

## 4.3 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES

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### 4.3.1 INTRODUCTION

This section analyzes and evaluates the potential impacts of the proposed Green Valley II Mixed-Use project (“proposed project”) on known and unknown cultural resources, and tribal cultural resources.

Cultural resources include districts, sites, buildings, structures, or objects generally older than 50 years and considered to be important to a culture, subculture, or community for scientific, traditional, religious, or other reasons. Historical (or architectural) resources are standing buildings (e.g., houses, barns, outbuildings, cabins) and intact structures (e.g., dams, bridges). Archaeological resources are locations where human activity has measurably altered the earth or left deposits of prehistoric or historic-era physical remains (e.g., stone tools, bottles, former roads, house foundations).

A tribal cultural resource is defined in Public Resources Code Section 21074 as a site, feature, place, cultural landscape that is geographically defined in terms of its size and scope, sacred place, or object with cultural value to a California Native American tribe that is either listed or eligible for listing in the California Register of Historical Resources, or is included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). A tribal cultural resource may also be a resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to the criteria set forth in Public Resources Code Section 5024.1(c) and considering the significance of the resource to a California Native American tribe.

The primary source of information for this section is the *Historical Resources Study* prepared for the proposed project by Tom Origer & Associates. This report is included in **Appendix 4.3a** of this Draft EIR. Additional information was provided by tribal representatives of the Yocha Dehe Wintun Nation; copies of correspondence with representatives of the tribe are included in **Appendix 4.3b**.

The City of Fairfield (City) received one comment related to cultural and tribal cultural resources in response to the Notice of Preparation (NOP) issued for this EIR. The Native American Heritage Commission (NAHC) recommended that the lead agency should consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Native American tribes in the area have been notified of the proposed project in compliance with SB 18 and AB 52 and this issue is addressed in the analysis below.

## 4.3.2 ENVIRONMENTAL SETTING

This section describes the methods used to develop the cultural setting and baseline conditions for the project site.

The proposed project is located on a 13.32-acre site at the southwestern corner of Business Center Drive and Suisun Valley Road intersection in the Green Valley Corporate Park in the City of Fairfield. Specifically, the site is bound by Business Center Drive to the north and west, Suisun Valley and Neitzel Roads to the east, and an undeveloped parcel to the south.

The geology of the project site consists of alluvial deposits that date to the Holocene Epoch (11,700 years ago to present). Soils within the project site belong primarily to the Brentwood series, with a small portion of the west side of the project site belonging to the Antioch-San Ysidro complex. Brentwood soils are moderately well-draining soils found on alluvial fans. These soils formed in materials derived from sedimentary sources. In a natural state, these soils support the growth of annual grasses and forbs. Historically, parcels containing Brentwood soils were used for irrigated orchard, row crops, forage crops, dry farmed grain, wildlife habitat, and recreation (Tom Origer & Associates 2018).

Antioch and San Ysidro soils are moderately well-draining soils found on terraces. These soils formed in alluvium from sedimentary sources. In a natural state these soils support the growth of annual grasses and forbs. Historically, parcels containing Antioch and San Ysidro soils were used for sugar beets, irrigated row crops, pasture, grain, sorghum, dry farmed small grain, wildlife habitat, and recreation (Tom Origer & Associates 2018).

The closest water course is Green Valley Creek located approximately 2,900 feet southwest of the project site. However, a small, ephemeral drainage once flowed through the project site, and is presently shown as channelized through the project site (Tom Origer & Associates 2018).

### 4.3.2.1 Research and Site Reconnaissance

#### *Records Search*

A prehistoric and historic site record and literature search for the project site was completed at the Northwest Information Center (NWIC), Sonoma State University, Rohnert Park (NWIC File No. 17-1620). Sources of information included, but were not limited to, the current listings of properties on the National Register of Historic Places, California Historical Landmarks, California Register of Historical Resources, and California Points of Historical Interest as listed in the Office of Historic Preservation's *Historic*

*Property Directory* (Tom Origer & Associates 2018). In addition, ethnographic literature that describes Native American groups, county histories, and other primary and secondary sources were reviewed.

No ethnographic sites have been recorded in or within one mile of the project site (Tom Origer & Associates 2018).

### **Compliance Reports**

Twenty-one (21) archaeological reports are on file at the NWIC for the area within 0.25 mile of the project site. These studies have resulted in recording four resources within 0.25 mile of the project site. The nearest resource is approximately 950 feet from the project site and does not have the potential to extend into the project site (Tom Origer & Associates 2018).

### **Listed Historic Properties**

A review of 19th and 20th century maps shows no buildings within the project site. There are no buildings or structures currently on the project site.

The 1951 and 1968 maps show a drainage flowing through the west portion of the project site. By 1980, this drainage was channelized. There currently is a single oak tree within the project site. This oak tree sits on an island-like mound that is approximately 18 inches higher than the remainder of the project site. On this mound there is a shallow ditch in the approximate location of the channelized creek shown on the 1980 map. There are no other signs of this ditch on the project site (Tom Origer & Associates 2018).

### ***Individual Group and Agency Participation***

On December 11, 2017, Tom Origer & Associates consulted with the Native American Heritage Commission (NAHC) to identify the names of Native American groups or individuals that might have knowledge or concern about potential resources within the vicinity of the proposed project. On December 14, 2017, NAHC provided a list of Native American tribes to contact for information that Tom Origer & Associates provided to the City of Fairfield which include the Cortina Indian Rancheria of Wintun Indians and the Yocha Dehe Wintun Nation. On June 5, 2019<sup>1</sup>, the City of Fairfield sent these Native American organizations letters pursuant to SB 18 and AB 52 requesting these groups provide any information or concerns regarding cultural resources that could be affected by the proposed project. On June 11, 2019 a representative of the Yocha Dehe Wintun Nation indicated that the Tribe wished to begin consultation on the proposed project.<sup>2</sup> On June 27, 2019 City staff met with Robert Geary, Tribal Cultural

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<sup>1</sup> Copies of this correspondence are included in **Appendix 4.3a** of this Draft EIR.

<sup>2</sup> Copies of this correspondence are included in **Appendix 4.3b** of this Draft EIR.

Monitor Supervisor – Yocha Dehe Wintun Nation, on the project site to begin the consultation process. Mr. Geary indicated that the site is of interested and will continue consulting with the City.

### ***Archaeological Field Reconnaissance***

On January 22, 2018, an archaeologist meeting the Standards of the Secretary of the Interior for Archaeology conducted a pedestrian survey of the project site. Ground visibility ranged from excellent to poor, with vegetation being the primary hindrance. In addition to the surface survey, three hand-dug auger holes were excavated using a 4-inch diameter barrel auger to examine subsurface soils within the project site (Tom Origer & Associates 2018).

The soil from all three augers showed the same characteristics with the upper 10 centimeters being a gray-brown clay loam. Below 10 centimeters, soils turned an orange brown to the bottom of the hole. In the bottom of Auger Hole No. 3, water was observed in the bottom and soils appeared to be getting slightly gravely (Tom Origer & Associates 2018).

No evidence of prehistoric or historic artifacts or occupation or potentially significant archaeological features were observed during the field survey or in the auger holes (Tom Origer & Associates 2018).

#### **4.3.2.2 Prehistoric Background**

Archaeological evidence indicates that human occupation of California began at least 11,000 years ago. Early occupants appear to have had an economy based largely on hunting, with limited exchange, and social structures based on the extended family unit. Later, milling technology and an inferred acorn economy were introduced. This diversification of economy appears to be coeval with the development of sedentism and population growth and expansion. Sociopolitical complexity and status distinctions based on wealth are also observable in the archaeological record, as evidenced by an increased range and distribution of trade goods (shell beads, obsidian tool stone), which are possible indicators of both status and increasingly complex exchange systems (Tom Origer & Associates 2018).

#### **4.3.2.3 Ethnographic Background**

No known Native American villages, trails, traditional use areas or contemporary use areas have been identified in, adjacent to or near the project site.

At the time of European settlement, the project site was included in the territory of the Patwin Native Americans. The Patwin were hunter-gatherers who lived in rich environments that allowed for dense populations with complex social structures. They settled in large, permanent villages about which were distributed seasonal camps and task-specific sites. Primary village sites were occupied continually

throughout the year and other sites were visited in order to procure particular resources that were especially abundant or available only during certain seasons. Sites often were situated near sources of fresh water and in ecotones where plant life and animal life were diverse and abundant (Tom Origer & Associates 2018).

#### **4.3.2.4 Historic Period**

No recorded Hispanic and/or American Period resources were identified on the project site as part of the NWIC records search conducted for the proposed project.

##### *Hispanic Period*

Historically, the project site is within the Suisun Rancho. The Suisun Rancho consisted of 18,237 acres of land and was granted to Francisco Solano in 1842. The land was sold to Mariano Vallejo, who then sold it to Archibald Ritchie (Tom Origer & Associates 2018).

##### *American Period*

Archibald Ritchie was born in Delaware in 1806. Ritchie became a businessman who traveled the world. When gold was discovered in California, he moved his family west. Ritchie lived in Benicia from 1850 to 1854. During that time he also acquired the Suisun, Guenoc, and Collayomi ranchos (Tom Origer & Associates 2018).

### **4.3.3 REGULATORY FRAMEWORK**

#### **4.3.3.1 Federal Laws and Regulations**

##### *National Historic Preservation Act, Section 106*

The National Historic Preservation Act (NHPA) establishes the National Register of Historic Places (NRHP), and defines federal criteria for determining the historical significance of archaeological sites, historic buildings and other resources. To be eligible for the NRHP, a potential historic property must meet one of four historical significance criteria (listed below), and also must possess sufficient deposition, architectural, or historic integrity to retain the ability to convey the resource's historic significance. Resources determined to meet these criteria are eligible for listing in the NRHP and are termed historic properties. A resource may be eligible at the local, state, or national level of significance.

Properties are eligible for the NRHP if they possess integrity of location, design, setting, materials, workmanship, feeling, and association, and they:

- A. are associated with events that have made a significant contribution to the broad patterns of our history;
- B. are associated with the lives of a person or persons of significance in our past;
- C. embody the distinctive characteristics of a type, period or method of construction, or represent the work of a master, or possess high artistic value, or 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.

These factors are known as “Criteria A, B, C, and D.”

A resource that lacks integrity or does not meet one of the NRHP criteria of eligibility is not considered a historic property under federal law, and effects to such a resource are not considered significant under the NHPA. Archaeological sites are generally evaluated under Criterion D, which concerns the potential to yield information important in prehistory or history.

Since the project does not require any federal permits, compliance with the NHPA will not be necessary.

#### **4.3.3.2 State Laws and Regulations**

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

Under CEQA, public agencies must consider the effects of their actions on both “historical resources” and “unique archaeological resources.” Pursuant to California Public Resources Code (PRC) Section 21084.1, a “project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.” PRC 21083.2 requires agencies to determine whether a proposed project would have an effect on “unique archaeological resources.”

“Historical resource” is a term of art with a defined statutory meaning (see PRC 21084.1 and *State CEQA Guidelines* Sections 15064.5(a) and 15064.5(b)). The term embraces any resource listed in or determined to be eligible for listing in the California Register of Historic Resources (CRHR). The CRHR includes resources listed in or formally determined eligible for listing in the NRHP, as well as some California State Landmarks and Points of Historical Interest.

Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be “historical resources” for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC 5024.1 and 14 CCR 4850). Unless a resource listed in a survey has been demolished or has lost substantial integrity, or there is a preponderance of

evidence indicating that it is otherwise not eligible for listing, a lead agency should consider the resource potentially eligible for the CRHR.

In addition to assessing whether historical resources potentially impacted by a proposed project are listed or have been identified in a survey process, lead agencies have a responsibility to evaluate them against the CRHR criteria prior to making a finding as to a proposed project's impacts to historical resources (PRC 21084.1 and *State CEQA Guidelines* Section 15064.5(a)(3)). In general, a historical resource, under this approach, is defined as any object, building, structure, site, area, place, record, or manuscript that:

- A. Is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, or cultural annals of California; and
- B. Meets any of the following criteria:
  1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
  2. Is associated with the lives of persons important in our past;
  3. 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
  4. Has yielded, or may be likely to yield, information important in prehistory or history (*State CEQA Guidelines* Section 15064.5(a)(3)).

These factors are known as "Criteria 1, 2, 3, and 4" and parallel Criteria A, B, C, and D under the NHPA (discussed earlier). The fact that a resource is not listed or determined to be eligible for listing does not preclude a lead agency from determining that it may be a historical resource (PRC 21084.1 and *State CEQA Guidelines* Section 15064.5(a)(4)).

CEQA also distinguishes between two classes of archaeological resources: archaeological sites that meet the definition of a historical resource, as described above, and "unique archaeological resources." Under CEQA, an archaeological resource is considered "unique" if it:

- Contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information;
- 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 (PRC 21083.2(g)).

CEQA states that if a proposed project would result in an impact that might cause a substantial adverse change in the significance of a historical resource, then an EIR must be prepared and mitigation measures should be considered. A “substantial adverse change” in the significance of a historical resource means 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 (*State CEQA Guidelines* Section 15064.5(b)(1)).

The *State CEQA Guidelines* (Section 15064.5(c)) also provide specific guidance on the treatment of archaeological resources, depending on whether they meet the definition of a historical resource or a unique archaeological resource. If the site meets the definition of a unique archaeological resource, it must be treated in accordance with the provisions of PRC 21083.2.

*State CEQA Guidelines* Section 15126.4(b) sets forth principles relevant to means of mitigating impacts on historical resources. It provides as follows:

- (1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.
- (2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.
- (3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:
  - (A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.
  - (B) Preservation in place may be accomplished by, but is not limited to, the following:
    1. Planning construction to avoid archaeological sites;
    2. Incorporation of sites within parks, greenspace, or other open space;
    3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.



4. Deeding the site into a permanent conservation easement.
  - (C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.
  - (D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

Section 15064.5(f) deals with potential discoveries of cultural resources during project construction. That provision states that, “[a]s part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.”

*State CEQA Guidelines* Section 15064.5(e), requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner be called in to assess the remains. If the county coroner determines that the remains are those of Native Americans, the NAHC must be contacted within 24 hours. At that time, the lead agency must consult with the appropriate Native Americans, if any, as identified in a timely manner by the NAHC. Section 15064.5 of the *State CEQA Guidelines* directs the lead agency (or applicant), under certain circumstances, to develop an agreement with the Native Americans for the treatment and disposition of the remains.

### ***Senate Bill 18***

Senate Bill (SB) 18 requires cities and counties to contact, and consult with California Native American tribes prior to making land use decisions. The bill requires local governments to provide notice to tribes at certain key points in the planning process. These consultation and notice requirements apply to adoption and amendment of general plans (defined in Government Code §65300 et seq.). For projects proposed on or after March 1, 2005, the city or county shall conduct consultations with California Native

American tribes that are on the contact list maintained by the Native American Heritage Commission (NAHC) for the purpose of preserving or mitigating impacts to places, features, and objects described in Sections 5097.9 and 5097.995 of the Public Resources Code that are located within the city or county's jurisdiction.

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. 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 decisions are made by a local government. On June 5, 2019<sup>3</sup>, the City of Fairfield sent the Cortina Indian Rancheria of Wintun Indians and the Yocha Dehe Wintun Nation letters pursuant to SB 18 and AB 52 requesting these groups provide any information or concerns regarding cultural resources that could be affected by the proposed project.

### *Assembly Bill 52*

AB 52, which was approved in September 2014 and became effective on July 1, 2015, requires that CEQA lead agencies consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project, if so requested by the tribe. A provision of the bill, chaptered in CEQA Section 21084.2, also specifies that a project with an effect that may cause a substantial adverse change in the significance of a Tribal Cultural Resource (TCR) is a project that may have a significant effect on the environment.

Defined in Section 21074(a) of the Public Resources Code, TCRs are:

1. Sites, features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe that are either of the following:
  - a. Included or determined to be eligible for inclusion in the CRHR; or
  - b. Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
2. 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 Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

TCRs are further defined under Section 21074 as follows:

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<sup>3</sup> Copies of this correspondence are included in **Appendix 4.3b** of this Draft EIR.

- a. A cultural landscape that meets the criteria of subdivision (a) is a TCR to the extent that the landscape is geographically defined in terms of the size and scope of the landscape; and
- b. A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a TCR if it conforms with the criteria of subdivision (a).

Mitigation measures for TCRs must be developed in consultation with the affected California Native American tribe(s) pursuant to Section 21080.3.2 and Section 21084.3. Section 21084.3 identifies mitigation measures that include avoidance and preservation of TCRs and treating TRCs with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource. As described above, the City has sent out the appropriate correspondences and is consulting with the Yocha Dehe Wintun Nation regarding the project’s potential impacts to TCRs, and appropriate mitigation, if needed, for those impacts.

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

Section 7052 of the Health and Safety Code regulates the disturbance of Native American cemeteries as a felony. This provision protects human remains and prohibits the disturbance or removal of human remains from any location other than a dedicated cemetery. The provision further identifies steps to follow in the event of accidental discovery or recognition any human remains, directs the county coroner to determine whether the remains are those of a Native American, and, if so, the coroner is required to contact the NAHC.

### ***California Native American Historical, Cultural and Sacred Sites Act***

The California Native American Historical, Cultural and Sacred Sites Act applies to both state and privately owned lands. The Act requires that construction or excavation activity cease when human remains are discovered, and that the County coroner be notified. If the remains are of a Native American, the Native American Heritage Commission (NAHC) is notified; the Commission is authorized to identify the most likely descendant of the deceased. The Act details the process which descendants follow for treating the remains and any associated grave goods.

### ***California Native American Historic Resource Protection Act***

The California Native American Historic Resource Protection Act imposes civil penalties, including imprisonment and fines, for persons who unlawfully and maliciously excavate upon, remove, destroy injures or defaces a native American historic, cultural or sacred site that is listed or may be listed in the California Register.

### 4.3.3.3 Local Plans and Policies

#### *City of Fairfield General Plan*

The following presents guiding and implementing policies from the current City of Fairfield General Plan relevant to cultural resources and contained within the Open Space, Conservation, and Recreation Element (2013).

**Objective OS 10:** Preserve and establish cultural and historic resources.

- Policy OS 10.2** Prior to submittal, the applicant should consult with the California Archaeological Inventory Northwest Information Center at Sonoma State University to determine if the project will have an impact on cultural resources.
- Policy OS 10.3** Avoid impacts on cultural resources when archeological studies reveal the presence of cultural resources at a development site. If avoidance is infeasible, require site testing by a qualified archeologist to determine the significance of the resources, and implement recommended mitigation measures.
- Policy OS 10.4** Halt construction at a development site if cultural resources are encountered unexpectedly during construction and require consultation with a qualified archeologist to determine the significance of the resources.
- Policy OS 10.6** Require archeological studies by a qualified archeologist (as defined by the Secretary of the Interior's standards) in areas of archeological significance prior to approval of development projects.
- Policy OS 10.7** Prepare and maintain an inventory of historic structures within the General Plan Area per the City's adopted Historic Preservation Ordinance and, where appropriate, promote the inclusion of these structures on the California Register of Historic Resources and the National Register of Historic Places. Work with property owners in seeking registration of historical structures as State Historic Landmarks or listing on the National Register of Historic Places.

**Policy OS 10.8** Promote the preservation and restoration of historical sites and structures within the General Plan Area that are significant to the City's or the region's cultural or historic background.

#### 4.3.4 IMPACTS AND MITIGATION MEASURES

##### 4.3.4.1 Significance Criteria

In accordance with Appendix G of the *California Environmental Quality Act (CEQA) Guidelines*, the impact of the proposed project related to cultural and tribal cultural resources would be considered significant if it would:

- Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5;
- Cause a substantial adverse change in the significance of archaeological resource pursuant to Section 15064.5;
- Disturb any human remains, including those interred outside of formal 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 America tribe, and that is:
  - a. Listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or
  - b. 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 the Public Resources Code Section 5024.1. In applying criteria set forth in subdivision (c) of the Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

##### 4.3.4.2 Methodology

The analysis below compares identified impacts based on information from the *Historical Resources Study* prepared for this project to the standards of significance stated above and determines the impact's level of significance under CEQA. If the impact is determined to be significant, the analysis identifies feasible mitigation measures to eliminate the impact or reduce it to a less-than-significant level. If the impact cannot be reduced to a less-than-significant level after implementation of all feasible mitigation measures, then the impact is identified as significant and unavoidable. The project's potential contribution to cumulative impacts is also identified.

#### 4.3.4.3 Project Impacts and Mitigation Measures

**Impact CUL-1:**            **The proposed project would not cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5. (*No Impact*)**

The project site is vacant and undeveloped. No listed, determined or pending CRHR resources have been identified in or adjacent to the project site as part of the records search conducted for the proposed project. The small remnant of ditch on the island-like mound, on the project site, would not be eligible for inclusion on the California Register of Historical Resources as the integrity of the resource has been compromised (Tom Origer & Associates 2018). In addition, no local, state or federal historically or architecturally significant structures, landmarks, or points of interest have been identified within or adjacent to the project site (Tom Origer & Associates 2018). As there are no features of the built environment on the project site or significant historical resources adjacent to the project site, implementation of the proposed project would have no impact on historical resources.

**Mitigation Measures:** No mitigation measures are required.

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**Impact CUL-2:**            **The proposed project could cause a substantial change in the significance of an archaeological resource pursuant to Section 15064.5. (*Potentially Significant; Less than Significant with Mitigation*)**

The project site is vacant and has not been developed in the past. Previously, the project site at one time had a small drainage flowing through it. Records searches identified four resources within 0.25 mile of the project site. The nearest resource is approximately 950 feet from the project site; however, it does not have the potential to extend into the project site (Tom Origer & Associates 2018).. In addition, no known Hispanic Period expeditions or structures have been reported and no American Period archaeological sites have been recorded or reported in or adjacent to the project site. However, the geology of the project site is made up of Holocene epoch deposits. These geologic deposits date from about 11,700 years ago to the present. Buried prehistoric archaeological sites are found in or beneath Holocene-age depositional landforms. Thus, based on the project site's geologic age and environmental setting, the project site has a high potential for buried prehistoric archaeological sites.

During the field survey, no evidence of significant prehistoric or historically significant archaeological resources was observed at the project site. Additionally, the three auger holes excavated within the project site did not contain archaeological site indicators. The presence of an oak tree located on a mound of dirt that is approximately 18-inches higher than the rest of the project site suggests soils have been

removed from the site. However, construction associated with the proposed project could still result in the inadvertent exposure of buried prehistoric or historic archaeological materials that could be eligible for inclusion on the CRHR (Public Resources Code Section 5024.1) and/or meet the definition of a unique archeological resource as defined in Section 21083.2 of the Public Resources Code. Any inadvertent damage to prehistoric and/or historic-period archaeological resources represents a potentially significant impact. Implementation of **Mitigation Measure CUL-2** would ensure that impacts of the proposed project on currently unknown prehistoric and historic-period archaeological resources would be less than significant, should any be encountered during construction.

**Mitigation Measures:**

**MM CUL-2** Due to the high likelihood of archeological resources on the project site, the City of Fairfield shall require a note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources, including prehistoric Native American burials. Construction personnel associated with earth moving equipment, drilling, grading, and excavating, shall be provided with basic training conducted by a qualified archaeologist. Issues that shall be included in the basic training will be geared toward training the applicable construction crews in the identification of archaeological deposits, further described in MM CUL-3. Training will include written notification of the restrictions regarding disturbance and/or removal of any portion of archaeological deposits and the procedures to follow should a resource be identified. The construction contractor, or its designee, shall be responsible for implementation of this measure. A tribal monitor will be provided an opportunity to attend the pre-construction briefing if requested.

A tribal monitor shall be present, and a qualified archeologist shall be available on an “on-call” basis during ground disturbing construction in native soil to review, identify and evaluate cultural resources that may be inadvertently exposed during construction.

**MM CUL-3** If archaeological remains are uncovered, all construction activities within a 100-foot radius shall be halted immediately until a qualified archaeologist, in consultation with the tribal monitor, can evaluate whether the resource requires further study. The City shall require that the applicant include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If any previously undiscovered resources are found during construction the City of Fairfield Community Development Department and the Yocha Dehe Wintun Nation shall be contacted, and the resource shall be evaluated for significance in terms of California Environmental

Quality Act criteria by a qualified archaeologist and the Yocha Dehe Wintun Nation. Prehistoric archaeological site indicators include but are not limited to: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire-affected stones. Historic period site indicators generally include but are not limited to: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps). If City and the qualified archaeologist determine the resource to be significant under CEQA, they shall determine whether preservation in place is feasible. Such preservation in place is the preferred mitigation. Contingency funding and a time allotment sufficient for recovering an archeological sample or to employ an avoidance measure may be required. If such preservation is infeasible, the qualified archaeologist shall prepare and implement a formal Archaeological Monitoring Plan (AMP) which will include a research design and archaeological data recovery plan for the resource. Development and implementation of the AMP will be determined by the City of Fairfield and treatment of any significant cultural resources shall be undertaken with the approval of the project applicant, the City, and the Yocha Dehe Wintun Nation. The archaeologist shall also conduct appropriate technical analyses, prepare a comprehensive written report and file it with the appropriate information center (California Historical Resources Information System [CHRIS]), and provide for the permanent curation of the recovered materials. A Monitoring Closure Report shall be filed with the City of Fairfield at the conclusion of ground disturbing construction if archaeological resources were encountered and/or recovered.

**Significance after Mitigation:** Less than significant

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**Impact CUL-3:**            **The proposed project could disturb human remains, including those interred outside of formal cemeteries. (*Potentially Significant; Less than Significant with Mitigation*)**

As discussed above, the project site has a high potential for buried prehistoric archaeological sites. As a result, it is possible that human remains are present in the areas that would be affected by excavation. Should such remains be discovered and damaged during project construction, the impact would be



considered potentially significant. With the implementation of **Mitigation Measure CUL-4**, which outlines procedures to be followed in the event that previously unidentified human remains are discovered, the impact would be reduced to a less than significant level.

**Mitigation Measures:**

**MM CUL-4** The treatment of human remains and any associated or unassociated funerary objects discovered during any soil-disturbing activity within the project site shall comply with applicable State laws. This shall include immediate notification of the Solano County Coroner and the City of Fairfield of the discovery of any human remains.

In the event of the Coroner's determination that the human remains are Native American, the coroner must contact the NAHC within 24 hours. The NAHC shall identify a Most Likely Descendant (MLD) of the deceased Native American (PRC Section 5097.98). The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for the means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98. Development activity on the impacted site will halt until the landowner has conferred with the MLD about their recommendations for treatment of the remains, and the coroner has determined that the remains are not subject to investigation under California Government Code Section 27491.

The project applicant, archaeological consultant, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The California PRC allows 48 hours to reach agreement on these matters. If the MLD and the other parties do not agree on the reburial method, the project will follow PRC Section 5097.98(b) which states that ". . . the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."

**Significance after Mitigation:** Less than significant

**Impact CUL-5:** The proposed project could cause a substantial adverse change in the significance of a tribal cultural resource. (*Potentially Significant; Less than Significant with Mitigation*)

AB 52 requires that lead agencies consider the effects of projects on tribal cultural resources and conduct consultation with federally and non-federally recognized Native American tribes early in the environmental review process. According to AB 52, it is the responsibility of the tribes to formally request of a lead agency that they be notified of projects in the lead agency's jurisdiction so that they may request consultation. In June 2019, the City contacted local tribes notifying them of proposed project. On June 11, 2019 a representative of the Yocha Dehe Wintun Nation indicated that the Tribe wished to begin consultation on the proposed project.<sup>4</sup> On June 27, 2019 City staff met with Robert Geary, Tribal Cultural Monitor Supervisor – Yocha Dehe Wintun Nation, on the project site to begin the consultation process. Mr. Geary indicated that the site is of interested and will continue consulting with the City.

The City has determined that with the implementation of **Mitigation Measures CUL-2, CUL-3, and CUL-4**, which outline procedures to be followed in the event that previously unidentified tribal cultural resources, and/or human remains are discovered, the impact would be reduced to a less than significant level.

**Mitigation Measures:** Mitigation measures CUL-2, CUL-3 and CUL-4 would reduce this impact to less than significant.

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#### 4.3.4.4 Cumulative Impacts and Mitigation Measures

The study area for cumulative impacts on cultural and tribal resources is the City of Fairfield and its Sphere of Influence (SOI) and adjoining areas of central Solano County because, to the extent that there are any pre-historic and historic resources within the project site, their significance is generally expected to be confined to the local area, and they are generally not expected to have a broader significance to the Central Valley or the State of California.

**Cumulative Impact C-CUL-1:** Cumulative development could cause a substantial change in the significance of a historical resource or unique archaeological resource pursuant to Section 15064.5 or impact tribal cultural resources, but with the incorporation of mitigation measures, the proposed project

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<sup>4</sup> Copies of this correspondence are included in **Appendix 4.3b** of this Draft EIR.

**would not contribute substantially to the cumulative impacts.  
(Potentially Significant; Less than Significant with Mitigation)**

Development in the region could result in the damage or destruction of known archaeological and historical resources, as well as any existing undiscovered subsurface artifacts. The general study area that includes the City of Fairfield is known to include both prehistoric and historic cultural resources. Although no prehistoric or historically significant archaeological resources or potentially significant architectural resources were discovered during the field survey, there is high potential that prehistoric and historic resources are located in the vicinity.

Numerous laws, regulations, and statutes seek to protect cultural resources. These would apply to all development of the project site. In addition, the City of Fairfield General Plan includes policies for the protection of cultural resources from unnecessary impacts. These policies include protection of historical resources and archaeological resources. As discussed in **Impacts CUL-1, CUL-2, and Impact CUL-4**, no known historical resources, archaeological resources, or human remains are present on the project site that could be affected by the proposed development. However, previously unknown archaeological resources or human remains could be encountered and/or disturbance of resources and human remains could occur during site grading and excavation. By ensuring that cultural resources discovered within the project site are properly recorded and handled, with implementation of **Mitigation Measure CUL-2 and Mitigation Measure CUL-3**, the contribution of the proposed project to cumulative impacts on archaeological resources would not be cumulatively considerable. In addition, by ensuring that human remains and any associated or unassociated funerary objects are treated in compliance with applicable State laws by implementation of **Mitigation Measure CUL-4**, the contribution of the proposed project to cumulative impacts on human remains would not be cumulatively considerable. The impact would be less than significant.

**Mitigation Measures:** Implement **Mitigation Measures CUL-2, CUL-3 and CUL-4**.

**Significance after Mitigation:** Less than significant

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#### 4.3.5 REFERENCES

Tom Origer & Associates. 2018. Historical Resources Study for the Green Valley II Apartments Project, Fairfield, Solano County, California. January.