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COMMUNITIES FOR A BETTER ENVIRONMENT

*5610 Pacific Blvd., Suite 203, Huntington Park, CA 90025 * (323) 826-9771 Fax: 323-588-7079*

LEGAL DEPARTMENT

FACSIMILE TRANSMISSION FORM

Date: June 6, 2005

To: Mayor Beverly O'Neill and Members of the Long Beach City Council c/o
Ms. Anita Garcia

Fax: 562-570-6789

Cc: Laura Richardson: Fax: (562) 570-7135

FROM: Scott Kuhn, CBE Legal Director

Number of pages (including cover): 6

RE: Comments on the Long Beach Memorial Medical Center Expansion
Environmental Impact Report and Request for Supplemental EIR.

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**IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION,
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In Northern California: 1440 Broadway, Suite 701, Oakland, CA 94612, Tel: 510-302-0430; Fax: 510-302-0438

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COMMUNITIES FOR A BETTER ENVIRONMENT

5610 Pacific Blvd., Suite 203, Huntington Park, CA 90025 * (323) 826-9771 Fax: 323-588-7079

Via Fax (562-570-6789) and email to cityclerk@longbeach.gov

June 6, 2005

Mayor Beverly O'Neill and Members of the Long Beach City Council
C/o Ms. Anita Garcia, Project Manager, Department of Planning and Building
City Hall, 5th floor
333 West Ocean Blvd.
Long Beach, CA 90802

**Re: Opposition to Certification of Long Beach Memorial Medical Center Expansion
Environmental Impact Report and Request for Supplemental EIR.**

Honorable Mayor and Members of the City Council of Long Beach:

Communities for a Better Environment (CBE), a non-profit environmental health and justice organization with members who live in Long Beach, submits these comments on the Long Beach Memorial Medical Center Expansion (the "Project") Environmental Impact Report (State Clearinghouse No. 2004081142) ("the EIR"). The Project has been given Case No. 0406-20 by the City and is set for an appeal before the City Council on June 7, 2005.

Founded in 1978, CBE has been working on environmental issues in California since that time. CBE has CBE was a winner of the South Coast Air Quality Management District's 2003 Clean Air Award for Good Environmental Stewardship. CBE has at least 87 members who live in Long Beach and thousands more in the greater Los Angeles County area. CBE submits these comments on behalf of itself and its members. CBE incorporates by reference all comments that have been or will be submitted by any other entities, agencies, organizations or individuals concerning the Project and/or the EIR.

While CBE supports the expansion of medical facilities to provide health care services to Long Beach residents, hospital construction projects must be done in compliance with state law. As discussed below, the EIR prepared for the Project fails to comply with the legal requirements of CEQA. CBE requests that the deficiencies in the EIR be corrected and that a supplemental EIR be prepared and circulated for public review.

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I. CBE Requests a Delay to Allow the Parties to Discuss Issues of Concern

CBE requests that the City delay a final decision on this appeal to allow more time for the appealing and interested parties to meet with the City and Hospital and try to resolve the outstanding issues involving this project. CBE is working with the Long Beach Coalition for Responsible Development (LBCoRD) and supports the concept of a Community Benefits Agreement between the Hospital and LBCoRD as a representative of the community that would address issues of concern to the community regarding the Project.

II. The EIR Fails to Adequately Consider, Mitigate, or Discuss Alternatives to Significant Environmental Impacts

A. Affordable Housing Impacts are Ignored by the EIR

The Project includes the demolition of existing affordable rental housing units to accommodate a one-story parking lot. The Project will increase the demand for additional housing by generating new jobs and by destroying existing housing. This is a significant adverse physical environmental impact that must be addressed in the EIR. The EIR fails entirely to analyze, propose mitigation, or consider alternatives for the loss of 51 units of affordable housing and the increase in demand for housing caused by the Project. Indeed, the EIR does not even analyze how many residents will be displaced. There is no consideration of alternative locations for the parking lot that would reduce or eliminate the need to demolish the affordable housing. Nor does the EIR consider the cumulative impact of the loss of these units of affordable housing in the Long Beach area, nor the cumulative loss of affordable housing throughout the region.

1. The Demolition of Affordable Housing to Build a Parking Lot is Inconsistent with the City's General Plan

The removal of housing for construction of surface parking is inconsistent with specific policy objectives provided in the General Plan. The City's General Plan designates the Project property for No. 7 Mixed-Use District in the Land Use Element, Figure 3.04, General Plan Land Use Designation. The EIR fails to adequately discuss the consistency with LUD No. 7.

B. EIR Fails to Adequately Consider, Mitigate, or Discuss Alternatives to the Significant Environmental Impacts from Hazardous Materials

The proposed Project site is heavily contaminated with toxic chemicals. Environmental experts Dr. James Clark, Matt Hagemann, John Williams and DTSC have raised significant concerns about the unknown extent of the contamination, the potential risks posed by the contamination, and the lack of any adequate mitigation plan. Among the toxic and carcinogenic chemicals identified on the site are arsenic, lead, selenium, benzene, freon, xylene, TCE (trichloroethylene), ethylbenzene, toluene, methane, hydrogen sulfide and other VOCs. Instead of proposing mitigation measures, the EIR states that the toxic contamination will be mitigated in the future pursuant to a plan that will be developed by various agencies. CEQA does not allow for such deferral of mitigation measures.

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EIR claims that the Department of Toxic Substance Control (DTSC), which is responsible for the mitigation of the soil contamination, will provide mitigation in its Remedial Action Workplan (RAW). However, DTSC submitted comments stating that the EIR should not be finalized until the RAW is completed so that the remediation measures themselves can be included in the final EIR. The EIR consultant ignored DTSC's comments. CEQA forbids such deferred mitigation and requires consideration and adoption of mitigation measures prior to EIR adoption.

The EIR fails to adequately describe the potential human health impacts of toxic chemicals on the Project Site. Contaminated soil on the site will be disturbed during Project construction and site remediation, potentially exposing construction workers, hospital employees and nearby residents to toxic chemical vapors.

A SEIR is required to analyze significant toxic contamination impacts, and to propose mitigation measure. The SEIR must be circulated for full public review so that the public may review concrete mitigation measures to determine their adequacy

C. EIR Fails to Adequately Describe or Mitigate Significant Air Quality Impacts from Project Construction and Operation.

The EIR admits that the Project will have significant operational and construction air quality impacts. The EIR admits that construction emissions will exceed applicable significance thresholds for carbon monoxide (CO), nitrogen oxides (NOx), and reactive organic compounds (ROGs, also known as VOCs). (EIR, p. 3.2-11). The EIR also admits that the Project's operational emissions will combine with these construction emissions in 2010 to create cumulatively significant air impacts for CO, NOx and ROGs. (Id. p. 3.2-12). The EIR also admits that the Project's operational impacts a build-out will be significant for NOx and ROGs. (Id., p. 3.2-15). The project will cause diesel exhaust emissions that will create significant cancer risk. The risks from diesel exhaust from the project needs to be fully and adequately analyzed and mitigated.

Despite admitting significant air quality impacts, the EIR fails to require implementation of all feasible mitigation measures, and admits that the Project's air quality impacts will remain significant even after implementation of all mitigation measures set forth in the EIR. The EIR fails to consider alternatives that could reduced air quality impacts.

1. Failure to Adopt Feasible Air Quality Mitigation Measures

The EIR fails to require feasible mitigation measures for air quality impacts that the City has required in other EIRs. Specifically, the air quality construction and operational impacts required in the following EIRs:

- 1) West Gateway EIR, section 12.2, specifically air quality mitigation measures AQ1-8 (available at <http://www.longbeach.gov/civica/filebank/blobdload.asp?BlobID=7388>)

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2) Home Depot project, April 2005, section 1.5, pages 1-4 to 1-10 (mitigation measures 4.2.1 to 4.2.8. See <http://www.longbeach.gov/civica/filebank/blobdload.asp?BlobID=7588>)

3) Douglas Park, formerly PacificCenter@LongBeach, SCH EIR No. page 2001051048, pages 7 to 15 of the mitigation monitoring program, MM V.B.-1 to MM V.B.-27 (available at <http://www.longbeach.gov/apps/cd/projects/boeingeir/issues/Appendix%20A.pdf>)

4) Long Beach Sports Park, pages 7-17 to 7-21, air quality mitigation measures 4.8.1 to 4.8.9 (available at <http://www.longbeach.gov/civica/filebank/blobdload.asp?BlobID=6441>)

The feasible air quality measures required in these EIRs include:

- The construction contractor shall utilize electric or diesel-powered equipment in lieu of gasoline-powered engines where feasible.
- The construction contractor shall select the construction equipment used on site based on low-emission factors and high energy efficiency. Prior to issuance of grading permits, the City of Long Beach Director of Planning and Building shall verify that construction grading plans include a statement that all construction equipment will be tuned and maintained in accordance with the manufacturer's specifications.
- Maintain equipment in proper working order
- Use particulate traps on all diesel-powered construction equipment.
- The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew.
- All grading activities that result in dust generation shall cease during second stage smog alerts and periods of high winds (i.e., greater than 25 mph) if dust is being transported to off-site locations and cannot be controlled by watering.
- The construction contractor shall time the construction activities so as to not interfere with peak-hour traffic and minimize obstruction of through traffic lanes adjacent to the site; if necessary, a flagperson shall be retained to maintain safety adjacent to existing roadways.
- The project applicant will be required to name a construction relations officer to act as a community liaison concerning on site construction activity, including resolution of issues related to dust generation from grading/paving activities.
- The developer shall use zero Volatile Organic Compounds (VOC) content architectural coatings during the construction of the project to the maximum extent feasible.

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- Use of alternatives fuels for mobile construction equipment
- Solar or low-emission water heaters shall be used with combined space/water heater units.
- Double-paned glass or window treatment for energy conservation shall be used in all exterior windows.

If these measures were feasible for these other projects in Long Beach, they are feasible for this Project.

D. Traffic and Transportation

CBE shares the concerns raised by Thom Brohard, PE, a licensed traffic expert with professional experience in more than a dozen California cities, that the EIR fails to adequately mitigate the traffic and transportation impacts from the Project.

E. The EIR Fails to Analyze Project Consistency with Applicable Plans, Policies and Regulations of the City

The EIR is legally deficient because it fails to analyze and mitigate the Project's inconsistencies with all applicable policies, including the Long Beach General Plan, the Long Beach Housing Element and Housing Action Plan, Long Beach City ordinances related to housing relocation assistance, and the Long Beach Redevelopment Plan. The removal of housing for construction of surface parking is inconsistent with specific policy objectives provided in the General Plan. The City's General Plan designates the Project property for No. 7 Mixed-Use District in the Land Use Element, Figure 3.04, General Plan Land Use Designation. The Project is inconsistent with the following primary Goals of the City's housing element: 1) Goal #1: Maintain and Improve the Quality of Existing Housing Stock; 2) Goal #2: Provide Opportunity to Expand the Housing Stock with New Construction; and 3) Goal #3: Protect and Preserve Housing Affordable to Low-Income Households. A SEIR should be prepared to discuss and mitigate the Project's inconsistencies.

F. EIR Fails to Adequately Describe or Mitigate Significant Cumulative Impacts from The Project

An EIR must discuss significant "cumulative impacts." CEQA Guidelines § 15130(a); CEQA Section 21083; *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98. As discussed below, the project fails to adequately analyze or mitigate significant cumulative impacts from the Project.

1. Air Quality Impacts

The cumulative air quality impacts analysis is deficient because it fails to provide the necessary quantitative analysis, impermissibly limits the geographic scope considered and impermissibly relies on planning documents to obviate the proper study of the cumulative air quality impacts.

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Specifically, the cumulative effect of the diesel emissions from construction equipment from this and other Projects in the area should be analyzed and mitigated. Also, the cumulative impacts of emissions of NOx and ROG(VOCs) should analyzed and mitigated. By considering only local projects, not more than approximately two miles from the Project location, the EIR impermissibly limits the geographic scope of the cumulative impacts analysis. Courts have held that cumulative impacts analyses for air quality impacts must consider projects from the entire air basin. Other EIRs prepared for projects in considered projects in a much wider geographic scope.

2. Affordable Housing

As discussed above, the EIR fails to consider the impacts from the loss of the 51 units of affordable housing significant and therefore fails to consider the cumulative impact of the loss of affordable housing in Long Beach and the greater Long Beach area.

III. The City Should Prepare and Re-circulate a Supplemental EIR

Due to the deficiencies in the EIR, which are discussed herein and have been previously raised by several commentators, a supplemental EIR ("SEIR") should be prepared to analyze the Project's impacts and re-circulated for public review. CEQA requires re-circulation of an EIR when significant new information is added to the EIR following public review but before certification. (Pub. Res. Code § 21092.1.) The Guidelines clarify that new information is significant if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project" including, for example, "a disclosure showing that ... [a] new significant environmental impact would result from the project." (CEQA Guidelines § 15088.5.) Significant new information will be required to analyze and mitigate the deficiencies identified in the EIR. An SEIR is therefore required.

IV. The EIR, Public Notices, and Related Documents should be Translate to Spanish

Many of the people who will be most affected by this Project will be unable to participate meaningfully in the CEQA process if the documents are not translated into Spanish. CBE therefore requests that the DEIR, and all CEQA documents, be translated into Spanish and that public proceedings be conducted with simultaneous Spanish and English translation.

According to the 2000 census information available on the City's website, over 30% of residents over age 5 speak Spanish and 44% speak a language other than English. See <http://www.longbeach.gov/civica/filebank/blobdload.asp?BlobID=3751>. The City has made public information available in Spanish in other situations. For example, the City Council's public form on LNG was noticed in Spanish and Spanish translation was provided. See <http://www.longbeach.gov/civica/filebank/blobdload.asp?BlobID=7305>. There are other examples of the City providing documents and information in Spanish. See <http://www.longbeach.gov/civica/filebank/blobdload.asp?BlobID=7184>;

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<http://www.longbeach.gov/police/info/complaints/spanish.asp>; and
<http://www.longbeach.gov/cd/workforce/español.asp>

Because substantial portions of the affected population living in the City of Long Beach, and near the Project site, are Spanish-speaking, not translating the CEQA documents into English excludes them from the public review and comment process, in violation of the underlying spirit of CEQA.

V. Request for Notification

Finally, please include CBE on your interested persons list for the Project. Please send CBE a copy of the Notice of Determination if and when it is approved and posted.

Please address public notices to CBE, Attn: Scott Kuhn, 5610 Pacific Blvd., Suite 203, Huntington Park, CA 90255, Fax: 323-588-7079.

Thank you.

Sincerely,



J. Scott Kuhn
CBE Legal Director

Cc: Laura Richardson via email to: district6@ci.long-beach.ca.us
City Attorney of Long Beach via email to: cityattorney@longbeach.gov
City Manager via email to: citymanager@longbeach.gov.