



5.4 CULTURAL RESOURCES

The purpose of this section is to determine if cultural resources (including prehistoric, historic, and paleontological resources) occur within and around the project site and to assess the significance of such resources. Mitigation measures are recommended to minimize impacts to cultural resources as a result of project implementation.

5.4.1 EXISTING SETTING

HISTORIC OVERVIEW

The community of Newport Beach has a rich and diverse history, and its close proximity to the water played a large role in the development of the City. The first stirring activity in the community later known as Newport Beach began in 1870, when a small stern wheeler from San Diego named “The Vaquero” made its first trip to a marshy lagoon. James McFadden and other ranch owners in the Lower Bay decided from then on that the area should be called “Newport.” In 1888 James McFadden changed the isolated settlement by building a wharf that extended from the shallow bay to deeper water where large steamers could dock. Shipping activity increased dramatically, and in two years, Newport Beach was known as a vibrant Southern California shipping town.

Soon after, the Pacific Electric Railroad established itself in Newport Beach in 1905, connecting the City of Los Angeles by rail. Public transit brought new visitors to the waterfront, and small hotels and beach cottages were developed that catered to the tourist industry. West Newport, East Newport, Bay Island, Balboa, Corona del Mar, Balboa Island, and Port Orange (at old Newport Landing) were soon subdivided, and in August 1906, residents in the booming bay town voted to incorporate. Between 1934 and 1936, the Federal government and the county dredged the Lower Bay, extended jetties, and created the present day contour of Newport Beach. In 1936, community members dedicated the City’s main harbor, named Newport Harbor.

During World War II, the harbor became a vital hub as naval ships were built and repaired in its coastal waters. At the end of the war, a housing construction boom began as seasonal rentals became year-round housing, and the City’s identity as a summer resort location began to change. The Santa Ana freeway, built in the 1950s, triggered further growth. During this time, housing development began to spread northward from the waterfront to the hills and mesa areas. The community’s economic industry changed, as the fishing industry, once the backbone of Newport Beach’s economy, gradually declined to be replaced with new businesses and commercial centers. Beginning in the 1970s, the building of shopping centers such as Fashion Island, hotels, restaurants, offices, and many new homes led to the creation of many active employment, retail, and residential areas that characterize much of Newport Beach today.

For many years, Newport Beach’s scenic location, attractive neighborhoods, and active commercial areas have continued to place many of the City’s original buildings, paleontological resources, and historical sites under extreme development pressures. Many of the community’s early structures and archaeological sites have been demolished or altered. However, some historical sites and buildings have been preserved that are representative of the community and the region. Several of these historical resources have been recognized as being of statewide or national importance. This section discusses the existing cultural resources that help define the City’s heritage.



ARCHAEOLOGY

The first generally accepted period of human occupation of Southern California began at about the end of the Pleistocene Epoch, about 10,000 to 12,000 years ago. Archaeological sites around Upper Newport Bay have yielded some of the evidence for the earliest human occupation of Orange County and date to about 9,500 years before present (BP). Over 50 sites have been documented in the Planning Area, including the recently annexed Newport Coast area and in the Newport Banning Ranch portion of the City's Sphere of Influence (SOI). Many of these sites have yielded, or have been determined to have the potential to yield, substantial information regarding the prehistory of the City and County, and have included human burials.

At least two and possibly three distinct cultural groups inhabited the area, and later period sites indicate that the area including the Planning Area was heavily populated at the time of European contact. Ethnographically, the Planning Area falls within a region in which tribal boundaries are unclear: both the Gabrielino and the Luiseño/Juaneño lay ancestral territorial claims. According to David Belardes of the Juaneño Band of Mission Indians, the territory of the Juaneño extended north to the Santa Ana River drainage; however, Gabrielino territory is thought by some to extend south of the Santa Ana River Drainage to Aliso Creek, and possibly even further south.

The Luiseño/Juaneño were hunters/gatherers, organized into sedentary and semi-sedentary, autonomous villages. A large village was typically 30 square miles, and contained several hunting, fishing, and collecting areas in different ecological zones. Seasonal moves to exploit resources outside a village's territory occurred during several weeks of the year.

The coastal Luiseño/Juaneño bands exploited a variety of plant food resources. Seeds and acorns accounted for up to 75 percent of the typical diet. Many fruits, berries, bulbs, and roots were used as medicines, beverage bases, and manufacturing materials as well as food. Terrestrial game accounted for an estimated five to ten percent of the coastal Luiseño/Juaneño diet; fish and marine mammals represented an additional 20 to 35 percent. Luiseño/Juaneño material culture associated with food procurement includes tools such as manos and metates, as well as mortars and pestles for processing acorns and seeds, and pulverizing pulpy materials and small game. They probably hunted first with spears, and then later with bows and arrows. The projectiles themselves would have had fire-hardened wood or chipped stone tips. Near-shore fishing and marine mammal hunting were accomplished with light balsa or dugout canoes.

PALEONTOLOGY

Fossils in the central Santa Ana Mountains represent the oldest formations in the County at 145 to 175 million years old and contain aquatic fossil types, such as radiolarians (single-celled plankton), ammonites (extinct members of the class including nautili, squid, and octopi), and bivalves (such as oysters and clams). The predominance of these fossil types indicates that Orange County, for much of its geological history, was underwater.

During the Miocene Epoch (26 million years ago [mya] to 7 mya), tectonic forces produced uplifts that resulted in the formation of mountains and initiated movement on the nascent San Andreas Fault system, forming numerous coastal marine basins, including the Los Angeles Basin, of which Orange County is a part. As the sea retreated, the County became a shallow bay surrounded by jungle and savannah areas, as indicated by the mix of aquatic and terrestrial fossils found in rocks of



Miocene age. Miocene-age rock units that underlie the Planning Area, particularly in the Newport Coast area, are considered to be of high-order paleontological significance (6 to 9 on a scale of 1 to 10).

Further tectonic activity began to uplift the land during the Pliocene Epoch (7 mya to 2.5 mya), and the sea slowly receded from the coast, resulting in the formation of a succession of shoreline deposits that formed a marine terrace. Sandstone deposited in the Newport Beach area during the Pliocene Epoch contains a variety of marine mammals, sea birds, and mollusks.

During the Pleistocene Epoch (2.5mya to 15,000 years ago), the seas continued to retreat as tectonic uplift continued. Although the Pleistocene Epoch is known as the “Ice Age,” glacial ice never reached southern California, and paleontological evidence indicates that a heavily vegetated, marshy area extended inland beyond the shoreline. However, a variety of vertebrate animals typically associated with the Ice Age inhabited the area: local paleontological sites, particularly near the Castaways, have yielded fossils of Ice Age horses, elephants, bison, antelopes, and dire wolves. Also, a number of localities in the portions of the Vaqueros formation that underlie the Newport Coast area have yielded a variety of invertebrate and vertebrate fossils, and are considered to be of high-order paleontological significance (9 on a scale of 1 to 10). Other geological formations that underlie the Planning Area have also yielded significant fossils in the Planning Area, particularly in the Newport Banning Ranch portion of the SOI, as well as in other areas of the County. These include the Topanga and Monterey Formations. Known paleontological deposits at Fossil Canyon, in the North Bluffs area of the Planning Area, is considered a unique paleontological locality, and known vertebrate deposits within the Planning Area are considered to be among the most important in the State. The Newport Banning Ranch portion of the SOI is particularly rich, and contains at least 14 documented sites of high significance.

5.4.2 REGULATORY SETTING

Numerous laws and regulations require Federal, State, and local agencies to consider the effects a project may have on cultural resources. These laws and regulations stipulate a process for compliance, define the responsibilities of the various agencies proposing the action, and prescribe the relationship among other involved agencies (i.e., State Historic Preservation Office and the Advisory Council on Historic Preservation). The National Historic Preservation Act (NHPA) of 1966, as amended, the California Environmental Quality Act (CEQA), and the California Register of Historical Resources, Public Resources Code (PRC) 5024, are the primary Federal and State laws governing and affecting preservation of cultural resources of national, State, regional, and local significance. The applicable regulations are discussed below.

FEDERAL

National Historic Preservation Act of 1966

Enacted in 1966 and amended in 2000, the NHPA declared a national policy of historic preservation and instituted a multifaceted program, administered by the Secretary of the Interior, to encourage the achievement of preservation goals at the Federal, State and local levels. The NHPA authorized the expansion and maintenance of the National Register of Historic Places (NRHP or National Register), established the position of State Historic Preservation Officer (SHPO) and provided for the designation of State Review Boards, set up a mechanism to certify local governments to carry



out the purposes of the NHPA, assisted Native American tribes to preserve their cultural heritage and created the Advisory Council on Historic Preservation (ACHP).

Section 106 Process

Through regulations associated with the NHPA, an impact to a cultural resource would be considered significant if government action will affect a resource listed in or eligible for listing in the National Register. The NHPA codifies a list of cultural resources found to be significant within the context of national history, as determined by a technical process of evaluation. Resources that have not yet been placed on the National Register, and are yet to be evaluated, are afforded protection under the Act until shown to be not significant.

Section 106 of the NHPA and its implementing regulations (36 Code of Federal Regulations Part 800) note that for a cultural resource to be determined eligible for listing in the National Register, the resource must meet specific criteria associated with historic significance and possess certain levels of integrity of form, location, and setting. The criteria for listing on the National Register are applied within an analysis when there is some question as to the significance of a cultural resource. The criteria for evaluation are defined as the quality of significance in American history, architecture, archeology, engineering, and culture. This quality must be present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association. A property is eligible for the NRHP if it is significant under one or more of the following criteria:

- *Criterion A:* It is associated with events that have made a significant contribution to the broad patterns of our history; or
- *Criterion B:* It is associated with the lives of persons significant in our past; or
- *Criterion C:* It embodies 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
- *Criterion D:* It has yielded, or may be likely to yield, information important in prehistory or history.

Criterion (D) is usually reserved for archaeological resources. Eligible cultural resources must meet at least one of the above criteria and exhibit integrity, measured by the degree to which the resource retains its historical properties and conveys its historical character.

The Section 106 evaluation process does not apply to projects undertaken under City environmental compliance jurisdiction, however, should the undertaking require funding, permits or other administrative actions issued or overseen by a federal agency, analysis of potential impacts to cultural resources following the Section 106 process will likely be necessary. The Section 106 process typically excludes cultural resources created less than 50 years ago unless the resource is considered highly significant from the local perspective. Finally, the Section 106 process allows local concerns to be voiced and the Section 106 process must consider aspects of local significance before a significance judgment is rendered.



Secretary of the Interior's Standards for the Treatment of Historic Properties

Evolving from the *Secretary of the Interior's Standards for Historic Preservation Projects with Guidelines for Applying the Standards* that were developed in 1976, the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* were published in 1995 and codified as 36 CFR 67. Neither technical nor prescriptive, these standards are “intended to promote responsible preservation practices that help protect our Nation’s irreplaceable cultural resources.” “Preservation” acknowledges a resource as a document of its history over time, and emphasizes stabilization, maintenance, and repair of existing historic fabric. “Rehabilitation” not only incorporates the retention of features that convey historic character but also accommodates alterations and additions to facilitate continuing or new uses. “Restoration” involves the retention and replacement of features from a specific period of significance. “Reconstruction,” the least used treatment, provides a basis for recreating a missing resource. These standards have been adopted, or are used informally, by many agencies at all levels of government to review projects that affect historic resources.

STATE LEVEL

California Environmental Quality Act

As defined in Section 21083.2 of CEQA, a “unique” archaeological resource is an archaeological artifact, object, or site, about which it can be clearly demonstrated that without merely adding to the current body of knowledge, there is high probability that it meets any of the following criteria:

- 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.
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

If a lead agency determines that an archaeological site is a historical resource, the provisions of Section 21084.1 of CEQA and Section 15064.5 of the State *CEQA Guidelines* apply. If an archaeological site does not meet the criteria for a historical resource contained in the State *CEQA Guidelines*, then the site is to be treated in accordance with the provisions of CEQA Section 21083, which is unique archaeological resource. The State *CEQA Guidelines* note that if an archaeological resource is neither a unique archaeological nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment (State *CEQA Guidelines* Section 15-64.5(c)(4)).

California Register of Historical Resources

Created in 1992 and implemented in 1998, the California Register of Historical Resources (CRHR) is “an authoritative guide in California to be used by State and local agencies, private groups, and citizens to identify the State’s historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change.” Certain properties,



including those listed in or formally determined eligible for listing in the NRHP and California Historical Landmarks numbered 770 and higher, are automatically included in the CRHR. Other properties recognized under the California Points of Historical Interest program, identified as significant in historical resources surveys or designated by local landmarks programs, may be nominated for inclusion in the CRHR. A resource, either an individual property or a contributor to a historic district, may be listed in the CRHR if the State Historical Resources Commission determines that it meets one or more of the following criteria, which are modeled on NRHP criteria.

LOCAL LEVEL

City of Newport Beach General Plan

City policies pertaining to cultural resources are contained in the Historic Element of the Newport Beach General Plan. The Historic Resources Element describes methods for protecting archaeological and historical resources, and provides local policies to guide the implementation of cultural resource preservation, beyond the protections afforded by applicable federal, state, and local laws. These policies include, but are not limited to, the following:

- Goal HR 1: Recognize and protect historically significant landmarks, sites, and structures.
- Policy HR1.5, Historical Elements within New Projects: Require that proposed development that is located on a historical site or structure incorporate a physical link to the past within the site or structural design, if preservation or adaptive reuse is not a feasible option. For example, incorporate historical photographs or artifacts within the proposed project or preserve the location and structures of existing pathways, gathering places, seating areas, rail lines, roadways, or viewing vantage points within the proposed site design (Imp 29.2).
- Goal HR 2: Identification and protection of important archaeological and paleontological resources within the City.
- Policy HR 2.1, New Development Activities: Require that, in accordance with CEQA, new development protect and preserve paleontological and archaeological resources from destruction, and avoid and mitigate impacts to such resources. Through planning policies and permit conditions, ensure the preservation of significant archaeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA (Imp 11.1).
- Policy HR 2.2, Grading and Excavation Activities: Maintain sources of information regarding paleontological and archaeological sites and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve paleontological or archaeological findings. Require a qualified paleontologist/archaeologist to monitor all grading and/or excavation where there is a potential to affect cultural, archaeological, or paleontological resources. If these resources are found, the applicant shall implement the recommendations of the paleontologist/archaeologist, subject to the approval of the City Planning Department (Imp 11.1).



- HR 2.3, Cultural Organizations: Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow representatives of such groups to monitor grading and/or excavation of development sites (Imp 11.1).
- HR 2.4, Paleontological or Archaeological Materials: Require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach, or Orange County, whenever possible (Imp. 11.1).

In addition, the City's Natural Resources Element also provides for the protection of cultural resources with the following Goal and Policies:

- Goal NR 18: Protection and preservation of important paleontological and archaeological resources.
- Policy NR 18.1 New Development: Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archaeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA (Imp 7.1).
- Policy NR 18.2, Maintenance of Database Information: Prepare and maintain sources of information regarding paleontological or archaeological sites and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve paleontological and archaeological findings (Imp 10.1).
- Policy NR 18.4, Donation of Materials: Require new development, where onsite preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible (Imp 11.1).

Newport Beach City Council Policy Manual

The Newport Beach City Council Manual identifies policies applicable to cultural resources. These policies are discussed below.

Places of Historical and Architectural Significance (K-2). This regulation establishes City Council authority to designate any building, object, structure, monument, or collection having importance to the history or architecture of the City and provides procedures for listing. Accordingly, the City Clerk is required to maintain the City of Newport Beach Register of Historical Property. The City Council may at any time repeal, revise, or modify any such designation upon reconsideration of the historical or architectural importance of the structure.

Paleontological Guidelines (K-4). Policy K-4 applies to paleontological resources. Under this policy, the City is required to prepare and maintain sources of information regarding paleontological sites and the names and addresses of responsible organizations and qualified individuals who can



analyze, classify, record, and preserve paleontological findings. If determined necessary by the Planning Director, it is the responsibility of a developer to examine the proposed site in order to determine the existence and extent of paleontological resources. Qualified individuals are to prepare and submit a written report describing the findings and making recommendations for further action. Based on the report and recommendations, the City is required to ensure that the findings or sites are recorded, preserved, and protected.

Archaeological Guidelines (K-5). The policies set forth within these guidelines are used to guide the development or redevelopment of land within the City. The City is required, through its planning policies and permit conditions, to ensure the preservation of significant archaeological resources and require that the impact caused by any development be mitigated in accordance with CEQA. The City is to prepare and maintain sources of information regarding archaeological sites and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve archaeological findings.

If determined necessary by the Planning Director, it is the responsibility of the developer to examine the site to determine the existence and extent of archaeological resources. Qualified observers are to prepare and submit a written report describing the findings and making recommendations for further action, which may include monitoring. Based on the report and recommendations, the City is required to ensure that the findings or sites are recorded, preserved, and protected.

5.4.3 IMPACT THRESHOLDS AND SIGNIFICANCE CRITERIA

The purpose of this analysis is to identify any potential cultural resources within or adjacent to the project site, and to assist the Lead Agency in determining whether such resources meet the official definitions of “historical resources,” as provided in the Public Resource Code, in particular CEQA.

SIGNIFICANCE GUIDELINES

Historical Resources

Impacts to a significant cultural resource that affect characteristics that would qualify it for the NRHP or that adversely alter the significance of a resource listed in or eligible for listing in the CRHR are considered a significant effect on the environment. These impacts could result from “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired” (*CEQA Guidelines*, Section 15064.5 [b][1], 2000). Material impairment is defined as demolition or alteration “in an adverse manner [of] those characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register” (*CEQA Guidelines* Section 15064.5[b][2][A]).

Archaeological Resources

A significant prehistoric archaeological impact will occur if grading and construction activities will result in a substantial adverse change to archaeological resources determined to be “unique” or “historic.” “Unique” resources are defined in Public Resources Code Section 21083.2; “historic”



resources are defined in Public Resources Code Section 21084.1 and *CEQA Guidelines* Section 15126.4.

Public Resources Code Section 21083.2(g) states:

As used in this section, “unique archaeological resource” means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- 1. Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information;*
- 2. Has a special and particular quality, such as being the oldest of its type or the best available example of its type; or*
- 3. Is directly associated with a scientifically recognized important prehistoric or historic event or person.*

Paleontological Resources

An impact on paleontological materials would be considered a significant impact if the project results in the direct or indirect destruction of a unique or important paleontological resource or site. The following criteria are used to determine whether a resource is unique or important:

- The past record of fossil recovery from the geologic unit(s);
- The recorded fossil localities in the project site;
- Observation of fossil material on-site; and
- The type of fossil materials previously recovered from the geologic unit (vertebrate, invertebrate, etc.).

CEQA SIGNIFICANCE CRITERIA

Appendix G of the *CEQA Guidelines* contains the Initial Study Environmental Checklist form, which includes questions relating to cultural resources. The issues presented in the Initial Study Checklist have been utilized as thresholds of significance in this section. Accordingly, a project may create a significant adverse environmental impact if it would:

- Cause a substantial adverse change in the significance of a historical resource as defined in *CEQA Guidelines* Section 15064.5 (refer to Impact Statement CUL-1);
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to *CEQA Guidelines* Section 15064.5 (refer to Impact Statement CUL-2);
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature (refer to Impact Statement CUL-3); and/or
- Disturb any human remains, including those interred outside of formal cemeteries (refer to Impact Statement CUL-4).



Based on these standards/criteria, the effects of the proposed project have been categorized as either a “less than significant impact” or a “potentially significant impact.” If a potentially significant impact cannot be reduced to a less than significant level through the application of goals, policies, standards, or mitigation, it is categorized as a significant and unavoidable impact. The standards used to evaluate the significance of impacts are often qualitative rather than quantitative because appropriate quantitative standards are either not available for many types of impacts or are not applicable for some types of projects.

5.4.4 IMPACTS AND MITIGATION MEASURES

HISTORICAL RESOURCES

CUL-1 THE PROPOSED PROJECT WOULD NOT CAUSE A SIGNIFICANT IMPACT TO A HISTORICAL RESOURCE.

Impact Analysis: Figure 4.4-1 (Historic Resources), in the City’s *General Plan Environmental Impact Report* (GPEIR) illustrates the locations of the 11 properties within the City of Newport Beach that have been listed or designated eligible for listing on the NRHP or CRHR, or otherwise listed as historic or potentially historic in the California Historic Resources Information System (CHRIS) which is maintained by the Office of Historic Preservation. The project site is not included on Figure 4.4-1 in the GPEIR and is not recognized as a historic structure or as having historic significance. Therefore, the proposed project would not cause a potentially substantial adverse change in the significance of any historical resource currently identified by the City and/or State or federal agency. Thus, implementation of the proposed project would not cause a significant impact to a historic resource. Impacts would be less than significant and no mitigation measures would be required.

Mitigation Measures: No mitigation measures are required.

Level of Significance: Less Than Significant Impact.

ARCHAEOLOGICAL RESOURCES

CUL-2 THE PROPOSED PROJECT MAY CAUSE A SIGNIFICANT IMPACT TO UNKNOWN ARCHAEOLOGICAL RESOURCES THAT COULD OCCUR ON-SITE.

Impact Analysis: As described above, Newport Beach has had a long cultural history and has been home to Native American groups, since before Euro-American settlement. Due to the historic nature of Newport Beach, archaeological materials have been found during ground-disturbing activities, particularly in areas that have not previously been developed. Moreover, archaeological resources may be present under existing developed sites.

As the proposed project includes an amendment to the Newport Beach General Plan and Coastal Land Use Plan, it is subject to the Native American consultation process mandated by SB 18. The City has previously conducted SB 18 consultation for the project site as part of the environmental



documentation for the City Hall Reuse Project.¹ During the previous SB 18 consultation, the City received an inquiry from one tribal representative. The Native American representative indicated that he could coordinate monitoring services during grading/construction if it is determined that such monitoring is required. The tribal representative did not indicate any knowledge of the presence of any significant cultural or archaeological resources on the project site. It should be noted that the City of Newport Beach initiated the SB 18 consultation and submitted a request to the Native American Heritage Commission (NAHC) for the proposed project. The City has not received any comments from the NAHC.

Policy HR 2.1 and Policy NR 18.1 require that any new development protect and preserve archaeological resources from destruction, and that potential impacts to such resources be avoided and minimized through planning policies and permit conditions. Other policies under Goal HR 2 and Goal NR 18 serve to ensure that information resources are maintained regarding these resources; grading and excavation activities where there is a potential to affect cultural or archaeological resources be monitored by a qualified archaeologist; cultural organizations are notified of all developments that have the potential to adversely impact these resources; and that any new development donates scientifically valuable archaeological resources to a responsible public or private institution. Policy HR 2.2 would serve to ensure that sources of information regarding paleontological and archeological sites and the names and addresses of responsible organizations and qualified individuals, who can analyze, classify, record, and preserve paleontological or archeological findings would continue to be maintained.

As the project site has been previously subject to grading, construction, and disruption, any archaeological resources that may have existed on the project site have likely been disturbed and/or destroyed. Nonetheless, compliance with General Plan policies and implementation of Mitigation Measure CUL-1 would ensure impacts to archaeological and Native American cultural resources would be less than significant by requiring the scientific recovery and evaluation of any resources that could be encountered during grading and construction of future development. Mitigation Measure CUL-1 requires an archaeologist and a Native American Monitor appointed by the City of Newport Beach to be present during earth removal or disturbance activities related to rough grading and other excavation for utilities. If any earth removal or disturbance activities result in the discovery of cultural resources, the contractor(s) would cease all earth removal or disturbance activities in the vicinity and immediately notify the City selected archaeologist and/or Native American Monitor, who would immediately notify the Community Development Director. The City selected archaeologist would then evaluate all potential cultural findings in accordance with standard practice, the requirements of the City of Newport Beach Cultural Resources Element, and other applicable regulations. Consultation with the Native American Monitor, the Native American Heritage Commission, and data/artifact recovery, if deemed appropriate, would also be conducted. With implementation of Mitigation Measure CUL-1, project implementation would not cause a substantial adverse change in the significance of an archaeological resource.

Mitigation Measures:

CUL-1 An archaeologist and a Native American Monitor appointed by the City of Newport Beach shall be present during earth removal or disturbance activities related to rough grading and

¹ City of Newport Beach, *City of Newport Beach City Hall Reuse Project Initial Study/Negative Declaration*, November 2012. It should be noted that this Initial Study/Negative Declaration (IS/ND) was prepared for the City Hall Reuse Project and brought to the City Council for consideration; however, the IS/ND was not adopted.



other excavation for utilities. If any earth removal or disturbance activities result in the discovery of cultural resources, the Project proponent's contractors shall cease all earth removal or disturbance activities in the vicinity and immediately notify the City selected archaeologist and/or Native American Monitor, who shall immediately notify the Community Development Director. The City selected archaeologist shall evaluate all potential cultural findings in accordance with standard practice, the requirements of the City of Newport Beach Historic Resources Element, and other applicable regulations. Consultation with the Native American Monitor, the Native American Heritage Commission, and data/artifact recovery, if deemed appropriate, shall be conducted.

Level of Significance: Less Than Significant With Mitigation Incorporated.

PALEONTOLOGICAL RESOURCES

CUL-3 THE PROPOSED PROJECT MAY CAUSE A SIGNIFICANT IMPACT TO UNKNOWN PALEONTOLOGICAL RESOURCES THAT COULD OCCUR ON-SITE.

Impact Analysis: Several locations within the City have known significant paleontological resources. These locations include areas underlain by the Vaqueros formation, such as the Newport Coast and the Newport Banning Ranch area, the Topanga and Monterey Formations, and Fossil Canyon in the North Bluffs area. Therefore, any ground-disturbing activities in these areas could potentially result in damage to or destruction of fossils in the formations.

However, an Orange County Certified Paleontologist appointed by the City of Newport Beach would be required to prepare a Paleontological Resource Monitoring and Mitigation Program and be present during earth removal or disturbance activities related to rough grading and other excavation for utilities occurring within paleontological sensitive Vaqueros, Topanga, and Monterey Formations (Mitigation Measure CUL-2). If any earth removal or disturbance activities result in the discovery of paleontological resources, the contractor(s) would cease all earth removal or disturbance activities in the vicinity and immediately notify the City selected paleontologist, who would immediately notify the Community Development Director. The City selected paleontologist would then evaluate all potential paleontological findings in accordance with standard practice, the requirements of the City of Newport Beach Historic Resources Element, and other applicable regulations. The paleontologist would prepare a Final Monitoring and Mitigation Report, documenting the results of the mitigation and monitoring program and itemizing the fossils collected. With implementation of Mitigation Measure CUL-2, potential adverse impacts to paleontological resources would be reduced to a less than significant level.

Mitigation Measures:

CUL-2 An Orange County Certified Paleontologist appointed by the City of Newport Beach shall prepare a Paleontological Resource Monitoring and Mitigation Program prior to earth removal or disturbance activities at the project site. The City selected paleontologist shall be present during earth removal or disturbance activities related to rough grading and other excavation for utilities. Paleontological monitoring shall include inspection of exposed rock units during active excavations within sensitive geologic sediments. If any earth removal or disturbance activities result in the discovery of paleontological resources,



the Project proponent's contractors shall cease all earth removal or disturbance activities in the vicinity and immediately notify the City selected paleontologist who shall immediately notify the Community Development Director. The City selected paleontologist shall evaluate all potential paleontological findings in accordance with the Paleontological Resource Monitoring and Mitigation Program Monitoring, standard practice, the requirements of the City of Newport Beach Historic Resources Element, and other applicable regulations. Upon completion of the fieldwork, the City selected paleontologist shall prepare a Final Monitoring and Mitigation Report to be filed with the City and the repository to include, but not be limited to, a discussion of the results of the mitigation and monitoring program, an evaluation and analysis of the fossils collected (including an assessment of their significance, age, geologic context), an itemized inventory of fossils collected, a confidential appendix of locality and specimen data with locality maps and photographs, and an appendix of curation agreements and other appropriate communications.

Level of Significance: Less Than Significant With Mitigation Incorporated.

BURIAL SITES

CUL-4 THE PROPOSED PROJECT MAY CAUSE A SIGNIFICANT IMPACT TO UNKNOWN NATIVE AMERICAN BURIAL SITES THAT COULD OCCUR ON-SITE.

Impact Analysis: No conditions exist that suggest human remains are likely to be found on the project site. Due to the level of past disturbance on-site, it is not anticipated that human remains, including those interred outside of formal cemeteries, would be encountered during earth removal or disturbance activities. If human remains are found, those remains would be required to conduct proper treatment, in accordance with applicable laws. State of California Public Resources Health and Safety Code Sections 7050.5 to 7055 describe the general provisions for human remains. Specifically, Health and Safety Code Section 7050.5 describes the requirements if any human remains are accidentally discovered during excavation of a site. As required by State law, the requirements and procedures set forth in Section 5097.98 of the California Public Resources Code would be implemented, including notification of the County Coroner, notification of the NAHC and consultation with the individual identified by the NAHC to be the "most likely descendant." If human remains are found during excavation, excavation must stop in the vicinity of the find and any area that is reasonably suspected to overlay adjacent remains until the County coroner has been called out, and the remains have been investigated and appropriate recommendations have been made for the treatment and disposition of the remains. Following compliance with existing State regulations, which detail the appropriate actions necessary in the event human remains are encountered, impacts in this regard would be reduced to less than significant levels.

Mitigation Measures: No mitigation measures are required.

Level of Significance: Less Than Significant Impact.



5.4.5 CUMULATIVE IMPACTS

- THE PROPOSED PROJECT, COMBINED WITH OTHER RELATED CUMULATIVE PROJECTS, WOULD NOT CAUSE A SIGNIFICANT IMPACT TO A HISTORICAL RESOURCE.
- THE PROPOSED PROJECT, COMBINED WITH OTHER RELATED CUMULATIVE PROJECTS, MAY CAUSE A SIGNIFICANT IMPACT TO UNKNOWN ARCHAEOLOGICAL RESOURCES THAT COULD OCCUR ON-SITE.
- THE PROPOSED PROJECT, COMBINED WITH OTHER RELATED CUMULATIVE PROJECTS, MAY CAUSE A SIGNIFICANT IMPACT TO UNKNOWN PALEONTOLOGICAL RESOURCES THAT MAY OCCUR ON-SITE.
- THE PROPOSED PROJECT, COMBINED WITH OTHER RELATED CUMULATIVE PROJECTS, MAY CAUSE A SIGNIFICANT IMPACT TO UNKNOWN NATIVE AMERICAN BURIAL SITES THAT COULD OCCUR ON-SITE.

Impact Analysis: Table 4-1, *Cumulative Projects List*, identifies the related projects and other possible development in the area determined as having the potential to interact with the proposed project to the extent that a significant cumulative effect may occur. The project site does not contain any historical structures, and therefore, the proposed project would not cumulatively contribute to impacts to a historical resource. Due to the location of the cumulative projects and the high sensitivity for cultural resources to occur within the City of Newport Beach, there is the potential that unknown archeological resources, including burial sites, and paleontological resources could occur at one or more of the cumulative project sites. The potential destruction of unknown archaeological resources associated with ground disturbance activities at the project site and cumulative project sites could be cumulatively considerable, due to the collective loss of historical artifacts and knowledge regarding the culture of the people who lived at the respective sites. Additionally, the destruction of paleontological resources could be cumulatively considerable, as fossils provide biological information of ancient life, which would no longer be available for study. However, individual projects would be evaluated on a project-by-project basis to determine the extent of potential impacts to archeological and paleontological resources. Adherence to State and Federal statutes, as well as project-specific mitigation measures, cumulative impacts to archaeological and paleontological resources would be reduced to less than significant levels. With implementation of Mitigation Measures CUL-1 and CUL-2, the project would not cumulatively contribute to substantial archaeological, including burial sites, and paleontological resource impacts. A less than significant impact would occur in this regard.

Mitigation Measures: Refer to Mitigation Measures CUL-1 and CUL-2.

Level of Significance: Less Than Significant With Mitigation Incorporated.

5.4.6 SIGNIFICANT UNAVOIDABLE IMPACTS

No unavoidable significant impacts related to cultural resources have been identified following implementation of mitigation measures referenced in this section.