



April 27, 2023

SENT VIA EMAIL AND US MAIL

ABS Properties, Inc.
5500 W. Hollywood Blvd.
4th Floor, West Wing
Los Angeles, CA 90028

Subject: 3000 W. Empire Avenue (APN: 21-0007030) – Completeness Letter
SB 35 Project - Notice of Intent (NOI) to Submit Application (Project No. 21-0007030)

Dear Samir Srivastava:

On November 29, 2021, the City of Burbank received your Notice of Intent (NOI) to submit an application for Streamlined Ministerial Approval Process for a proposed 337-unit multifamily residential project located at 3000 W. Empire Avenue (**Proposed Project**). The City reviewed your NOI application and provided you with a SB 35 NOI status letter on December 28, 2021 (Attachment 1).

On June 2, 2022, you provided the City with additional information in response to the City's incomplete letter from December 28, 2021. The City reviewed the additional information and provided a second SB 35 NOI status letter on June 6, 2022 (Attachment 2).

On January 6, you provided the City with additional information in response to the City's second SB 35 NOI status letter from June 6, 2022. After review of the additional information, no further information is requested from the City at this time for the NOI application review.

In accordance with the SB 35 review process outlined in CA Government Code 65913.4, the review of the Proposed Project's complete compliance with all SB 35 eligibility requirements would be conducted once the NOI process has concluded and you have submitted a formal SB 35 streamlined ministerial approval process application to the City.

During the NOI application review process, the City had completed the notification and initiation of consultation process with the California Native American tribes that are traditionally and culturally affiliated with the geographic area of the Proposed Project in accordance with the timeline described in CA Government Code 65913.4.

Receipt of NOI application: November 29, 2021

Formal City notice of NOI application to California Native American Tribes: December 27, 2021

Response from Tribe(s) requesting consultation:

Gabrieleño Band of Mission Indians – KIZH Nation, January 11, 2022;
Fernandeño Tataviam Band of Mission Indians, January 3, 2022.

Initiation of consultation meeting:

Gabrieleño Band of Mission Indians – KIZH Nation, January 27, 2022;
Fernandeño Tataviam Band of Mission Indians, January 25, 2022.

As of this date, the City has also completed the tribal consultation process with two California Native American Tribes that have requested consultation for the Proposed Project. The signed tribal enforceable agreements are attached at the end of this letter (Attachment 3). In accordance with the NOI process outlined in CA Government Code 65913.4, the NOI application review process for the Proposed Project is now considered complete. You may now proceed to submitting a formal SB 35 streamlined ministerial approval process application for the Proposed Project with the City in accordance with the application review procedure as stated per Burbank Municipal Code Section 10-1-19302 (Streamlined Ministerial Approval Process).

The formal SB 35 application can be found at the following link: <https://www.burbankca.gov/web/community-development/forms-and-fees>. Should you have any questions, please feel free to contact me at (818) 238-5250.

Sincerely,



Greg Mirza-Avakyan
Associate Planner

CC: Patrick Prescott, Community Development Director
Fred Ramirez, Assistant Community Development Director – Planning
Scott Plambaek, Planning Manager
Joseph H. McDougall, City Attorney

Attachments

Attachment 1 – SB 35 NOI Status Letter dated December 28, 2021
Attachment 2 – SB 35 NOI Status Letter dated June 6, 2022
Attachment 3 – Tribal Enforceable Agreements

ATTACHMENT 1

SB 35 NOI Status Letter dated December 28, 2021

See link below:

<https://www.dropbox.com/s/tpxgp2gikye6sub/Attachment%201.pdf?dl=0>

ATTACHMENT 2

SB 35 NOI Status Letter dated June 6, 2022

See link below:

<https://www.dropbox.com/s/rv0bz7uvsu52j3l/Attachment%202.pdf?dl=0>

ATTACHMENT 3

Tribal Enforceable Agreements



CITY OF BURBANK
COMMUNITY DEVELOPMENT DEPARTMENT

150 North Third Street, P.O. Box 6459, Burbank, California 91510-6459
www.ci.burbank.ca.us

April 10, 2023

Fernandeño Tataviam Band of Mission Indians
Attn: Sarah Brunzell, THCP Manager
1019 Second Street, Suite 1
San Fernando, CA 91340
Via Email: Sarah.Brunzell@tataviam-nsn.us

RE: AB 168 Acknowledgement of Enforceable Agreement between the Fernandeño Tataviam Band of Mission Indians and the City of Burbank for the Proposed SB 35 Project located at 3000 West Empire Avenue, Burbank, Los Angeles County, California

Dear Ms. Brunzell,

This letter is a follow-up to the AB 168 tribal consultation concluded between the City of Burbank and the Fernandeño Tataviam Band of Mission Indians (FTBMI) regarding the proposed SB 35 Project located at 3000 West Empire Avenue in the City of Burbank. The Project consists of a proposed construction of a new seven-story multi-family residential building consisting of up to potentially 337 rental residential units and an at-grade parking structure.

Based on the information provided and FTBMI's Tribal Resource knowledge, the CRM Division has noted concerns regarding potential for impacts to cultural resources by the proposed Project. Per the Tribal Consultation between the City and the Fernandeño Tataviam Band of Mission Indians, the following language will be made part of the Project's conditions of approval:

- **TCR-1:** The Project applicant shall retain a professional Native American Monitor procured by the Fernandeño Tataviam Band of Mission Indians to observe all clearing, grubbing, and grading operations. If cultural resources are encountered, the Native American monitor will have the authority to request that ground-disturbing activities cease within 60-feet of discovery to assess and document potential finds in real time. One monitor will be required on-site for all ground-disturbing activities in areas designated through additional consultation. However, if ground-disturbing activities occur in more than one of the designated monitoring areas at the same time, then the parties can mutually agree to an additional monitor, to ensure that simultaneously occurring ground-disturbing activities receive thorough levels of monitoring coverage.
 - Any and all archaeological documents created as a part of the project (isolate records, site records, survey reports, testing reports, and monitoring reports) shall be provided to the Fernandeño Tataviam Band of Mission Indians.
 - The applicant and Lead Agency shall, in good faith, consult with the Fernandeño Tataviam Band of Mission Indians on the disposition and treatment of any Tribal Cultural Resource encountered during the Project implementation.

- **TCR-2:** Applicant shall provide notice to FTBMI not less than 14 days prior to commencement of ground disturbing activities to ensure FTBMI has sufficient time to schedule adequate site monitoring personnel.
- **TCR-3:** FTBMI shall be responsible to retain sufficient monitoring personnel to meet its monitoring obligations during all phases of ground disturbing activities. The applicant may, but shall have no obligation to, stop ground disturbing activities in the event FTBMI is not able to attend or monitor the site.
- **TCR-4:** The Project applicant shall pay FTBMI a rate of \$150.00 per hour for all monitoring costs and expenses.
- **TCR-5:** The FTBMI Monitor shall complete monitoring logs on a daily basis, providing descriptions of the daily activities, including construction activities, locations, soil, and any cultural materials identified and available to the City upon request. The on-site monitoring shall end when grading and excavation activities are completed, or when the FTBMI Monitor has indicated that the site has a low potential for cultural resources, whichever occurs first. The City may request a copy of all field documentation from FTBMI Monitor. In addition, the FTBMI Monitor shall provide the City a “closeout report” that addresses the FTBMI Monitor’s role on the project and provides a summary of cultural findings, if any.
- **TCR-6:** FTBMI shall comply with applicant’s site access and workplace safety requirements.
- **TCR-7:** If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

Per Government Code Section 65913.4(b), this concludes the Tribal Consultation process and documents the Enforceable Agreement with FTMBI. Please sign and return the letter acknowledging the Enforceable Agreement between the Fernandeano Tataviam Band of Mission Indians and the City of Burbank. Please contact me at (818) 238-5250 or via e-mail at gmirzaavakyan@burbankca.gov. Thank you for your assistance.

Sincerely,



Greg Mirza-Avakyan
Associate Planner, City of Burbank, Planning Division

Sarah Brunzell

Sarah Brunzell

Tribal Historic and Cultural Preservation Manager
Cultural Resources Management Division
Fernandeño Tataviam Band of Mission Indians

Patrick Prescott

Patrick Prescott, AICP

Community Development Director

Approved as to Form
Office of the City Attorney

Joseph H. McDougall

Joseph H. McDougall
City Attorney



CITY OF BURBANK
COMMUNITY DEVELOPMENT DEPARTMENT

150 North Third Street, P.O. Box 6459, Burbank, California 91510-6459
www.ci.burbank.ca.us

April 10, 2023

Gabrieleño Band of Mission Indians – Kizh Nation
Attn: Andrew Salas, Chairperson
PO Box 393
Covina, CA 91723
Via email: admin@gabrielenoindians.org

RE: AB 168 Acknowledgement of Enforceable Agreement between the Gabrieleño Band of Mission Indians – Kizh Nation and the City of Burbank for the Proposed SB 35 Project located at 3000 West Empire Avenue, Burbank, Los Angeles County, California

Dear Chairperson Salas,

This letter is a follow-up to the AB 168 tribal consultation concluded between the City of Burbank and the Gabrieleño Band of Mission Indians – Kizh Nation (the “Kizh” or the “Tribe”) regarding the proposed SB 35 Project located at 3000 West Empire Avenue in the City of Burbank. The Project consists of a proposed new construction of a seven-story multi-family residential building consisting of up to 337 rental residential units and an at-grade parking structure.

Based on the information provided and Gabrieleño Band of Mission Indians – Kizh Nation’s Tribal Resource knowledge, concern regarding potential for impacts to cultural resources by the proposed Project has been noted. Per the Tribal Consultation between the City and the Gabrieleño Band of Mission Indians – Kizh Nation, the following language will be made part of the project’s conditions of approval:

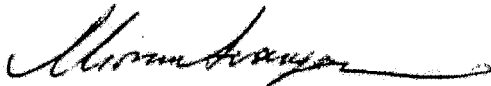
- **TCR-1:** The Project applicant shall retain and compensate a professional Tribal Cultural Resources monitor procured or selected by the Gabrieleño Band of Mission Indians – Kizh Nation (the “Kizh” or the “Tribe”). Prior to the commencement of any “ground -disturbing activity” for the subject project 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. If cultural resources are encountered, the Native American monitor will have the authority to request that ground-disturbing activities cease within 50 feet of discovery to assess and document potential finds in real time. One monitor will be required on-site for all ground-disturbing activities in areas designated through additional consultation. However, if ground-disturbing activities occur in more than one of the designated monitoring areas at the same time, then the parties can mutually agree to an additional monitor, to ensure that simultaneously occurring ground-disturbing activities receive thorough levels of monitoring coverage.
 - Any and all archaeological documents created as a part of the project (isolate records, site records, survey reports, testing reports, and monitoring reports) shall be provided to the Gabrieleño Band of Mission Indians – Kizh Nation.

- The applicant and Lead Agency shall, in good faith, consult with the Gabrieleño Band of Mission Indians – Kizh Nation on the disposition and treatment of any Tribal Cultural Resource encountered during the Project implementation.
- **TCR-2:** Applicant shall provide written notice to the Gabrieleño Band of Mission Indians – Kizh Nation not less than 30 days prior to commencement of ground disturbing activities to ensure the “Tribe” has sufficient time to schedule adequate site monitoring personnel.
- **TCR-3:** The Gabrieleño Band of Mission Indians – Kizh Nation shall be responsible to retain sufficient monitoring personnel to meet its monitoring obligations during all phases of ground disturbing activities. The applicant shall be obligated to contact The Gabrieleño Band of Mission Indians 24-72 hours prior to any ground disturbance activities on the project site, so that there is sufficient monitoring personal to meet its monitoring obligations during all phase of ground disturbance activities and to stop ground disturbing activities in the event Gabrieleño Band of Mission Indians – Kizh Nation is not able to attend or monitor the site.
- **TCR-4:** The Tribe shall charge a fee according to Tribal monitoring services at industry standards for the Tribal monitoring services of all ground disturbances.
- **TCR-5:** The Gabrieleño Band of Mission Indians – Kizh Nation Monitor shall complete monitoring logs on a daily basis, providing descriptions of the daily ground disturbing activities, including construction activities, locations, soil, and any cultural materials identified and available to the City upon request. The on-site monitoring shall end when grading and excavation activities of native soil (i.e., previously undisturbed) are completed, or when the Gabrieleño Band of Mission Indians – Kizh Nation Monitor has indicated that the site has a low potential for cultural resources, whichever occurs first. The Gabrieleño Band of Mission Indians – Kizh Nation 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. The City may request a copy of all field documentation from the Gabrieleño Band of Mission Indians – Kizh Nation Monitor. In addition, the Gabrieleño Band of Mission Indians – Kizh Nation Monitor shall provide the City a “closeout report” that addresses the Gabrieleño Band of Mission Indians – Kizh Monitor’s role on the project and provides a summary of cultural findings, if any.
- **TCR-6:** The Gabrieleño Band of Mission Indians – Kizh Nation shall comply with applicant’s site access and workplace safety requirements
- **TCR-7:** If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

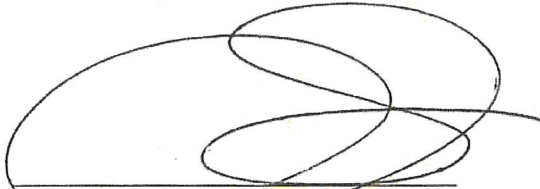
The Tribe considers the amount of compensation related to TCR-1 to be the Tribe's confidential information. Therefore, the rate of compensation for TCR-1 shall be disclosed by the Tribe to the City under separate cover clearly marked "Confidential Information" contemporaneous with execution of this agreement. City intends to disclose the rate of compensation to the Project applicant to ensure the applicant has adequate notice of the scope of conditions to be imposed upon the Project. The City agrees that it will not disclose the Tribe's rate of compensation to any party other than the Project applicant, unless compelled by law to do so (e.g., under the California Public Records Act), provided the City first gives the Tribe sufficient prior notice of such compelled disclosure (to the extent legally permitted) to permit the Tribe a reasonable opportunity to object to the compelled disclosure and to allow the Tribe the opportunity to seek a protective order or other appropriate remedy. The City shall provide reasonable assistance, at the Tribe's cost, if the Tribe wishes to contest the disclosure. The Tribe agrees to indemnify and defend the City in any legal action seeking disclosure of the Tribes confidential information, including payment of all court costs, attorneys' fees and penalties.

Per Government Code Section 65913.4(b), this concludes the Tribal Consultation process and documents the Enforceable Agreement with Gabrieleño Band of Mission Indians – Kizh Nation. Please sign and return the letter acknowledging the Enforceable Agreement between Gabrieleño Band of Mission Indians – Kizh Nation and the City of Burbank. Please contact me at (818) 238-5250 or via e-mail at gmirzaavakyan@burbankca.gov. Thank you for your assistance.

Sincerely,

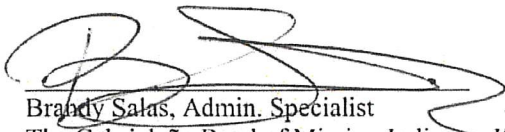


Greg Mirza-Avakyan
Associate Planner, City of Burbank, Planning Division



Andrew Salas, Chairperson
The Gabrieleño Band of Mission Indians – Kizh Nation

(This condition is acceptable for this project only)

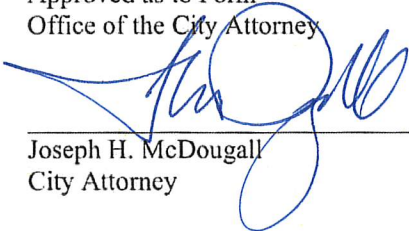


Brandy Salas, Admin. Specialist
The Gabrieleño Band of Mission Indians – Kizh Nation



Patrick Prescott, AICP
Community Development Director

Approved as to Form
Office of the City Attorney



Joseph H. McDougall
City Attorney