CALIFORNIA LEGISLATURE

Senate

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

March 7, 2021

Mayor Farrah Khan — farrahkhan@cityofirvine.org
Vice Mayor Tammy Kim — tammykim@cityofirvine.org
Councilmember Larry Agran — larryagran@cityofirvine.org
Councilmember Mike Carroll — mikecarroll@cityofirvine.org
Councilmember Anthony Kuo — anthonykuo@cityofirvine.org
City of Irvine
1 Civic Center Plaza
Irvine, CA 92606
VIA ELECTRONIC MAIL

Re: Veterans Cemetery in the Great Park

Dear Hons. Khan, Kim, Agran, Carroll, and Kuo,

We write you because we strongly support a veterans cemetery in Orange County, and we believe we are at a key inflection point today, with a majority of the Irvine City Council having publicly declared their support for a veterans cemetery in the Great Park. We realize there has been a long and often acrimonious history around efforts to locate a veterans cemetery in Irvine, and that there is currently a vigorous debate between the ARDA site and the Golf Course site. We come into this issue with one singular goal—to facilitate the development of a veterans cemetery in Orange County to honor the service and sacrifices of our military veterans. We did not initially have a preference between the ARDA site or the Golf Course site. But after reviewing this issue, we have come to the conclusion that under current law—specifically, the ordinance enacted by the Irvine City Council last year on May 12, 2020—the Golf Course site is not a viable option, and that any efforts to proceed on this pathway will likely kill off any possibility of a veterans cemetery in Irvine, now or in the foreseeable future.

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To briefly review: last year, an initiative that would have made ARDA the exclusive site for any veterans cemetery and which expressly prohibited any cemetery from being built at the Golf Course site (as well as a number of other potential sites in Irvine) qualified for the November 2020 ballot with signatures from over 19,000 Irvine residents. On May 12, 2020, the Irvine City Council voted 4-1 (with Carroll, Khan, and Kuo joining Melissa Fox in voting aye,

and then-Mayor Christina Shea voting nay) to take the initiative off the ballot and instead turn it into a law. The ordinance that was enacted is clear in its intent to bar any parcels other than the ARDA site from being the site of a veterans cemetery. It also explicitly supersedes and preempts any other Irvine statutes or ordinances. Finally, it can only be amended or repealed by a majority of Irvine voters through the initiative process.

So, given that the Irvine City Council passed a law expressly barring the Golf Course site from being used for a cemetery, why is this option still being seriously considered? Last year, at the request of then-Mayor Shea, the Irvine City Attorney advanced a novel and complex legal theory under which the Golf Course site could be developed as a veterans cemetery without running afoul of the law. As attorneys ourselves, we believe the City Attorney's theory is dubious, and that if the Irvine City Council attempted to proceed with a veterans cemetery on the Golf Course site, it would lose in any litigation against the City. But even if we are wrong, it is uncontested by any attorney who has closely reviewed this matter, including the Irvine City Attorney himself, that a lawsuit challenging any City Council attempt to locate the veterans cemetery at the Golf Course site would be sufficiently strong on the merits that it would likely go to a full trial, with appeals to follow. This would likely cost Irvine taxpayers millions of dollars in legal costs and fees, while creating several or more years of delays before any groundbreaking could occur. In our view, under current law, the high litigation risks and near-certain delays and legal fees that would accompany any decision to locate a veterans cemetery on the Golf Course site make this an unacceptable option.

So what are our options, given the Irvine City Council's decision last year to bar the Golf Course site from being used for a veterans cemetery? One possibility is to change the law. This would be very difficult, but not impossible. Proponents of the Golf Course site would need to gather enough signatures to qualify their own initiative, one that expressly permitted the Golf Course site to be used for a veterans cemetery. They would then need to convince a majority of

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Irvine voters to support this initiative at the time of the next election, currently scheduled for June 2022. Such a change in law would assuage our concerns about the litigation risks that currently exist for the Golf Course site. We would emphasize that if this particular pathway were chosen, action must start now, as the $24 million set aside by the State of California for the Great

Park veterans cemetery is likely to be reallocated to other budgetary priorities unless concrete plans to move forward on this cemetery materialize this year.

Alternatively, the Irvine City Council could simply reaffirm the substance of the May 2020 Ordinance by voting to proceed with the ARDA site as the exclusive site for a veterans cemetery. If this were to happen, we and our fellow state legislators could proceed with trying to procure additional funding for this veterans cemetery.

We also note that we are mindful of the concerns expressed by local residents who live near the ARDA site. We are firm in our commitment that any cemetery at the ARDA site be accompanied by an aesthetically pleasing "buffer" — a 25-acre perimeter park with trees, trails and gardens, including botanical gardens — that would accompany or even precede construction of the veterans cemetery itself. We also believe the planned operation of the veterans cemetery should include appropriate noise mitigation policies to address any potential disturbances caused by occasional burials accompanied by three-volley muffled gun salutes. A guiding principle for the design and development of the Southern California Veterans Cemetery is that it must enhance the happiness and well-being of local residents.

We are grateful for the service and sacrifices — whether in wartime or peacetime — made by our military veterans and their families. We believe they deserve a beautiful final resting place without any further delay. We trust that Irvine's Mayor and City Council share this commitment and will act accordingly by reaffirming the substance of the May 2020 Ordinance and declaring unequivocally that the ARDA site is the only site.

Very truly yours,

Dave Min, State Senator (SD-37)

Tom Umberg, State Senator (SD-34)