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March 4, 2014

Via Hand Delivery

Hon. Meenakshi Srinivasan, Chair
New York City Board of Standards and Appeals
250 Broadway, 29th Floor
New York, NY 10007

Re: New York Methodist Hospital
Center for Community Health
505-525 6th Street (Block 1084, Lots 25, 26, 28, 39-44, 46, 48, 50-59, 164, 1001, and 1002)
BSA Cal. No. 289-13-BZ

Dear Chair Srinivasan:

We are writing in response to the February 4, 2014 letter of Eve C. Gartner, Esq. (the "Gartner Letter") in opposition to NYM's application, which was submitted as an attachment to the February 4, 2014 letter of Stuart A. Klein, Esq. The Gartner Letter asserts that the environmental impact analysis contained within the Environmental Assessment Statement (EAS) submitted by New York Methodist Hospital (NYM) does not satisfy the requirements of the City Environmental Quality Review Act (CEQRA), because it allegedly fails to adequately study the potential air quality impacts of the Proposed Development. Ms. Gartner asserts that there are several deficiencies in the EAS's air quality analysis. As discussed below, the air quality analysis is in full compliance with the requirements of CEQR and the *CEQR Technical Manual*.

Ms. Gartner asserts that NYM has failed to "quantify the numeric levels" of nitrogen oxides (NO_x), carbon monoxide (CO) and particulate matter (PM) or other pollutants it anticipates emitting from its future boiler operations over and above current levels. *See* Gartner Letter, p. 3. However, as evidenced by the EAS, this statement is clearly untrue. As described more fully below, the EAS includes a stationary source screening analysis for the Proposed Development, which evaluates NO_x to ensure that concentrations of nitrogen dioxide (NO_2), a component of NO_x, do not exceed national ambient air quality standards. Under the accepted

methodolgy of the *CEQR Technical Manual*, the results of this screening established that a more refined NOx analysis was not required. Further, contrary to Ms. Gartner's assertion, the stationary source analysis was not required, under the methodology set forth in the *CEQR Technical Manual*, to include a "quantification of numeric levels" for CO and PM.

As observed in the EAS, the Proposed Project may include either a natural gas-fueled boiler installation to serve process heating and hot water systems or a connection to the existing NYM boiler plant across 6th Street. To be conservative and evaluate the worst-case potential future pollutant concentrations from the proposed combustion equipment, the EAS included a stationary source air quality analysis that assumed a stand-alone addition of new boiler equipment. The EAS used the screening methodology described in the *CEQR Technical Manual* (which looks at information regarding the type of fuel to be used, the maximum development size, and the boiler exhaust stack height, among other things) to determine whether there would be a potential air quality impact from the proposed boiler plant. The screening analysis concluded that there would be no potential for significant adverse air quality impacts resulting from a proposed stand-alone boiler plant, because the Proposed Development would be below the maximum permitted size shown in Figure 17-8 of the *CEQR Technical Manual*. The screening analysis also demonstrated that there would be no significant air quality impact specifically from 1-hour average concentrations of NO_2.

As previously discussed in the response to Ms. Gartner's November 20, 2013 letter to CB6, emissions of CO and PM were not quantified since these pollutants are not pollutants of concern for the Proposed Development. The determination as to whether to quantify emissions considers whether the Proposed Development would have any potential for a significant adverse air quality impact, which, as per the *CEQR Technical Manual*, is determined based on whether concentrations of pollutants would exceed national ambient air quality standards or other specified criteria. The *CEQR Technical Manual* provides examples of actions for which an analysis of particular pollutants may be necessary. For CO, stationary sources of emissions are generally not a concern, as indicated in Table 17-2 of the *CEQR Technical Manual*. In addition, $PM_{2.5}$ impacts are evaluated on an incremental basis, and the Proposed Development would result in a slightly smaller building than the Complying Development. Therefore, emissions of $PM_{2.5}$ from the Proposed Development's stationary sources would be similar to or less than those of the Complying Development, and an analysis of this pollutant was not warranted.

Ms. Gartner incorrectly asserts that NYM has failed to "consider the cumulative impacts of emissions of NOx, CO, and PM" from mobile sources, stationary sources and construction, and thus has not complied with the requirements of CEQR. Gartner Letter, p. 4. This argument misunderstands the concept of "cumulative" impacts. Cumulative impacts occur "when **multiple actions** affect the same resource(s)." *New York State Department of Environmental*

Conservation 2010 SEQRA Handbook, p. 81 (the "*SEQRA Handbook*"). Cumulative impacts "must be assessed when actions are proposed, or can be foreseen as likely, to take place simultaneously or sequentially in a way that the combined impacts may be significant." *Id.* Here, there is only one action, which is the development of an ambulatory care facility. Further, the EAS does analyze the potential environmental impacts that would result from the construction and operation of that facility in all recognized impact areas using the methodology required by the *CEQR Technical Manual*. In some technical areas, like mobile source air quality impacts, a preliminary review screened out significant adverse impacts, and a detailed analysis was not required. For example, CO is primarily related to emissions from motor vehicles, and a quantified assessment of on-street CO emissions was not required because the Proposed Development would result in fewer new peak hour vehicle trips than the *CEQR Technical Manual* screening threshold of 170 trips at nearby intersections in the study area. In addition, the Proposed Development would not result in any significant increases in truck traffic near the project site or in the region, nor other potentially significant increase in PM2.5 vehicle emissions as defined in Chapter 17, Sections 210 and 311, of the *CEQR Technical Manual*. Therefore, an analysis of PM was also not required. Lastly, the Proposed Development would not have a significant effect on the overall volume of vehicular travel. Therefore, no analysis of NOx emissions was justified. The fact that certain impacts areas were properly screened out and detailed analyses were not required for those impact areas does not mean that NYM failed to properly analyze all of the environmental impacts associated with the action in accordance with CEQR. To the contrary, it shows that NYM properly followed the accepted methodologies established by the *CEQR Technical Manual* for analyzing the potential impacts of zoning relief sought for an urban development project. Moreover, any potential cumulative effects of mobile and stationary sources associated with the Proposed Development would be negligible, since mobile source emissions occur near ground-level, and the Proposed Development's boiler stack would be more than 150 feet above grade.

Ms. Gartner questions the assertion that air quality impacts of the Proposed Development would not result in public health impacts. The Public Health chapter of the *CEQR Technical Manual* specifically references national ambient air quality standards and other air quality standards and criteria as the basis for considering health impacts. The air quality analysis in the EAS determined, on the basis of the methodology in the *CEQR Technical Manual*, that no significant adverse stationary source or mobile source air quality impacts would result from the Proposed Development.

Ms. Gartner also argues, incorrectly, that the NYM "improperly segmented the environmental assessment of the requested variances and the possible need to modify its Title V facility operating permit issued by the New York State Department of Environmental Conservation ('NYSDEC')." Gartner Letter, p. 4. Here, Ms. Gartner once again misconstrues

the meaning of SEQRA/CEQR terminology. The SEQRA regulations define "segmentation" as the division of the environmental review of an action so that various activities or stages are addressed as though they were independent, unrelated activities needing individual determinations of significance. 6 NYCRR § 617.2(ag). Segmentation typically occurs (a) when a project sponsor tries to avoid preparation of an environmental impact statement for a "whole action" by splitting the project into two or more smaller projects, or (b) when activities that may be occurring at different times are excluded from the scope of an environmental review. *SEQRA Handbook*, pp. 54-55. The *SEQRA Handbook* specifically acknowledges that agencies are often faced with the problem of how to address a complex action involving a number of related components that may not be presented or applied for at the same time, such as a series of permits or approvals sought for the same project, and it states that "interrelated or phased decisions should not be made without consideration for the whole action, even if several agencies are involved in such decisions." *Id.*

Here, the EAS does analyze the "whole action" and does not exclude any aspect of the project from review. As described above, the EAS contains an analysis of stationary source emissions from the Proposed Development using the conservative assumption of a stand-alone facility. The EAS also observes that a modification to the facility's Title V permit may be required for a new plant or a tie-in to the existing one. The fact that NYM has not yet identified the specific approval that will be required to permit the additional emissions (*e.g.* a Title V permit modification or other approval) is irrelevant, because the potential emissions that would be permitted under any approval were, in fact, studied and were not excluded from the scope of environmental review. Further, because the proposed action is a Type I action that requires coordinated review, the potential for a Title V permit modification is noted on the EAS Form, thereby identifying NYSDEC as an involved agency in the CEQR/SEQRA review. In accordance with SEQRA and CEQR, NYSDEC may review and comment on the EAS during the BSA process if it so wishes, or it may do so at a later date. NYSDEC will also have an additional opportunity to review the EAS if any permit applications are submitted to the agency. Nearly every project requiring State or Federal permit approvals is handled in this way, because it is not typical for an applicant to apply for operating permits before a proposed building has received the required zoning approvals.

As demonstrated above, and contrary to the assertions of the Gartner Letter, the EAS fully complies with the requirements of CEQR and the *CEQR Technical Manual* in analyzing the potential air quality impacts of the Proposed Development.

Very truly yours,

Elise Wagner

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