



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:

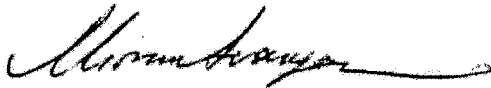
- **TCR-1:** The Project applicant shall retain and compensate a professional Tribal Cultural Resources monitor procured or selected by the Gabrieleño Band of Mission Indians – Kizh Nation (the “Kizh” or the “Tribe”). Prior to the commencement of any “ground -disturbing activity” for the subject project 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 Gabrieleno 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.

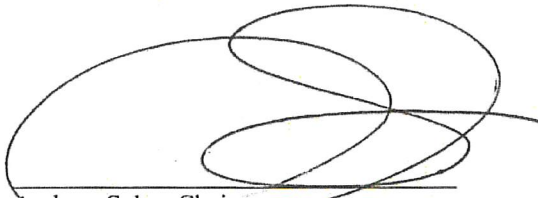
The Tribe considers the amount of compensation related to TCR-1 to be the Tribe's confidential information. Therefore, the rate of compensation for TCR-1 shall be disclosed by the Tribe to the City under separate cover clearly marked "Confidential Information" contemporaneous with execution of this agreement. 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,

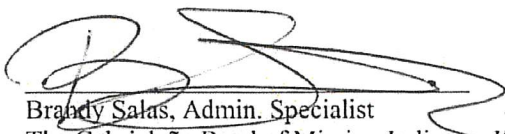


Greg Mirza-Avakyan
Associate Planner, City of Burbank, Planning Division



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

(This condition is
acceptable for this
project only)

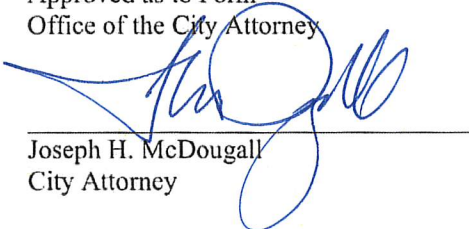


Brandy Salas, Admin. Specialist
The Gabrieleño Band of Mission Indians – Kizh Nation



Patrick Prescott, AICP
Community Development Director

Approved as to Form
Office of the City Attorney



Joseph H. McDougall
City Attorney