

**California Indian Heritage Center
Subcommittee on Governance**

Proposed Governance Structure--For discussion July 19, 2004

CONFIDENTIAL DRAFT—FOR REVIEW AND COMMENT ONLY

I. Summary of Proposal

- A. Introduce and secure passage of legislation to accomplish the following:
1. Establish the California Indian Heritage Center in California government
 2. Enable the state agency with responsibility for the project to enter into an operating agreement whereby a nonprofit organization may perform any and all responsibilities associated with the CIHC's planning, development and operation.
- B. Create a new nonprofit organization to serve as the nonprofit partner to the state agency and be the developer and operator of the CIHC.
1. Articles of incorporation would state that the principal purpose of the organization is to undertake any and all legal actions necessary to support the CIHC.
 2. Bylaws would define the size, nature and composition of the board, representation, structure, etc.
 - a. This is the area of greatest structural flexibility, and potentially the area with the highest level of control by Indian people.
 - b. By designing the bylaws properly, the organization will fulfill the CIHC Task Force vision statement specifying guidance by California Indian people.
- C. Negotiate an agreement between the state agency and the nonprofit organization that creates a mutually beneficial division of responsibilities.
1. Gives to the nonprofit partner the necessary levels of influence and/or control over the things that are important to Indian people.
 2. Gives to the state agency partner the necessary levels of influence and/or control over things that are important to government.
 3. Has the potential to provide an extremely high level of flexibility to both parties for planning, developing and operating the project.

4. The benefits of an agreement (at least a well-crafted agreement) are three:
 - a. Roles and responsibilities are defined.
 - b. The process of developing the agreement is very clarifying.
 - c. And if you didn't do such a good job with a and/or b, you can change it.
 5. By designing the agreement properly, the nonprofit organization—representing California Indian people—will have appropriate influence and/or control over those aspects of CIHC design, policy, and operations necessary to effectively fulfill the requirements of the vision statement and the statement of purpose.
- D. For the purposes of this proposal, the state agency with project responsibility is identified as the Department of Parks and Recreation.

II. Proposed Legislation

The following proposed bill language is modeled on Government Code Section 12174, which provides for the operation of the Golden State Museum (now the California State History Museum).

Proposed New Public Resources Code Section 5030

5030. (a) There is established in the department the California Indian Heritage Center (CIHC), which shall be the state's official repository and interpretive facility for all materials, documents, anthropological records, historical records and artifacts, pertaining to all aspects of the prehistory, history, contemporary and future culture of California Indian people. For the purposes of this section, the CIHC shall be considered a museum as provided for in Public Resources Code Section 5013.

(b) The department, using state and nonstate funds, shall develop and operate any and all facilities as are required for the proper care and housing of the materials described in subdivision (a), and for the appropriate exhibition, interpretation and research use of these materials for the general public and for California Indian people.

(c) Notwithstanding any other provision of law, the CIHC shall not be subject to the provisions of Public Resources Code Section 5010.2.

(d) The department may enter into an operating agreement with a California nonprofit public benefit corporation that has been determined to be tax exempt under Section 501(c)(3) of the United States Internal Revenue Code and which has as its principal incorporated purpose the support of the CIHC. (NOTE: It would actually be better to put the name of a real organization in the bill, but that may not be possible.) Under the operating agreement with the department, the nonprofit organization shall plan, develop and operate such aspects of the facilities, operations and programs of the CIHC as are determined by mutual agreement between the department and the nonprofit organization, including and not limited to planning, consultation, design, development, administration, operations, interpretation, programs, management of the

CIHC's facilities, collections and related public services, collecting and administering admission fees and fees for other services and programs, and otherwise acquiring and managing funding for the CIHC's operation, programs and services.

(e) Employees, volunteers, docents, members, or others working with or for the nonprofit organization described in subdivision (d) for purposes consistent with the mission of the organization shall be considered volunteers under Sections 3118 and 3119 of the Government Code and Section 3363.5 of the Labor Code.

(e) The board of directors of the nonprofit organization described in subdivision (d) shall include the director or the director's designee as a permanent ex officio voting member of the board. This board of directors shall be the governing authority for operations and programs funded through moneys received by the nonprofit organization. The nonprofit organization shall submit an audited financial statement annually to the director. A copy of this report shall also be submitted to the Director of Finance. No funds raised or assets acquired by the nonprofit organization shall be used for purposes inconsistent with support of the CIHC.

July 14, 2004