requested that the City contact the Tribal office to coordinate a discussion and meeting date for the Specific Plan. On 10/7/2019 Cogstone replied to Mr. Pennell with the results of the cultural records search.
- On September 19, 2019 Mr. Alec of the Kings River Choinumni Farm Tribe, responded via phone that the Tribe has no concerns with the Specific Plan.

While no specific resources have been identified through consultation with affiliated tribes, it is possible that unknown tribal cultural resources may be present within the Plan Area. Site-specific development projects would be reviewed on a project-by-project basis pursuant to CEQA, which would include AB 52 consultation that could lead to the identification of potential site specific tribal resources. All future development projects would be required to comply with local policies, ordinances, and applicable permitting procedures related to protection of tribal resources. These include policies included in the proposed Specific Plan that consider State Office of Historic Preservation guidelines when establishing CEQA mitigation measures for archaeological resources; and require a project site and its Area of Potential Effects (APE), without benefit of a prior historic survey, to be evaluated and reviewed for the potential for historic and/or cultural resources by a professional who meets the Secretary of Interior's Qualifications. Impacts would be reduced to a less-than-significant level with implementation of Mitigation Measure 3.5-2. Compliance with the State and local guidelines would provide an opportunity to identify, disclose, and avoid or minimize the disturbance of and impacts to a tribal resource through tribal consultation and CEQA review

procedures. Therefore, impacts related to tribal resources would be considered ***less than significant***.

MITIGATION MEASURE(S)

Mitigation Measure 3.5-1: *The City shall require project applicants for future projects with intact extant building(s) more than 45 years old to provide a historic resource technical study evaluating the significance and data potential of the resource. If significance criteria are met, detailed mitigation recommendations shall be included as part of the technical study. All work shall be performed by a qualified architectural historian meeting Secretary of the Interior Standards. The historic resource technical study shall be submitted to the City for review prior to any site disturbance within the vicinity of the building(s).*

Mitigation Measure 3.5-2: *If cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts and features) are discovered during the course of construction within the Specific Plan Area, work shall be halted immediately within 50 meters (165 feet) of the discovery, the City of Fresno shall be notified, and a qualified archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology shall be retained to determine the significance of the discovery.*

The City of Fresno shall consider mitigation recommendations presented by the qualified archaeologist for any unanticipated discoveries and future project proponents shall carry out the measures deemed feasible and appropriate. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The project proponent shall be required to implement any mitigation necessary for the protection of cultural resources.

Impact 3.5-2: Specific Plan implementation may disturb human remains, including those interred outside of formal cemeteries. (Less than Significant with Mitigation)

There are no human remains or known burial sites identified in the Plan Area. Additionally, there are no human remains or known burial sites that have been identified in the Plan Area on maps and files maintained by the SSJVIC. There have been 36 previous cultural resource studies that examined portions of the Plan Area and no human remains or known burial sites were documented. In addition to the SSJVIC records search, a variety of sources (e.g., NRHP, CRHR, CHRI, CHL, and CPHI) were consulted to obtain information regarding the cultural context of the Plan Area, and no human remains or known burial sites were identified within the Plan Area.

It is not anticipated that future ground disturbing activities associated with future development projects within the Plan Area would result in impacts to human remains or known burial sites given that none are believed to be present. If during ground disturbance activities human remains are discovered, activities would be halted in accordance with Mitigation Measure 3.5-3 and appropriate steps taken to identify the remains and proper treatment. Compliance with Mitigation Measure 3.5-3 would ensure that this potential impact is reduced to a ***less than significant*** level.

MITIGATION MEASURE(S)

Mitigation Measure 3.5-3: *If human remains are found during ground disturbance activities associated with implementation of the Specific Plan, there shall be no further excavation or disturbance within 50 feet of the discovery and a qualified archeological monitor and the coroner of Fresno County shall be contacted as stated in Health and Safety Code Section 7050.5. If it is determined that the remains are Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent (MLD) from the deceased Native American. The MLD may then make recommendations 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 associated grave goods as provided in Public Resources Code section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if:*

- a) the Native American Heritage Commission is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the commission;*
- b) the descendent identified fails to make a recommendation; or*
- c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.*