Appendix 8

Cultural Resources Assessment

8 Cultural and Tribal Cultural Resources

8.1 Introduction

This document describes effects on cultural and tribal cultural resources that could be caused by implementation of the proposed project. Cultural resources include archaeological and historic resources, including resources originating from local Native American tribes known historically to inhabit the region. The information in this chapter identifies existing cultural resources and environmental conditions in the area, identifies and analyzes environmental impacts based on accepted thresholds of significance, and recommends measures to reduce or avoid adverse impacts anticipated from project construction, operation, and site disturbance.

This document is based upon, and summarizes, the following documents:

- Far Western Anthropological Research Group, Inc., *Archaeological Survey Report for the Monterey Peninsula Light Rail Transit Project*, *December 2010*. (on file with MST and TAMC)
- TAMC, *Monterey Peninsula Light Rail Project EA/EIR* (Administrative Draft - on file with MST and TAMC)
- JRP Historical Consulting, LLC., *Draft Historic Resources Inventory and Evaluation Report for the Monterey Peninsula Light Rail Transit Project*, *November 2010*.
- California Historical Resources Information System (CHRIS) Records Search Results. September 2020.

The archaeological survey (Far Western, 2010) covered a larger light rail project of 17 miles in length. The current MST SURF! Busway and Bus Rapid Transit project is a 6-mile project located entirely within the footprint of that prior project. This document therefore draws on the findings and contents of that report but only for the geographic Area of Potential Effect (APE) relevant to the current project. This prior information and study has been supplemented by updated records search results conducted by both the CHRIS and the California Native American Heritage Commission (NAHC), as well as other current environmental documents that have studied portions of this alignment. It total, the combination of prior studies and updates are sufficient to evaluate the project's potential effects, as environmental conditions within the TAMC right-of -ay and along the Monterey Branch Line (MBL) have remained essentially unchanged for decades.

These reports and their findings are summarized in this document, and care has been taken to protect confidential or culturally sensitive material known to be present in the general vicinity of the project site. MST also initiated direct consultation with local tribal representatives consistent with the requirements of AB 52 in August 2020, with information and identified tribal representatives obtained through the NAHC. No requests for formal consultation were received by MST in response to this outreach.

8.2 Environmental Setting

This document presents information on existing cultural resources present in the project area. The current condition and quality of cultural resources was used as the baseline against which to compare

potential impacts of the project. This information is sourced and summarized from the reports identified above. The Area of Potential Effect, or APE, is shown in **Figures 3-4A** and **3-4B**.

8.2.1 Ethnographic Context

At the time of Euro-American contact, the proposed project study area (study area) was inhabited by speakers of the Costanoan (or Ohlone) language family. Although Costanoan/Ohlone people were first described during the Vizcaino expedition in 1602, very little was known of them until the arrival of overland explorers beginning in 1769. The present understanding of them relies on the records and diaries kept by these explorers and the missionaries who followed them, as well as knowledge shared by living Costanoan/Ohlone descendants.

Rumsen speakers occupied most of the study area, and their territory extended from Point Sur northward to the lower Pajaro River, and included the present-day cities of Monterey, Seaside, Marina, and Carmel-by-the-Sea. Identification of the group or groups who held the area north of Salinas River in the Elkhorn Slough/Castroville area is less certain due to conflicting eighteenth-century documents as well as the historical migration of the Salinas River.

As missions became established in the study area (e.g., Mission of San Carlos Borromeo de Carmelo in 1770, Mission Santa Cruz in 1791, and Mission San Juan Bautista in 1797), the local population began to decline, due in large part to introduced diseases. Environmental changes were also a significant factor, as the Spanish altered the landscape into one more suitable for livestock grazing and farming. Traditional resources were increasingly curtailed; not only was wild game forced to compete with the great Spanish cattle herds, but the damage done by overgrazing had severe consequences for vegetal and freshwater resources (Milliken 1995). Local streams and creeks near missions were likely diverted and claimed for the ranches, farms, and orchards. Eventually, population decline and landscape alteration forced people into the mission system, and the survivors learned to adapt to the new economy.

8.2.2 Archaeological Context

Although the chronological ordering of California's central coast archaeology has undergone several revisions, five general time periods are recognized and consist of:

Paleoindian Period (13,500-8500 Before Present [BP]) – Very little evidence has been found on the central coast for human occupation during this interval, but many researchers believe that the physical changes wrought on the coastline and interior valleys by rising sea water have buried or obliterated early sites (Bertrando 2002; Breschini and Haversat 1992; Jones 1991).

Millingstone Period (8500-5500 BP) – These sites are located near ancient estuaries and are characterized by shell middens which contain more abundant ground and battered stone implements relative to flaked stone tools.

Early Period (5500-3000 BP) – This period ushered in new land-use and social organization patterns, as well as new tool forms. Settlement continued at most estuaries, but also expanded into a variety of open coast locales, likely spurred by environmental fluctuations and population growth (Glassow et al. 1988).

Middle Period (3000-1000 BP) – Adaptive strategies from the Early Period continued to intensify during the Middle Period with a heavy reliance on acorns. The large size of sites dating to this period argues for significant population growth. Typical tools from Middle Period sites consist of mortars and pestles, handstones and millingstones, and contracting-stemmed, square-stemmed, side-notched, and concave base projectile point forms.

Middle/Late Transition (1000-700 BP) – By 1000 BP, use of coastal areas appears to have reached peak intensity, after which central and southern California experienced several severe drought cycles (Graumlich 1993; Stine 1994), which coincided with the abandonment of large coastal sites in the Monterey Bay region.

Late Period (post-700 BP) – During this period, local populations maintained an inland focus, concentrating on acorns and other terrestrial resources and living in villages in valley bottoms and beside lakes or rivers (Breschini and Haversat 1992; Hildebrandt and Mikkelsen 1993). Although coastal sites of this period demonstrate continuing use of marine resources, they appear to represent short-term processing camps used by inland residents due to the nearly pure presence of shell and low artifact representation. Within the inland sites, abundant ground stone tool assemblages and a high diversity of plant remains attest to the continuing emphasis on plant processing.

8.2.3 Historic Context

European contact with Native people began with the arrival of Spanish explorers in the sixteenth century, but was sporadic initially and included visits by Juan Rodriguez Cabrillo (1542), Sebastian Vizcaino (1602), and Gaspar de Portolá (1769) who established the Royal Presidio at Monterey, which eventually became the capital of Alta California. Padre Juniperro Serra was part of de Portolá's expedition and founded Mission San Carlos Borromeo. Other missions in the region were built later, including Santa Cruz in 1791 and San Juan Bautista in 1797. During this period, the Spanish government began making concessions of land to various people, permitting the accumulation of large parcels of land by a small group of individuals. These concessions became formalized as land grants once Mexico achieved its independence from Spain in 1821 and asserted its authority over Alta California. The study area extends across five of these landgrants: Bolsa del Potrero y Moro Cojo or La Sagrado Familia, Bolsa Nueva Moro Cojo, Las Salinas, Noche Buena, and Rincon de las Salinas.

The extensive ranchos were gradually broken up following the signing of the Treaty of Guadalupe Hidalgo in 1848 which ended the Mexican-American War and ceded control of a large part of what is now the western United States. The original land grantees and their descendants were required to defend their titles before the United States Land Commission and the often lengthy confirmation process and new property taxes frequently forced land sales. As the ranchos were broken up, American-era communities took their place.

Cattle ranching continued to be the dominant economic activity in the region until the early 1860s, when cycles of drought and flooding destroyed the cattle industry. Agriculture became increasingly dominant and is still prominent in the Salinas Valley. The railroads played an enormous role in determining the success or failure of farmers in these communities. In 1867, Southern Pacific Railroad (Southern Pacific) built a rail line to Castroville from the San Francisco Bay Area, later extending the line to Salinas in 1872. A narrow-gauge rail line was built just two years later from Salinas to Monterey and

helped to stimulate its economy. The rail line subsequently helped to stimulate an influx of tourists which spurred residential development of Monterey Peninsula and Seaside.

The origins of Monterey's fishing economy predated the introduction of the rail line by some 30 years. As early as the 1850s, a substantial number of Chinese settlers established fishing camps along the coast, first at Point Lobos, and subsequently Pescadero (Stillwater Cove) and China Point (Point Alones). In addition to the thriving Chinese camps, a number of Southern European fisherman flocked to the area throughout the latter half of the nineteenth century. Portuguese whalers established the Monterey Whaling Company and Italians established a number of fishing fleets, making the area one of the prominent fisheries of the Pacific Coast and establishing the foundations for the famed twentieth century "Cannery Row" of Monterey.

In 1901 San Franciscan H.R. Robbins built the waterfront's first cannery. The facility processed sardines and reduced fish offal into oil and fertilizer. Within a short time Robbins was joined by Frank E. Booth, who tapped into a growing international market for canned sardines. The cannery industry continued to grow during World War I, with an increased demand for canned sardines both domestically and abroad for the world's troops. By 1917 the City of Monterey had five fish plants, a number which would rise to twelve by 1934. The plants were largely situated in a dense corridor along Ocean View Avenue, later designated Cannery Row. The stretch of cannery warehouses and related industrial buildings abutted the MBL tracks, with two small loading spurs leaving the mainline at Irving and Hoffman Avenues.

After World War II the sardine catch plummeted to levels that were a mere fraction of the wartime highs. By 1952, fisherman extracted only 49 tons of sardines from the waters of the bay. One-by-one, Ocean View Avenue's canneries shut their doors. At the end of the 1950s only five canneries remained in operation and the once thriving fishery was largely an industrial relic.

In addition to its teeming bay, the Monterey Peninsula area abounded with large dunes, deposited over thousands of years from the meandering Salinas and Pajaro Rivers. The MBL hauled immense amounts of this sand from Monterey's coastline. Beginning almost immediately upon construction in the late nineteenth century and continuing until the rail's demise in the late twentieth century, the railroad supported a thriving sand mining industry that produced both glass and building materials from the high-purity quartz sand found along the Peninsula's shore. At the industry's height, between 300,000 and 400,000 cubic yards of sand were removed annually from the region, most of which left in MBL freight cars.

In 1917, the War Department acquired a 200-acre parcel from lands formerly designated part of the City of Monterey Tract No 1, and built Camp Clayton (Swernoff 1982:3-8; Waite 1995:24). In the same year, an additional 15,609 acres were acquired and became known as the Gigling Field Artillery Target Range. Camp Gigling was located near the East Garrison at the intersection of present-day Reservation and Inter-Garrison roads, about four miles east of the proposed project corridor. In 1940, the Army began acquiring more land, including parcels that contain the current project corridor, and in the summer of the same year the installation became a permanent army facility and was renamed Fort Ord (Swernoff 1982:3-9; Waite 1995:24). The facility continued to expand between the 1940s and 1980s, and eventually covered more than 28,600 acres. It was closed under recommendation by the Base Realignment and Closure Committee in 1994 and its land was transferred to the Fort Ord Reuse Authority. The area is currently being redeveloped for civilian use, including the campus of California State University Monterey Bay and the University Villages project in the City of Marina.

8.2.4 Archaeological and Historic Architectural Resources

Archaeological Resources

While lands further west toward Monterey are rich in both prehistoric and historic period resources, the SURF! project alignment is located in an area of generally fewer recorded prehistoric resources in an environment consisting mainly of shifting dunes. The only previously recorded archaeological resource within ¼ mile of the project's APE is **P27-2923**. This resource consists of the abandoned Monterey Branch Line (MBL) railroad tracks located within the project corridor. A second resource, **P-27-385** (MNT 280) was identified through the CHRIS/Northwest Information Center (NWIC) data base search. This site was identified as a large native American habitation site. However, based on additional research and documentation[1], the location of this site (recorded in 1950) has not been identified and was reportedly destroyed circa 1940 (Basin Research Associates, September 2019).

Historic Architectural Resources

Based on surveys conducted in 2010, historic architectural resources within or near the project alignment include three resources associated with the following category types: (1) railroad; (2) military; and (3) commercial. Brief descriptions of these resources are provided below and noted in Table 8-1. It should be noted that other resources noted in the 2010 survey are either north or south of the SURF! alignment or consist of military structures on the inland side of Highway 1 and have no bearing to physical relationship to the proposed project's footprint.

Table 8-1: Historic Architectural Resources Located Near Project Alignment

Resource	Year Built	Resource Type
Monterey Branch Line	1879-ongoing	Railroad
Fort Ord Loading Platform and Storehouse	Ca. 1941-1945	Military
1965 Del Monte Boulevard (Seaside)	1956	Commercial

Source: JRP Historical Consulting, LLC (2010)

Railroad Resource Type – These resources include track ties and rails. While the MBL alignment was established in 1879, none of the existing railroad features appear to date from that period. The ties and rails surveyed along the line date from a number of periods, ranging from 1910 to 1966. The range in dates reflects the infrastructural development of the railroad, as rails and ties were continuously removed and replaced. In addition, large portions of the rail line have been removed or covered in the modern period.

A number of spurs, signaling devices, and service sheds were developed along the MBL throughout the historic period. However, initial construction accounts do not indicate that the MBL was constructed with any spurs; although the route is now lined with small spurs that access former commercial

[1] Supplemental Environmental Impact Report for the Proposed Modifications to the Pure Water Monterey Groundwater Replenishment Project, Monterey One Water. November 2019.

operations and the loading facilities of the former Fort Ord military base. The signals and sheds along the alignment appear to date from the mid-20th century period and later.

Similarly, a number of utility poles remain along the alignment in isolated clusters. The development of such poles along the railroad ROW was common along Southern Pacific lines, and supported the line's telegraph systems as well as railroad power, signaling, and internal communications abilities. The poles are of a standard and common design and like the remainder of the line, appear to have been removed and replaced at periodic intervals, with the remaining fragments of the system dating from a number of periods. Although few of the poles are fully intact, several feature what appear to be late nineteenth or early twentieth century glass insulators while others feature modern rubber insulators dating to the 1960s. Other poles feature modern power supply boxes and appear to date from the modern period. Most are missing all identifying transmission features. All of the associated transmission lines have been removed, and as a system these standard utility poles lack integrity to the historic period.

Military Resource Type – These resources are associated with military buildings related to the former Fort Ord military base. The military base developed adjacent to the MBL beginning in 1917 and utilized the railroad for freight and personnel services throughout the historic period. These buildings were constructed between 1941 and 1953 and were part of the military buildup for both World War II and continuing conflicts in Korea and Vietnam. Two of the buildings were erected as receiving buildings and warehouses and stored military material. An additional building served as a post bakery, and a fourth building was built as a lavatory. All of the buildings were basic service facilities designed to support the massive training and enlistment mission of the base during this time period, and all except one were designed as temporary facilities. There are no military resource type properties evaluated as part of the proposed action that appear eligible for listing in either the National Register of Historic Places (NRHP) or the California Register of Historic Resources (CRHR), either because they lack significance under HRHP or California Register criteria, or lack integrity.

Commercial Resource Type – These resources are associated with utilitarian buildings located adjacent to the proposed busway corridor. The historic architectural resources analysis identifies only one such resource at 1965 Del Monte Boulevard in Seaside. This building was constructed as a light industrial or automotive facility in 1956. This structure and other commercial structures in this corridor are largely utilitarian in design and plan, and all have been substantially altered. Alterations include additions, infill of original features, and replacement of original materials including windows, doors, and storefronts. These alterations diminish the integrity of the commercial properties and largely sever any relationship to the historic period.

There are no commercial resource type properties evaluated as part of the proposed action that appear eligible for listing in either the National Register or the California Register, either because they lack significance under National Register or California Register criteria, or lack integrity.

8.3 Applicable Regulations, Plans, and Standards

8.3.1 Federal

National Register of Historic Places Eligibility

The National Historic Preservation Act of 1966 (as amended through 2000) authorizes the National Register of Historic Places (NRHP), a program for the preservation of historic properties ("cultural

resources") throughout the Nation. The eligibility of a resource for NRHP listing is determined by evaluating the resource using criteria defined in 36 CFR 60.4 as follows:

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

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

Unless a site is of exceptional importance, it is not eligible for listing in the NRHP until 50 years after it was constructed.

All properties change over time. Therefore, it is not necessary for a property to retain all its historic physical features or characteristics in order to be eligible for listing on the NRHP. The property must, however, retain enough integrity to enable it to convey its historic identity; in other words, to be recognizable to a historical contemporary. The National Register recognizes seven aspects or qualities that, in various combinations, define integrity:

- Location – the place where the historic property was constructed or the place where the historic event occurred.
- Design – the combination of elements that create the form, plan, space, structure, and style of a property.
- Setting – the physical environment of a historic property.
- Materials – the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
- Workmanship – the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
- Feeling – a property's expression of the aesthetic or historic sense of a particular period of time.
- Association – the direct link between an important historic event or person and a historic property (National Park Service, 1990).

To retain historic integrity a property will always possess several, and usually most, of these aspects. In order to properly assess integrity, however, significance (why, where, and when a property is important) must first be fully established. Therefore, the issues of significance and integrity must always be considered together when evaluating a historic property.

Section 106 of the NHPA requires federal agencies to consider the effects on historic properties of project they carry out, assist, fund, permit license or approve throughout the country. If a federal or

federally-assisted project has the potential to affect historic properties, a Section 106 review will take place.

Executive Order 11593 (May 13, 1971), 36 Code of Federal Regulations, Section 8921 as incorporated into Title 7, United States Code

Executive Order 11593, Protection of the Cultural Environment, orders the protection and enhancement of the cultural environment through providing leadership, establishing State offices of historic preservation, and developing criteria for assessing resource values.

Native American Graves Protection and Repatriation Act (NAGPRA) (1990), Title 25, United States Code

Native American Graves Protection and Repatriation Act (NAGPRA) defines “cultural items,” “sacred objects,” and “objects of cultural patrimony;” establishes an ownership hierarchy; provides for review; allows excavation of remains under certain conditions, but stipulates return of the remains according to ownership; sets penalties for violations; calls for inventories; and provides for return of specified cultural items.

8.3.2 State

CEQA, Archaeological Resources

CEQA and the CEQA Guidelines contain specific standards for determining the significance of impacts to archaeological sites (PRC §21083.2; 14 CCR §15064.5(c)). If the lead agency determines that the project may have a significant effect on unique archaeological resources, the document must address those archaeological resources (PRC §21083.2(a)). A “unique archaeological resource” is defined as an “archaeological artifact, object, or site” that, without merely adding to the current body of knowledge:

- Contains information needed to answer important scientific research questions and in which there is a demonstrable public interest;
- Has a special or particular quality such as being the oldest of its type or the best available example of its type; or
- Is directly associated with a scientifically recognized important prehistoric or historic event or person. (PRC §21083.2(g)).

Under CEQA, significant impacts on non-unique archaeological resources need not be addressed. (PRC §21083.2(a), (h)).

The limitations in PRC §21083.2 relating to unique archaeological resources do not apply to archaeological sites that qualify as “historical resources.” (PRC §21083.2(l)). If a lead agency finds that an archaeological site is a historical resource, impact assessment is governed by PRC §21084.1, which provides standards for identification of historical resources (14 CCR §15064.5(c)(2). See §§13.58, 20.94-20.98). The CEQA Guidelines also provide that public agencies should seek to avoid effects that could damage a "historical resource of an archaeological nature" when it is feasible to do so (14 CCR §15126.4(b)(3)).

Senate Bill 18

Prior to the adoption or amendment of a general plan proposed on or after March 1, 2005, California Government Code Sections 65352.3 and 65352.4 (commonly referred to as Senate Bill (SB) 18) require a city or county to consult with local Native American tribes that are on the contact list maintained by NAHC. The purpose is to preserve or mitigate impacts to places, features, and objects described in Public Resources Code Sections 5097.9 and 5097.993 (Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property) that are located within a city or county's jurisdiction. SB 18 also states that a city or county shall protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects identified by said Native American consultation. This project does not involve a general plan or amendment to a general plan or specific plan that would trigger consultation under SB 18.

Assembly Bill 52

On September 25, 2014, Governor Brown signed Assembly Bill (AB) 52, which created a new category of environmental resources that must be considered under CEQA: "tribal cultural resources." AB 52 is applicable to projects for which a Notice of Preparation is filed on or after July 2015.

AB 52 adds tribal cultural resources to the categories of cultural resources in CEQA, which had formerly been limited to historic, archaeological, and paleontological resources. Tribal cultural resources are defined as either (1) "sites, features, places cultural landscapes, sacred places and objects with cultural value to a California Native American tribe" that are included in the state register of historical resources or a local register of historical resources, or that are determined to be eligible for inclusion in the state register; or (2) resources determined by the lead agency, in its discretion, to be significant based on the criteria for listing in the state register.

Recognizing that tribes may have expertise with regard to their tribal history and practices, AB 52 requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if they have requested notice of projects proposed within that area. If the tribe requests consultation within 30 days upon receipt of the notice, the lead agency must consult with the tribe. Consultation may include discussing the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and alternatives and mitigation measures recommended by the tribe.

The parties must consult in good faith, and consultation is deemed concluded when either the parties agree on measures to mitigate or avoid a significant effect on a tribal cultural resource (if such a significant effect exists) or when a party concludes that mutual agreement cannot be reached.

Native American Historic Resource Protection Act; Archaeological, Paleontological, and Historical Sites; Native American Historical, Cultural, and Sacred Sites (Pub. Res. Code § 5097-5097.994)

Public Resources Code Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of Native American human remains on non-federal public lands. California Public Resources Code Section 5097.9 states that no public agency or private party on public property shall "interfere with the free expression or exercise of Native American Religion." The Code further states that:

> "No such agency or party [shall] cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine…except on a clear and convincing showing that the public interest and necessity so require."

Human Remains

Section 7050.5 of the California Health and Safety Code states that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the find or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the remains are discovered has determined whether or not the remains are subject to the coroner's authority. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

CEQA, Historic Resources

CEQA and the CEQA Guidelines contain specific standards for determining the significance of impacts on "historical resources" (PRC §21084.1, 14 CCR §15064.5). A resource listed in the California Register of Historical Resources, or determined by the State Historical Resources Commission to be eligible for listing in the Register, must be treated as an "historical resource" for purposes of CEQA. PRC §21084.1; 14 CCR §15064.5(a)(1). A resource designated as historically significant in a local register of historical resources, or identified as significant in an approved historical resources survey, is presumed to be significant. The presumption of significance may be overcome if the agency concludes, based on a preponderance of the evidence, that the site is not historically or culturally significant (PRC §21084.1; 14 CCR §15064.5(a)(2)).

A lead agency may also find that a site that does not meet any of these criteria should be treated as a historical resource under CEQA (PRC §21084.1; 14 CCR §15064.5(a)(4)). A lead agency may find that "any object, building, structure, site, area, place, record, or manuscript" is historically significant or significant in the "cultural annals of California" provided that its determination is "supported by substantial evidence in light of the whole record" (14 CCR §15064.5(a)(3)). The guidelines also note that a resource ordinarily should be considered historically significant if it meets the criteria for listing on the CRHR (14 CCR §15064.5(a)(3)).

California Register of Historical Resources

In order to be determined eligible for listing in the CRHR, a property must be significant at the local, State, or national level under one or more of the following four criteria as defined in Public Resources Code 5024.1 and CEQA Guideline 15064.5(a).

- It is associated with events or patterns of events that have made a significant contribution to the broad patterns of the history and cultural heritage of California and the United States.
- It is associated with the lives of persons important to the nation or to 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 values.

- It has yielded, or may be likely to yield, information important to the prehistory or history of the state and the nation.

In addition to meeting one or more of the above criteria, a significant property must also retain integrity. Properties eligible for listing in the CRHR must retain enough of their historic character to convey the reason(s) for their significance. Integrity is judged in relation to location, design, setting, materials, workmanship, feeling, and association.

CEQA defines a substantial adverse change in the significance of a historical resource as a significant effect on the environment (PRC §21084.1; 14 CCR §15064.5(b)). A substantial adverse change means demolition, destruction, relocation, or alteration of the resource or its immediate surroundings resulting in the significance of the resource being materially impaired (14 CCR §15064.5(b)(1)). The significance of a resource is materially impaired when the physical characteristics that convey its historical significance and that justify its designation as a historical resource are demolished or materially altered in an adverse manner (14 CCR §15064.5(b)(2)). Construction of a project in the vicinity of historical structures that does not damage or materially alter any of them is not a substantial adverse change in the significance of a historical resource. *Eureka Citizens for Responsible Gov't v City of Eureka* (2007) 147 CA4th 357, 375.

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

The California Historical Building Code, defined in Sections 18950 to 18961 of Division 13, Part 2.7 of the Health and Safety Code, provides regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation of historical buildings or structures deemed by any level of government as having importance to the history, architecture, or culture of an area.

California Coastal Act

The California Coastal Act is implemented locally through the relevant certified Local Coastal Programs (LCPs) of the City of Marina and City of Sand City. The unincorporated area of the TAMC right-of-way (adjacent to the City of Seaside) is under Coastal Commission jurisdiction. The Coastal Act seeks to minimize the adverse impacts to historical and archaeological resources within the Coastal Zone by requiring mitigation of any adverse impacts to these resources by any development (Public Resources Code 30244).

8.4 Environmental Impacts and Mitigation Measures

8.4.1 Significance Criteria

The following significance criteria for cultural and tribal cultural resources were derived from the Environmental Checklist in CEQA Guidelines Appendix G. These significance criteria have been amended or supplemented, as appropriate, to address lead agency requirements and the full range of potential impacts related to this project.

An impact of the project would be considered significant and would require mitigation if it would meet one of the following criteria.

- Cause a substantial adverse change in the significance of a historic resource pursuant to CEQA Guidelines 15064.5.

- Cause a substantial adverse change in the significance of an archaeological resource (CEQA Guideline 15064.5).
- Disturb any human remains, including those interred outside of formal cemeteries.
- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
    i. Listed or eligible for listing in the California Register of Historical Resources, or in the local register of historical resources as defined in Public Resources. Code Section 5020.1(k), or
    ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

To the extent any cultural resource is identified as relevant to the analysis, its significance as a cultural resource deposit and subsequently the significance of any impact is determined, in part, by whether or not that deposit can increase our knowledge of the past. Key determining factors, among others, are site content and degree of preservation. A finding of archaeological significance follows the criteria established in the CEQA *Guidelines*.

Section 15064.5 of the CEQA *Guidelines* define four ways that a property can qualify as a significant historical resource for purposes of CEQA compliance:

- A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code §5024.1, Title 14 CCR, Section 4850 et seq.).
- A resource 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 an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code §5024.1, Title 14 CCR, Section 4852) including the following:
    - Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
    - Is associated with the lives of persons important in our past;

- 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
- Has yielded, or may be likely to yield, information important in prehistory or history.

- The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.

Historical resources are "significantly" affected if there is demolition, destruction, relocation, or alteration of the resource or its surroundings. Preservation in place is typically viewed as the preferred form of mitigation for a "historical resource of an archaeological nature" as it retains the relationship between artifact and context, and may avoid conflicts with groups associated with the site [PRC 15126.4 (b)(3)(A)]. In general, historical resources of an archaeological nature and "unique archaeological resources" typically can be mitigated to below a level of significance by:

- Relocating construction areas such that the site is avoided;
- Incorporation of sites within parks, greenspace, or other open space;
- "Capping" or covering the site with a layer of chemically stable soil before building; or
- Deeding the site into a permanent conservation easement. [PRC 15126.4 (b)(3)(B)]

If an archaeological resource does not meet either the historical resource or the more specific "unique archaeological resource" definition, impacts to such a resource would not be considered significant for purposes of CEQA and therefore would not require mitigation under CEQA [13 PRC 15064.5 (e)]. Where the significance of a site is unknown, it may be presumed to be significant for the purpose of the investigation with appropriate mitigation identified.

8.4.2 Impact Assessment Methodology

For cultural resources, impact assessment is based on a comparison of known resource locations with the placement of ground disturbing project activities that have the potential to remove, relocate, damage, or destroy the physical evidence of past cultural activities. If such ground disturbance overlaps recorded site locations, then a direct impact may occur. Historical buildings and structures may be directly impacted if the nearby setting and context is modified substantially, even if the building or structure itself is not physically affected. Indirect impacts may occur if activities occur near, but not directly on, known cultural resources.

8.4.3 Summary of No and/or Beneficial Impacts

Not applicable. While the project is not expected to adversely affect historic, archaeological or tribal cultural resources, the possibility exists to uncover or affect previously unknown resources during construction.

8.4.4 Impacts of the Project

Impact CR-1: The project would not result in a substantial adverse change in the significance of a historical resource as defined by the significance criteria established by CEQA. As proposed, project impacts are considered **less-than-significant**.

Construction and Operation

Implementation of the proposed action would not result in operational-related impacts to historic architectural resources because the proposed action would not directly or indirectly affect any identified historic resource within or near the project alignment. The three historic era resources identified – the MBL, Fort Ord loading platform and commercial structure on Del Monte Boulevard – were determined in the historic resource evaluation to be ineligible for historic status or listing on any State, federal or local historic register. Therefore, the proposed action will not have any construction or operational-related direct, indirect, or cumulative adverse effects upon these resources located within the APE under Section 106, and will not cause any operational-related direct, indirect, or cumulative substantial adverse changes under CEQA.

Impact CR-2: The project has the potential to cause a substantial adverse change to known and unknown archaeological and cultural resources. This is a **less-than-significant impact with mitigation incorporated**.

Construction and Operation

While no prehistoric sites have been identified within or near the project alignment, the potential remains to uncover or disturb previously unknown resources during the construction phase of the project. To address this potential impact, the following standard mitigation measures are required.

Mitigation Measures/Project Conditions

MM CR-1 Preconstruction Archaeological and Paleontological Sensitivity Training

Prior to construction, all personnel directly involved in project related ground disturbance shall be provided archaeological and paleontological sensitivity training. The training will be conducted by a qualified Archaeologist and Paleontologist that meet the Secretary of the Interior's standards for archaeology and CEQA qualifications for paleontology. The training will take place at a day and time to be determined in conjunction with the project construction foreman, and prior to any scheduled ground disturbance. The training will include: a discussion of applicable laws and penalties; samples or visual aids of artifacts and paleontological resources that could be encountered in the project vicinity, including what those artifacts and resources may look like partially buried, or wholly buried and freshly exposed; and instructions to halt work in the vicinity of any potential cultural resources discovery, and notify the archaeological or paleontological monitor as necessary.

MM CR-2 Procedures for Inadvertent Discovery

Inadvertent Discovery of Archaeological or Tribal Cultural Resources

In the event archaeological resources are encountered during ground disturbing activities, contractor shall temporarily halt or divert excavations within a 100-foot radius of the find until it can be evaluated.

CEQA Guidelines requires that all potentially significant archaeological deposits be evaluated to demonstrate whether the resource is eligible for inclusion on the California Register of Historic Resources, even if discovered during construction. If archaeological deposits are encountered they will be evaluated and mitigated simultaneously in the timeliest manner practicable, allowing for recovery of materials and data by standard archaeological procedures. For prehistoric archaeological sites, this data recovery involves the hand-excavated recovery and non-destructive analysis of a small sample of the deposit. Historic resources are also sampled through hand excavation, though architectural features may require careful mechanical exposure and hand excavation.

Any previously undiscovered resources found during construction activities shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated for significance in terms of CEQA criteria by a qualified Archaeologist. Significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. If the resource is determined significant under CEQA, a qualified Archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant in accordance with Section 15064.5 of the CEQA Guidelines.

If such resources or artifacts are determined to be of native tribal origin, any mitigation or recovery program shall include direction from Ohlone/Costanoan Esselen Nation (OCEN) tribal leadership for proper handling and treatment.

The Archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report complete with methods, results, and recommendations, and provide for the permanent curation of the recovered resources. The report shall be submitted to MST, TAMC, the NWIC, and the State Historic Preservation Office, as required.

Inadvertent Discovery of Paleontological Resources

A qualified Paleontologist (per CEQA definition) shall be retained to supervise monitoring of construction excavations and to produce a Paleontological Monitoring and Mitigation Plan for the project based on the location and depth of excavation. Project related excavations that occur in surficial younger (Holocene-age) alluvial and fluvial deposits and/or topsoil (less than 10 feet in depth) will be monitored on a periodic basis to ensure that the potential underlying paleontologically sensitive sediments are not being affected. Paleontological resource monitoring will include inspection of exposed rock units during active excavations within sensitive geologic sediments, if present.

The paleontological monitor will have the authority to temporarily divert grading away from exposed fossils to professionally and efficiently recover the fossil specimens and collect associated data. All efforts to avoid delays to project schedules will be made. Collected fossils will be transported to a paleontological laboratory for processing, identification, analysis and curation. The qualified Paleontologist shall prepare a final monitoring and mitigation report to be filed with MST and, if fossil resources are found, the repository.

Inadvertent Discovery of Human Remains

In the event that human remains (or remains that may be human) are discovered at the project site, Public Resource Code Section 5097.98 must be followed. All grading or earthmoving activities shall immediately stop within a 100-foot radius of the find. The project proponent shall then inform the Monterey County Coroner and the respective city (e.g. City of Marina, Sand City, or Seaside) immediately, and the Coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b).

Section 7050.5 requires that excavation be stopped in the vicinity of discovered human remains until the Coroner can determine whether the remains are those of a Native American. If human remains are determined as those of Native American origin, the Applicant shall comply with the state relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (Public Resource Code [PRC] § 5097). The Coroner shall contact the NAHC to determine the most likely descendant(s) (MLD). The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. The MLD will determine the most appropriate means of treating the human remains and associated grave artifacts, and shall oversee the disposition of the remains.

In the event the NAHC is unable to identify an MLD or the MLD fails to make a recommendation within 48 hours after being granted access to the site, the landowner or his/her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity within the project area in a location not subject to further subsurface disturbance.

8.5 References

Far Western Anthropological Research Group, Inc. Archaeological Survey Report for the Monterey Peninsula Light Rail Transit Project. December 2010. (on file with MST and TAMC)

TAMC. Monterey Peninsula Light Rail Project EA/EIR (Administrative Draft - on file with MST and TAMC)

JRP Historical Consulting, LLC. Draft Historic Resources Inventory and Evaluation Report for the Monterey Peninsula Light Rail Transit Project. November 2010.

California Historical Resources Information System (CHRIS) Records Search Results. September 2020.

Monterey One Water. Supplemental Environmental Impact report for the Proposed Modifications to the Pure Water Monterey Groundwater Replenishment Project. November 2019.