

4.4 CULTURAL RESOURCES

This section discusses potential historical, archaeological, and paleontological resources that may be present on or near the project site. Applicable legislation relating to cultural resources and archaeological sites is also summarized.

This analysis is based in part on several archaeological studies prepared by the City in consultation with Caltrans. The California Environmental Quality Act (CEQA), as well as Public Resources Code (PRC) Section 5024.1 which established the California Register of Historical Resources, requires state agencies (including Caltrans) to identify and protect cultural resources that meet National Register of Historic Places listing criteria.

Therefore, archaeological resource studies prepared for the project are not included as appendices to this document but are on file at Caltrans and the City and incorporated by reference.¹

Appendix F includes a Historical Resources Evaluation Report (HRER) that evaluates potential project effects on historic architectural resources.

All of these evaluations examined the potential for cultural resources to occur within a defined Area of Potential Effect (APE) which sets forth the boundaries investigated for the potential presence of cultural resources.

4.4.1 EXISTING CONDITIONS

Historic Architectural Resources

JRP Historical Consulting conducted research and surveys to determine the potential for historical resources for the built environment in the project site. Four properties within the APE required further evaluation as they were 45 years or older.

-
- ¹ All of the following were prepared by qualified archaeologists at Condor Country Consulting, Inc.: Archaeological Survey Report (ASR) May 2013; Extended Phase I Archaeological Testing Report (XP1); May 2013; Finding of No Adverse Effect (August 2014), Discovery Plan (August 2014), Historic Property Survey Report (HPSR), August 2014

Of the four, the following three structures did not meet criteria for listing in the NRHP, nor CRHR due to lack of historic significance with associated events, association with lives of important persons, nor distinctive characteristics of the individual sites.

- 303 Fair Oaks Avenue: Single family residence
- 208 South Fair Oaks Avenue: Commercial building (Blue Bonnet Bar)
- Fair Oaks Avenue Bridge: The project site. A Caltrans Historic Bridge Inventory completed in 2000 stated that the bridge was not eligible for listing in the NRHP.

The fourth site had previously been determined to meet criteria for listing on the NRHP and as a historic resource for purposes of CEQA and was determined to continue to meet eligibility per the HRER.

- The Joshua Hendy Iron Works Sunnyvale Plant²: The site was previously determined as a *historic industrial district* for the company's contribution to World War II industrial productivity with a period of significance between 1940-1945 with 19 contributing historic buildings and structures.

All other built environment resources in the APE are less than 45 years old and required no further study as they did not meet the criteria for listing in the NRHP as outlined in **Subsection 4.4-2 Regulatory Setting**.

Archaeological Resources

The City's archaeologist conducted an extensive review to determine the potential presence of such resources below the ground surface of the project site. This survey included a records search, a review of previous studies, subsurface drill testing for archaeological indicators, other documentation relevant to the project site, field surveys, and consultation with Native American organizations.

These efforts identified no new archaeological resources, but did note a previous record of one site at which an isolated prehistoric resource was found and removed.

In close proximity to the proposed work area (but outside the APE), records indicate earlier discoveries of five prehistoric archaeological sites including some with isolated, unexpected buried human remains and other cultural resources found at depths ranging from 4 to 12 feet below the surface which suggests that additional

² What historically was named the Joshua Hendy Iron Works Sunnyvale Plant, (including all buildings and structures on the property), is now called the Northrop Grumman campus.

burials or sites could be found buried at these depths. None of these earlier discoveries were found to be eligible for listing in the National Registry of Historic Places or California Registry of Historic Places (CRHR).

Based on the extent of the construction work associated with the project and the evidence collected during the literature review and pedestrian surveys, there is a moderate probability of encountering unexpected subsurface archaeological resources.

Paleontological Resources

Paleontological resources include the fossilized remains of plants and animals, including vertebrates (animals with backbones) and invertebrates (e.g., starfish, clams, ammonites, and marine coral). The age and abundance of fossils depends on the topography and geological formations of the region of interest. Geological layers beneath the project site generally consist of deposits from the Pleistocene (10,000 to 1 million years ago) and Holocene eras (the present to 10,000 years ago)³.

Of these two classifications, the Pleistocene deposits are considered to have the greater potential to harbor paleontological resources. Holocene period deposits are generally considered not old enough to contain paleontological resources.

To identify any known paleontological resources in the vicinity of the project site, a record search was conducted on February 17, 2014 of the online database maintained by the University of California Museum of Paleontology (UCMP). According to the UCMP online locality search tool, no records of known fossils exist on or within the immediate vicinity of the project site. The closest recorded paleontological sites are located approximately 9.5 miles northwest of the project site, near Stanford University.

4.4.2 REGULATORY SETTING

National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966, as amended, sets forth national policy and procedures regarding historic properties, which include districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 regulations of the NHPA are administered by

³ Foundation Report, Fair Oaks Avenue Overhead (Widen), City of Sunnyvale, California, Parikh Consultants, Inc., January 2014

the United States Secretary of the Interior and apply to properties considered to meet eligibility requirements (even if a formal eligibility determination has not been made). These regulations require federal agencies to take into account the effects of their undertakings on such properties and to allow the Advisory Council on Historic Preservation the opportunity to comment on those undertakings, following regulations issued by the Advisory Council on Historic Preservation.

The quality of significance in American history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association and:

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

California Environmental Quality Act (CEQA)

CEQA, as well as California Public Resources Code (PRC) Section 5024.1 (which established the California Register of Historic Resources (CRHR), discussed below), requires that potential impacts on historical resources be taken into account.

CEQA equates a “substantial adverse change” in the significance of a historical resource with a significant effect on the environment and defines “substantial adverse change” as demolition, destruction, relocation, or alteration that would impair historical significance unless the preponderance of evidence demonstrates otherwise. Section 21084.1 of the CEQA Statute stipulates that any resource listed in, or eligible for listing in, the CRHR is presumed to be historically or culturally significant. A project that conforms to the Secretary of the Interior's Standards for the Treatment of Historic Properties can generally be considered a project that will not cause a significant impact. A resource that is not listed in, or determined to be eligible for listing in the CRHR, is not included in a local register of historic resources, or not deemed significant in a historical resource survey may nonetheless be historically significant.

California Register of Historic Resources

The California Office of Historic Preservation (OHP) administers the CRHR, which identifies the state's historical resources. The CRHR includes resources that have been formally determined eligible for, or listed in, the NRHP, State Historical Landmarks and eligible Points of Historical Interest. Other resources require nomination for inclusion in the CRHR. Such resources can be either independent or contributing elements to a distinct historic resource or district. PRC Section 5024.1 requires evaluation of historical resources to determine their eligibility for listing on the CRHR. The criteria for listing resources on the CRHR were expressly developed to be in accordance with previously established criteria developed for listing in the NRHP, which is described above.

As defined by CEQA Guidelines Section 15064.5(a) (3) (A-D), a resource shall be considered historically significant if the resource meets the following criteria:

- It is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- It is associated with the lives of persons important in our past; or
- It embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important creative individual, or possesses high artistic values.

California Health and Safety Code

California Health and Safety Code Section 7050.5 regulates the procedure in the event of human remains discovery. Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the County Coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are determined to be Native American, the Coroner is required to contact the Native American Heritage Commission (NAHC). The NAHC is responsible for contacting the most likely Native American descendent, who will consult with the local agency regarding how to proceed with the remains. According to Section 15064.5 of the CEQA Guidelines, all human remains are considered a significant resource.

Sunnyvale General Plan and Municipal Code

The Community Character Element of the City of Sunnyvale General Plan defines a Heritage Resource as natural or human-made objects of scientific, aesthetic, educational, political, social, cultural, architectural or historical significance to the citizens of the city, the Santa Clara Valley region, the state, or the nation, which are designated and determined to be appropriate for preservation by the City Council.

The Heritage Preservation section of the Community Character Element contains the following relevant goal and policy related to the protection of cultural resources as it pertains to the proposed project:

- Goal CC-5 PROTECTION OF SUNNYVALE’S HERITAGE: To enhance, preserve and protect Sunnyvale’s heritage including natural features, the built environment and significant artifacts.
- Policy CC -5.1 Preserve existing landmarks and cultural resources and their environmental settings.

The bridge is not listed on the City of Sunnyvale’s Heritage Resources Inventory. Section 19.96 Heritage Preservation of the Sunnyvale Municipal code contains regulatory provisions which identifies and prescribes specific procedures and requirements for the filing, processing and consideration of heritage projects by the City’s heritage preservation commission. The City of Sunnyvale has received designation as a Certified Local Government (CLG) from the State Historic Preservation Office (SHPO). Among other benefits this designation entitles the City to apply for grants for certain heritage projects.

Project Consistency

Pursuant to the NHPA, CRHR, and CEQA, the project site has been examined for eligible and potentially eligible cultural resources. The findings of these examinations are summarized in **Subsection 4.4.1, Existing Conditions**. Subsection 4.4.3 below identifies measures to avoid, minimize, or mitigate for potential effects.

4.4.3 IMPACTS AND MITIGATION MEASURES

Significance Criteria

Appendix G of the *CEQA Guidelines* identifies environmental issues to be considered when determining whether a project could have significant effects on the environment. A project would have a significant impact on cultural resources if it would:

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

Discussion of No Impacts

Analysis of project details and site characteristics in the context of the significance criteria stated above shows that for one of the above criteria, the project would result in no impact.

Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?

As discussed in **Subsection 4.4.1** the bridge does not qualify for listing under the criteria of the NHRP or CRHR. Rehabilitation construction details for the bridge were designed and situated to avoid any impact to the historic Joshua Hendy Iron Works plant (now referred to as the Northrop Grumman campus). Therefore, the project would not cause any substantial adverse change to the significance of a historic resource.

Discussion of Significant Impacts

Analysis of project details and site characteristics in the context of the significance criteria stated above shows that for two of the above criteria, the project would result in significant impacts. However, incorporation of mitigation measures noted below would render such impacts less-than-significant.

Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Impact CUL-1: Construction activities could inadvertently damage archaeological resources that may exist below the surface of the project site. (LESS THAN SIGNIFICANT WITH MITIGATION)

No previously archaeological resources are expected to occur beneath the ground surface of the project site. Notwithstanding the negative results for the archaeological testing conducted for this project, there is always the potential that undiscovered/unrecorded resources could be encountered during construction activities, particularly excavation. The possibility exists that such resources could be damaged or otherwise compromised if preemptive, protective measures are not incorporated into the project.

Mitigation Measure CUL-1a: Ground disturbing activities shall follow the protocols set forth in the project archaeological studies and investigations prepared by the City in cooperation with Caltrans. The following outlines the general protocol.

Pre-Construction Training: the City of Sunnyvale shall require that the project contractor provide documentation that all construction crews that will work on the project have undergone a training session to inform them of the potential for previously undiscovered archaeological resources within the project site, of the laws protecting these resources and associated penalties, and of the procedures to follow should they discover cultural resources during project-related work.

Monitoring During Construction: One or more monitors, including a qualified archaeologist and a Native American monitor, shall be present to monitor all ground disturbing activities.

Discovery Plan: In the event that any archaeological resources are encountered during any phase of project construction, the project contractor shall temporarily halt construction and/or grading activities within 25 feet of any find and adhere to the steps set forth in the Discovery Plan prepared by the City in cooperation with Caltrans.

While prehistoric or historic cultural resources would ideally be avoided, if any such resources could not feasibly be avoided, they shall be evaluated for their potential historic significance in consultation with the City of Sunnyvale, Caltrans, and the California State Historic Preservation Officer. If the resources are found to be ineligible for any historic register, impacts to such resources would not be considered significant and avoidance would thus not be necessary. If the resources are found to be eligible to the CRHR, they shall be avoided if feasible.

If avoidance is not feasible, project impacts will be mitigated in accordance with the recommendations of the Discovery Plan and the evaluating archaeologist and CEQA Guidelines §15126.4 (b)(3)(C). As set forth in the Discovery Plan, work in the area of any find may be halted until the resource in question is appropriately evaluated.

Significance after Mitigation: Less than significant. Adherence to the measures above, as more completely indicated in the referenced archaeological reports, would either fully avoid or reduce below a level of significance any effects of the project on archaeological resources.

Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Impact CUL-2: Construction activities could inadvertently damage paleontological resources beneath the ground surface of the project site. (LESS THAN SIGNIFICANT WITH MITIGATION)

No paleontological resources, sites, or unique geological features have been recorded in or adjacent to the project site. Moreover, the project involves generally shallow soil disturbance. However, excavation for the foundation and abutment retrofit work could potentially reach depths where paleontological resources could be encountered. The potential to encounter unknown paleontological resources on the project site during grading and construction still exists.

Mitigation Measure CUL-2: In the event that paleontological resources are encountered during any phase of project construction, all soil-disturbing activity within 100 feet of the find shall be temporarily halted until a qualified paleontologist can assess the significance of the find and provide proper management recommendations. The City shall incorporate all feasible recommendations into the project.

Significance after Mitigation: Mitigation Measure CUL-2 would reduce the potential for project impacts to paleontological resources to a less-than-significant level.

Would the project disturb any human remains, including those interred outside of formal cemeteries?

Impact CUL-3: Construction activities could inadvertently uncover human remains. (LESS THAN SIGNIFICANT WITH MITIGATION)

There are no known human remains beneath the surface of the project site. A records search of the Sacred Lands File on May 20, 2013 and consultation with the Native American Heritage Commission (NAHC) determined no sites within the

Sacred Lands File are located within the immediate project vicinity. Native Americans individuals and organizations were consulted and provided archaeological recommendations. However, similar to other cultural materials, excavation on the site could unearth previously undiscovered human remains. Implementation of **Mitigation Measure CUL-1** would include monitoring during all ground disturbing activities. If human remains of Native American origin are discovered on the project site during grading and/or construction, it would be necessary to comply with regulations governing the disposition of Native American remains, set forth by the State of California and administered by the NAHC.⁴

Mitigation Measure CUL-3: In accordance with California Public Resource Code Section 5097.98 and California Health and Safety Code 7050.5(b), should any human remains be found on the site at any time during pre-construction or construction activities, shall ensure that no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains shall be disturbed until:

- The County Coroner in which the remains are discovered is contacted and determines that no investigation of the cause of death is required; and if the County Coroner determines the remains to be Native American then:
 - 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 descended from the deceased native American; and
 - The most likely descendent may make recommendations to the City or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.
- The City or their 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 subsurface disturbance if the following conditions occur:

⁴ Public Resources Code Section 5097.98

- The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission;
- The descendent identified fails to make a recommendation; or
- The City or their authorized representative rejects the recommendation of the descendent, and the mediation by the NAHC fails to provide measures acceptable to the City.

Significance after Mitigation: Less than significant. Adherence to **Mitigation Measure CUL-3** would reduce potential impacts to previously unrecorded human remains to a less-than-significant level.

4.4.4 REFERENCES

- City of Sunnyvale. 2011. Sunnyvale General Plan. Available: <http://ecityhall.sunnyvale.ca.gov/cd/GeneralPlan.pdf>.
- City of Sunnyvale. Sunnyvale Municipal Code. Section 19.96, Heritage Preservation. 2013. Available: <http://qcode.us/codes/sunnyvale/>.
- Condor Country Consulting. 2014. City of Sunnyvale Fair Oaks Overhead Bridge Rehabilitation, Archaeological Survey Report (ASR).
- Condor County Consulting. 2014. Discovery Plan.
- Condor County Consulting. 2014. Finding of No Adverse Effect.
- Condor Country Consulting. 2014. Historic Properties Evaluation Report (HPSR).
- Condor Country Consulting. 2014. XP1 Testing Report.
- JRP Historical Consulting. 2013. Historical Resources Evaluation Fair Oaks Overhead Bridge Rehabilitation.
- Parikh Consultants. 2011. Foundation Report, Fair Oaks Avenue Overhead Bridge.
- University of California Berkeley. University of California Museum of Paleontology Specimen Search. Available: <http://ucmpdb.berkeley.edu/>.