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## 3.6 CULTURAL RESOURCES

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### Introduction

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This section discusses cultural resources known or reasonably suspected to be present in the study area and describes the potential for the construction of alternatives in the Santa Clara-Alum Rock Corridor to affect these resources. Cultural resources include prehistoric and historic archaeological sites, districts, and objects; historic architectural and engineering features and structures; and sites and resources of traditional cultural significance to Native Americans and other groups. Information that informs this analysis includes context information for prehistoric and historic setting; the results of a cultural resources records search and review of pertinent literature; the results of an archaeological field survey; the results of an architectural inventory and evaluation of the built environment; information/comments from interested parties and local jurisdictions; and evaluations of identified resources in accordance with the criteria of the National Register of Historic Places (NRHP) and the California Register of Historical Resources (CRHR). This section is based on a Historic Resources Evaluation Report (HRER) completed for the project by Basin Research Associates (BASIN)<sup>1</sup> and the Draft EIS/EIR prepared for the Capitol Expressway Corridor Project.<sup>2</sup>

### Existing Conditions

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#### Prehistoric Setting

Prehistoric human occupation and use of the Santa Clara Valley occurred roughly 5,000 to 8,000 years ago and possibly longer. The general study area would have provided a favorable environment during the prehistoric period for resource exploitation, including riverine, riparian, and other inland resources readily available along the Guadalupe River, Coyote Creek, and the other water courses and sources in the general study area. Native American occupation sites in the study area appear to have been selected for accessibility, protection from seasonal flooding, and the availability of resources.

Archaeological information suggests a slow steady increase in the prehistoric population over time with an increasing focus on permanent settlements with large populations in later periods. This change from hunter-collectors to an increased sedentary lifestyle is due both to more efficient resource procurement as well as a focus on staple food exploitation, the increased ability to store food at village locations, and the development of increasingly complex social and political systems including long-distance trade networks.

Prehistoric site types recorded in the region consist of lithic scatters, quarries, habitation sites including main villages, bedrock mortars or other milling feature sites, petroglyph sites, and isolated burial sites.

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<sup>1</sup> Basin Research Associates, Inc., In Progress. *Historic Resources Evaluation Report [HRER] Santa Clara-Alum Rock Transit Corridor*, City Of San Jose, Santa Clara County, California, 2004.

<sup>2</sup> Santa Clara Valley Transportation Authority (VTA), *Draft EIS/EIR for Capitol Expressway Corridor*, 2004.

## **Ethnographic Setting**

The aboriginal inhabitants of the Santa Clara Valley, a group known as the “Costanoan” and derived from the Spanish word Costanos (“coast people” or “coastal dwellers”), occupied the central California coast as far east as the Diablo Range. People of partial Costanoan descent presently residing in the greater San Francisco Bay Area generally prefer to use the term Ohlone to Costanoan.

The study area is within the former territory of the Tamyen (or Tamien) tribelet of the Costanoan Indians. The closest Tamien settlement appears to have been the Rancheria of Our Patron San Francisco, a central village of the Costanoan tribelet in what is now Downtown San Jose. After the secularization of the missions in the mid-1830s, some Native Americans lived in the Pueblo of San Jose at their former village and near the “Free Indians” adobe on the block bounded by West San Carlos Street to West San Salvador Street and 1<sup>st</sup> Street to South Market Street south of the Corridor.

The Costanoan aboriginal lifeway disappeared by 1810 due to the introduction of Euroamerican diseases, a declining birth rate, and the impact of the mission system. The Costanoan were transformed from hunters and gatherers into agricultural laborers who lived at the missions and worked with former neighboring groups such as the Esselen, Yokuts, and Miwok. Later, because of the secularization of the Missions by Mexico in 1834, most of the aboriginal population gradually moved to ranchos to work as manual laborers.

## **Historical Setting**

Spanish explorers in the late 1760s and 1770s were the first Europeans to traverse the Santa Clara Valley. The first party, led by Gaspar de Portola and Father Juan Crespi, arrived in the Alviso-San Jose area in the fall of 1769. The following year, Pedro Fages led another party through the Santa Clara Valley, and in 1772, Fages returned to the same vicinity with Crespi. Even though the routes of the early explorers cannot be determined with total accuracy, a number appear to have passed through the general vicinity of the study area. These include the expeditions of Fages in 1770; Fages and Crespi in 1772; Rivera and Palou in 1774; and Hezeta and Palou in 1775. In 1776, the exploration party of Juan Bautista de Anza and Father Pedro Font traveled through the Santa Clara Valley. The favorable reports of Anza and Font led to the establishment of both Mission Santa Clara and the Pueblo San Jose de Guadalupe in 1777.

The Mexican revolt against Spain (1822) followed by the secularization of the missions (1834) changed land ownership patterns in the Santa Clara Valley. The Spanish philosophy of government was directed at the founding of presidios, missions, and secular towns with the land held by the Crown, whereas the later Mexican policy stressed individual ownership of the land. During the Mexican Period, vast tracts of land were granted to individuals, including former mission lands that had reverted to public domain. In the Santa Clara Valley, 17 parcels were granted from Pueblo Lands, and 13 from the lands of Mission Santa Clara. During the Mexican Period, the study area was situated in the Pueblo de San Jose (e.g., from the Guadalupe River to about 2<sup>nd</sup> Street) and within Pueblo Tract No. 1, part of four square leagues of land given to the Pueblo.

The population of the Santa Clara Valley expanded as a result of the 1848 Gold Rush, followed later by the construction of the railroad to San Francisco in 1864 and the completion of the transcontinental railroad in 1869. Throughout the late nineteenth century in the Santa Clara Valley, rancho, Pueblo, and mission lands were subdivided as the result of population growth, the Anglo-American takeover, and the confirmation of property titles. Prior to the legal resolution of titles, the transfer of real estate was extremely risky. Large cattle ranches were converted to farming varied crops, and this agricultural land-use pattern continued throughout the American Period.

During the early American Period (1848 to 1876) stock raising predominated, but declined after the drought of 1863 to 1864, after which wheat-growing became the primary agricultural activity along with dairy farms, and orchards in the 1860s and 1870s. During this period, the first experiments with horticulture and other crops took place. The arrival of the San Francisco and San Jose Railroad (1863 to 1864), followed by the development of the refrigerator railroad car (circa 1880s) had major impacts on the region. After 1875, the success of many agricultural experiments and expansion of markets via rail encouraged the development of horticulture and fruit production in the Santa Clara Valley.

From 1875 onward, the need for an expanding market led to innovations in fruit preservation and shipping including drying fruit, canning fruit, and shipping fresh fruit in refrigerated cars. In turn, this created a wider economic boom that attracted new residents to the Santa Clara Valley. Within the Santa Clara Valley, the City of San Jose served as a County seat, a primary service as well as financial and social center. In recent decades this agrarian land-use pattern has been gradually displaced by residential housing, commercial centers, and the development of research and manufacturing facilities associated with the electronics industry leading to the designation of the general region as the “Silicon Valley.”

### **Paleontological Setting**

The study area lies in the Santa Clara Valley, which is a structural depression filled with mostly unconsolidated Holocene (i.e., less than 11,000 years before present) sediments composed of gravel, sand, silt, and clay. These sediments have washed into the Valley from bordering mountains and ridges (i.e., areas of significantly higher elevations, such as the Santa Cruz Mountains), forming two alluvial fan deposits of two different depositional periods. The young alluvial fan deposit exposed in the San Jose area is about 20 feet thick (66 meters) and overlies an older alluvial fan system. The total sediment thickness is greater than 1,000 feet (328 meters) in the Santa Clara Valley near San Jose.

The alluvial fan deposits overlie Jurassic- to Tertiary-age bedrock of the Franciscan Complex. The Franciscan Complex is a mélange of greywacke (a type of sandstone), thinly bedded chert, siltstone, and silty shale. In places, the Franciscan Complex is overlain by the sedimentary rocks of the Knoxville Formation (Jurassic in age), which in turn is overlain by the Pliocene to Quaternary Santa Clara Formation, which consists of non-marine sediments.

## Identification of Cultural Resources

**Records Search and Archival Review.** A cultural resource records search was completed by Northwest Information Center (NWIC) of the California Historic Resources Information System (CHRIS) at Sonoma State University in 2002 and 2004 (File No. 01-1173 dated 1/08/02 and 03-643 dated 3/23/04). 87 compliance reports are on file at the NWIC that include either the study area or immediately adjacent areas. Another 20 known reports not on file at the NWIC and on file at BASIN include the study area or adjacent areas. The majority of the reports consist of archaeological compliance documents (i.e., inventory, site testing and data recovery programs, and archaeological monitoring compliance documents) suggesting that approximately 80 percent of the study area has been reviewed. Many of the surveys have focused on area-wide reviews of the built environment with a concentration on areas associated with the Downtown core and/or historic residential districts.

Local and regional surveys/inventories and lists that concentrate on the built environment were also consulted for this report. Specialized listings consulted include the Historic Properties Directory for Santa Clara County (CAL/OHP 2004a) with the most recent updates regarding the CRHR, and California Points of Historical Interest (CPHI), as well as other properties reviewed by the State of California Office of Historic Preservation (OHP). Other sources include:

- The California History Plan (CAL/OHP 1973b)
- California Inventory of Historic Resources (CAL/OHP 1976)
- Five Views: An Ethnic Sites Survey for California (CAL/OHP 1988)
- Archeological Determinations of Eligibility (CAL/OHP 2004b)
- Historic Civil Engineering Landmarks of San Francisco and Northern California (American Society of Civil Engineers 1977).

Reference material from the Bancroft Library, University of California at Berkeley and material on file at BASIN, San Leandro was also consulted.

Mr. Ward Hill and Mr. Woodruff C. Minor, consulting architectural historians, and Ms. Charlene Duval, historian, also conducted historical research on the properties in the project area at the Bancroft Library and the Natural Resources Library Map Room, University of California at Berkeley; the Reference Room and the California Room, Dr. Martin Luther King, Jr. Main Library; History San Jose Archives; and the Santa Clara County Surveyor and Assessor's Office, San Jose.

**Agencies, Groups and Individuals Consulted.** Santa Clara Valley Transportation Authority (VTA) initially contacted the State of California Native American Heritage Commission (NAHC) concerning the project.<sup>3</sup> The NAHC provided recommended actions in order to adequately assess project-related

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<sup>3</sup> Molseed, Roy, Letter to Native American Heritage Commission, Sacramento, CA. Regarding: SCH#2001092015 - Santa Clara-Alum Rock Light Rail Transit Project [City of San Jose, Santa Clara County, California]. Dated September, 2001. Copy on file, Santa Clara Valley Transportation Authority (VTA), San Jose, CA, 2001.

impacts on prehistoric archaeological resources.<sup>4</sup> A records search of the Sacred Lands Inventory maintained by the NAHC did not find Native American cultural resources in the immediate project area in 2001. A list of locally knowledgeable Native Americans was contacted by the VTA with one response received. NAHC was contacted by BASIN regarding potential Sacred Native American sites or other pertinent information for the project.<sup>5</sup> As recommended by NAHC, a number of Native Americans were contacted. An additional outreach effort was completed in March 2004. The Amah/Mutsun Tribal Band responded stating, “we do not know of a site at this specific area but be advised that can be anywhere,” and that the seven members of the tribe are available as cultural monitors.

BASIN also sent 20 letters to planning and affiliated departments of the City of San Jose, the local landmark commission, historic preservation groups, and historical societies requesting information on historic resources within the study area. No responses were received. Contact with the City of San Jose’s Historic Preservation Officer and its Redevelopment Agency was initiated several times to obtain archival data and clarification on resource status.

VTA has also provided information to the public regarding the Corridor, reviewed future major transit improvements, held public meetings, and provided information on the project on their web site.

**Field Survey.** Several archaeological and architectural surveys were undertaken by the project team between 2001 and 2004.

*Built Environment.* A team of architectural historians conducted field surveys of the alignments for the build alternatives. All field surveys were conducted from the public right-of-way. Permission to enter private property outside of the public right-of-way but within a proposed alignment was not obtained. Resources that appeared to have been built in or before 1957 and were not previously evaluated were photographed and recorded on California Department of Parks and Recreation forms (DPR 523), in accordance with the survey standards of the OHP. Mr. Hill, assisted by Mr. Minor, was responsible for the architectural descriptions and property evaluations in accordance with established CRHR criteria.

*Archaeological Resources.* A systematic archaeological survey of the study area was not undertaken for the proposed alternatives, as the study area is within an urban area with extensive paving, introduced landscaping, and previous and ongoing surface disturbance. In addition, permission to enter private property outside of the public right-of-way but within the alignments of potential built alternatives was not obtained. Areas with potential native soil exposures, primarily at I-680, U.S. 101, and SR 87 were reviewed by Dr. Colin I. Busby and the creek crossings at Silver Creek and Coyote Creek were reviewed by Mr. Stuart Guedon (M.A.). Vacant properties were usually paved or

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<sup>4</sup> Pilas-Treadway, Debbie, Letter to Roy Molseed, Santa Clara Valley Transportation Authority (VTA), San Jose, CA. Regarding: SCH#2001092015 - Santa Clara-Alum Rock Light Rail Transit Project [City of San Jose, Santa Clara County, California. Dated September 20, 2001. Native American Heritage Commission, Sacramento, CA. Copy on file, Basin Research Associates, San Leandro, 2001.

<sup>5</sup> Pilas-Treadway, Debbie, Letter to Colin Busby, Basin Research Associates, San Leandro, CA. Regarding: Proposed Santa Clara-Alum Rock Light Rail Transit Project [City of San Jose], Santa Clara County. Dated January 15, 2002. Native American Heritage Commission, Sacramento, CA, 2002.

otherwise could not be inspected. No indications of prehistoric and/or historic archaeological resources were noted. Subsurface testing was not undertaken as part of the identification effort due to the urban streetscape setting.

*Paleontological Resources.* A systematic paleontological survey of the study area was not undertaken, as the study area is within an urban area with extensive paving, introduced landscaping, and previous and ongoing surface disturbance. In addition, permission to enter private property outside of the public right-of-way but within the alignments of the proposed alternatives was not obtained.

### **Known Resources in the Santa Clara-Alum Rock Corridor**

*Built Environment.* The NWIC records search noted 57 buildings/building complexes formally recorded within or partially within the proposed alignments of the build alternatives.

The records search, background research, and field surveys identified approximately 383 parcels that are located within the alignment for the BRT Alternative and the Single Car LRT Alternative. Of these parcels, 195 contained resources constructed on or before 1957 and required a survey or recordation, or had been previously reviewed and evaluated. Of the remaining 188 parcels, 120 parcels contained structures or objects built in or after 1958, and 68 parcels were vacant at the time of the surveys taken in 2002 and 2004. These parcels were subject to no further study (Please note that parcel counts may vary due to subdivision and consolidation over the past three years).

The 195 identified parcels that required evaluation or had been previously evaluated within the study area contain 188 historic properties. Of the 188 historic properties, 18 are listed on the NRHP, have been determined eligible for the NRHP, or appear eligible for the NRHP. Two of these historic properties, the listed San Jose Downtown Commercial District and the determined eligible Lakehouse District, are multi-component historic districts with 11 contributing resources and two contributing resources, respectively, for a total of 31 historic resources that are listed in, have been determined eligible for, or appear eligible for the NRHP (see Table 3.6-1).

Eight properties within the study area do not appear to meet NRHP criteria but appear otherwise eligible to be considered as historical resources for the purposes of CEQA (see Table 3.6-2). The remaining 149 historic architectural resources do not appear to meet any of the criteria for listing in either the NRHP or CRHR.

**Historic District Formation Potential.** No potential new historic districts eligible for the NRHP/CRHR appear to be present in the study area. The potential of the pre-1957 buildings in the project area to form a new historic district eligible for the NRHP/CRHR was rejected because the buildings are isolated from each other by intervening modern development.

**Table 3.6-1  
Historic Properties Listed on the NRHP, Eligible for Listing on the NRHP, or  
Appearing Eligible for Listing on the NRHP**

<b>Address/Resource Name</b>	<b>APN<sup>a</sup></b>	<b>Estimated Date of Construction</b>	<b>NR Status Code<sup>b</sup></b>	<b>City Landmark</b>	<b>BART<sup>c</sup></b>	<b>Evaluated By/ Comment</b>
2625 Alum Rock Avenue Calvary Cemetery	484-04-029, 028	1882				Ward Hill 2004
227-245 East Santa Clara Street Vintage Towers, Medico-Dental Building	467-19-057	1928	2S3	HL 86-39	12-01	BASIN et al 1998
389 East Santa Clara Street/ 51 North 9th Street St. Patrick's School	467-18-101	1924/48/63/6		HS 92-73		JRP 2006
421[419] East Santa Clara Street Licursi Bldg	467-17-91	1927				Ward Hill 2004
510 East Santa Clara Street Associated Oil Service Station	467-26-109	1951				Ward Hill 2002; Naglee Park Conservation District
652 East Santa Clara Street [652-666]	467-27-10	1937/1938				Ward Hill 2002; Naglee Park Conservation District P-43-001384
1047 East Santa Clara Street Cross/Wright/Cassady House	467-11-28	1887				Ward Hill 2002 P-43-001400
1102 East Santa Clara Street <sup>5</sup> East San Jose Carnegie Library	467-58-01	1908	1S	HL 77-10		National Register Multiple Property
1169 East Santa Clara Street B.F. Allen House	467-10-46	1888	3		10-37	Ward Hill 2002 P-43-001409
1191 East Santa Clara Street Mayfair Theater	467-10-43	1949	3		10-34	Ward Hill 2002 P-43-001412
1375-1401 East Santa Clara Street 5 Wounds Church Complex & IES	467-08-07, 09,14	1914-1994	3	HS 92-63	10-14	Ward Hill 2002 P-43-001417
34 West Santa Clara Street James Clayton Building	259-40-38	1910	3S	HL 88-45	12-42	JRP 2003
81 West Santa Clara Street S.J. Building & Loan Association	259-34-18	1926	3S	HL 91-55	12-38	JRP 2003
101 West Santa Clara Street San Jose National Bank	259-34-46	1942	3S	HL 01-132	12-47	Maggi and Duval 2000
151 West Santa Clara Street/ 20 Almaden Boulevard Farmers Union Building	259-35-049	1877/1930	3	HL 01-139	12-53	Maggi and Duval 2000
233 West Santa Clara Street DeAnza Hotel	259-35-22	1931	1S	HL 81-17	12-59	P-43-000462/CA-SCI- 461H
Lake House Historic District						BASIN 2000
396 West San Fernando Street	259-45-030	1891				BASIN et al 1999 P-43-001317

**Table 3.6-1 (Continued)**  
**Historic Properties Listed on the NRHP, Eligible for Listing on the NRHP, or**  
**Appearing Eligible for Listing on the NRHP**

<b>Address/Resource Name</b>	<b>APN<sup>a</sup></b>	<b>Estimated Date of Construction</b>	<b>NR Status Code<sup>b</sup></b>	<b>City Landmark</b>	<b>BART<sup>c</sup></b>	<b>Evaluated By/ Comment</b>
398 West San Fernando Street	259-45-029	1888				BASIN et al 1999 P-43-001316
San Jose Commercial Historic District <sup>5</sup>			2S1			
8-14 South 1st Street Bank of America Building	467-22-097	1926	1D	HS 84-27	12-27	Bamberg 1981; JRP 2003
28 East Santa Clara Street Firato's Delicatessen	467-22-045	1869-80/1926	1D		12-25	Bamberg 1981; JRP 2003
36-40 East Santa Clara Street Stevenson Building	467-22-043	1870/1920	1D		12-21	Bamberg 1981; JRP 2003
42-48 East Santa Clara Street Kirk Block/Medical Arts	467-22-042 & 041	1870s/1946/ 1952	1D		12-26	Bamberg 1981; JRP 2003
52 East Santa Clara Street/ 12 South 2nd Street New Century Block	467-22-046	ca 1890	2S3/1D	HL 80-15	12-19	Bamberg 1981; JRP 2003
82-96 East Santa Clara Street/ 11 South 3 <sup>rd</sup> Street Oddfellows Building	467-22-091	1886	1D	HL 80-12	12-18	Bamberg 1981; JRP 2003
100-104 East Santa Clara Street YMCA Bldg	467-23-89	1912	1D		12-15	Bamberg 1981; Maggi and Wirt 2001; JRP 2003 P-43-001267
114-118 East Santa Clara Street Fox Building	467-23-39	1910	1D		12-14	Bamberg 1981; JRP 2003
124-126 East Santa Clara Street	467-23-38	1910	1D		12-13	Bamberg 1981; JRP 2003
138 East Santa Clara Street Recycle Bookstore	467-23-36	1910	1D		12-11	Bamberg 1981; JRP 2003
142-150 East Santa Clara Street State Meat Market	467-23-35	1913	1D	HL 92-70	12-10	Bamberg 1981; JRP 2003

*Sources:* Basin Research Associates, 2004.

*Notes:*

These properties are listed on the NRHP or were previously determined eligible for listing in the National Register through a formal process involving federal agencies.

All properties listed in this table are also eligible to be considered historic resources for the purposes of CEQA, as judged by the qualified person completing or reviewing the DPR523 form for the property.

- a. APN = Assessor's Parcel Number.
- b. Status Codes for the National Register of Historic Places:
  - S Considered a separate or individual property.
  - D Considered a contributor or potential contributor to a historic district or potential historic district.
  - B Considered both an "S" and "D" property.
- c. *Historic Resources Evaluation Report*, JRP Historical Consulting Services, 2003/2006.

**Table 3.6-2**  
**Historic Properties That Do Not Appear Eligible for Listing on the NRHP, but Appear Eligible to Be Considered Historical Resources Under CEQA**

Address/Resource Name	APN <sup>a</sup>	Est. Date of Const	NR Status Code <sup>b</sup>	City Landmark	BART <sup>c</sup>	Evaluated By/ Comment
1747-1795 Alum Rock Avenue Walters Building	481-09-027	1949/ 1956				Hill 2004
2075 Alum Rock Avenue Coast Oil Company	481-07-019	1948/ 1960s				Hill 2004
124 Delmas Avenue Irene Dalis House, Lake House Historic District	259-45-095	1924	5S1	HL 80-16		Basin Research Associates 1999 P-43-001338 NC Lake House Historic District
35-39 East Santa Clara Street Part of Dr. Eu's Building	467-21-026	1878/ 1936	5S3		12-31	JRP 2003 P-43-000912
43-49 East Santa Clara Street Part of Dr. Eu's Building	467-21-027	1889	5S3		12-29	JRP 2003
438-448 East Santa Clara Street/ 11 South 10 <sup>th</sup> Street 10 <sup>th</sup> St Pharmacy	467-25-006	1925				2004 City of SJ Hist Resources Inv P-43-001376
161 West Santa Clara Street [161-167] Lefranc Block, Masson Building, Hotel Vendome	259-35-35	1883/ 1930	5S1	HL 01-138	12-54	City Landmark P-43-000916
169 West Santa Clara Street [177] Lyndon Building	259-35-48	1884	5S1	HL 92-75	12-55	City Landmark
884 East Santa Clara Street [884-890]	467-30-005	1929				P-43-001392; Hill and Duval 2002
17-25 East Santa Clara Street	467-21-024	1876/1947		SM	12-33	St. Francis Block; Maggi and Duval 2002; JRP 2003

Source: Basin Research Associates, 2004

Notes:

- a. APN = Assessor's Parcel Number.
- b. Status Codes for the National Register of Historic Places.
  - 5S1 Not eligible for listing in the National Register but is separately listed under an existing local ordinance or is eligible for such listing.
  - 5S3 Not eligible for listing in the National Register or for listing under a local ordinance but is eligible for special consideration in local planning (such as having been evaluated as eligible to be a historical resources for the purposes of CEQA).
- c. *Historic Resources Evaluation Report*, JRP Historical Consulting Services, 2003.

**Archaeological Resources.** The records search identified no recorded prehistoric archaeological resources within the study area. One combined prehistoric/historic archaeological site and one historic period archaeological resource have been formally recorded near the western terminus of the study area in the vicinity of the Guadalupe River. The combined site has been determined eligible for the NRHP for its prehistoric component only. The historic-period component of the site does not meet any of the criteria for listing on the NRHP/CRHR due to severe lack of integrity.

A systematic archaeological survey of the study area was not undertaken for the proposed project, as the study area is within an urban area with extensive paving, introduced landscaping, and previous and ongoing surface and subsurface disturbance. In addition, permission to enter private property outside of the public right-of-way but within the study area was not obtained. Several reconnaissance-level surveys were undertaken between 2002 and 2004 by professional archaeologists. Areas with potential native soil exposures, primarily at I-680, U.S. 101, and SR 87 were reviewed by Dr. Busby as were the creek crossings at Silver Creek and Coyote Creek by Mr. Guedon, M.A..

The potential for the exposure of as yet unknown prehistoric archaeological resources is moderate to high along and within 500 feet of the Guadalupe River, Coyote Creek, and other developed water courses. The distribution of the recorded resources and unrecorded, but reported, resources over the past 100 years supports a determination of prehistoric archaeological sensitivity for both surface and buried resources near water sources and at their confluence.

Historic research suggests a potential for subsurface archaeological deposits from the Hispanic Period to the American Period associated with the development of the City of San Jose and outlying areas. The resources, dating from 1797 to about 1850 and later are generally in the Downtown area. The research has identified 86 potential historic archaeological resources within the study area based on information in Hendry and Bowman (1940), Hare's 1872 Map of the City of San Jose, Thompson and West's 1876 Historical Atlas of Santa Clara County, California, Findlay and Garaventa (1983), Gilreath and Duval (2002) [1] and a limited number of other historic maps and documents. It is probable that many of these potential resources have been impacted and removed as a result of previous excavations over the past 150 years for activities such as, but not limited to, infrastructure installation, basements, landscaping, and street realignment.

**Paleontological Resources.** Macrofossils (mostly marine invertebrates) have been found in isolated localities in hills bordering Santa Clara Valley. Mesozoic fossils found near the study area are most likely derived from two areas: the Sierra Azul Range of the Santa Cruz Mountains, where thin slivers of upper Jurassic and lower Cretaceous rocks are exposed, and a band of upper Jurassic and Cretaceous rocks of the Great Valley Sequence along the west side of the Diablo Range. Specifically, at a site about 3 miles (5 kilometers) east of the Capitol Expressway Corridor, several species of the bivalve *Buchia* have been collected from float (i.e., isolated rocks washed out of a geologic formation and out of context with the surrounding rocks and sediments) of late Jurassic age on the east side of Silver Creek Road. Additional Jurassic *Buchia* have been found approximately 6 miles (10 kilometers) south of the corridor near a drainageway located north of San Felipe Road. A diverse assemblage of late Jurassic fossils including bivalves (*Nuculana* sp. And *Parvamussium* sp.), belemnites, ammonites, scaphapods, and corals have been identified about 8 miles (13 kilometers) to the south of the corridor on the north side of a ridge one mile north of the Calero Reservoir dam.

## Regulatory Setting

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### Federal

**National Historic Preservation Act.** The National Historic Preservation Act (NHPA) established the NRHP to recognize resources associated with the country's history and heritage. Structures and features must usually be at least 50 years old to be considered for listing on the NRHP, barring exceptional circumstances. Criteria for listing on the NRHP, which are set forth in Title 26, Part 63 of the Code of Federal Regulations (36 CFR Part 63), are significance in American history, architecture, archaeology, engineering, and culture as present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that:

- (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 persons significant in our past;
- (c) embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; possess high artistic values, represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) has yielded, or may be likely to yield, information important in prehistory or history.

Criterion D is usually reserved for archaeological resources.

### State

Under CEQA, public agencies must consider the effects of their actions on both "historical resources" and "unique archaeological resources." Pursuant to Public Resources Code 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." Section 21083.2 requires agencies to determine whether proposed projects would have effects on "unique archaeological resources."

"Historical resource" is a term with a defined statutory meaning. (See Public Resources Code, section 21084.1 and CEQA Guidelines, section 15064.5, subdivisions (a) and (b).) The term embraces any resource listed in, or determined to be eligible for listing on, the 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 (Public Resources Code, section 5024.1 and California Code of Regulations, Title 14, section 4850). Unless a resource listed in a survey has been demolished, 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 to be 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 (Public Resources Code, section 21084.1 and CEQA Guidelines, section 15064.5, subdivision (a)(3)). In general, an historical resource, under this approach, is defined as any object, building, structure, site, area, place, record, or manuscript that:

- (a) Is historically or archeologically 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.

Archaeological resources can sometimes qualify as "historical resources." (CEQA Guidelines, section 15064.5 subdivision (c)(1).) In addition, Public Resources Code 5024 requires consultation with the Office of Historic Preservation when a project may impact historical resources located on State-owned land.

For historic structures, CEQA Guidelines section 15064.5, subdivision (b)(3), indicates that a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995) shall mitigate impacts to a level of less than significant. Potential eligibility also rests upon the integrity of the resource. Integrity is defined as the retention of the resource's physical identity that existed during its period of significance. Integrity is determined through considering the setting, design, workmanship, materials, location, feeling, and association of the resource.

As noted above, CEQA also requires lead agencies to consider whether projects will impact "unique archaeological resources." Public Resources Code section 21083.2, subdivision (g), states that "'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.
3. Is directly associated with a scientifically recognized important prehistoric or historic event or person.”

Treatment options under section 21083.2 include activities that preserve such resources in place in an undisturbed state. Other acceptable methods of mitigation under section 21083.2 include excavation and curation or study in place without excavation and curation (if the study finds that the artifacts would not meet one or more of the criteria for defining a “unique archaeological resource”).

### **Other Provisions of the California Public Resources Code and Health and Safety Code.**

*California Health and Safety Code Sections 7050.5, 7051, and 7054.* These sections collectively address the illegality of interference with human burial remains (except as allowed under applicable sections of the Public Resources Code), as well as the disposition of Native American burials in archaeological sites and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during construction of a project, treatment of the remains prior to, during and after evaluation, and reburial procedures.

*California Senate Bill 297 (1982).* This bill addresses the disposition of Native American burials in archaeological sites and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establishes the NAHC to resolve disputes regarding the disposition of such remains. It has been incorporated into Section 15064.5(e) of the State CEQA Guidelines.

### **City of San Jose**

The San Jose General Plan (2020 General Plan) Goals and Policies for Historic, Archaeological and Cultural Resources<sup>6</sup> recognizes the irreplaceable nature of cultural properties and requires that preservation should be a key consideration in the development review process.

#### **2020 General Plan.**

*Archaeological Resources.* The following policies are pertinent to archaeological resources:

**Policy 1:** Because historically or archaeologically significant sites, structures, and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.

**Policy 8:** For proposed development sites which have been identified as archaeologically sensitive, the City should require investigation during the planning process in order to determine whether

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<sup>6</sup> San Jose (City of) Department of Planning, Building and Code Enforcement, *San Jose 2020 General Plan*. Adopted by the San Jose City Council August 16, 1994. Revised November 18, 1996.

valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.

**Policy 9:** Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

*Architectural Resources.* The following policies are pertinent to architectural resources:

**Policy 1:** Because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.

**Policy 4:** Areas with a concentration of historically and/or architecturally significant sites or structures should be considered for preservation through the creation of Historic Preservation Districts.

**Policy 6:** The City should foster the rehabilitation of individual buildings and districts of historic significance and should utilize a variety of techniques and measures to serve as incentives toward achieving this end. Approaches, which should be considered for implementation of this policy, include among others:

- Discretionary Alternative Use Policy Number 3, permitting flexibility as to the uses allowed in structures of historic or architectural merit;
- Transfer of development rights from designated historic sites;
- Tax relief for designated landmarks and/or districts;
- Alternative building code provisions for the reuse of historic structures; and
- Financial incentives [including] grants, loans and/or loan guarantees to assist rehabilitation efforts.

**Policy 7:** Structures of historic, cultural, or architectural merit which are proposed for demolition because of public improvement projects should be considered for relocation as a means of preservation. Relocation within the same neighborhood or to the San Jose Historical Museum should be encouraged.

**Historic Preservation Ordinance.** The City of San Jose's Historic Preservation Ordinance defines structures of historical value based on the following factors:

1. Identification or association with persons, eras, or events that have contributed to local, regional, state, and national history, heritage or culture in a distinctive, significant, or important way.
2. Identification as, or association with:
  - a. a distinctive, significant, or important work or vestige:

- b. an architectural style, design, or method of construction;
  - c. a master architect, builder, artist, or craftsman;
  - d. high artistic merit;
  - e. a structure that comprises a distinctive, significant, or important work or vestige whose component parts may lack the same attributes;
  - f. a structure that has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
  - g. construction materials or engineering methods that are unusual or significant or uniquely effective.
3. The factor of age alone does not necessarily confer a special historical architectural, cultural aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant, or important example thereof no longer exists.

Based on the above criteria, the San Jose Historical Landmarks Commission has established a process by which historical resources are evaluated for significance using a numerical evaluation system.

Categories consist of a Candidate City Landmark (CCL; 67–134 points), a structure determined to be eligible for City Landmark Status through evaluation by the Historic Landmarks Commission’s Historic Evaluation Criteria; Contributing Structure/Site (CS; 33–66 points), which contributes significantly to the historic fabric of the community and, in some cases to a certain neighborhood; a Structure of Merit (SM; 33–66), or structure determined to be a resource through evaluation by the Historic Landmarks Commission's Historic Evaluation Criteria and which preservation should be a high priority; a Non-Contributing Structure to a Historic District (NC); and Non-Significant (NS; 0–32 points). An Identified Site/Structure (IS) is also employed when further evaluation of the historic or architectural significant of the structure should be undertaken.

There are also Conservation Areas (CNS) which are defined as significant because their continuity reflects a particular period of design or architectural style. Significance is derived from a grouping of structures viewed as a whole rather than from the importance of an individual building. The historic significance of these areas generally reflects development patterns of growth in the City rather than associations with individuals or events.

## **Impact Assessment and Mitigation Measures**

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### **Approach and Methodology**

The effects of the alternatives related to cultural resources were assessed based on archival research, a review of relevant literature, a request for information from Native American communities, and reconnaissance-level surveys of the study area.

**Historic Structures.** Under the State CEQA Guidelines, any project that may cause a substantial adverse change in the significance of a historic resource is considered to have a significant effect on the environment (CEQA Guidelines Section 15064.5). A substantial adverse change means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be materially impaired. Section 15064.5 of the CEQA Guidelines further indicates that the significance of a historical resource is materially impaired when a project:

*... demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register of Historical Resources.*

Project effects to historic properties were determined by plotting the locations of historic properties within the study area against a background map showing the right-of-way takings that would be required to implement each alignment (BRT Alternative and Single Car LRT Alternative). Adverse effects would occur when anticipated takings would include all or a portion of a historic property.

**Archaeological Resources, Including Human Burials.** Given the archaeological sensitivity of the study area (the potential for resources to be present) and the fact that ground surface examination in a built environment usually cannot reveal the potential presence of archaeological deposits, this analysis assumes that archaeological resources, including human burials could be present anywhere along the length of the study area and, therefore, could be affected by any activity that potentially disturbs the ground surface or subsurface, including grading or excavation.

**Paleontological Resources.** Because surface examination often cannot reveal whether paleontological resources are present at a specific project location, assessment of the potential for paleontological impacts from a project is based on a general assessment of the paleontological sensitivity of the geological formations that underlie the study area. Consequently, as with archaeological resources, the analysis assumes that any ground-disturbing activity could affect paleontological resources that may be present.

## **Standards of Significance**

The following thresholds of significance are based on criteria used for the VTA as well as Appendix G of the State CEQA Guidelines. For purposes of this analysis, the proposed alternatives might have an adverse effect on cultural resources if it would result in any of the following:

1. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 of the CEQA Guidelines;
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines;

3. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
4. Disturb any human remains, including those interred outside of formal cemeteries

The following definitions were used to determine substantial adverse effects on historical or archaeological resources:

- *Substantial adverse change* in the significance of a historical or archaeological resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surrounding such that the significance of a historical resource would be materially impaired (State CEQA Guidelines Section 15064.5[b][1]).
- *Materially impaired* significance of a historical resource means when a project demolishes or materially alters in an adverse manner those physical characteristics that convey its historic significance (State CEQA Guidelines Section 15064.5[b][2][A-C]).

### **Standard Practices if Buried Cultural Resources or Human Remains are Encountered**

Ground-disturbing activities associated with construction of the proposed project could result in the discovery of and potential disturbance of unknown archaeological resources, including human remains. The following procedures represent standard practice that would be followed in the case of inadvertent discovery of cultural resources or human remains.

- **Stop work if buried cultural deposits are encountered during construction activities:** Should any cultural and/or archaeological resources be discovered (such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains) during construction activities, VTA shall suspend work in the immediate vicinity, and VTA's construction inspector shall coordinate site investigations by a qualified archaeologist to assess the materials and determine their significance. VTA shall notify all appropriate local jurisdictions.
- **Stop work if human remains are encountered during construction activities:** If human remains are unearthed during construction, pursuant to Section 50977.98 of the PRC and Section 7050.5 of the State Health and Safety Code, as described above, VTA shall suspend work in the immediate vicinity and the county coroner will be immediately notified, as well as local planning and permitting jurisdictions and NAHC.

### **Environmental Analysis**

In order to determine cultural resource impacts due to construction and operation of the proposed project, a level of significance is determined and reported in the impact statement. Conclusions of significance are defined as follows: significant (S), potentially significant (PS), less than significant (LTS), no impact (NI), and beneficial (B). If the mitigation measures would not diminish potentially significant or significant impacts to a less-than-significant level, the impacts are classified as "significant and unavoidable (SU)." For this section, CR refers to Cultural Resources.

For the purposes of this analysis, the proposed project includes the implementation of BRT and Single Car LRT in the Santa Clara-Alum Rock Corridor in two phases. Phase 1 includes the implementation of BRT service and Phase 2 includes the implementation of Single Car LRT service. Potential cultural resource impacts associated with Phase 1 and Phase 2 of the proposed project, including project options, would be largely similar. Therefore, the analyses for the two project phases are discussed together. Areas in which the effects of the two phases differ are detailed within the discussion of each significance threshold.

Potential impacts associated with the extension of transit services in the Capitol Expressway Corridor were analyzed in the Capitol Expressway Light Rail Final Supplemental Environmental Impact Report (FSEIR) dated January 2007, which is incorporated herein by reference. Potential impacts of the proposed project not analyzed in the Capitol Expressway Light Rail FSEIR are described below, as necessary.

*CR-1. Implementation of the proposed project would not result a substantial adverse change in the significance of a historical resource. (LTS)*

As described above, research and field surveys identified 39 historic properties within the study area: 31 properties are eligible for the NRHP and/or CRHR and eight properties are eligible for listing on the CRHR only. Implementation of the proposed project would have no adverse effect/substantial adverse change on any of these properties.

The proposed project would not require the demolition of any historic properties in the study area. In addition, construction activities, including subsurface excavation, would not generate noise, dust, or vibration sufficient to cause either structural or cosmetic damage to the properties. Also, as described in Section 3.14, Noise and Vibration, operation of the proposed project would not generate sufficient vibration to cause structural or cosmetic damage to the properties, as the study area already lies within a highly developed, heavily traveled urban setting. The proposed project would not alter any of the characteristics of the properties that qualify the properties for listing on the NRHP or CRHR and would not, therefore, adversely affect historic properties. Consequently, impacts resulting from implementation the proposed project would be less than significant.

*CR-2. Implementation of the proposed project could damage or destroy archaeological resources, including human burials, as a result of ground-disturbing activity. (S)*

The records search identified no recorded prehistoric archaeological resources within the study area. One combined prehistoric/historic archaeological site and one historic period archaeological resource have been formally recorded near the western terminus of the study area in the vicinity of the Guadalupe River. The combined site has been determined eligible for the NRHP for its prehistoric component only. The historic-period component of the site does meet any of the criteria for listing on the NRHP/CRHR due to severe lack of integrity. Research has identified 86 potential historic archaeological resources within the study area based on information in Hendry and Bowman (1940), Hare's 1872 Map of the City of San

Jose, Thompson and West's 1876 Historical Atlas of Santa Clara County, California, Findlay and Garaventa (1983), Gilreath and Duval (2002) and other historic maps and documents. It is probable that many of these potential resources have been impacted and removed as a result of previous excavations over the past 150 years for activities such as, but not limited to, infrastructure installation, basements, landscaping, and street realignment.

The research data suggest a low potential for Hispanic Period resources and a low to moderate potential for the presence of significant, intact American Period historic archaeological deposits within the study area from the vicinity of Capitol Expressway (eastern termination) to the future Civic Center. From North 7<sup>th</sup> Street west to the San Jose Diridon Station (western termination) there is a moderate to high potential for both Hispanic and American period resources.

Prior disturbance from street widenings and realignments, grading, filling, introduced landscaping, basement excavation, and other construction and development activities over the past 150 or more years may have adversely affected or removed any potential archaeological deposits associated with the former buildings and structures within the public right-of-way. However, as described above, the significance of archaeological resources (including human burials) that may be present cannot be determined without direct evaluation, and the urbanized nature of the majority of the study area precludes such an examination at this time; archaeological testing prior to construction is problematic in currently developed areas and within the major transportation arteries (e.g., San Fernando Street, Santa Clara Street, and Alum Rock Avenue). Consequently, archaeological resources within the study area, if present, must provisionally be considered to have, at a minimum, the potential to yield information important in history or prehistory, and must therefore be considered historical resources for the purpose of this analysis. Human burials, in addition to being considered archaeological resources, are also resources protected by the *California Health Code*. Therefore, disturbance of these resources by ground-disturbing activities associated with the implementation of the proposed project would be considered an adverse effect. Implementation of Mitigation Measures CR-2.1 and CR-2.2 would minimize any potentially adverse effects associated with the anticipated acquisitions by ensuring appropriate treatment of archaeological resources that may be encountered during ground-disturbing activities, and by ensuring that information important in history or prehistory is not lost. Further, if human burials were encountered, the applicable provisions of the *California Health and Safety Code*, as well as standard practices and procedures employed by VTA, would ensure appropriate treatment and disposition.

MITIGATION MEASURES. The following mitigation measures would reduce the potentially significant impact on archaeological resources, including human burials, to less than significant. (LTS)

*CR-2.1 VTA shall retain a qualified archaeologist to prepare a Cultural Resources Treatment Plan (CRTP) to implement procedures for archaeological monitoring and treatment of cultural resources. The CRTP shall address the following:*

- Requirements and parameters for pre-construction testing at locations identified as sensitive for subsurface archaeological resources;
- Requirement for additional historic research and mapping at locations identified as sensitive for archaeological resources;
- Site and/or sensitive location protection strategies to minimize impacts to known and potential archaeological resources;
- Requirements and implementation procedures for construction monitoring within and adjacent to known and potential subsurface archaeological resources;
- Requirements and implementation procedures for “unanticipated discoveries” and the exposure of human remains;
- Analytical requirements for archaeological materials recovered during project construction;
- Reporting requirements including the preparation and distribution of technical studies as well as any requirements for progress reports
- Requirements and identification of an appropriate curation facility;
- Procedures and parameters for consultation with interested parties; and
- Public interpretation requirements and implementation.

Also, consistent with VTA standard practice as described above, the CRTP shall include at a minimum, but shall not be limited to, the following practices for addressing unanticipated finds of archeological deposits:

- Stop work if buried cultural deposits are encountered during construction activities: Should any cultural and/or archaeological resources be discovered (such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains) during construction activities, VTA shall suspend work in the immediate vicinity, and VTA’s construction inspector shall coordinate site investigations by a qualified archaeologist to assess the materials, determine their significance, and identify a course of action consistent with the CRTP. VTA shall notify all appropriate local jurisdictions.
- Stop work if human remains are encountered during construction activities: If human remains are unearthed during construction, pursuant to Section 50977.98 of the PRC and Section 7050.5 of the State Health and Safety Code, as described above, VTA shall suspend work in the immediate vicinity and the county coroner will be immediately notified, as well as local planning and permitting jurisdictions and NAHC.

*CR-3. Implementation of the proposed project may change the significance of a paleontological resource. (PS)*

Macrofossils (mostly marine invertebrates) have been found in isolated localities in hills bordering Santa Clara Valley. Mesozoic fossils found near the study area are most likely derived from two areas: the Sierra Azul Range of the Santa Cruz Mountains, where thin slivers of upper Jurassic and lower Cretaceous rocks are exposed, and a band of upper Jurassic and Cretaceous rocks of the Great Valley Sequence along the west side of the Diablo Range. Specifically, at a site about 3 miles (5 kilometers) east of the Capitol Expressway Corridor, several species of the bivalve *Buchia* have been collected from float (i.e., isolated rocks washed out of a geologic formation and out of context with the surrounding rocks and sediments) of late Jurassic age on the east side of Silver Creek Road. Additional Jurassic *Buchia* have been found approximately 6 miles (10 kilometers) south of the Corridor near a drainageway located north of San Felipe Road. A diverse assemblage of late Jurassic fossils including bivalves (*Nuculana* sp. and *Parvamussium* sp.), belemnites, ammonites, scaphapods, and corals have been identified about 8 miles (13 kilometers) to the south of the Corridor on the north side of a ridge one mile north of the Calero Reservoir dam. Implementation of Mitigation Measure CR-3 would minimize any potentially adverse effects by ensuring appropriate treatment of paleontological resources that may be encountered during ground-disturbing activities and by ensuring that important information is not lost.

MITIGATION MEASURE. The following mitigation measure would reduce the potentially significant impact on paleontological resources to less than significant. (LTS)

*CR-3.1 Should paleontological resources (i.e., fossil remains) be identified at a particular site during project construction, the construction foreman shall cease construction within 100 feet of the find until a qualified professional can provide an evaluation. Mitigation of resource impacts shall be implemented and funded by the project applicant and shall be conducted as follows:*

1. Identify and evaluate paleontological resources by intense field survey where impacts are considered high;
2. Assess effects on identified sites;
3. Consult with the institutional/academic paleontologists conducting research investigations within the geological formations that are slated to be impacted;
4. Obtain comments from the researchers; and
5. Comply with researchers' recommendations to address any significant adverse effects where determined by VTA to be feasible.

In considering any suggested mitigation proposed by the consulting paleontologist, VTA shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, applicable policies and land use assumptions, and other

considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for paleontological resources is carried out.