
APPENDIX I

NATIVE AMERICAN CONSULTATION

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July 16, 2019

SENT ELECTRONICALLY

Gabrieleno Band of Mission Indians- Kizh Nation
Attn: Andrew Salas
Chairman
P.O. Box 393
Covina, CA 91723

SUBJECT: AB52 CONSULTATION ASSOCIATED WITH THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR PROPOSED ZONE 2 CODE AMENDMENTS TO EXCEPTION CATEGORY "P" OF TITLE 15.20.04 (LANDSLIDE MORATORIUM ORDINANCE) OF THE RANCHO PALOS VERDES MUNICIPAL CODE

Dear Mr. Salas,

On May 20, 2019, City Staff sent you a letter (Attached), which presented an alternative Tribal Cultural Resources mitigation measure to the mitigation measure offered by the Gabrieleno Band of Mission Indians- Kizh Nation related to the above referenced project. In response to the letter and at the request of your office, on June 12, 2019, City Staff participated in a conference call with your office to further discuss the alternative mitigation measure. During the conference call, representatives from your office expressed concerns with the mitigation measure because it did not specifically address the protection of Tribal Cultural Resources.

Based on the feedback from your office and in consultation with the City Attorney's Office, the preparation of the Environmental Impact Report will analyze Tribal Cultural Resources separately and apart from Archeological Resources, as well as prepare corresponding mitigation measures for each of the sections. With respect to the Tribal Cultural Resources mitigation measure, City Staff intends to include the measure listed below:

CR-1 Tribal Cultural Resources Monitoring. Prior to the commencement of grading, the applicant, or its successor, shall retain and pay for a City-approved qualified archaeologist to monitor all ground disturbance activities associated with the project including, but not limited to, grading, excavating, clearing, leveling and backfilling. The evaluation shall be conducted by an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology (National Park Service 1983) and that is qualified to identify subsurface tribal cultural resources. The archaeologist shall observe all ground disturbance activities on the project site at all times the ground disturbance activities are taking place. If ground disturbance activities are simultaneously occurring at multiple locations on the project site, an archaeologist shall be required to monitor each location where the ground disturbance activities are occurring.

Prior to the commencement of any ground disturbance activities at the project site, the applicant, or its successor, shall notify any California Native American tribes that have informed the City that they are traditionally and culturally affiliated with the geographic area of the proposed project that ground disturbance activities are about to commence and invite the tribes to observe the ground disturbance activities, if the tribes wish to monitor.

In the event that any subsurface objects or artifacts that may be tribal cultural resources are encountered during the course of the ground disturbance activities, all such activities shall temporarily cease within the area of discovery, the radius of which shall be determined by the qualified archeologist, until the potential tribal cultural resources are properly assessed and addressed pursuant to the process set forth below:

1. Upon a discovery of a potential tribal cultural resource, an applicant, or its successor, shall immediately stop all ground disturbance activities, and contact the following: (1) all California Native American Tribes that have informed the City that they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and the City's Community Development Department, Planning Division.
2. If the City determines, pursuant to Public Records Code Section 21704 (a)(2), that the object or artifact appears to be a tribal cultural resource in its discretion and supported by substantial evidence, the City shall provide any affected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the applicant, or its successor, and the City regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources.
3. The applicant, or its successor, shall implement the tribe's recommendations if a qualified archaeologist, retained by the City and paid for by the applicant, or its successor, reasonably concludes that the tribe's recommendations are reasonable and feasible.
4. In addition to any recommendations from the applicable tribe(s), the applicant's City-approved qualified archeologist shall develop a list of actions that shall be taken to avoid or minimize impacts to the identified tribal cultural resources substantially consistent with best practices identified by the Native American Heritage Commission and in compliance with any applicable federal, state, or local law, rule or regulation.
5. If the applicant, or its successor, does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist, the applicant, or its successor, may request mediation by the City's mediator. The mediator must have the requisite professional qualifications and experience to mediate such a dispute. The City shall make the determination as to whether the mediator is at least minimally qualified to mediate the dispute. After making a reasonable effort to mediate this particular dispute, the City may: (1) require the recommendation be implemented as originally proposed by the archeologist; (2) require the recommendation, as modified by the City, be implemented as it is at least as equally effective to mitigate a potentially significant impact; (3) require a substitute recommendation to be implemented that is at least as equally effective to mitigate a potentially significant impact to a tribal cultural resource; or (4) not require the recommendation be implemented because it is not necessary to mitigate any significant impacts to tribal cultural resources. The applicant, or its successor, shall pay all costs and fees associated with the mediation.
6. The applicant, or its successor, may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by a qualified archaeologist and determined to be reasonable and appropriate.
7. The applicant, or its successor, may recommence ground disturbance activities inside of the specified radius of the discovery site only after it has complied with all the recommendations developed and approved pursuant to the process set forth in paragraphs 2 through 5 above.

8. Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the South Central Coastal Information Center (SCCIC) at California State University, Fullerton and to the Native American Heritage Commission for inclusion in its Scared Lands File.
9. Notwithstanding paragraph 8 above, any information determined to be confidential in nature by the City Attorney's Office, shall be excluded from submission to the SCCIC or the general public under the provisions of the California Public Records Act and California Public Resources Code.

City Staff appreciates your assistance through the AB52 consultation process and hopes that the proposed mitigation measure is mutually acceptable. Please note that City Staff intends to publicly circulate the Draft Environmental Impact Review with the proposed mitigation measure by the end of July. If you have any questions, please feel free to contact me at (310) 544-5234 or by email at octavios@rpvca.gov.

Sincerely,



Octavio Silva
Senior Planner

Cc: *Ara Mihranian, Director of Community Development*
So Kim, Deputy Director of Community Development
Project File



May 20, 2019

SENT ELECTRONICALLY

Gabrieleno Band of Mission Indians- Kizh Nation
Attn: Andrew Salas
Chairman
P.O. Box 393
Covina, CA 91723

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Dear Mr. Salas,

On November 14, 2018, you submitted a letter to the City requesting consultation regarding the above-mentioned project pursuant to Public Resources Code Section 21080.3.1(d) (Attached). Subsequently, on February 15, 2019, representatives from your office along with City Staff participated in a consultation conference call to discuss the proposed project, as it relates to the preservation of cultural resources in the project area. After the February 15th conference call, City Staff received proposed mitigation measures from your office (Attached) to be considered to be included in the City's environmental document for the proposed project.

City Staff appreciates your assistance in the preparation of the proposed mitigation measures and for the insight into your tribe's rich history on the Palos Verdes Peninsula. City Staff understands the importance of protecting and preserving cultural resources in the area. For this reason and in keeping with the standards listed in your proposed mitigation measures and protecting cultural resources, City Staff offers for consideration the alternative mitigation measure listed below:

CR-1 Archaeological Monitoring. Prior to the commencement of grading, the applicant shall retain a qualified archaeologist to monitor grading and excavation. If archaeological resources are encountered during ground-disturbing activities, work within 100 feet of the find must halt and the find evaluated for significance under CEQA and Section 106 of the National Historic Preservation Act. The evaluation shall be conducted by an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology (National Park Service 1983). If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for CRHR eligibility. If the discovery proves to be significant under CEQA and/or Section 106 of the National Historic Preservation Act and cannot be avoided by the project, additional efforts shall be performed to mitigate any significant impacts to cultural resources. Additional efforts may include, but would not be limited to preparation of an archaeological treatment plan, testing, and data recovery.

This mitigation measures achieves the same level of project oversight during ground disturbance activities as the mitigation measure proposed by your office. In addition, the mitigation measure is consistent with the City's approach in protecting and preserving cultural resources for projects with a similar scope of work.

City Staff looks forward to working with your office on reaching a mutually acceptable mitigation measure(s) for incorporation that take into account your tribe's concerns and the standard practices of the City. **A response from your office regarding the City-prepared mitigation measure by Monday, June 3, 2019, would be greatly appreciated.** Please feel free to contact me at (310) 544-5234 or by email at octavios@rpvca.gov in order to further discuss City Staff's proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'O. Silva', is positioned below the 'Sincerely,' text.

Octavio Silva
Senior Planner

Cc: *Ara Mihranian, Director of Community Development*
So Kim, Deputy Director of Community Development
Project File



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