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The Honorable Antonio Villaraigosa
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Re: Recreation and Parks and Equal Justice

Dear Mayor Villaraigosa, Mr. Sandler, and Mr. Mukri:

I. Overview

We are eager to meet with you forthwith and on or before Friday, December 18, 2009, at 3 pm to discuss a resolution of this matter that will benefit all the people of Los Angeles, for the reasons stated and under the authorities cited below.

If we are unable to resolve this matter forthwith, we reserve the right to pursue alternative remedies including administrative complaints filed with federal and state authorities, and access to justice through the courts.

We demand that the City of Los Angeles (the “City”), the Department of Recreation and Parks (“RAP”), each of the above named entities and persons, and each of their officers, employees, contractors, consultants, and agents take the following steps to improve parks and recreation for all and to alleviate unfair disparities.

1. Develop and implement a strategic plan to improve parks and recreation in every neighborhood, as called for by the Controller for the City of Los Angeles in several audits and by others.
2. Invest Quimby park development fees based on need, not based on artificial geographic limitations.
3. Create, improve, and/or maintain parks in underserved communities, including but not limited to:
 - (a) Ascot Hills in East Los Angeles;
 - (b) Griffith Park on the East Bank of the Los Angeles River; and
 - (c) Watts Towers.

Los Angeles is park poor, and there are unfair disparities in access to park, school, and health resources based on race, ethnicity, income, poverty, youth, and access to cars and transportation. Children of color living in poverty without access to a car have the worst access to parks and to schools with five acres or more of playing fields, and suffer from the highest levels of child obesity and diabetes. In Los Angeles County, the prevalence of childhood obesity varies significantly among cities and communities, from a high of 29.3% in City Council District 8 in South Los Angeles, to a low of 18.1% in City Council District 5 in West Los Angeles, and is strongly associated with economic hardship and access to park space, according to the County Health Department.

II. Summary of the Facts

A. The Controller's Blueprint to Improve Parks and Recreation for All

The Los Angeles City Controller issued an audit and blueprint to improve recreation and parks for all in November 2005 and January 2006. The City and RAP have failed and refused to implement these recommendations.

The Controller's January 5, 2006, audit of recreation and parks emphasized that "not all areas of the City have the same level of service in programs and activities." Letter from Laura N. Chick, City Controller, City of Los Angeles, to Mayor Antonio Villaraigosa (Jan. 5, 2006). The audit cited the following disparities, and noted that the allocation of Quimby park development fees can contribute to the disparities:

- Lower income populations and Latino, African-American, and Asian-Pacific Islander populations have dramatically less access to park resources.
- Residents' access to adequate recreational opportunities is dependent upon their proximity to parkland, available modes of transportation, and hours of operation; use of parks is most intense in areas of low accessibility.
- While there is a significantly higher demand for park space among inner city residents, suburban residents have access to approximately twice the parkland.
- Suburban and non-inner city communities tend to have better maintained facilities than their inner city counterparts.

- Females tend to be underrepresented in parks and recreation programs, particularly team sports.
- Additional resources, whether through registration fees, Quimby park development fees (fees paid by developers of new residential properties), or sources often exacerbate inequities unless they are strategically allocated to decrease such inequities.

Laura N. Chick, City Controller, *Performance Audit of Recreation and Community Services in the Department of Recreation and Parks* (2006).

The Controller's audits provide a blueprint for change that calls for: (1) a strategic plan to improve parks, recreation and equity in every neighborhood, and eliminate unfair disparities; (2) standards to measure progress and equity in achieving a balanced system of parks, facilities, and programs and to hold public officials accountable; (3) a fair system of finance and fees; (4) a community needs assessment to be completed every five years beginning in 2006; (5) evaluating park safety, both real and perceived; and (6) shared use of parks, schools, and pools.

The Controller's audits documents systemic management failures and echoes the disparities discussed in this demand letter. For example, parks provide better programs in wealthy communities, and funding policies exacerbate rather than alleviate inequities. One of the Controller's major recommendations is that the City "needs to strategically address issues of inequity regarding levels of service provided at parks citywide."

The Controller's audits document park inequities that city officials have known about for decades. The city of Los Angeles virtually abandoned parks, school construction, and public recreation in the wake of Proposition 13 in 1978, the taxpayers' revolt, which cut funding for local services, including parks and schools. In 1987 the Los Angeles Times reported that "[i]n scores of city parks across Los Angeles -- mostly cramped sites in poor neighborhoods -- fear is high. So pervasive are gangs, drug dealers and drunks, so limited are the programs and facilities, that the sites are known to parents and even some recreation directors as 'dead parks.'" Robin Kramer, then a city council deputy and later Mayor Villaraigosa's chief of staff, acknowledged in that article that "there is tremendous under serving" of people in poor neighborhoods by the parks department.¹ In 1999, then-Mayor Richard Riordan told the Wall Street Journal that poorer communities have been short-changed by funding formulas for parks and recreation. "The way money is spread throughout the city has not been based on need as much as it has been about equally distributing funds" among the 15 council districts, according to the mayor.² Park officials concurred. "It's a pattern we all understand," according to the then-director of planning and development for RAP. "The urban areas of Los Angeles have less park facilities than the new areas or outer lying areas, where ordinances require that parks be developed when housing developments go in." "I think the mayor's sincere in his desire to address these inequities," Robert García told the Wall Street Journal, but "I don't think the city is doing enough."³

The City and RAP have failed and refused to implement the recommendations of the Controller's audit and blueprint over four years later. **"[T]his project has not yet begun" after four years.**

1. David Johnston, *Dead Parks*, L.A. Times, Sept. 3, 1987.

2. Shirley Leung, *Riordan Seeks More Funds for Urban Core*, Wall Street Journal, April 28, 1999.

3. *Id.*

See Letter from RAP Commissioners to The City Project, Oct. 22, 2009, at page 5 (emphasis added).

The City Controller has noted that RAP is “slow to change and unwilling to address previously identified problems.” Letter from Laura N. Chick, City Controller, City of Los Angeles, to Mayor Antonio Villaraigosa (November 10, 2005). “This has been a painfully slow process,” according to the Controller. “I welcome The City Project’s involvement, but it is unfortunate that they have had to use their time and energy on something that should have already been completed by our Recreation and Parks Department.” Anna Scott, *A Tale of Two Studies: Some Concerned Rec and Parks Report Replicates Work Already Done*, Los Angeles Downtown News, April 7, 2008.

B. The Community Needs Assessment Process Was Inadequate and Unfair

1. The Final Community Needs Assessment Release

In October 2009, almost four years after the City Controller issued the audit of parks and recreation, RAP finally released a community needs assessment report (Needs Assessment).

The Needs Assessment, despite serious flaws, contains anecdotal and statistical evidence of unfair disparities in how community needs are being met – or are not being met.

a. The Needs Assessment shows geographic disparities

Respondents in East, Central, and South Los Angeles reported either a need for more parks, or inequitable park distribution. South Los Angeles reported difficulty in accessing existing parks. East Los Angeles reported feeling excluded from the system. East and South Los Angeles both reported a need for more diversity in recreation programming, and a need for programs to better reflect the local community. Central and South Los Angeles both reported safety and security as major issues.

East, Central and South Los Angeles have the three highest percentages of residents who feel the physical condition of parks and the overall quality of recreation programs is only fair to poor, and the three lowest percentages of residents who feel the physical condition of parks and the overall quality of recreation programs is good to excellent.

Higher percentages of residents from East, Central, and South Los Angeles than residents from other planning areas were prevented from using facilities or programs due to fundamental needs not being met. Examples of reasons affecting East, Central and South Los Angeles more than other areas are maintenance, program or facility not offered, lack of proper equipment (only East and South), insufficient security, lack of quality programs, too far from home (only Central and South), poor customer service by staff, and lack of available parking.

Of those with facility needs, East, Central, and South L.A. were all consistently among the three or four areas with the highest percentage of residents with unmet needs (0% or 25-50% of needs met). One of those three areas had the highest percentage of residents with 0% of their needs met for almost every facility type. While planning areas that are disproportionately non-

Hispanic White did have high levels of unmet needs for some facility types, the areas populated disproportionately by people of color had higher percentages of residents with unmet needs. Conversely, residents of the disproportionately non-Hispanic White planning areas had their facility needs well met (75-100%) far more than East, Central, and South L.A.

A similar pattern emerged for those with recreation program needs. At least two of the three planning areas disproportionately populated by people of color (East, Central, and South Los Angeles) were among the four highest ranked areas in terms of unmet needs (0% or 25-50% of needs met) for the majority of recreation programs.

The data clearly demonstrate that the areas where there are the most residents of color have more unmet facility and recreation program needs than other areas of the city. East, South, and Central Los Angeles have higher percentages of residents with unmet needs for facilities and recreation programs than the North San Fernando Valley, South San Fernando Valley, Harbor, and West Los Angeles for the majority of facility- and recreation program-types.

b. The Needs Assessment shows racial and ethnic disparities

Far fewer African-American (61.6%) and Asian (59.5%) survey respondents visited parks than non-Hispanic White (73.9%) or Other (74.2%) respondents. More African-American and Other respondents feel parks are only in fair to poor physical conditions than Asians and non-Hispanic Whites. More African-American, Asian, and Other respondents feel the overall quality of recreation programs is only fair to poor than non-Hispanic Whites. A higher percentage of Latino respondents feel the physical condition of parks and the overall quality of recreation programs is only fair to poor than non-Latinos.

A higher percentage of Latinos do not use facilities or programs than non-Latinos due to fundamental needs not being met. Examples of reasons affecting Latinos more than non-Latinos are maintenance, lack of proper equipment, insufficient security, and poor customer service. Higher percentages of African-American, Asian, and Other respondents had unmet fundamental needs that prevented them from using facilities or programs compared to non-Hispanic Whites, such as maintenance, no programs or facilities available, lack of proper equipment, insufficient security, lack of quality programs, facilities that are too far from home, poor customer service, and lack of parking.

Unmet facility needs (0% or less than 50% met) were higher among Latinos than non-Latinos for a majority of facility-types. Facility needs varied widely among racial groups. Asians had more unmet facility needs for several facility-types including pocket parks, neighborhood parks, community parks, walking and biking trails, and nature trails than other racial groups. Higher percentages of African-American, Asian, and Other respondents had 0% of their needs met than non-Hispanic Whites for several facility types, such as neighborhood parks, community parks, walking and biking trails, nature trails, youth soccer fields, and youth football and rugby fields. All racial groups, and therefore park users, had significant unmet facility, recreation and park needs.

Unmet recreation program needs (0% or less than 50% met) were higher among Latinos than non-Latinos for a majority of program-types. Program needs varied widely among racial groups.

Higher percentages of African-Americans, Asians, and Other had unmet needs than non-Hispanic Whites for significant recreation program-types, including youth sports and special events and festivals.

Among ethnic groups, more Latinos had 0% or less than 50% of their needs met than non-Latinos for the majority of facilities and programs. Facility and recreation program needs varied widely among racial groups. In general, higher percentages of African-American, Asian, and Other respondents had 0% of their needs met than non-Hispanic Whites. Asians had the most unmet facility needs of all races.

The Prioritized Needs Assessment (PNA) that is part of the Needs Assessment further institutionalizes discrimination in the system by ignoring the needs of Latinos. Non-Latino facility and recreation program needs are given a higher priority in the PNA than Latino needs. Of the ten highest priority facility needs ranked in the PNA for the city as a whole, non-Latinos have more need than Latinos for eight of those facility types. At the same time, five of the nine total facility types that Latinos have a greater need for than non-Latinos are ranked in the lowest priority category. In other words, 55% of the facilities Latinos have a greater need for than non-Latinos are in the lowest priority category while only 24% of the facilities non-Latinos have a greater need for are in the lowest priority category.

Of the seven recreation program-types ranked as the highest priority needs in the PNA for the city as a whole, non-Latinos have a greater need than Latinos for all seven programs. Along racial categories, non-Hispanic Whites have the greatest need of all racial groups for six of the seven program types identified as the highest priority. The salient point is that the needs of non-Latinos and of non-Hispanic Whites are prioritized over the needs of Latinos and all categorizations of people of color, respectively. Non-Latino needs are ranked as more important than Latino needs. The same is true when comparing the needs of non-Hispanic Whites to the needs of people of color. Each has unmet program needs but the needs of the non-Hispanic Whites are prioritized over the needs of people of color within the PNA.

2. The City Failed and Refused to Address Equal Justice Concerns in the Needs Assessment

Diverse allies submitted the attached public comments during the community needs assessment process on May 16, 2008; February 2, 2009; and October 7, 2009, focusing on the need for RAP to address equal justice and health concerns in the needs assessment. The public comments documented the profound disparities in park, school, and health resources for low income communities of color, and the profound impacts on health and the quality of life. The public comments presented detailed recommendations to promote social justice, regional equity, and smart growth through healthy parks, schools, and communities. For the most part, RAP ignored these public comments regarding equal justice and health concerns when it conducted and published the Needs Assessment.

C. The City Controller's Audit of Quimby Park Development Fees

In February 2008, the Los Angeles City Controller published an audit of Quimby park development fees held by the City and RAP (the "Quimby Audit"). The Quimby Audit

documented the fact that RAP had \$129 million in unused Quimby park development fees that RAP did not know it had, and had no plans on how to invest as of January 2008.

The Quimby Audit echoes the Controller's earlier audit of RAP calling for a fair system of finance and fees. The Controller's audits have noted that park and recreation funding, whether through registration fees, Quimby fees, or any other source, often exacerbate inequities unless they are strategically allocated to decrease such inequities. Laura N. Chick, City Controller, *Performance Audit of Recreation and Community Services in the Department of Recreation and Parks* 11 (Jan. 2006).

As of July 2009, the City and RAP have failed and refused to reform the formula for investing Quimby park development fees. *See generally* July 30, 2009, responses from RAP Commissioners to The City Project and document dated 5/4/2009.

In response to the Quimby Audit, RAP issued the March 2008 Quimby Quarterly Report. The Report includes distinct Tables for each City Council District 1 through 15 listing Quimby park development fees collected over time and approved project allocations.

RAP failed and refused to disclose the electronic spreadsheet and GIS shape files underlying the March 2008 Quimby Quarterly Report that the City published in response to the Quimby Audit. The City Project had to file a lawsuit on behalf of diverse allies against the City and RAP under the Public Records Act to obtain the information after nine months of efforts to obtain the information from city officials. The City and RAP disclosed the information shortly after suit was filed. The City and RAP provided no justification for withholding the records.

D. Standards to Measure Progress and Equity

The City has failed and refused to adopt standards to measure progress and equity to improve parks and recreation and to hold public officials accountable, as called for by the Controller and others.

AB 31 and guidelines by the California Department of Parks and Recreation offer a best practice example of such standards.

Thus, for example, park funds should be allocated based on need. Under a standard that targets communities with the greatest need first, need should be measured in terms of park poverty (less than 3 acres of parks per thousand residents) and economic poverty (below \$48,000 household income) combined. Targeting park poverty and economic poverty combined will help achieve equal justice in access to public resources for the most underserved communities. *See* The City Project, *Healthy Parks, Schools, and Communities for All: Park Development and Community Revitalization* (Policy Brief 2009), incorporated by reference here and available at www.cityprojectca.org/blog/archives/1257. Federal and state civil rights laws offer standards to measure progress and equity and hold officials accountable, as discussed below.

E. Park Poverty, Income Poverty and Equal Justice

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 and diabetes.

The lack of green space in parks and schools has profound social justice implications. Parks, school fields, beaches, rivers, mountains, forests, and other green spaces offer multiple benefits beyond dollars and cents to those who can access them. These benefits include the simple joys of playing in the park or school field; social cohesion, or bringing people together; improved physical, psychic, and social health; youth development and academic performance; positive alternatives to gangs, crime, drugs, violence, prostitution and unwanted teen pregnancies; economic justice including local green jobs; conservation values of clean air, water, and land, and habitat protection, and climate justice; art, culture and historic preservation; spiritual values in protecting the earth and its people; and sustainable regional planning. Fundamental principles of equal justice and democracy justify equal access to these benefits.

The City has long known of these unfair disparities in access to the benefits of green space. *See generally* The City Project Policy Report, *Healthy Parks, Schools and Communities: Mapping Green Access and Equity for the Los Angeles Region* (2007), available on the web at <http://tinyurl.com/y8mtobl>. *Accord*, The City Project Policy Report, *Economic Stimulus, Green Space and Equal Justice* (2009), available on the web at <http://www.cityprojectca.org/blog/archives/1450>; The City Project Policy Brief, *Nature's New Deal*, available on the web at <http://www.cityprojectca.org/blog/archives/1633>. Each of these documents is fully incorporated by reference here.

1. The Los Angeles County Child Obesity Study

The prevalence of childhood obesity varied significantly among cities and communities, from a high of 29.3% in City Council District 8 in South Los Angeles, to a low of 18.1% in City Council District 5 in West Los Angeles, and was found to be strongly associated with economic hardship. The County Health Department found a higher prevalence of obesity in cities or communities where the economic burden (crowded housing, poverty, unemployment, lower educational attainment, more dependents, and lower median income) was greater. (Correlation coefficient = 0.83; p-value < 0.001.)

Communities with less open area set aside as parks, recreational area, or wilderness area were more likely to have a higher prevalence of children who are obese. (Correlation coefficient = -0.47; p-value < 0.001.) Los Angeles County Department of Public Health, Office of Health Assessment and Epidemiology, *Preventing Childhood Obesity: the need to create healthy places. A Cities and Communities Health Report* (Oct. 2007).

There are significant health disparities based on race and ethnicity. Latino and black children are disproportionately overweight and unfit compared to non-Hispanic white and Asian children.

Overweight and Unfit Children in California

Race/Ethnicity	Overweight	Unfit
Latino	34%	45%
African American	29%	46%
White	20%	34%
Asian	18%	36%

Source: California Center for Public Health Advocacy, An Epidemic: Overweight and Unfit Children in California Assembly Districts (Dec. 2002).

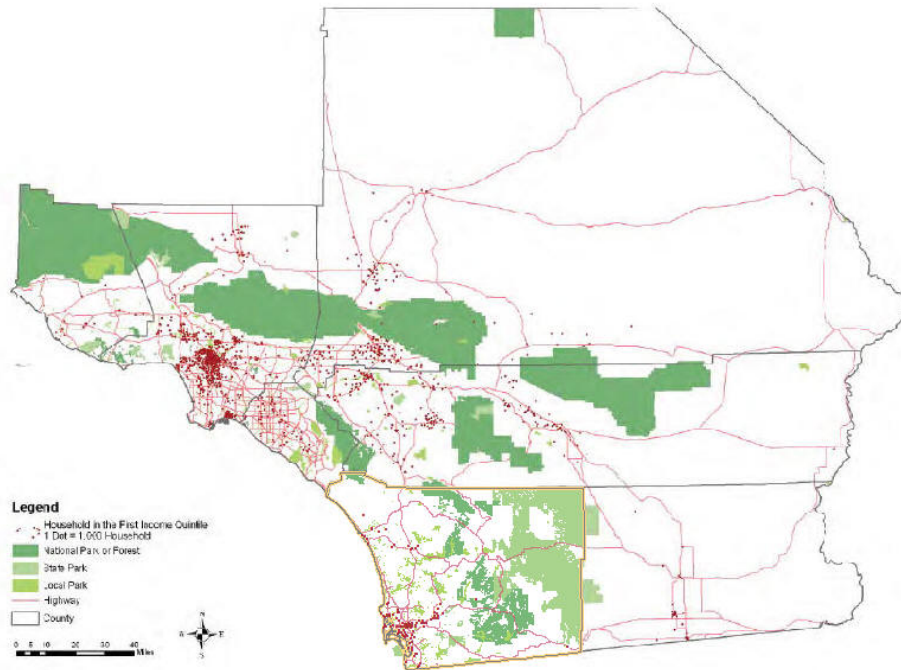
Studies document the correlation between park access and health. See generally Joint Center for Political and Economic Studies and Policy Link, *A Place for Healthier Living: Improving Access to Physical Activity and Healthy Foods* at page 4 (2004), available at <http://tinyurl.com/yatlfqc>; Richard Raya and Victor Rubin, *Safety, Growth, and Equity: Parks and Open Space* (PolicyLink 2006), available at <http://tinyurl.com/yekdzsk>; Jennifer Wolch, *Childhood Obesity and Proximity to Urban Parks and Recreational Resources: A Longitudinal Cohort Study*, available at <http://www.activelivingresearch.org/node/11844>.

2. SCAG Calls for a Multiagency Effort to Create Parks and Transit

The Southern California Association of Governments (SCAG) calls for public transportation to improve access for all to parks throughout Southern California in the 2008 Regional Transportation Plan (RTP) Environmental Justice Report. “[A] multi-agency effort must be undertaken in order to further address and remedy the issue of inequity of park access.” (Emphasis added.)

“Public parks serve all residents. . . . However, not all neighborhoods and people have equal access to these public resources,” including local, state, and national parks. The following map shows the unequal distribution of parks and low income neighborhoods in the Southern California counties of Los Angeles, Ventura, San Bernardino, Riverside, Imperial, and San Diego.

MAP 1: DISTRIBUTION OF PARKS AND LOW-INCOME HOUSEHOLDS



Source: Southern California Association of Government, ESRI StreetMap USA, Tebaltas Park and Income data for San Diego County added by The City Project and GreenInfo Network. The household income figure for San Diego County is \$19,999 or less, which is commonly available from the Census Bureau. The map and all other data are from the SCAG RTP Environmental Justice Report 11-14 (proposed final May 8, 2008). SCAG used a household income figure of \$19,360 for the counties besides San Diego.

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“Research has found a complete lack of public transportation services into National Parks, but this also appears true for State Parks. There is almost no access to national parks and very limited access to state parks by transit across all income groups” SCAG cites the policy report by USC students prepared for The City Project, available at <http://www.cityprojectca.org/publications/transportation.html>. Source: SCAG RTP Environmental Justice Report 11-14, 24.

E. The City Must Create, Maintain and Improve Park Projects in Underserved Communities

1. Ascot Hills

Five years after receiving state funds and four years after the official groundbreaking, the City and RAP have failed and refused to create a natural park at Ascot Hills in east Los Angeles, a natural green space. Recent public record act requests have shed little light on the status of the project, the reasons for the delay, or when if ever the park will be a reality. *See* responses from RAP Commissioners to The City Project re: Ascot Hills Public Record Response, Oct. 14, 2009.

The community celebrated the groundbreaking for the planned 140 acre park in Ascot Hills in East Los Angeles on November 1, 2005. The planned park would provide passive recreation and green space in one of the most park poor areas in the city. The public has called for a park at the

site for over 75 years – indeed, there was a proposal for a park there in the classic Olmsted Report *Parks Playgrounds and Beaches for the Los Angeles Region* at page 82 (1930). "[I]n East L.A. itself, the largest open space is Evergreen Cemetery, which basically sends a message to kids: 'If you want open space, you have to die first,'" Robert García told the Los Angeles Times on January 15, 2004, when this park was proposed. Miguel Bustillo, *Former Foes Unite Behind a Proposal to Turn Old Reservoir Site into a Park*, L.A. Times, Jan. 15, 2004, at B3.

According to a Los Angeles Times Editorial published in November 2005, "downtown and Eastside residents could be hiking and watching the setting sun backlight downtown's skyscrapers from Ascot Hills by the end of next year." L.A. Times Editorial, *A Diamond in the Rough*, Jan. 17, 2004, at B24.

Four years after the groundbreaking, the promise of a park remains unmet.

2. Griffith Park on the East Bank of the L.A. River

The 32 acre site of Griffith Park on the East Bank of the Los Angeles River in Atwater Village should be the Next Great Urban Park in Los Angeles. The site is parkland that is part of Griffith Park that the City is presently using for a service yard. The entire site should be restored as a real park.

The site is next to the Los Angeles River, the North Atwater Creek Stream Restoration, existing North Atwater Park, and the Los Angeles Glendale water reclamation plant. This prime river front land should be converted into picnic grounds and a wildlife viewing area that will complement the pedestrian/equestrian corridor currently along its bank. Given that the acreage is flat, surrounded by a neighborhood of working families, close to a regularly scheduled bus line and a short walk from Chevy Chase Recreation Center, it is an excellent site for new sports fields for youth. All of these uses can be accommodated with sensitive planning that takes into account the needs of all users, including RAP.

The New York Times has called the revitalization of the Los Angeles River a best practice example for how the nation can create "more sustainable, livable and socially just cities." Nicolai Ouroussoff, *Reinventing America's Cities: The Time Is Now*, N.Y. Times, March 25, 2009. Squandering Griffith Park on the East Bank of the Los Angeles River as a service yard is fundamentally at odds with that vision.

The Los Angeles City Council passed a resolution to balance the needs of the Los Angeles River environment with human enjoyment of the River. In response, the Los Angeles River Project Office published the report *Los Angeles River Access and Use: Balancing Equitable Actions with Responsible Stewardship* (the "River Report"). The River Report emphasizes the need for Environmental Justice along the River: "Of key concern in Los Angeles is the growing disparity of access to and use of open space resources, including parks, ball fields, and natural areas by those living in low-income communities of color. Whole generations are growing up in Los Angeles without any meaningful relationship to the natural environment."

Griffith Park on the East Bank of the Los Angeles River is a best practice example to address the concerns identified in the River Report, including: compliance with equal justice laws and

principles, as one of the six major goals for River revitalization; human health and childhood obesity; joint use of parks, schools, and pools; economic justice and green local jobs; and Transit to Trails.

3. Watts Towers and Historical and Cultural Resources

Watts Towers, in a city park, has long suffered from neglect and deterioration, and access to justice through the courts has previously been necessary to preserve it. *See generally* Bud Goldstone and Arloa Paquin Goldstone, *The Los Angeles Watts Towers*, 100-103 (1997).

"Why aren't we invested in this phenomenal achievement? 'The reason why they don't try to make a cultural icon out of [Watts Towers] is because of the people who live in Watts,' says Cecil Ferguson, who rose from a childhood in Watts to become a curator at the Los Angeles County Museum of Art, and whose face is featured in a mural at the Watts Towers Community Arts Center. 'It's a community of poverty,' Ferguson says. 'Always was. When they take care of that problem, the towers will be bigger than the Statue of Liberty.'" Sara Catania, *Towers of Power; Simon Rodia's masterwork is inseparable from its site on a dead-end street in Watts. Which is another good reason to stop ignoring it.* L.A. Times Magazine, Oct. 23, 2005. *See generally* Culture Monster, *Strapped city wants donors for Watts Towers conservation*, L.A. Times, July 17, 2009, <http://tinyurl.com/kufuvr>; Culture Monster, *Watts Towers draw scholarly attention -- at a conference in Italy*, April 1, 2009, <http://tinyurl.com/dfjbjk>; Culture Monster, *Celebration will mark 50 years since Watts Towers won a tug of war for survival*, Oct. 8, 2009, <http://tinyurl.com/yla4yev>.

Monuments 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 950 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>. Watts Towers is best practice example of a monument that celebrates diversity, democracy and freedom, and it has long been neglected and mismanaged. Similarly, the City has mismanaged El Pueblo de Los Angeles Historic Monument, and recently placed a 30 foot long wall as part of a war memorial including a planned 20 foot pyramid in Father Serra Park at El Pueblo. *See generally* <http://www.cityprojectca.org/blog/archives/2944>.

4. Shared Use of Parks, Schools and Pools

The shared use of parks and schools can alleviate the lack of places to play and recreate, while making optimal use of scarce land and public resources -- as called for in the Controller's audits. Schools with five acres or more of playing fields have the potential to alleviate the desperate need for parks and recreation. Unfortunately, schools with five acres or more of playing fields tend to be located in communities that are disproportionately White and wealthy.

RAP should work with the Los Angeles Unified School District to implement a master agreement covering significant policies, programs, and practices for the shared, joint and community use of schools and parks. *See, e.g.,* <http://www.cityprojectca.org/ourwork/schools.html#miguelcontreraspool>.

III. Controlling Legal Authorities

The City and RAP must comply with 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. The Fourteenth Amendment and section 1983 of the Civil Rights Act of 1871 prohibit intentional discrimination based on race, color or national origin.

To receive federal funds, a recipient must certify that 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, EP 277. 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 http://www.usdoj.gov/crt/lep/titlevi_enforcement_memo.pdf, EP 187, citing Memo from Assistant Attorney General Bill Lann Lee 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/blkgnt.php>, EP 190; 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 http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf, EP 206, 213; 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.

Andrew Cuomo, then Secretary of Housing and Urban Development, recognized that environmental and equal justice principles must be applied in reviewing park and land use concerns in Los Angeles. Secretary Cuomo withheld federal funding for a proposed warehouse project in favor of what is now the Los Angeles State Historic Park. Secretary Cuomo withheld federal funds because the City did not conduct “a full blown assessment” of the environmental and environmental justice impacts of the proposed project on people of color and the range of alternatives including the park. *See* Letter from Senior Counsel to Secretary Cuomo to Deputy Mayor Rocky Delgadillo, Sept. 25, 2000. This principle applies here. The actions of the City and RAP regarding parks and recreation must be evaluated under equal justice and environmental justice laws and principles.

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).

The actions described above deprive residents of the City of Los Angeles of equal access to resources for parks and recreation, in violation of the civil rights and environmental justice laws cited above.

In addition, the undersigned seek to prevent wasteful and illegal expenditures of public funds derived from the tax revenues of the taxpayers of the County of Los Angeles. California Code of Civil Procedure Section 526a and California case law provide that any taxpayer may bring an action to prevent the illegal expenditure or waste of public funds.

Access to justice through the courts has previously been required against the City to create or preserve parks at what is now Los Angeles State Historic Park at the Cornfield, Rio de Los Angeles State Park at Taylor Yard, Canyon Back Trail in the Santa Monica Mountains, and to obtain public records from RAP.

IV. Next Steps

The City must take the following steps immediately:

1. The City and RAP must work with community representatives including the undersigned to develop and implement a strategic plan within the next six months to improve recreation and parks and promote the values at stake for all.

- 2. There need to be standards to measure progress and equity and to hold officials accountable for improving recreation and parks in every neighborhood.*
- 3. The City and Department develop and implement a fair system of finance and fees based on need and compliance with equal protection standards, including reform of the Quimby park development fee distribution formula.*
- 4. The City, the Department, and LAUSD should develop and implement a master joint use agreement for the shared use of parks, schools, and pools.*
- 5. Park safety, both real and perceived, should be improved.*
- 6. The City and Department should provide places and recreation programs that promote youth development and provide positive alternatives to gangs, crimes, and violence.*
- 7. Resources should be combined to create multibenefit parks, school fields, clean water projects, and flood control sites.*
- 8. The City and Department should develop and implement a strategic plan for a “Transit to Trails” program to take people to parks, beaches, forests, lakes, and other public natural spaces.*
- 9. The City and the Department should expand the use of parks to provide places and programs for cultural, historical, and artistic monuments that faithfully, completely, and accurately depict the history and diversity of Los Angeles, including people of color, women, and workers. Monuments should stimulate and provoke a greater understanding of, and dialogue on, diversity, democracy, and freedom.*
- 10. The strategic plan should include a health impact assessment to evaluate places and policies for physical activity and healthy eating in parks and schools, and target obesity reduction by a specific amount and time.*
- 11. The Department should implement healthy food and beverage policies in parks and recreation centers that meet or exceed the requirements for public schools.*
- 12. The Department should base access to its facilities on community needs rather than income potential.*
- 13. Recreation and parks should promote green jobs for local workers.*
- 14. The City, LAUSD, and the Department should develop a plan now to provide places and programs for physical activity and recreation when year-round schools end by 2010, and 700,000 students will be out on the street each summer with nothing to do.*
- 15. The Department should ensure gender equity in access to parks and recreation programs.*

16. The Department should streamline the park permitting process to enable youth groups to obtain permits more easily, and without having to compete with adult groups which pay more to use park space.

17. The City must keep public lands and trails open to the public. Wealthy enclaves should not be allowed to cut off public access by gating off public streets, posting no-trespassing signs, and harassing the public.

18. The City should require full environmental review under CEQA to develop vacant lands. Mitigated negative declarations should not be allowed.

19. Recreation and parks should promote green jobs for local workers.

V. Conclusion

We are eager to meet with you forthwith in order to reach a resolution of this matter that will comply with applicable laws and principles and benefit all the people of Los Angeles.

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 and access to justice through the courts

We look forward to hearing from and meeting with you on or before December 18, 2009, at 3 pm.

Very truly yours,

Robert García
President and Counsel
The City Project

Elise Meerkatz
Staff Attorney
The City Project

Mark Williams, Board Member
Concerned Citizens of South Central Los Angeles

Marty Martinez, Policy Director
California Pan Ethnic Health Network (CPEHN)

Mary Lee, Associate Director
PolicyLink

Harold Goldstein
California Center for Public Health Advocacy

Attachments