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**Re: Cease and Desist Work on Project at Father Serra Park in El Pueblo de Los Angeles Historic Monument without Legal Review and Public Participation**

Dear Mayor Villaraigosa, President Ruiz and President Siguenza:

## **I. Overview**

The undersigned members of a diverse and growing alliance are eager to meet with you forthwith to discuss a resolution of this matter that will benefit all the people of Los Angeles. We demand that the City of Los Angeles (the "City") and each of the above named entities and persons cease and desist any work on the proposed project that includes a concrete, stone, brick and metal pyramid and wall (the "Project") at Father Serra Park in El Pueblo de Los Angeles Historic Monument ("El Pueblo"). The Project has not received proper legal review and approval by government agencies and the public, in violation of state and federal laws and principles, including protections for parks and the environment, historical preservation, Native American sites, equal justice, transparent government and the rule of law in a democratic society.

Father Serra Park in El Pueblo, a one acre oasis of grass and trees in the park starved heart of Los Angeles, is the rich historical site of (1) the Native American Tongva or Gabrieleño village of Yangna; (2) the birthplace of Los Angeles; (3) the Lugo House; (4) Old Chinatown; (5) the Chinatown Massacre of 1871; and (6) the first institution of higher learning in Southern California, St. Vincent's College (which is now Loyola Marymount University). The City has previously recognized that only historical figures who played a role in establishing the City are to be honored at the site, and has rejected other proposals to honor individuals there. The City rejected a proposal for a statue honoring Cesar Chavez, the charismatic founder and leader of the United Farm Workers at Father Serra Park, for example, according to the *Los Angeles Times*.<sup>1</sup> Father Serra Park in El Pueblo is not the right place for the Project, which has no material historical ties to the birthplace of Los Angeles and which would devour priceless parkland which contains grass and trees.

We support Medal of Honor recipients and veterans of the armed forces, who deserve to be honored in the right place in the right way. Appropriate places to honor Medal of Honor recipients include the unused concrete expanse at the Western Gateway of the 16 acre Los Angeles National Veterans' Park and the 115 acre Veterans' National Cemetery on the mile long Veterans' Parkway across from the U.S. Army Reserve Center on Wilshire Boulevard at Federal Avenue and San Vicente Boulevard. Other alternative sites include Fort Moore, Pershing Square, and the 97 acre Veterans' Memorial Community Regional Park. "Many organizations have offered their land to the Obregon Foundation" for the Project. Report No. 20-0002-B from Sam Luna, General Manager, to El Pueblo Board of Commissioners, Feb. 24, 2000, page 2, EP 39. (EP followed by a number refers to pages of the attachments, which are incorporated by reference here.)



*Western Gateway at the 16 acre Los Angeles National Veterans' Park and the 115 acre Veterans' National Cemetery on the mile long Veterans' Parkway on Wilshire Boulevard, across from the U.S. Army Reserve Center.*

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<sup>1</sup> George Ramos, *Veterans Win OK to Honor 39 Latino War Heroes*, L.A. Times, April 5, 2000, EP 111.

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The City of Los Angeles Bureau of Public Works is in the process of building a concrete Project wall *without complying with applicable laws*. The City and Mayor Antonio Villaraigosa have announced a press conference to unveil the Project wall on December 5, 2009. EP 110. The City has removed trees at the site. The City excavated a trench that may have uncovered and destroyed cultural artifacts in the area down by Union Station. This area has been documented to be rich in an unprecedented number of cultural resources, features and objects of Old Chinatown. *See generally* Roberta S. Greenwood, *Down by the Station: Los Angeles Chinatown 1880-1933* (1996). The City has had no archeologist on hand to protect artifacts during construction. The City has erected a curved concrete wall about five feet high by 20 feet long, paved the base of the wall, and replanted the excavated area. The City apparently plans to continue to work on the Project until at least December 5, 2009, in order to list on the concrete wall the names of 3,499 Medal of Honor recipients who have no material ties to El Pueblo and the birthplace of Los Angeles. The City and the Project proponent do not have the funds to complete the \$1.4 million Project or to maintain the Project once it is completed. The cost of erecting the wall alone is estimated to be \$60,000. The Project proponent as of 2006 had only about \$60,000, according to its tax return that year.

The Project proponent is the Eugene A. Obregon Congressional Medal of Honor Memorial Foundation, which was founded in 1993 as a 501(c)(3) non-profit, tax-exempt organization (IRS # 95-4457163). William D. Lansford is the president and CEO of that organization and the lead organizer for the Project. *See* <http://www.obregoncmh.org/thefoundation/index.html>. The organization has been advocating for a monument since 1979.

Cynthia Ruiz, the President of the City of Los Angeles Board of Public Works who has been working with the Project proponent to facilitate construction, has conceded that an environmental impact report (EIR) is required but has not been obtained for the Project. The concrete wall is nevertheless being built without environmental review on the claimed ground that the Project as a whole has “a much bigger footprint” than the concrete wall, according to Ms. Ruiz as quoted in the Downtown News. Richard Guzman, *El Pueblo to Get New Monument*, Oct. 30, 2009, EP 97-98. The Department of Public Works has done the work on the concrete Project wall at the site.

It is imperative that the City cease and desist all activity on the construction of the proposed Project *now* to enable proper review and compliance with applicable laws, to prevent further damage to the historical integrity of the site, to preserve priceless green space in a park poor city, to prevent squandering of public and private funds, to prevent creating unfair expectations in members of the public, and to enable the State of California to take back the site of Father Serra Park and El Pueblo under the terms of the legislation and deed that transferred the property from the state to the City.

## **II. SUMMARY OF THE FACTS**

### **A. The Rich History of El Pueblo**

#### **1. El Pueblo de Los Angeles Historic Monument**

El Pueblo contains the site of the original Pueblo de Los Angeles, which was founded in 1781 by the multicultural Pobladores at the site of the Native American Tongva or Gabrieleño village of Yangna. *See* William Estrada, *The Los Angeles Plaza: Sacred and Contested Space* (2008); Jean Bruce Poole and Tevvy Ball, *El Pueblo: The Historic Heart of Los Angeles* (2002); El Pueblo de Los Angeles State Historic Park *General Plan* (1981), available on the web at [www.cityprojectca.org/elpueblogeneralplan](http://www.cityprojectca.org/elpueblogeneralplan). El Pueblo is a National Historical Site registered with the National Park Service. *See* <http://www.nps.gov/history/nr/travel/ca/ca12.htm>. El Pueblo, a Department of the City, consists of 44 acres bounded roughly by Alameda, Arcadia, Cesar Chavez and Spring Streets. El Pueblo receives two million visitors per year.

These papers will refer to El Pueblo de Los Angeles Historic Monument as “El Pueblo de Los Angeles Historic Monument” or “El Pueblo” or “the Monument.” El Pueblo is also known as: El Pueblo de Los Angeles State Historic Park; Los Angeles Plaza Historic District; El Pueblo de Los Angeles Historical Monument Authority Department; El Pueblo de Los Angeles Historical Monument Authority Commission; El Pueblo de Los Angeles Historical Monument Authority; the Plaza of Los Angeles, and Olvera Street. These papers will refer to the department that manages El Pueblo as the “Department,” and to the commission that governs El Pueblo as the “Commission.” Information about El Pueblo, the Department, and the Commission is available on the official web site at <http://elpueblo.lacity.org/elpau.htm>.

The mission of El Pueblo de Los Angeles Historic Monument is to effectively manage the commercial, historic and cultural resources of El Pueblo. *See* <http://elpueblo.lacity.org/elpmission.htm>.

Other City departments provide services at El Pueblo. For example, the Bureau of Public Works is doing the work on the concrete Project wall. The Department of Recreation and Parks provides landscaping, tree trimming and grounds keeping services. The Department of General Services provides maintenance, custodial, parking and security services. *See generally* <http://elpueblo.lacity.org/elpadm1.htm>.

#### **2. Father Serra Park at El Pueblo**

Father Serra Park in El Pueblo is a rich historic site at the birthplace of Los Angeles that provides a one acre oasis of grass and trees in the park starved heart of Los Angeles.

Father Serra Park is at or near the site of the ancient Tongva or Gabrieleño site of Yangna. The Tongva or Gabrieleño people who lived at or near El Pueblo for about 3,000 years were for the most part exterminated by succeeding onslaughts of Spaniards, Catholic missionaries, Mexicans, and Yankees beginning in the late 1700s. About 200 Tongva/Gabrieleños lived in Yangna, the largest of some 100 villages that were home to about 5,000 Native Americans in the Los Angeles region, when the Spaniards arrived in 1769. Eventually, the Tongva/Gabrieleños were relocated

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to the east side of the Los Angeles River. In the mid-1800s, Yangna was destroyed. *See generally* Nancy Bonvillain, *Native Nations: Cultures and Histories of Native North Americans* 393 (2001); Cecilia Rasmussen, "L.A. Then and Now: A Sycamore Deeply Rooted in the City's Past," *L.A. Times*, Sept. 2, 2002. Today a plaque across at Union Station across Alameda Street from Father Serra Park commemorates Yangna and the Tongva/Gabrieleño people. The small Tongva/Gabrieleño plaque would be dwarfed in comparison to the proposed Project.



*Yangna Plaque across from Father Serra Park at Union Station*

A photograph of the plaque is available on the web at <http://www.flickr.com/photos/cityprojectca/899829816>.

1,428 sets of the remains of Tongva or Gabrieleño people have been discovered during Phase I of the Playa Vista Project, with the City of Los Angeles as the 'lead agency' under the California Environmental Quality Act and the Corps of Engineers as the lead federal agency under the National Environmental Protection Act and the National Historic Preservation Act section 106.

Father Serra Park is on the site of the Lugo House, the home of one of the great ranchero families in El Pueblo and the wealthiest family in Southern California during the 1850s. The house, built around 1838, was demolished in 1951 despite efforts by Chinese merchants to save it, two years before the dedication of El Pueblo as a historical monument. The first photograph of Los Angeles includes the Lugo House and the site of Father Serra Park. *See Estrada, The Los Angeles Plaza: Sacred and Contested Space* 65, 104, 242-45; Poole and Ball, *El Pueblo: The Historic Heart of Los Angeles* 34, 55; *El Pueblo General Plan*, Plaza Area in 1830, 1855, 1870, 1888, 1925, 1979, pages 135-45, EP 88-93; *El Pueblo General Plan*, Interpretive Facilities Matrix, page 82, EP 86.



*First photograph of Los Angeles shows the Lugo House across the Plaza at center left. Los Angeles Public Library/Security Pacific Collection*

Father Serra Park is also on the site of St. Vincent's College, the first institution of higher learning in Southern California, which was first located in 1866 at the site of the Lugo House. St. Vincent's College is now Loyola Marymount University. *See Estrada, The Los Angeles Plaza: Sacred and Contested Space 88-89; Poole and Ball, El Pueblo: The Historic Heart of Los Angeles 55.*

Father Serra Park is also on the site of Old Chinatown. *See Estrada, The Los Angeles Plaza: Sacred and Contested Space 242-45; Poole and Ball, El Pueblo: The Historic Heart of Los Angeles 55.* The Chinese first arrived in California driven by dreams of opportunity beginning with the 1849 Gold Rush. Barred from the most lucrative gold mining work, they turned to the railroads and domestic work for a livelihood. The Chinese were discriminated against, denied a decent livelihood, dehumanized, and lynched. They were not allowed to go to public schools. They were denied citizenship and the rights to vote and to own property. They could not testify in court. The Chinese Exclusion Act of 1882 banned immigration by Chinese laborers into the United States for the next 60 years, and barred immigrants already here from becoming naturalized citizens or having their spouses join them. By the end of the nineteenth century, the Chinese had been systematically squeezed into a small area east of the Plaza in the center of El Pueblo where Father Serra Park and Union Station are today through discriminatory enforcement of health regulations, arson, violence, and the destruction of buildings as a result of racial discrimination and fears that Chinese would lower property values. Until after World War II, most Chinese could not rent an apartment or buy a home in most parts of Los Angeles. *See generally Jean Pfaelzer, Driven Out: The Forgotten War against Chinese Americans (2008); Stephen E. Ambrose, Nothing Like It in the World: The Men Who Built the Transcontinental Railroad 1863-1869 at 150-51 (2000); David Howard Bain, Empire Express: Building the First Transcontinental Railroad 205-07 (1999).*

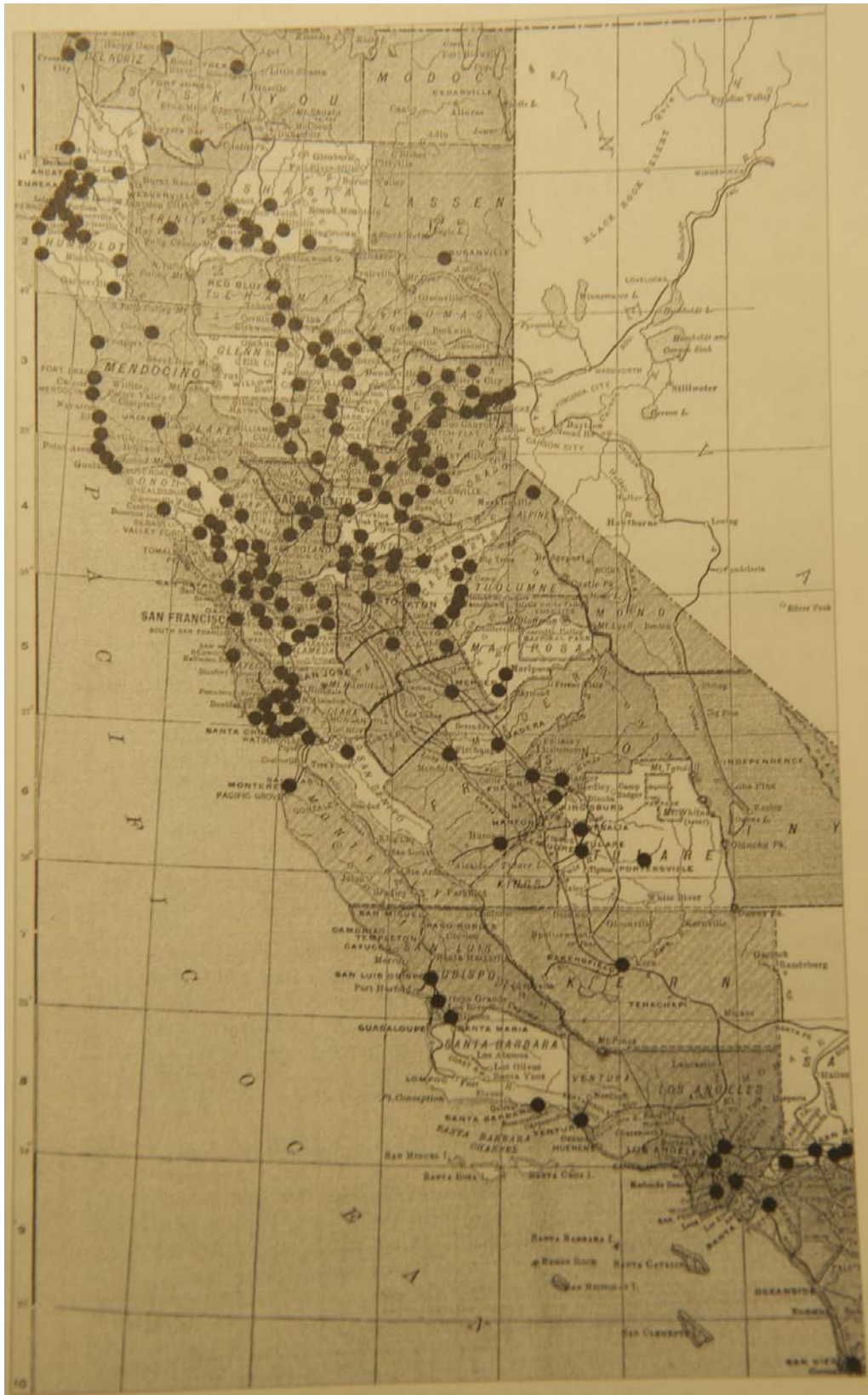


*Calle de los Negros or "Nigger Alley" in Chinatown*

In 1871, a mob that included police officers committed the lynching murders of nineteen Chinese residents at or near the site of Father Serra Park. The Chinatown Massacre first brought Los Angeles to national and international attention. The Massacre started on Calle de los Negros -- also known as "Nigger Alley" at the time -- on what is now Los Angeles Street between Union Station and the Chinese American Museum. *See generally* Pfaelzer, *Driven Out: The Forgotten War against Chinese Americans*, 47-56; Robert S. Greenwood, *Down by the Station: Los Angeles Chinatown, 1880-1933* at 10-12, 37-40 (1996); Estrada, *The Los Angeles Plaza: Sacred and Contested Space* 73-78; Poole and Ball, *El Pueblo: The Historic Heart of Los Angeles* 33. The Chinatown Massacre reflects a pattern by which Chinese were driven out from communities throughout California in an "unrelenting confrontation with human cruelty." Patricia Nelson Limerick, *Witnesses to Prosecution*, N.Y. Times Sunday Book Review, July 29, 2007. *See generally* Pfaelzer, *Driven Out: The Forgotten War against Chinese Americans*.



*Victims of the Chinatown Massacre of 1871 lie dead in the jail yard. Los Angeles Public Library, Security Pacific National Bank Collection.*



*There were more than 200 roundups of Chinese Americans in California, 1846-1906. Pfaelzer, Driven Out: The Forgotten War against Chinese Americans ix.*

In the 1920s and 1930s, the railroads—Union Pacific, Southern Pacific, and the Atchison, Topeka & Santa Fe—planned to construct a terminal downtown. Old Chinatown was destroyed and residents were relocated to the present site of new Chinatown to make room for Union Station across the street from Father Serra Park. The City Municipal Housing Commission did not even approve a plan to relocate Chinatown until weeks after the demolition started. Today Union Station is listed in the National Register of Historic Places for its architectural, historic, and archeological values. Roberta S. Greenwood, *Down by the Station: Los Angeles Chinatown, 1880-1933* at 10-12, 37-40 (1996); Estrada, *The Los Angeles Plaza: Sacred and Contested Space* 177-81, 215-19, 226-29; Poole and Ball, *El Pueblo: The Historic Heart of Los Angeles* 122-23.

“Perhaps most intriguing for our . . . history is that Serra Park in this vicinity contains the remaining indications of the legendary tunnels of Old Chinatown . . . . The best estimation of scholars . . . indicates that these remembered tunnels, yet to be verified, are interconnected basements created by the Chinese residents, at this very location.” Letter from Daisy Ma to Mayor Villaraigosa, Oct. 3, 2009, EP 96.

The original settlers of El Pueblo, Los Pobladores, included Blacks, Indians and mulattos. A Black man, Francisco Reyes, served as alcalde (mayor) of El Pueblo in 1793, almost two hundred years before Tom Bradley, the first Black man elected mayor under statehood. The last Mexican governor of California before statehood, Pío Pico, was born of African, Native American, and European ancestry under a Spanish flag. Biddy Mason, one of the most prominent citizens of early Los Angeles, was born a Black slave in Mississippi. She gained her freedom in Los Angeles through a federal court order in 1856. With savings earned as a midwife, Biddy Mason bought a homestead a few blocks south of the Plaza. She helped found the First African Methodist Episcopal Church, one of the most influential and affluent African American churches in the City today. See, e.g., Estrada, *The Los Angeles Plaza: Sacred and Contested Space* 62-63; Poole and Ball, *El Pueblo: The Historic Heart of Los Angeles* at 11, 30-31.

## **B. Park Poverty**

Father Serra Park and El Pueblo are in one of the most park starved areas in the state. Los Angeles is park poor, and there are unfair disparities in access to parks and green space. Children of color living in poverty with no access to a car have the worst access to parks, to schools with playing fields of five acres or more, and to a decent and reliable transit system to reach parks and school fields, and suffer from the highest levels of child obesity.

Thus, for example, City Council District 14 (Huizar) which includes El Pueblo and Father Serra Park has 2.12 net acres of urban parks per thousand residents, compared 15.86 net acres in District 12 in the West San Fernando Valley. There are 2.12 total acres of parks per thousand residents in District 14, compared to 57.68 in District 11 in West Los Angeles. CD 14 is populated disproportionately by low income people and people of color. A map and demographic analysis are available at EP 148-50 and on the web at <http://tinyurl.com/6qlq9b>.

The lack of green space in parks and schools has profound social justice implications. Low income people of color are disproportionately deprived of the benefits of green space including the simple joys of playing in the park and school field; youth development including improved

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academic performance and positive alternatives to gangs, crime, drugs and violence; and places for physical activity to promote human health and reduce obesity and diabetes.

The City has long known of these unfair disparities in access to the benefits of green space. *See generally* **Error! Contact not defined.** and Aubrey White, *Healthy Parks, Schools and Communities: Mapping Green Access and Equity for the Los Angeles Region* (2007), EP 113, available on the web at <http://tinyurl.com/y8mtobl>; Los Angeles City Controller Laura Chick, Audit of Department of Recreation and Parks, available at <http://www.cityprojectca.org/blog/archives/255>.

### C. The Proposed Project

The proposed concrete, stone, brick and metal Project would devour priceless green space and be inconsistent with the history of Father Serra Park in the “most prestigious location . . . between Union Station and Olvera Street, within the historic and cultural heart of el Pueblo de Nuestra Señora de los Ángeles y Porciúncula, where our city was born,” according to the Project proponent. [http://www.obregoncmh.org/mnmnt\\_siting/index.html](http://www.obregoncmh.org/mnmnt_siting/index.html). There are appropriate alternative sites for the Project at the Los Angeles National Veterans’ Park and National Veterans’ Cemetery, Fort Moore, Pershing Square, and the Veterans’ Regional and Community Park, as discussed above.



*Father Serra Park in El Pueblo de Los Angeles Historic Monument showing the concrete Project wall under construction on November 19, 2009.*



*A deceptive and misleading artist's rendering depicts the concrete, stone, brick and metal Project. See <http://www.obregoncmh.org/indexHome.html>.*

The Project would cost a projected \$1.4 million, which the City and the Project proponent do not have. The pyramid would be 20 feet (about two stories) high by 12 feet by 12 feet. The pyramid will sit in the center of three concentric circles of paving bricks, colored copper, bronze, and gold (this is not shown in the artist's rendering). Whoever pays from \$5,000 to \$100,000 will have their names on the pavers (this is not shown in the artist's rendering). Benches will be placed at three-fourths of the periphery of the outermost brick circle (this is not shown in the artist's rendering). A concrete wall listing 3,449 Medal of Honor recipients since 1862 will stand on the north side of the Project. See generally El Pueblo Commission Minutes, p. 2, Aug. 13, 2009, EP 80; <http://www.obregoncmh.org/cmhmonument/index.html>; [http://www.obregoncmh.org/mnmnt\\_siting/index.html](http://www.obregoncmh.org/mnmnt_siting/index.html); <http://www.obregoncmh.org/sponsorship/index.html>.

Although the Project would cost a projected \$1.4 million, the project Proponent had only \$61,261 as of the end of 2008, according to the tax return filed with the Internal Revenue Service. 2006 Form 990-EZ, Short Form Return of Organization Exempt from Income Tax for Eugene A. Obregon Congressional [sic], EP 99. The organization raised \$1,374 and had \$2,991 in expenses for a net loss of \$1,617 in 2006. It raised \$21,435 in 2005, \$15,479 in 2004, \$10,032 in 2003, and no money in 2002, according to the 2006 tax return. *Id.*, EP 99, 105. At that rate, it will take the proponent almost 145 years to raise \$1.4 million, without taking into account maintenance, inflation or the time value of money.

The City and the proponent are marketing the Project with a deceptive and misleading artist's rendering that is not to scale and that fails to show the true impact of the concrete, stone, brick and metal on Father Serra Park in El Pueblo. The rendering downplays the size and scope of the Project to make the impact appear less than it really is on the Park and green space. The rendering, for example, does not show the concentric brick circles colored copper, bronze and gold, or the benches at the outermost circle. The 20 foot, two story high pyramid apparently will be bigger than shown in the artist's rendering. The rendering inconsistently depicts the relative sizes of the people, pyramid, and wall. The man and boy looking at the wall with their backs to

the viewer are dwarfed by the people standing next to them. This confusing and internally inconsistent use of different scales depicted in the rendering is like the clock that strikes thirteen – it calls into question everything that went before.

There have been plaques honoring Medal of Honor winners since 2004 and Mexican American veterans since 1980 at Father Serra Park. The Medal of Honor plaque is available at <http://www.flickr.com/photos/cityprojectca/4113740669>. The Mexican American veterans plaque is available at <http://www.flickr.com/photos/cityprojectca/4114510548>.

Project proponents seek to honor Pfc. Eugene Obregon, a WWII Medal of Honor recipient, by placing his statue on the pyramid. Pfc. Obregon deserves to be honored, and he has been. He was the first Marine to have a Navy ship named after him, the SS Pfc. Eugene A. Obregon. Richard Guzman, *El Pueblo to Get New Monument*, Oct. 30, 2009, EP 97-98. Three parks, an American Legion post and a school in Southern California have also been named for Obregon. George Ramos, *Veterans Win OK to Honor 39 Latino War Heroes*, L.A. Times, April 5, 2000, EP 111.

Images of the proposed Project under construction are available on the web at <http://www.flickr.com/photos/cityprojectca/sets/72157622703438619>.

#### **D. Substantive and Procedural Irregularities in Project Review and Approval**

While there are undocumented claims that the concrete wall or even the Project as a whole has received final approval and necessary permits, investigation has demonstrated no support for such claims of compliance with applicable laws.

El Pueblo should revert to the state because of the City's failure to comply with the legislation transferring El Pueblo from the state to the City, the *El Pueblo Policy Regarding Monuments*, the General Plan for El Pueblo, and the Secretary of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures" in reviewing the Project.

The legislation governing the transfer of El Pueblo from the state to the City provides as follows:

1. The development and operation of El Pueblo "shall conform to the general plan for El Pueblo de Los Angeles State Historic Park."
2. "The City of Los Angeles shall operate, improve, maintain, construct, remodel, and perform any and all necessary activities at the historic monument . . . in compliance with the United States Secretary of the Interior's 'Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures.'"
3. "Upon any breach of any of these conditions, the state may reenter the property, and upon that reentry, the interest of the City of Los Angeles shall terminate and ownership shall be entirely in the state."

The deed transferring El Pueblo from the state to the City contains parallel provisions. Oct. 28, 1988, deed for El Pueblo. EP 7-8. *Accord*, Report 64-90 from J. Bullard, General Manager, to the City of Los Angeles Board of Recreation and Parks, Feb. 12, 1990, EP 23. The Department of Interior's Standards and Guidelines on Historic Structures are available online at [http://www.nps.gov/history/hps/tps/standards/standards\\_complete.pdf](http://www.nps.gov/history/hps/tps/standards/standards_complete.pdf).

After significant controversy, the El Pueblo Commission passed a motion on March 30, 2000, giving only conceptual approval for the Project, but final approval has not been obtained. The Commission voted:

*to give conceptual approval for the placement of a monument in Father Serra Park, as an exception to the El Pueblo policy on Plaques and Monuments, with the understanding that the exact locations and size have not yet been determined, and with the understanding that the Commission has reservations about the design.*

March 30, 2000, El Pueblo Commission minutes, EP 65 (emphasis added).

It is critical to emphasize that *over nine years later the proposed Project has never complied with the necessary conditions or received final approval.*

The *El Pueblo Policy Regarding Monuments* explicitly lays out the conditions and steps necessary to obtain not only conceptual approval but most importantly final approval – conditions and steps that are not satisfied here:

#### BASIC CONDITIONS FOR APPROVAL

2. Cost: The cost of design, fabrication, and installation must be financed by the requesting party. [The Project proponent does not have \$1.4 million for the Project.]
3. Maintenance: The requesting party must agree to provide professional maintenance of the proposed monument for at least ten years. [The Project proponent does not have the resources for maintenance.]
4. Recognition of Individuals and Groups: Only those who made a material contribution to the founding of the City of Los Angeles or the history of El Pueblo de Los Angeles Historical Monument will be considered. [The 3,499 Medal of Honor recipients did not make a material contribution to the founding of the City or the history of El Pueblo.]

#### APPROVAL PROCESS

Should conceptual approval be granted, the requesting party will then be required to complete the following steps before requesting final approval: [The proponent has not requested final approval] . . .

B. Complete financing or fund raising activities. [The proponent has not completed or even made material progress to raise the \$1.4 million projected cost].

D. Obtain all required permits for installation of the monument after it has been fabricated, including a building permit from the Department of Building and Safety if required. [No permits have been obtained.]

4. Final Approval: Once all the requirements listed above have been completed, staff will return the project to the Commission for final approval and issuance of a right-of-entry permit. The right-of-entry permit will allow the requesting party to physically install the monument at the predesignated site on El Pueblo property. [The Project has not returned to staff and the Commission has not granted final approval or a right of entry permit.]

*El Pueblo Policy Regarding Monuments*, pages 1-2, EP 45-46. The Report from the General Manager to the Commission is in accord on the steps necessary to obtain final approval. *See* Report No. 20-0002-B from Sam Luna, General Manager, to El Pueblo Board of Commissioners, Feb. 24, 2000, page 5, EP 42.

UCLA History Prof. Juan Gómez-Quiñones, at the time a member of the El Pueblo Commission, outlined positive alternatives requiring approval for the proposed Project. These steps have not been followed:

1. [The] El Pueblo . . . guidelines are to be followed. . . . The History department will oversee the project.
4. The site of the memorial will be on the most appropriate El Pueblo placing for it: Following the recommendations of El Pueblo staff.
5. The process for artistic conceptualization will be through an appropriate panel or artists and historians. The Commission will select the Chair. Concepts will be solicited by invitation to the public for submissions of appropriate concepts. These are to be symbolic, i.e. no direct rendering of a single individual in order to stress inclusiveness of those who have served and sacrificed – all are worthy to be memorialized.
6. The commission will vote on the final 3 alternative panel recommendations by majority vote. . . .
8. 2 year timeline from competition to public inauguration.

Memo from Juan Gómez-Quiñones, Commissioner, to Philip Bartennetti, President of the Board of Commissioners, Feb. 24, 2000, EP 1-2.

Prof. Gómez-Quíñones eloquently concluded as follows:

I have specific doubts about the Obregon committee proposal, its initiators and what its process has been to date. The city can be served much better [than] what individuals supporting the Obregon project have proffered. I respectfully believe their actions, concepts, design, rudimentary planning, and even intentions have been, if not wrong, amiss, for achieving a worthy monument to be cherished by all in the future. We should reflect on their assertion, if true, that they have been working since 1979. I do not doubt there would be some achievements by these initiators. I believe their achievements will be far less than what ought to be and can be. Certainly the particularism of the proposal should be jettison and the commission should insure that if there are partnerships, these should be stable and professional. The demand for Serra Park should be rejected. Both the city council and the commission would have better results if they do their own project with full support and adequate resources.

*Id.*

Dr. William Estrada and Jean Bruce Poole, as the professional staff directly responsible for the conservation and interpretation of the history of El Pueblo, repeatedly informed the Commission that El Pueblo is an inappropriate place for the Project. Dr. Estrada and Ms. Poole are the leading experts on the history of El Pueblo. Dr. Estrada, author of the history book *The Los Angeles Plaza: Sacred and Contested Space* (2008), and Curator of California and American History and Chair of the History Department for the Natural History Museum of Los Angeles County, formerly served as Curator of History at El Pueblo. Ms. Poole, co-author of the history book *El Pueblo: The Historic Heart of Los Angeles* (2002), was Historic Museum Director and Senior Curator at El Pueblo.

Dr. Estrada and Ms. Poole in 2000 summarized the reasons why Father Serra Park is not an appropriate place for the Project while they were in charge of the History Department at El Pueblo. These reasons remain fully applicable today:

1. The Obregon/CMH concept does not fit into the general interpretive theme of El Pueblo as expressed through our *Mission Statement* . . . .
2. In terms of scale and design motif, the proposed 20-foot-high monument will create an imposing visual and interpretive imbalance in relation to all existing and future monuments at El Pueblo. As a result, the proposed monument will become the most recognized visual identifier for El Pueblo Monument and will therefore have a major influence on our public image.
3. Because of its proposed size and location in Father Serra Park, the Obregon/CMH Monument will have the net effect of taking away the last green space at El Pueblo, which is desperately needed, especially as a future interpretive and picnic area.
4. Because of its proposed size and location, the monument will also diminish the visual and interpretive impact of proposed-future monuments honoring the contributions of prominent Mexicans such as Governor Pío Pico or Judge Agustin Olvera to the development of Los Angeles.

5. Because of its theme as a “war memorial,” the current theme of the site honoring Father Junipero Serra, the founder of the California Missions, will be fundamentally altered and may therefore necessitate a name change of the site since the two themes, war and religious piety, appear to be incompatible. Furthermore, a major theme of the proposed monument, Latino heroism during the Korean War, may also raise sensitive racial issues for the Los Angeles Asian American community, given the proposed location of the monument diagonally across from the new Chinese American Museum.
6. While it is not our charge to question the Obregon/CMH Monument’s chosen design, a stylized and glorified pre-Columbian pyramid evocative of Chicano art forms of the 1960s, the question of aesthetics necessitates a critique when we consider the placement of this monument at El Pueblo. Specifically, in view of the current seismic stabilization and renovation of our buildings and open spaces, which seeks to integrate current building code compliance with good taste and sound historic preservation, we believe that the architectural and aesthetic continuity of El Pueblo which is presently undergoing an exciting period of revival, will be seriously compromised with the placement of the Obregon/CMH Monument.

Bill Estrada and Jean Bruce Poole, *Recommendation against the Placement of the Memorial* (undated; approximately Feb. 15, 2000), EP 5; *accord*, Jean Bruce Poole and Bill Estrada, *Memo to Samuel Luna re Obregon/CBH Memorial Review*, Feb. 18, 2000, EP 3-4.

Project proponent Bill Lansford without providing any support told the El Pueblo Commission that “the plans were already approved” on October 12, 2006, Oct. 12, 2006, El Pueblo Commission minutes, EP 71.

### **III. Controlling Legal Authorities**

The City, in reviewing the Project and beginning construction of the concrete wall, has not complied with controlling legal authorities including but not limited to: environmental laws; the legislation transferring El Pueblo from the state to the City; the deed transferring El Pueblo from the state to the City; the *El Pueblo Policy Regarding Monuments*; the *El Pueblo General Plan*; the Department of Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures,” the City’s cultural and heritage ordinance, and other historic preservation laws; laws protecting Native American sites that require respectful government to government consultations; and civil rights laws that prohibit both intentional discrimination and discriminatory impacts by recipients of state and federal funds including the City of Los Angeles.

Bureau of Public Works President Ruiz has conceded that the Project requires an environmental impact report but none has been prepared. Richard Guzman, *El Pueblo to Get New Monument*, Oct. 30, 2009, EP 97-98. “If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.” 14 CCR §15064 (a) (1). Proper environmental review under state and federal environmental laws would include analysis of each of the matters and legal authorities discussed in the present demand letter.

There is no justification for the conceded failure to prepare even a mitigated negative declaration before going forward with the Project wall. “A determination that a project does not require an EIR, when that project is not exempt from environmental study under the act or guidelines, must take the form of a written Negative Declaration.” *No Oil Inc. et al. v. City of Los Angeles et al.*, (1974) 13 Cal. 3d 68, 80; *see also* Pub. Resources Code §21080 (c). “Absent such a written determination, there is no way a court can determine whether agency silence represents a decision that a project does not require an EIR or a failure to decide that issue.” *No Oil Inc. et al. v. City of Los Angeles et al.*, (1974) 13 Cal. 3d 68, at 80.

Andrew Cuomo, then Secretary of Housing and Urban Development, recognized that proper review requires an “a full blown assessment” of the environment and environmental justice impacts color including the range of alternatives considered by the City in response to an administrative complaint to stop warehouses in favor of what is now the Los Angeles State Historic Park near El Pueblo. Letter from Senior Counsel to Secretary Cuomo to Deputy Mayor Rocky Delgadillo, Sept. 25, 2000, EP 151-52.

The City has violated the legislation transferring El Pueblo from the state to the City; the deed transferring El Pueblo from the state to the City; the *El Pueblo Policy Regarding Monuments*; the *El Pueblo General Plan*; and the Department of Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures,” the City’s Cultural Heritage Ordinance, Los Angeles Administrative Code Chapter 9, Division 22, Article 1, Section 22.171.7, and other historic preservation laws in connection with the Project for the reasons discussed in Part II (D) above.

The City has violated the laws protecting Native American sites by not engaging in respectful government to government consultations with Native Americans about the impact of the Project on the site of Yanga. *See, e.g.*, National Historic Preservation Act, § 106, 16 U.S.C. § 470, and its regulations, 36 C.F.R. 800.5-800.6; Cal. Public Resources Code §§ 5097.9 and 5097.995; SB 18; State of California Tribal Consultation Guidelines; Sacred Lands File Inventory, Cal. Public Resources Code § 5097.94(a).

The City has violated state and federal civil rights laws that prohibit both intentional discrimination and discriminatory impacts regardless of intent based on race, color or national origin by recipients of state and federal funds including the City of Los Angeles. Title VI of the Civil Rights of 1964 and its implementing regulations prohibit both (1) intentional discrimination based on race, color or national origin, and (2) unjustified discriminatory impacts for which there are less discriminatory alternatives, by recipients of federal financial assistance. Intent to discriminate is not required under the regulations.

To receive federal funds, a recipient must certify its programs and activities comply with Title VI and its regulations. *Guardians Ass’n v. Civil Service Comm’n*, 463 U.S. 582, 629 (1983). In furtherance of this obligation, recipients must collect, maintain, and provide timely, complete, and accurate compliance information. *Cf.* Executive Order 12,898 on Environmental Justice. The federal government has recently reemphasized the need for recipients to comply with Title VI and its regulations. *See* memo from Loretta King, Acting Assistant Attorney General for Civil Rights, to Federal Agency Civil Rights Directors and General Counsels re: *Strengthening of Enforcement of Title VI of the Civil Rights Act of 1964* (July 10, 2009), available at

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[http://www.usdoj.gov/crt/lep/titlevi\\_enforcement\\_memo.pdf](http://www.usdoj.gov/crt/lep/titlevi_enforcement_memo.pdf), citing Memo from the Assistant Attorney General to Executive Agency Civil Rights Directors, *Enforcement of Title VI of the Civil Rights Act of 1964 in Block Grant-Type Programs* (Jan. 28, 1999), <http://www.justice.gov/crt/cor/Pubs/blkgrnt.php>; Peter R. Orszag, Director, Office of Management and Budget, *Memorandum re: Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, April 3, 2009, at page 2 and Guidance at page 6, available at [www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-15.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf); U.S. Dep't Justice, Civil Rights Division, *Title VI Legal Manual*, <http://www.justice.gov/crt/cor/coord/vimanual.php>; *Rosemere Neighborhood Ass'n v. United States Environmental Protection Agency*, 581 F.3d 1169, 1175 (9th Cir. 2009) (condemning EPA's failure to investigate environmental justice complaints).

California law prohibits both intentional discrimination and unjustified discriminatory impacts under Government Code section 11135 and its regulations, which are analogous to Title VI and its regulations. Cal. Gov. Code § 11135; 22 CCR § 98101(i) (2007). *See Darensburg v. Metropolitan Transportation Commission*, 2008 U.S. Dist. LEXIS 63991 (N.D. Cal., Aug. 21, 2008) (standing to sue publicly funded agency for discriminatory impacts on quality of life for people of color).

California law defines environmental justice as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” Cal. Gov. Code § 65040.12. *See also* Guidelines § 15131 (social or economic effects caused by project may be used to determine the significance of physical changes and vice versa); *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004), 124 Cal. App. 4th 1184, 22 Cal. Rptr. 3d 203; *Christward Ministry v. Superior Court* (1986) 184 Cal. App. 3d 180, 197, 228 Cal. Rptr. 868.

The inquiry under the disparate impact standard is: (1) whether an action has a disproportionate impact based on race, national origin, or color; (2) if so, the recipient bears the burden of proving the action is justified by business necessity; and (3) even if otherwise justified, the action is prohibited if there are less discriminatory alternatives. *See, e.g., Larry P. v. Riles*, 793 F.2d 969, 981-83 (9th Cir. 1984).

The following is evidence of intentional discrimination: (1) whether the action impacts more heavily on one racial or ethnic group than another; (2) a history of discrimination; (3) departures from procedural norms in reaching a decision; (4) departures from substantive norms; (5) whether the decision maker knows the harm its decision will cause; and (6) a pattern or practice of discrimination. *See Village of Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 265 (1977); *Comm. Concerning Cmty. Improvement v. City of Modesto*, 583 F.3d 690, 2009 U.S. App. LEXIS 22172, 21-22 (9th Cir. 2009) (statistical disparities in providing municipal services evidence of intentional discrimination under Title VI and 11135).

Monuments including El Pueblo should reflect the diversity of a place and its people. People of color and women have been vital to the creation of Los Angeles. Yet with over 940 official cultural and historical landmarks in the City of Los Angeles, only 10% relate to people of color, women, and Native Americans. *See* <http://www.mapsportal.org/thecityproject/monuments>.

Constructing the Project wall without proper review here disproportionately deprives Native Americans, Chinese Americans, African Americans and others of equal access to the quality of life benefits of green space in Father Serra Park, for the reasons discussed above in Part II (C). Constructing the Project wall without proper review at this rich historic site at the birthplace of Los Angeles disproportionately deprives Native Americans, Chinese Americans, African Americans and others of equal access to the benefits of the historic integrity of El Pueblo and of monuments that celebrate diversity, democracy and freedom for the reasons discussed in Part II (A) and (B) above.

Native Americans, for example, have a small plaque commemorating Yangna and their way of life in harmony with the earth. There is no monument to the Chinese Americans who were massacred at the site in 1871. There is no monument to African Americans for their contributions to the founding of El Pueblo. There are alternative sites for the Project, as described in Part I and II (D) above. There are substantive and procedural irregularities in the review of the Project, as described in Part II (D) above. Officials know of the discriminatory impacts because El Pueblo staff and community leaders have told them, as described in Part II (D) above and in the recent letters to the City that are included as EP 94-96. There is a pattern and practice of discrimination against people of color by the City at the site of El Pueblo, as described in Part II (B) above.

#### **IV. Conclusion**

A number of groups or individuals have previously written to the Mayor about these matters with out result. See Letter from El Pueblo Park Association to the Mayor, Oct. 28, 2009, EP 94; letter from Gordon Hom, President, Chinese Historical Society of Southern California, EP 95; letter from Daisy Ma to the Mayor, Oct. 3, 2009, EP 96.

We are eager to meet with you forthwith and well before the scheduled December 5, 2009, press conference to unveil the concrete Project wall in order to reach a resolution of this matter that will comply with applicable laws and principles that benefit all the people of Los Angeles. In the meantime and until such resolution, we demand that the City of Los Angeles and each of the above named entities and persons and their officers, employees, and agents cease and desist any work on the proposed Project at Father Serra Park in El Pueblo de Los Angeles Historic Monument. If we are unable to resolve this matter forthwith we reserve the right to pursue all legal remedies including administrative complaints with federal and state authorities, the forfeiture of El Pueblo and Father Serra Park to the state, access to justice through the courts, and an award of attorneys' fees.

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We look forward to hearing from you promptly.

Very truly yours,

Robert García  
President and Counsel  
The City Project

JohnTommy Rosas  
Tribal Administrator  
Tribal Litigator  
Tongva Ancestral Territorial Tribal Nation

Jean Bruce Poole and Frank Damon  
El Pueblo Park Association

Mark Williams  
Concerned Citizens of South Central Los Angeles

Attachments