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"SINCE THE BEGINNING"

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RE: CULTURAL RESOURCES MITIGATION UPDATE REPORT

The following summarizes findings to date of work completed by Holman & Associates (H&A) for the Newark Area 4 project, compares the current project with the previous project subject of the 2015 *Newark Areas 3 and 4 Specific Plan Recirculated Environmental Impact Report (REIR)*, evaluates whether the new project would result in any new impacts or impacts of greater severity than previously disclosed in the REIR, and determines if there are any new mitigation measures that would reduce previously significant impacts to a less than significant level. This work was completed to address archaeological mitigation requirements for the addendum to the 2015 *Newark Areas 3 and 4 Specific Plan REIR*.

Areas 3 and 4 Specific Plan (2015)

The *Newark Areas 3 and 4 Specific Plan REIR* was certified in January 2015. Areas 3 and 4 are located in southwestern Newark, bounded by Mowry Avenue, Cherry Street, Stevenson Boulevard, and the Mowry Slough. The Specific Plan allows for development of up to 1,260 residential units, an elementary school, a golf course, and open space areas. Development of Sub-Area A within Area 3 of the Specific Plan has been approved and the Final Tentative Map was completed and recorded at the City in 2016.

The REIR identified the following archaeological resources impacts and mitigation measures for Areas 3 and 4:

Impact CUL-2: Implementation of the proposed Area 4 Specific Plan elements will impact unique archaeological resources and disturb human remains, including those interred outside of formal cemeteries through compression of soils and excavation of existing soils. There is a low-to-moderate potential for significant, unidentified archaeological deposits in Area 3, Sub-Area A.
(Significant Impact)

MM CUL-2.1: The following mitigation measures shall be completed prior to issuance of a grading permit and prior to any earth moving activities in those areas of the Specific Plan Area 4 already identified as potentially containing archaeological resources based upon the research and survey work completed by *Holman & Associates*. (*This mitigation measure was already completed in 2010 for Area 3.*)

- A limited program of hand excavation shall be undertaken by a professional archaeologist certified by the Register of Professional Archaeologists (RPA) subject to the following standards:
 - If specimens are collected, a system for identifying and recording their proveniences must be maintained.
 - Uncollected entities such as environmental or cultural features, depositional strata, and the like, must be fully and accurately recorded by appropriate means, and their location recorded.
 - The methods employed in data collection must be fully and accurately described. Significant stratigraphic and/or associational relationships among artifacts, other specimens, and cultural and environmental features must also be fully and accurately recorded.
 - All records should be intelligible to other archaeologists. If terms lacking commonly held referents are used, they should be clearly defined.
 - During accessioning, analysis, and storage of specimens and records in the laboratory, the archaeologist must take precautions to ensure that correlations between the specimens and the field records are maintained, so that provenience contextual relationships and the like are not confused or obscured.
 - Specimens and research records resulting from a project must be deposited at an institution with permanent curatorial facilities, unless otherwise required by law.
 - The archaeologist has responsibility for appropriate dissemination of the results of her/his research to the appropriate constituencies with reasonable dispatch.

The hand excavation must take place at the locations of the three burials and two cultural features in order to verify the presence of midden soils. Hand excavation will verify this, and will provide the researchers with the information needed to determine the aerial extent of the deposits.

MM CUL-2.2: Prior to any future development in Area 4 identified as potentially containing archeological resources based upon the research and survey work completed by *Holman & Associates* or areas for which any

additional information has been gathered through hand excavations under MM CUL-2.1, plans shall be designed to avoid impacting known cultural resources.¹ Development plans shall be reviewed and approved by a professional archaeologist certified by the RPA and the City of Newark to ensure the known resources have been adequately avoided. Final mitigation recommendations shall depend on the amount and nature of earthmoving activities which will occur inside those areas which are mapped as intact archaeological deposits after completion of the hand excavation program described above. For example, mitigation of impacts to archaeological deposits found inside the proposed golf course area² may possibly be achieved simply by redesigning the course in proximity to the borders of the archaeological deposit, as determined by the professional archaeologist's hand excavation and subsequent mechanical subsurface presence/absence testing program. This mitigation measure has already been completed for Area 3 development.

MM CUL-2.3: All grading and/or construction activities shall, to the extent feasible, avoid all areas identified as potentially containing archeological resources based upon the research and survey work completed by *Holman & Associates* or areas for which any additional information has been gathered through hand excavations under MM CUL-2.1. However, to the extent that these areas cannot be avoided, then mitigation for burial resources shall be achieved through either preservation in place pursuant to CEQA Guidelines Section 15126.4(B)(3)(a) or a program of data recovery pursuant to CEQA Guidelines Section 15126.4(B)(3)(c) combining limited hand excavation to retrieve significant archaeological data and material and to remove the known human remains to protect them from additional damage. This program shall be designed by a professional archaeologist and reviewed and approved by the City of Newark. Depending on the findings of the proposed evaluative hand excavation, a data retrieval program may also be done by carefully stripping those areas where additional cultural materials are expected utilizing heavy equipment under the direction of a professional archaeologist. Soils would be removed to the depth of the archaeological deposit in selected areas (a percentage of the anticipated deposit). In the event, that archaeological materials and in particular, human burials, are encountered extending out of the areas designated for stripping, additional data retrieval work shall be required.

¹ It should be noted that "capping" or covering the known archaeological resources would not mitigate the impacts to cultural resources because all grading activities, placement of fill, and compaction of the soil would crush and destroy the known cultural resource deposits.

² The golf course is not included in the current project.

MM CUL-2.4:

Because archival data shows that several homesteads were once present on the property, and possible human bones were identified near one of the homesteads, it is recommended that ground-disturbing construction activities on Area 3 be monitored by a qualified professional archaeologist. Archaeological monitoring, described below, will be required for all construction in Sub-Area A because important prehistoric deposits and human burials associated with ALA-599 have been uncovered on the adjacent Ohlone Campus Industrial Park. Archaeological monitoring should be discontinued as soon as the archaeologist is satisfied that construction will not disturb important archaeological deposits.

The following measures shall be completed during all development activities on both Areas 3 and 4 that include excavation or disturbance of existing ground surfaces, installation of utility lines, or other subsurface trenching:

- A professional archaeological monitor certified by the RPA shall monitor with authority to direct and halt earthmoving activities as deemed necessary by the monitor, if and when cultural materials are encountered. In accordance with CEQA Guidelines Section 15064.5(f), if any previously unknown historic or prehistoric resources are discovered during grading, trenching, or other on-site excavation, earthwork within 100 feet of these resources shall be stopped until the professional archaeologist has an opportunity to evaluate the significance of the find and suggest appropriate mitigation as determined necessary to protect the resource. In the event that Native American human remains or funerary objects are discovered, the provisions of the California Health and Safety Code shall be followed. Section 7050.5(b) of the California Health and Safety Code states:
 - 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 site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27492 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.

Based upon the current known extent of unique cultural materials on Area 4 of the site, it is unlikely that total avoidance of impacts is possible with implementation of the proposed Specific Plan. While incorporation of the above measures will partially reduce the cultural resources impact, the overall implementation of the Specific Plan Area 4 will destroy archaeological deposits through placement of fill and soil compression and, therefore, result in a significant unavoidable impact. (**Significant Unavoidable Impact – Area 4**)

Currently Proposed Area 4 Development

Project Description

The current project proposes development of 469 single-family residences on approximately 180 acres within Sub-Area B of the approximately 560-acre Specific Plan Area 4. The project would also include construction of residential streets, an overpass over existing railroad tracks, and a pedestrian/bicycle trail. Up to 15.5 feet of fill would be imported onto the site to raise residential areas out of 100-year floodplains.

Consistency with REIR

The proposed development area is considerably smaller and within the previous Area 4 development area evaluated in the REIR. In addition, there have been no changes in circumstances or new information affecting cultural resources in Area 4 indicating that the project would have a new or substantially more significant impact on such resources. For this reason, the current project would not result in a new significant impact or substantially more severe significant impact to cultural resources than was identified in the REIR.

The currently proposed project area is smaller than the area evaluated in the REIR. Because of the reduced footprint of the project, some impacts to potentially culturally sensitive areas could be avoided.

Consistent with the conclusions in the REIR, mitigation measures MM CUL-2.1 through MM CUL-2.4, above, would partially reduce and/or avoid archaeological resource impacts, including impacts to human remains; however, the proposed fill placement and soil compression would result in a significant unavoidable impact to archaeological resources in Area 4, as stated in the REIR.

Sincerely,

Miley Paul Holman
Holman & Associates