

NATIVE AMERICAN HERITAGE COMMISSION

1550 Harbor Boulevard, Suite 100

West Sacramento, CA 95691

(916) 373-3715

Fax (916) 373-5471

www.nahc.ca.gov

e-mail: ds_nahc@pacbell.net

October 4, 2013

Mr. Tom Hatch, Chief Executive Officer
Mr. Gary Armstrong, AICP, Development Services Director

City of Costa Mesa

77 Fair Drive

Costa Mesa, CA 92626

Sent by FAX to: 714-754-4856 and by U.S. Mail
No. of Pages: 5

Re: "Fairview Park Entryway Concept Plans Project, Master Plan; Costa Mesa 2002 General Plan (Historical and Cultural Resources Element) and Related; Recommendations for consultation and Mitigation & Monitoring Plan;"

Dear Mr. Hatch and Mr. Armstrong:

The California Native American Heritage Commission (NAHC) is concerned about the above revered project that has recently been approved by the City Council, and the possible impact of the project on Native American cultural resources. In the 1985 Appellate Court decision (170 Cal App 3rd 604; *EPIC v. Johnson*), the Court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources impacted by proposed projects, including archaeological places of religious significance to Native Americans, and to Native American burial sites.

The NAHC supports the concerns addressed to the City in the September 24, 2013 letter from the State historic Preservation Officer (SHPO), Dr. Carol Roland-Nawi, Ph.D. The NAHC concerns relation to consultation with local tribes as required by Section 106 of the National Historic Preservation Act (36 CR Part 800) as some federal funds may be used to implement elements of the proposed project. Furthermore, the NAHC understands that the City must amend its 2002 General Plan, Historical and Cultural Resources Element, in order to accommodate the proposed action. California Government Code Sections 65040.2, 65352.3, *et seq.* also require tribal consultation by local government when general or specific plans are developed or amended.

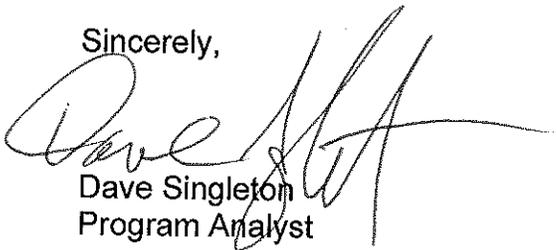
As pointed out by the SHPO, the project site is also a site recorded for unique archaeological resources and has been accepted for the California and National

Register of Historic Places as CA-ORA-58. Fairview Park is also a Native American burial site where the Orange county Sheriff-Coroner, pursuant to CA Health and Safety Code Section 7050.5, reported 'ancient burial, human remains' to the NAHC. The NAHC appointed a Most Likely Descendant (MLD) under CA Public Resources Code 5097.98. At least one set of remains has recently been re-buried at Fairview Park. As this is public property, the project site may be eligible for an investigation, public hearing and determination that the site is a 'sanctified cemetery,' pursuant to CA Public Resources Code Section 5097.97.

Should the project go forward, the NAHC strongly recommends a Mitigation and Monitoring Plan, consistent with CA Public Resources Code Section 21083.2 that meet the standards of CEQA Guidelines Section 15064.5 requiring careful documentation and analysis of archaeological items taken from the site. Native American Monitors and archaeologists area also recommended by the NAHC, to be employed during all groundbreaking activities. Also, the project protocols should include provisions for the inadvertent discoveries of more human remains, pursuant to CA Health & Safety Code Section 7050.5.

If you have any questions, please do not hesitate to contact me at (916) 373-3715.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton", written over a printed name and title.

Dave Singleton
Program Analyst

Cc: California Office of Historic Preservation