

# **APPENDIX B**

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ASSEMBLY BILL 52 COMMUNICATIONS



GABRIELENO BAND OF MISSION INDIANS - KIZH NATION  
Historically known as The Gabrielino Tribal Council - San Gabriel Band of Mission Indians  
recognized by the State of California as the aboriginal tribe of the Los Angeles basin

May 13, 2022

Project Name: 444 North Nash Street Data Center Project

Dear Eduardo Schonborn

Thank you for your letter dated May 9, 2022 regarding AB52 consultation. The above proposed project location is within our Ancestral Tribal Territory; therefore, our Tribal Government requests to schedule a consultation with you as the lead agency, to discuss the project and the surrounding location in further detail.

Please contact us at your earliest convenience. ***Please Note: AB 52, "consultation" shall have the same meaning as provided in SB 18 (Govt. Code Section 65352.4).***

Thank you for your time,

Andrew Salas, Chairman  
Gabrieleno Band of Mission Indians – Kizh Nation  
1(844)390-0787

Andrew Salas, Chairman

Albert Perez, treasurer I

Nadine Salas, Vice-Chairman

Martha Gonzalez Lemos, treasurer II

Dr. Christina Swindall Martinez, secretary

Richard Gradias, Chairman of the council of Elders



# City of El Segundo

## Planning Division

June 20, 2022

[VIA EMAIL]

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

Re: 444 North Nash Street Data Center Project

Dear Mr. Salas,

Thank you for your prompt response to our notification of the proposed 444 North Nash Street Data Center Project (Amendment to EA-971) pursuant to Assembly Bill 52 (AB52). We understand based on your recent correspondence that you are not available for a consultation for this Project until June 30, 2022. Given the time constraints associated with the proposed Project, we are writing to ask if you would consider an alternative approach in lieu of having the consultation on June 30<sup>th</sup>. We propose for your consideration that the Applicant would agree to the mitigation measures outlined below, which are consistent with Gabrieleno Band of Mission Indians – Kizh Nation proposed TCR Mitigation Measures for another recent/ representative Los Angeles County project, subject to minor refinements as set forth below.

First, to provide proper context for the activities at 444 North Nash Street, there is currently ongoing work being performed pursuant to the previously approved 2013 T5 Data Center Expansion Project EA 971 (2013 Expansion project) Initial Study/Mitigated Negative Declaration (2013 IS/MND) (RBF Consulting, 2012).<sup>1</sup> Particularly, there are four generators and associated site improvements currently being installed at the property's northeast portion, as part of the 2013 Expansion project. The 2013 Expansion project evaluated archaeological resources as part of the 2013 IS/MND and the 2013 IS/MND for the 2013 Expansion project concluded the following:

*“The Project site has already been subject to extensive disruption and may contain artificial fill materials. Given the highly disturbed condition of the site, the potential for ground-disturbing activities to impact an as yet unidentified archeological resource is considered remote. Therefore, Project implementation would result in*

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<sup>1</sup> Per Sec 11(c), “This act shall apply only to a project that has a notice of preparation or a notice of negative declaration of mitigation negative declaration filed on or after July 1, 2015.” The 2013 Expansion project’s notice period ended January 2, 2013 (<https://ceqanet.opr.ca.gov/2012121003>), thus, is exempt from AB52 requirements.

*a less than significant impact involving an adverse change in the significance of an archaeological resource.”*

The Amendment to EA-971 (current Project) enables the installation of an additional generator and also involves the siting of a drywell on the Project site's northwest corner. Although the property is fully developed, and the current Project site has already been subject to extensive disruption and may contain artificial fill materials associated with the 2013 Expansion project, as well as the property's original development, we desire to facilitate monitoring of the Project site, and thus, offer the measures provided below in lieu of consultation.

If you are in agreement with this alternative approach, please provide your comments to the suggested text refinements below. Otherwise, we will be prepared to consult with you on June 30<sup>th</sup>. We appreciate in advance your considering this alternative approach.

Sincerely,



Eduardo Schonborn, AICP  
Planning Manager

Cc: Project File

## **TCR-1: Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities**

A. The project applicant shall retain a Native American Monitor (“Monitor”) from or approved by the Gabrieleño Band of Mission Indians – Kizh Nation. The monitor shall be retained prior to the commencement of any “ground-disturbing activity” for the subject project at all project locations (i.e., both on-site and any off-site locations that are included in the project description/definition and/or required in connection with the project, such as public improvement work). “Ground- disturbing activity” shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching, where excavation exceeds 3.0 feet in depth.

B. A copy of the executed monitoring agreement shall be submitted to the ~~lead agency~~ City prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.

C. The monitor will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground- disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Tribe. Monitor logs will identify and describe any discovered TCRs, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or “TCR”), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs will be provided to the project applicant/~~lead agency~~ City upon written request to the Tribe.

D. On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the Kizh from a designated point of contact for the project applicant that all ground-disturbing activities and phases that may involve ground-disturbing activities on the project site or in connection with the project are complete; or (2) a determination and written notification by the Kizh to the project applicant that no future, planned construction activity and/or development/construction phase at the project site possesses the potential to impact Kizh TCRs.

E. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Kizh monitor ~~and/or Kizh archaeologist~~. The Kizh will recover and retain all discovered TCRs in the form and/or manner the Tribe deems appropriate, in the Tribe’s sole discretion, and for any purpose the Tribe deems appropriate, including for educational, cultural and/or historic purposes.

## **TCR-2: Unanticipated Discovery of Human Remains and Associated Funerary Objects**

A. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute.

B. If Native American human remains and/or grave goods are discovered or recognized on the project site, then all construction activities shall immediately cease. Health and Safety Code Section 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and all ground-disturbing activities shall immediately halt and shall remain halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe they are Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission, and Public Resources Code Section 5097.98 shall be followed.

C. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2).

D. Construction activities may resume in other parts of the project site at a minimum of 200 feet away from discovered human remains and/or burial goods, if the monitor determines in its sole discretion that resuming construction activities at that distance is acceptable and provides the project manager express consent of that determination (along with any other mitigation measures the Kizh monitor and/or archaeologist deems necessary). (CEQA Guidelines Section 15064.5(f).)

E. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods.

F. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

### **TCR-3: Procedures for Burials and Funerary Remains:**

A. As the Most Likely Descendant (“MLD”), the Koo-nas-gna Burial Policy shall be implemented. To the Tribe, the term “human remains” encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the preparation of the soil for burial, the burial of funerary objects with the deceased, and the ceremonial burning of human remains.

B. If the discovery of human remains includes four or more burials, the discovery location shall be treated as a cemetery and a separate treatment plan shall be created.

C. The prepared soil and cremation soils are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects. Cremations will either be removed in bulk or by means as necessary to ensure complete recovery of all sacred materials.

D. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be

posted outside of working hours. The Tribe will make every effort to recommend diverting the project and keeping the remains in situ and protected. If the project cannot be diverted, it may be determined that burials will be removed.

E. In the event preservation in place is not possible despite good faith efforts by the project applicant/developer and/or landowner, before ground-disturbing activities may resume on the project site, the landowner shall arrange a designated site location within the footprint of the project for the respectful reburial of the human remains and/or ceremonial objects.

F. Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items should be retained and reburied within six months of recovery. The site of reburial/repatriation shall be on the project site but at a location agreed upon between the Tribe and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.

G. The Tribe will work closely with the project's qualified archaeologist to ensure that the excavation is treated carefully, ethically and respectfully. If data recovery is approved by the Tribe, documentation shall be prepared and shall include (at a minimum) detailed descriptive notes and sketches. All data recovery data recovery-related forms of documentation shall be approved in advance by the Tribe. If any data recovery is performed, once complete, a final report shall be submitted to the Tribe and the NAHC. The Tribe does NOT authorize any scientific study or the utilization of any invasive and/or destructive diagnostics on human remains.