

## Responses to Comments on the Draft IS-MND

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This document includes comments received during the circulation of the Draft Initial Study-Mitigated Negative Declaration (IS-MND) prepared for the Gading II Residential Project (proposed project) and responses to those comments.

The Draft IS-MND was circulated for a 20-day public review period that began on April 6, 2018 and ended on April 26, 2018. The City of Hayward received one comment letter on the Draft IS-MND from Randy Yonemura of the Lone Band of Miwok Indians. The comment letter and responses follow. Each separate issue raised by the commenter has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1.1, for example, indicates that the response is for the first issue raised in comment Letter 1).

In one instance the text of the Draft IS-MND has been modified in response to comments received. Added text discussed in the responses to comments is shown in underline format. This change did not identify new significant impacts or significant impacts of increased severity compared to the impacts identified in the Draft IS-MND. Because this change to the IS-MND is not considered substantial in accordance with CEQA Guidelines Section 15073.5(b) and the information added merely clarifies and amplifies the information previously provided in the analysis, recirculation of the MND is not required.

Letter 1

# **Cultural Resources Treatment Plan**

**City of Hayward: Gading II**

**April 25, 2018**

1

**I. PURPOSE**

The purpose of this Cultural Resources Treatment Plan (“Treatment Plan”) is to formalize protocols and procedures for the protection and culturally-appropriate treatment of tribal cultural resources such as cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, for known sites and sites discovered in conjunction with the Project’s development, excavation, grading, and all ground-disturbing activity. The Treatment Plan also formalizes procedures for Tribal Native American monitoring.

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**II. SPECIAL TREATMENT OF PROJECT SITE**

The City of Hayward & staff in consultation will develop and required site specific treatment regarding final construction and engineering designs. This includes such things as vegetation removal, revegetation, type of rock or geotextiles, and use of flat blade for bucket. Site visits between the City of Hayward in consultation has included the implementation of such enhancement and protection measures.

3

**III. TESTING/SAMPLING (PRE-CONSTRUCTION)**

Archaeological monitoring and sampling will include screening. The sample sized to be screed will be 50cm x 50cm and 1m x 1m test units. Archaeologists will use a 1/8 in. screen.

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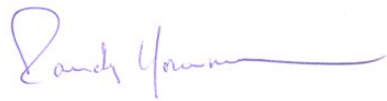
**IV. UNRECORDED SITES SIGNIFICANTLY IMPACTED BY THE PROJECT**

The Parties agree that sites or discoveries not identified in the environmental review process may be subject to further archaeological and cultural significance evaluation as determined in consultation and carried out in accordance with the California Environmental Quality Act.

If necessary, a test plan will be written by the City of Hayward’s archaeological consultant in consultation to determine if there are any intact cultural deposits that have the potential to be impacted. Further evaluation shall include a determination of eligibility and adverse effects, additional avoidance, alternatives, feasibility, or mitigation measures to treat sites in a culturally appropriate and respectful manner consistent with policies and this Treatment Plan.

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**This area is culturally sensitive, regardless of negative record searches. There are sites present in and throughout this area, which is why this treatment plan was developed.**

A handwritten signature in blue ink, appearing to read "Randy Yonemura", with a long horizontal flourish extending to the right.

Randy Yonemura

## Letter 1

**COMMENTER:** Randy Yonemura, Ione Band of Miwok Indians

**DATE:** April 25, 2018

### Response 1.1

The commenter provides a Cultural Resources Treatment Plan that he requests be incorporated into the project, and explains that the purpose of the plan is to formalize protocols and procedures for the protection and culturally-appropriate treatment of tribal cultural resources discovered during project development. The Plan also formalizes procedures for Tribal Native American monitoring.

Responses 1.1 through 1.4 below explain how procedures listed in the Plan have been incorporated into the Final IS-MND or will be otherwise addressed.

### Response 1.2

The commenter states an opinion that City staff should develop site specific treatments regarding final construction and engineering designs, including vegetation removal, revegetation, type of rock or geotextiles, and use of flat blade for bucket.

Mitigation measures TCR-1 (as revised below under Response 1.3) and TRC-2 set procedures for the development of site specific treatments if resources are discovered during construction. As described under Mitigation Measure TRC-2, if resources are discovered, work will be halted and the find will be evaluated in consultation with an appropriate Native American representative. At that time, a mitigation plan which includes site specific treatments would be developed and implemented in consultation with tribal representatives.

### Response 1.3

The commenter requests that archaeological monitoring and sampling include screening and specifies protocols for screening such as sample sizes of 50 centimeters by 50 centimeters (50cm x 50cm) and 1 meter by 1 meter (1m x 1m) test units using a 1/8-inch screen.

In response to this comment, the text of Mitigation Measure TCR-1 on Page 83 of the Draft IS-MND has been modified to the following to include the screening of representative soil samples:

**TCR-1 Tribal Cultural Resources Spot-Checking.** Initial project-related ground-disturbing activities shall be spot-checked by a qualified archaeological monitor or by an appropriate Native American representative. Spot-checking shall occur on the first day of ground disturbance, when ground-disturbance moves to a new location on the project site, and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). Each spot-checking visit shall include screening of representative soil samples through 1/8-inch mesh. If archaeological resources are encountered, spot-checking shall be increased to full-time monitoring and, if identified resources are of Native American origin, a Native American monitor shall be retained for the duration of the project. Archaeological spot-checking may be reduced or halted at the discretion of the monitor as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of rough grading.

The project site has been identified by the Lone Band of Miwok Indians as culturally sensitive and there is always potential to encounter subsurface resources during ground disturbing activities; however, no specific tribal cultural resources or archaeological resources have been identified nor is there evidence indicating high enough sensitivity to warrant preconstruction excavation. Thus, the requested requirement of 50cm x 50cm or 1m x 1m test units has not been included. Screening representative soil samples as determined by the qualified archaeological monitor would ensure that cultural resources, if present, would be identified during construction. This revision does not change the findings or conclusions of the IS-MND, which already identified a potentially significant impact and mitigation for tribal cultural resources. Rather, it clarifies and amplifies the information previously provided in the environmental analysis in response to this comment from the Tribe.

### **Response 1.4**

The commenter states an opinion that sites or discoveries not identified in the environmental review process may be subject to further archaeological and cultural significance evaluation in accordance with CEQA. The commenter states that if necessary, a test plan should be written by an archeologist to identify, evaluate, and develop additional avoidance or mitigation measures to treat sites in a culturally appropriate manner.

Mitigation Measure TCR-2 establishes protocols for unanticipated discoveries not identified in the environmental review process. As described on Page 83 of the IS-MND, Mitigation Measure TCR-2 requires that earth-disturbing work stop in the event unanticipated tribal cultural resources are unearthed during construction and that the resources be evaluated by an archeologist in consultation with a Native American representative. If the resources is found to be significant under CEQA, a mitigation plan must be prepared and implementation in consultation with Native American groups. This is consistent with the comment and no changes to the IS-MND are needed.

### **Response 1.5**

The commenter states that the area is culturally sensitive regardless of negative record searches and that there are sites present in and around the area, necessitating the Cultural Resources Treatment Plan.

The City acknowledges that the project site is culturally sensitive. Mitigation Measures TCR-1 and TCR-2, as described on Page 83 of the Final IS-MND and modified in accordance with Response 1.3, are required to ensure proper treatment of tribal cultural resources unearthed during project implementation. With these measures, potential impacts to tribal cultural resources would be less than significant.