

## **4.4 CULTURAL RESOURCES**

This chapter discusses the regulatory framework and existing conditions of the Project site and analyzes potential impacts to cultural resources that could result from buildout of the Project. Cultural resources include historical, architectural, archaeological, and paleontological resources.

### **4.4.1 ENVIRONMENTAL SETTING**

#### **4.4.1.1 REGULATORY FRAMEWORK**

This section describes the policies and regulations that apply to cultural resources in the City of San Leandro.

#### **Federal Regulations**

##### *National Historic Preservation Act of 1966*

The National Historic Preservation Act of 1966 established the National Register of Historic Places (National Register) as the official designation of historical resources, including districts, sites, buildings, structures, and objects. For a property to be eligible for listing in the National Register, it must be significant in American history, architecture, archaeology, engineering, or culture, and must retain integrity in terms of location, design, setting, materials, workmanship, feeling, and association. Resources less than 50 years in age are not eligible for the National Register unless specified as of exceptional importance. Though a listing in the National Register does not prohibit demolition or alteration of a property, the California Environmental Quality Act (CEQA) requires the evaluation of project effects on properties that are listed in the National Register.

#### **State Regulations**

##### *California Environmental Quality Act*

Section 15064.5 of the CEQA Guidelines states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant impact on the environment. The CEQA Guidelines define four ways that a property can qualify as a significant historical resource for purposes of CEQA compliance:

- The resource is listed in or determined eligible for listing in the California Register of Historical Resources, as determined by the State Historical Resources Commission.
- The resource is included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code, or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- The lead agency determines the resource to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural analysis of California, as supported by substantial evidence in the light of the whole record.

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- The lead agency determines that the resource may be a historical resource as defined by the Public Resources Code Sections 5020.1(j) or 5024.1 (CEQA Guidelines Section 15064.5) which means, in part, that it may be eligible for the California Register.

In addition, Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines specify lead agency responsibilities to determine whether a project may have a significant effect on archaeological resources. If it can be demonstrated that a project will damage a unique archaeological resource, the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state. Preservation in place is the preferred approach to mitigation. The Public Resources Code also details required mitigation if unique archaeological resources are not preserved in place.

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These provisions not only protect such remains from disturbance, vandalism, and inadvertent destruction but also establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project. Such discoveries would establish the Native American Heritage Commission (NAHC) as the authority to identify the most likely descendant and mediate any disputes regarding disposition of such remains.

### *California Register of Historic Resources (California Register)*

The California Register establishes a list of properties to be protected from substantial adverse change (Public Resources Code Section 5024.1). The State Office of Historic Preservation (OHP) has determined that buildings, structures, and objects 45 years or older may be of historical value. A historical resource may be listed in the California Register if it meets any of the following criteria:

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

The California Register includes properties that are listed or have been formally determined eligible for listing in the National Register, State Historical Landmarks, and eligible Points of Historical Interest. Other resources that may be eligible for the California Register, which require nomination and approval for listing by the State Historic Resources Commission, include resources contributing to the significance of a local historic district, individual historic resources, historical resources identified in historic surveys conducted in accordance with OHP procedures, historic resources or districts designated under a local ordinance consistent with the procedures of the State Historic Resources Commission, and local landmarks or historic properties designated under local ordinance.

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### *California Historical Building Code, California Code of Regulations, Title 24, Part 8*

The California Historical Building Code, defined in Sections 18950 to 18962 of Division 13, Part 2.7 of Health, and Safety Code, provides regulations and standards for the rehabilitation, preservation, restoration (including related construction), or relocation of historical buildings, structures, and properties deemed by any level of government as having importance to the history, architecture, or culture of an area.

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

Section 7052 of the Health and Safety Code states that the disturbance of Native American cemeteries is a felony. Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the county coroner can determine whether the remains are those of a Native American. If determined to be Native American, the coroner must contact the California NAHC.

### *California State Senate Bill 18*

Senate Bill (SB) 18, which went into effect January 1, 2005, set forth requirements for local governments (cities and counties) to consult with Native American tribes to aid in the protection of traditional tribal cultural places through local land use planning. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early stage of planning 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 prior to the making of individual site-specific, project-level land use designations by a local government. Under SB 18, local governments are required to conduct consultation with California Native American tribes when a General Plan Amendment occurs or if open space is being developed for the first time.

### *Public Resources Code Section 5097*

Public Resources Code Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of human remains on non-federal public lands. The disposition of Native American burials fall within the jurisdiction of the NAHC, which prohibits willfully damaging any historical, archaeological, or vertebrate paleontological site or feature on public lands.

## Local Regulations

### *City of San Leandro General Plan*

The City of San Leandro General Plan was adopted in 2002 and contains a vision for San Leandro through the year 2015 including policies and actions to help achieve that vision. The Historic Preservation and Community Design Element contains goals and policies to preserve the city's legacy of historic resources, enhance the aesthetic character of the city, and maintain features that make San Leandro unique. The San

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Leandro General Plan defines historic preservation as the “sensitive maintenance, continued use, and restoration of older buildings and sites having historic, architectural, aesthetic, or cultural value.”<sup>1</sup>

The Historic Preservation and Community Design Element seeks to establish a preservation program by creating an inventory of structures of historic value within the city. Utilizing the National Register and the Secretary of the Interior’s Standards as a starting point, the General Plan calls for the additional criteria to be considered:<sup>2</sup>

- “Historic Sites and Structures” include individual buildings or sites determined to have special historic, cultural, educational, archaeological, or aesthetic value.
- “Historic Districts” include geographic areas with large concentrations of historic structures.
- “Neighborhood Conservation Districts (Heritage Neighborhoods)” are areas characterized by older (pre-1940) housing stock, along with historic street furniture, signs, and landscape design elements.

Table 4.4-1 provides a list of the San Leandro General Plan goals and policies related to cultural resources that are applicable to the Project site and future development under the Project:

### 4.4.1.2 EXISTING CONDITIONS

This section provides an overview of the history of the City of San Leandro and of resources of historical significance that may be affected by the Project.

#### Paleontological Resources

Paleontological resources (fossils) are the remains and/or traces of prehistoric plant and animal life exclusive of human remains or artifacts. Fossil remains such as bones, teeth, shells, and wood are found in the geologic deposits (rock formations) in which they were originally buried. Paleontological resources represent a limited, non-renewable, sensitive scientific and educational resource. The potential for fossil remains at a location can be predicted through previous correlations established between the fossil occurrence and the geologic formations where they were buried. For this reason, geologic knowledge of a particular area and the paleontological resource sensitivity of particular rock formations, make it possible to predict where fossils will or will not be encountered. However, the San Leandro General Plan EIR does not identify any paleontological resources at the Project site.

#### Archaeological Resources

Archaeological resources are the physical remnants of prehistoric or historic human activity. These can include human remains and artifacts, including but not limited to tools, portions of building structure or foundation, food, and refuse. The Project site is in the territory that was once controlled by the Ohlone Indians, commonly known as the Costanoans, at the time of the European settlement.

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<sup>1</sup> City of San Leandro, *General Plan*, page 7-1.

<sup>2</sup> City of San Leandro, *General Plan*, page 7-7.

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**TABLE 4.4-1 SAN LEANDRO GENERAL PLAN POLICIES PERTAINING TO CULTURAL RESOURCES**

<b>Goal/Policy Number</b>	<b>Goal/Policy Text</b>
<b>Land Use</b>	
Policy 11.06	Preserve and enhance the City’s cultural and historic resources, and encourage and acknowledge their contribution to the City’s economic development.
<b>Historic Preservation &amp; Community Design</b>	
Goal 38	Identify, preserve, and maintain San Leandro’s historic resources and recognize these resources as an essential part of the City’s character and heritage.
Policy 38.01	Take a broad and comprehensive approach to historic preservation in San Leandro. Preservation efforts should recognize the City’s cultural history as well as its architectural history, its neighborhoods as well as individual buildings, its natural landscape as well as its built environment, and its archaeology as well as its living history.
Policy 38.02	Recognize the potential for publicly sponsored historic preservation programs and privately initiated historic preservation efforts to enhance San Leandro’s identity as an attractive and distinct community.
Policy 38.03	Develop and maintain programs that recognize and protect historic sites, structures, trees, and other landscape features.
Policy 38.04	Encourage the formation of local historic districts in areas where historic sites and structures are concentrated. Such districts should provide for the preservation, restoration, and public recognition of the resources contained therein.
Policy 38.05	Promote the conservation of historic neighborhoods and the restoration of historic features in such neighborhoods, including structures, street lamps, signage, landscaping, and architectural elements.
Policy 38.06	Update, expand, and maintain inventories of San Leandro’s historic resources, using criteria and survey methods that are consistent with state and federal guidelines.
Policy 38.07	Ensure that new development, alterations, and remodeling projects on or adjacent to historic properties are sensitive to historic resources and are compatible with the surrounding historic context. Ensure that the San Leandro Zoning Ordinance and any future design guidelines include the necessary standards and guidelines to implement this policy.
Policy 38.08	Encourage the relocation of older structures into designated historic districts as an alternative to demolition and an incentive for restoration.
Policy 38.09	Strongly encourage the maintenance and upkeep of historic properties to avoid the need for costly rehabilitation and demolition. Demolition should only be allowed if the City determines that is necessary to protect health, safety, and welfare, and that the structure has no reasonable economic use.
Policy 38.10	Promote the upgrading and restoration of historic structures to meet current seismic safety codes, thereby reducing the potential for damage in an earthquake. Seismic rehabilitation projects should be sympathetic to the architectural character of the structure.
Policy 38.11	In the event that a historic structure is damaged by fire or earthquake to the point where demolition is necessary, encourage the new structure to respect the historic architectural character and form of the building it replaces.
Policy 38.12	Recognize the potential for prehistoric and historic archaeological resources and ensure that future development takes the measures necessary to identify and preserve such resources.
Goal 39	Make protection of historic resources a high City priority, to be implemented through improved record keeping, adequately funded programs, and more effective regulatory measures.
Policy 39.01	Recognize the importance of local historic and cultural resources in the City’s long-range planning activities, including the General Plan, redevelopment project plans, and area or neighborhood plans. Maintain a historic preservation component in the General Plan, with periodic updates to reflect changing conditions, additional listings, and new preservation programs.
Policy 39.02	Ensure that day-to-day planning and building activities, including the issuance of building permits, demolition permits, zoning approvals, site plan approvals, and use permits, are consistent with and further the achievement of local historic preservation goals.
Policy 39.03	Maintain a City Historic Preservation Ordinance that provides for the protection of historic resources within the City of San Leandro.

Source: City of San Leandro General Plan, Chapter 7, Historic Preservation and Community Design Element.

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The Ohlone were hunter gatherers who settled in large, permanent villages, often situated near fresh water sources. Due to the site's proximity to a year-round water source in San Lorenzo Creek, and the presence of well-drained soils, it would have been a likely area for prehistoric people to live or gather resources.<sup>3</sup>

According to the San Leandro General Plan,<sup>4</sup> archaeologists and historians have identified at least ten archaeological sites in the city between San Leandro Creek, north of the Project site, and San Lorenzo Creek, south of the Project site. They are not visibly evident, and mostly consist of remnant shell mounds that have been destroyed or covered by development. The Project site is not within nor does it contain any of these sites. Furthermore, Tom Origer and Associates conducted a cultural resources survey of the Project site for the presence of archaeological artifacts, utilizing archival research and on-site fieldwork. No prehistoric or historic-period archaeological resources were discovered within the Project site.<sup>5</sup>

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### *Local Historical Context*

Before the first European settlers arrived, the area now known as San Leandro was home to Native Americans for more than 3,000 years.<sup>6</sup> As previously mentioned, at least ten archaeological sites have been identified in the city between San Leandro Creek, north of the Project site, and San Lorenzo Creek, south of the Project site, consisting primarily of remnant shell mounds. However, as stated above, a cultural resources survey conducted by Tom Origer & Associates concluded that there were no artifacts found on the Project site itself. Between 1820 and 1842, the area now known as San Leandro was divided through Spanish land grants; most of modern-day San Leandro was contained within the cattle ranches of Ignacio Peralta and Don Jose Joaquin Estudillo.<sup>7</sup> As settlers, squatters, and "49ers" arrived in the early 1850s, the town was laid out in a grid of streets and became the seat of Alameda County in 1856. A catastrophic earthquake destroyed the County Courthouse in 1868, causing the county seat to be relocated to Oakland. The agricultural town continued to prosper and was incorporated as a City in 1872, reaching 2,300 residents by the turn of the twentieth century. At this time, farms and orchards in the city produced a variety of fruits and vegetables, including cherries, tomatoes, onions, potatoes, asparagus, sugar beets, rhubarb, and apricots.<sup>8</sup>

San Leandro continued to grow at a moderate pace during the first part of the twentieth century and had 14,000 residents by 1940.<sup>9</sup> Neighborhoods took shape, and railroad corridors running through the city were developed with industry. Downtown was the center of commerce and civic life. It was in the 1940s and 1950s that much of San Leandro's current form and character took shape. Nearly half of the city's current housing stock was added during this era, initially created by the need for wartime housing and

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<sup>3</sup> Beard, Vicki, 2014, *A Cultural Resources Survey for the San Leandro Shoreline Development Project*, page 3.

<sup>4</sup> City of San Leandro, *General Plan*, page 7-2.

<sup>5</sup> Beard, Vicki, 2014, *A Cultural Resources Survey for the San Leandro Shoreline Development Project*, page 7.

<sup>6</sup> City of San Leandro, *General Plan*, page 2-2.

<sup>7</sup> City of San Leandro, *General Plan*, page 2-2.

<sup>8</sup> City of San Leandro, *General Plan*, page 2-2.

<sup>9</sup> City of San Leandro, *General Plan*, page 2-2.

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sustained by veterans and their families. The city's neighborhood shopping centers and commercial strips along East 14<sup>th</sup> Street date from this period. The city was among the fastest growing industrial centers in the Bay Area during the post-war years, adding 6,000 manufacturing jobs between 1947 and 1954. By the 1960s, the city's pace of growth reached its natural limit; hills became barriers for expansion and the city's shoreline was acquired for park use and new development shifted to smaller infill sites around the city.

Today, virtually none of the early settlement architectural sites exist. One exception, the Alta Mira Club and original home of Ignacio Peralta, still stands and is a designated California Historical Landmark and has been on the National Register of Historic Places since 1978.<sup>10</sup> Several residential buildings built between 1870 and 1900 are still standing throughout the city, and were built in the vernacular or Victorian style of the time. From the early twentieth century, the Casa Peralta, originally built as a Victorian residence and remodeled as a Moorish villa in 1926, has been on the National Register of Historic Places since 1982.<sup>11</sup> Other structures of historic value within the city include distinctive commercial buildings from the early 1900s, such as the Daniel Best Building, and pre-World War II residential buildings characterized by well-maintained California bungalows, Craftsman and Prairie-style homes, and Mediterranean-style cottages.

### *Federally and State Recognized Historic Resources*

The National Register requires that buildings be 50 years or older or prior to eligibility for a listing, while the State OHP has determined that buildings, structures, and objects 45 years or older may be of historical value and therefore eligible for inclusion on the California Register. There are no structures on the Project site that are listed on the National Register of Historic Places. As discussed earlier, two structures in the city are listed on the National Register of Historic Places. The Alta Mira Club is approximately 2.6 miles northeast of the site and Casa Peralta is approximately 2.4 miles from the site.

In general, buildings on the Project site have been constructed in the 1960s or later and are not architecturally distinctive, and are unlikely to meet the eligibility criteria for inclusion on the California Register. However, the Project site includes part of the San Leandro Marina (Mulford Point) that is the former site of oyster beds and is listed as California Historical Landmark #824 (CHL #824). A plaque at the southern end of Mulford Point Drive marks the historical importance of the site part as part of the Bay Area's role in the single most important fishery in the state during the 1890s.<sup>12</sup>

### *Locally Recognized Historic Resources*

The City of San Leandro has developed a list of historic and potentially historic buildings within its jurisdiction, which includes local, State, and federally designated historic properties.<sup>13</sup> As discussed earlier and demonstrated in the San Leandro General Plan, the former site of San Leandro oyster beds is recognized as CHL #824, and the associated plaque itself as a Historic Landscape Element by the City of San Leandro. The City also has a defined neighborhood called Orchard Street Neighborhood of a historic

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<sup>10</sup> City of San Leandro, *General Plan*, page 7-2.

<sup>11</sup> City of San Leandro, *General Plan*, page 7-2.

<sup>12</sup> California State Historical Landmarks in Alameda County, [http://ceres.ca.gov/geo\\_area/counties/Alameda/landmarks.html](http://ceres.ca.gov/geo_area/counties/Alameda/landmarks.html), accessed on June 19, 2014.

<sup>13</sup> City of San Leandro, *General Plan*, pages 7-8 to 7-9.

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resource as historically sensitive. This neighborhood along with other locally recognized historic resources are mainly located in the central part of the city, a distance of approximately 2.4 miles northeast to the Project site.<sup>14</sup>

The Project site contains three monuments that are not directly related to events that occurred within the Project site. One is for California Historic Landmark (CHL) #824, commemorating the oyster beds that lined the shore at the turn of the 20<sup>th</sup> century. A plaque was erected at this location but has since been stolen. A mosaic of the oyster beds is located at the end of Mulford Point.

There is also a plaque commemorating the dedication of the San Leandro channel as the Jack D. Maltester Channel. Maltester served as mayor of San Leandro for 20 years. The United States Congress made the designation in 1986 and the plaque was erected on the south side of Pescador Point in 1987.

The third monument is the Lost Boats Memorial placed by the United States Submarine Veterans of World War II in 1986 and dedicated in 2001. It was placed in memory of the USS Argonaut and the USS Grampus, both submarines lost during World War II. The monument is located near the end of Mulford Point and includes a torpedo and flag poles.

### *History of the Project Site*

A review of historical maps of the Project site indicate that the area was once home to Wick's Landing, a warehouse depicted on the 1859 General Land Office (GLO) plat for the Rancho San Leandro.<sup>15</sup> The building warehoused hay, produce, game, and other goods that were transported across the bay from this location before railroads existed.<sup>16</sup> From 1878 on, the site was known as Mulford Landing. No other buildings or structures are shown within the Project site prior to 1969, when the San Leandro marina first appears on the USGS map.<sup>17</sup>

## 4.4.2 STANDARDS OF SIGNIFICANCE

The Project would result in a significant impact to cultural resources if it would:

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

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<sup>14</sup> City of San Leandro, *General Plan*, page 7-5.

<sup>15</sup> Beard, Vicki, 2014, *A Cultural Resources Survey for the San Leandro Shoreline Development Project*, page 6.

<sup>16</sup> Simons, Cynthia, 2008, *Images of America, San Leandro*, Charleston SC: Arcadia Publishing, page 20.

<sup>17</sup> Beard, Vicki, 2014, *A Cultural Resources Survey for the San Leandro Shoreline Development Project*, page 6.

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### 4.4.3 IMPACT DISCUSSION

This section analyzes potential project-specific and cumulative impacts to cultural resources.

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<b>CULT-1</b>	<b>The Project would cause a substantial adverse change in the significance of a local historical resource as defined in CEQA Guidelines Section 15064.5.</b>
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As mentioned previously, there are no structures in the Project site listed on the National Register of Historic Places; however, as mentioned above, there are two structures within the city that are listed on the National Register, though both are located at a distance from the Project site where it is unlikely that any impacts are expected to occur to the structures. As stated above, the Casa Peralta is approximately 2.4 miles northeast of the Project site in the central part of the city, and the Alta Mira is approximately 2.6 miles northeast of the Project site.

Buildout of the project would result in the removal of the harbormaster's office, two sets of public restrooms, two existing restaurants, and a foundation from a third building. These buildings were constructed in the 1960s or later and are not architecturally distinctive and would unlikely meet the eligibility criteria for inclusion on the California Register. Given that there are no structures on the Project site listed on the National Register, and the structures on the Project site do not appear to meet the eligibility criteria for inclusion on the California Register, a *less-than-significant* impact would occur.

As described above, the Project site contains three monuments that are not directly related to events that occurred within the Project site, and do not mark specific locations within the Project site. These monuments include the following:

- A mosaic depicting the oyster beds associated with CHL #824.
- A plaque commemorating the dedication of the San Leandro channel as the Jack D. Maltester Channel.
- A Lost Boats Memorial placed in memory of USS Argonaut and the USS Grampus.

Construction of the Project may require demolition or relocation of the monuments depending upon their location. Although the three monuments that are not directly related to events that occurred within the Project site, each was placed in honor of historically-important events and are considered locally important historic resources. Demolition or relocation of the monuments would result in a *significant* impact.

**Impact CULT-1:** The Project would adversely affect locally important on-site monuments.

**Mitigation Measure CULT-1:** Prior to the issuance of grading permits, the Project Applicant shall preserve or relocate the mosaic depicting the oyster beds associated with CHL #824, the plaque commemorating the dedication of the San Leandro channel as the Jack D. Maltester Channel, and the Lost Boats Memorial placed in memory of USS Argonaut and the USS Grampus. Following consultation between the City and Project Applicant with the Office of Historic Preservation regarding the CHL #824 and the United States Submarine Veterans of World War II regarding the Lost Ships Memorial, the City of San Leandro shall provide input regarding the Jack D. Maltester Channel plaque. If

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relocation of the monuments is recommended in order to preserve the monuments, the specific construction techniques shall be identified in order to limit any damage to the monuments.

**Significance After Mitigation:** Less than significant.

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<b>CULT-2</b>	<b>The Project would have the potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.</b>
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The Project site is not an identified prehistoric site and because the site has already been significantly disturbed, the likelihood that as-yet-undiscovered archaeological resources are present on-site is low. Policy 38.12 of San Leandro General Plan recognizes the potential for archaeological resources and ensures that new development takes measures necessary to identify and preserve such resources. Although it is unlikely that archaeological resources are located within the Project site, there is still a potential that an archaeological resource could be both discovered and substantially adversely changed (e.g., during project construction, grading or related activities). As a result, a *significant* impact would occur.

**Impact CULT-2:** The Project would have the potential to cause a significant impact to an archaeological resource pursuant to CEQA Guidelines Section 15064.5.

**Mitigation Measure CULT-2:** Archeological resources are not known or likely on the Project site. The following measures shall be implemented to avoid inadvertent damage or loss if such resources are discovered during construction. A qualified archeologist shall be on-site to monitor the initial excavation of native soil once all pavement of engineered soil is removed from the Project site. After monitoring the initial excavation, the archeologist shall make recommendations for further monitoring if it is determined that the site has archeological resources. If the archeologist determines that no resources are likely to be found on-site, no additional monitoring shall be required.

If currently unknown historic/prehistoric artifacts or human remains are discovered during ground disturbing activities, the following measures shall be implemented:

- In compliance with State law (Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code), in the event that historical artifacts are found, all work within 50 feet of the find shall stop and a qualified archaeologist shall examine the find. The archaeologist shall then submit a plan for evaluation of the resource to the City of San Leandro Planning Services Division for approval. If the evaluation of the resource concludes that the found resource is eligible for the California Register of Historic Resources, a mitigation plan shall be submitted to the City of San Leandro Planning Services Division for approval, which shall consider reasonable efforts for the resources to be preserved in place or left in an undisturbed state. If the artifacts and samples recovered during construction are determined to be significant and cannot be preserved in place, the artifacts shall be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility. The mitigation plan shall be completed before earthmoving or construction activities can recommence within the designated resource area.

**Significance After Mitigation:** Less than significant.

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**CULT-3                    The Project would have the potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.**

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The San Leandro General Plan EIR does not identify paleontological resources at the Project site, and the Project site is already highly developed with numerous ground-disturbing activities occurring in the past. However, there could be fossils of potential significance that have not been previously discovered and/or recorded. The San Leandro General Plan does not contain any policies related to paleontological resources that would serve to protect unknown resources associated with the Project. It is possible that that a paleontological resource could be both discovered and substantially adversely changed (e.g., during project construction, grading or related activities). As a result, a *significant* impact would occur.

**Impact CULT-3:** The Project would have the potential to directly or indirectly affect a unique paleontological resource or site, or unique geologic feature.

**Mitigation Measure CULT-3:** Paleontological resources are not known or likely on the Project site. The following measures shall be implemented to avoid inadvertent damage or loss if such resources are discovered during construction. In the event that fossils or fossil-bearing deposits are discovered during construction, excavations within 50 feet of the find shall be temporarily halted or diverted. The contractor shall notify a qualified paleontologist to examine the discovery. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies, such as the Bureau of Land Management (BLM), US Geological Survey (USGS ), to determine procedures that would be followed before construction is allowed to resume at the location of the find. If in consultation with the paleontologist, it is determined that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the Project on the qualities that make the resource important. The plan shall be submitted to the City for review and approval and the Project proponent shall implement the approval plan.

**Significance After Mitigation:** Less than significant.

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**CULT-4                    The Project would have the potential to disturb human remains, including those interred outside of formal cemeteries.**

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Although no known ethnographic sites have been recorded within the Project site, there could be human remains located within the Project site that are not recorded. It is possible that ground-disturbing construction associated with development of the Project could uncover and adversely affect such remains. As a result, a *significant* impact would occur.

**Impact CULT-4:** The Project would have the potential to disturb human remains, including those interred outside of formal cemeteries.

**Mitigation Measure CULT-4:** No human remains are known or likely on the Project site. If human skeletal remains are uncovered during construction, the contractor shall immediately halt work within 50 feet of the find, contact the Alameda County coroner to evaluate the remains, and follow the

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procedures and protocols set forth in Section 15064.5(e)(1) of the CEQA Guidelines. The Coroner shall then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours, who will, in turn, notify the person the NAHC identifies as the Most Likely Descendant (MLD) of any human remains (Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code 5097.98 [as amended by AB 2641]). Further actions shall be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery.

Per Public Resources Code 5097.98, the contractor shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the human remains are located, is not damaged or disturbed by further development activity until the contractor has discussed and conferred, as prescribed in this section (California Public Resources Code Section 5097.98), with the MLD regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. If the MLD does not make recommendations within 48 hours, the Project Applicant shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the Project Applicant or the descendent may request mediation by the NAHC.

**Significance After Mitigation:** Less than significant.

### 4.4.4 CUMULATIVE IMPACTS

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<b>CULT-5</b>	<b>The Project, in combination with past, present, and reasonably foreseeable projects, would not result in significant impacts with respect to cultural resources.</b>
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Cumulative impacts would occur when a series of actions leads to the loss of a substantial type of site, building, or resource. For example, while the loss of a single historic neighborhood may not be significant to the character of the neighborhood or streetscape, continued loss of such resources on a project-by-project basis could result in a cumulative significant impact. However, similar to the Project, other projects throughout the City would be required to comply with existing federal, State, and local regulations and policies listed above in the Regulatory Framework. Accordingly, potential cumulative impacts related to cultural resources would be *less than significant*.

As there are no historic structures and no known archaeological resources, paleontological resources, or human remains within the Project site, buildout of the Project would not create, nor contribute to a cumulative impact on cultural resources. Additionally, the existing federal, State, and local regulations and policies described throughout this chapter serve to protect any as-yet-undiscovered cultural resources in the City of San Leandro. Continued compliance with these regulations and implementation of existing policies, including applicable San Leandro General Plan policies, would prevent impacts; therefore, a *less-than-significant* cumulative impact would occur.

## CULTURAL RESOURCES

### Applicable Regulations:

- California Register of Historic Resources (California Register)
- California Historical Building Code, California Code of Regulations, Title 24, Part 8
- Health and Safety Code Sections 7052 and 7050.5
- Public Resources Code Section 5097
- San Leandro General Plan

**Significance Before Mitigation:** Less than significant.

## **CULTURAL RESOURCES**

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