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December 6, 2010

The Honorable Jan Perry  
Chair, Energy & Environment Committee  
City of Los Angeles  
200 North Spring Street, Room 420  
Los Angeles, CA 90012

**Re: OPPOSE - Proposed Low Impact Development Ordinance (LID)  
CF #09-1554**

Dear Councilmember Perry:

The Central City Association (CCA), the Building Industry Association (BIA), the Los Angeles Area Chamber of Commerce, the Valley Industry and Commerce Association, the Building Owners and Managers Association (BOMA), NAIOP SoCal, and the Construction Industry Coalition on Water Quality appreciates the opportunity to comment on the proposed LID Ordinance dated September 29, 2010.

We appreciate the Bureau of Sanitation's efforts to reach out to the business community, and we look forward to furthering this collaborative relationship. We recognize the importance of developing sustainable methods to manage urban runoff, and we share in the city's goal of improving the quality of L.A.'s water. As a result of our conversations, much progress has been made and many concepts have been incorporated into the September 29, 2010 draft, including but not limited to, the elimination of the off-site mitigation fee and incentives for voluntary compliance. At this time, however, we do not believe it is advisable for the Council to move forward with the adoption of this ordinance.

**I. The Los Angeles Regional Water Quality Control Board Will Soon Consider Its Own Requirements for Low Impact Development in Los Angeles County.**

After a number of conversations with staff at the Los Angeles Regional Water Quality Control Board (LARWQCB), it is our understanding that the LARWQCB will begin to consider new

requirements for low impact development in Los Angeles County in early 2011, when the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit (MS4) is updated. The process is anticipated to be launched in January 2011 with the release of the draft permit.

The City of Los Angeles is *not* the final authority on this issue, and cannot supersede the decisions of the LARWQCB. Acting in advance of a LARWQCB ruling and adopting its own LID ordinance puts the city in a perilous position if the LARWQCB decides to adopt a different set of standards. The city would then be forced to rewrite its ordinance, resulting in a waste of precious city resources and staff time. Ignoring these ramifications would be short-sighted and impractical.

In addition, this would create tremendous confusion and chaos in the real estate community as developers struggle to become familiar with one set of requirements, only to realize that the rules could be changing in six months. With an undetermined city budget, the city no longer has the luxury of turning a blind eye to the economic impacts of its decisions. There is no reason to rush to adopt a separate LID ordinance for Los Angeles. Rather, this should be viewed as an opportunity to work in tandem with the LARWQCB to develop consistent standards for our region.

## **II. Los Angeles Must Analyze How Its Urban Stormwater Mitigation Requirements Compare with Others in the Region.**

In addition to collaborating with the LARWQCB, the city should undertake an analysis of how its urban stormwater mitigation requirements – both current and proposed – compare to other municipalities that will be regulated by the same NPDES MS4 permit. Without this information, the city will operate in a vacuum without sufficient knowledge as to how other communities manage their stormwater runoff.

For example, the County of Los Angeles' LID ordinance markedly differs from what is being proposed in the city. The county's ordinance utilizes a different approach to determine the amount of on-site retention of stormwater, focusing on the "excess volume" to be retained on-site, rather than the entire volume from a design storm event. In essence, the county ordinance looks at pre-development and post-development conditions and takes into account the fact that there is usually some runoff under pre-development conditions.

In addition, the County's grandfathering provision creates a bright line rule, exempting all complete discretionary and non-discretionary permit applications filed with County Planning or Public Works before the effective date of the ordinance. The City's proposed ordinance exempts development applications which are deemed complete, but qualifies that exemption by including a phase-out provision. According to the City's proposed ordinance, the exemption phases out if

the project does not obtain building permits within three years of the effective date of the ordinance. No such phase-out exists within the County. This ordinance may have far-reaching economic implications and neglecting to engage in this comparative analysis may not serve the long-term economic interests of the City.

**III. Existing City Ordinances and Programs Already Accomplish the Goals of Low Impact Development.**

Depending on the type of project, the City currently requires projects to reduce the quantity and improve the quality of stormwater runoff through a Standard Urban Stormwater Mitigation Plan (SUSMP) or Site Specific Mitigation Plan. Since its inception in 2002, in practice, SUSMP has been greatly expanded to include LID best management practices such as infiltration systems, bio-filtration/bio-retention, and stormwater capture and reuse. In the Bureau of Sanitation's "2009 SUSMP Guide for Developers and Designers," the handbook lays out many of the same concepts and requirements that the proposed LID ordinance touches upon.

The City already has the discretion to require projects to implement LID best management practices through SUSMP. Creating another level of bureaucracy that is almost identical to an existing program is repetitive and unnecessary. An update to the SUSMP guide would be sufficient to accomplish the stated goals of the proposed LID ordinance.

**IV. The Development BMP Handbook that Needs to Support Implementation of the Ordinance, Remains Incomplete.**

The draft ordinance requires that the BMP Handbook be completed within 90 days of adoption of the ordinance, so that it is complete before the ordinance takes effect. While work on the Handbook is ongoing, many key technical issues remain and terms and conditions remain undefined. We recognize that the level of effort and detail needed may be more than originally anticipated, and we believe the manual should be as close to completion as possible before the ordinance is adopted.

**V. Development Agreements and Vesting Tentative Tract Maps Should be Explicitly Exempted From the Proposed Ordinance.**

Development Agreements are carefully negotiated contracts between holders of development property rights and a municipality. They establish the regulations that will apply to the development project during the agreed-upon term. Staff from the Bureau of Sanitation has affirmatively stated, on numerous occasions, that the proposed ordinance will not apply to approved development agreements and projects with vesting tentative tract maps. To reduce confusion and enhance transparency, we respectfully request that these additional exceptions be added to the list of enumerated exceptions under (C)1 of the ordinance:

Page 4  
December 6, 2010  
Energy & Environment Committee

- x. Any approved development agreement;
- xi. Any approved vesting tentative tract map/parcel map.

We thank you for your consideration and offer these comments in the spirit of continued collaboration. Please feel free to contact any of the undersigned for further discussion.

Sincerely,



Carol Schatz  
President & CEO  
Central City Association of Los Angeles



Holly Schroeder  
Chief Executive Officer  
Building Industry Association –  
LA/Ventura Chapter



Stuart Waldman  
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Jim Camp  
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Mark Grey, Ph.D.  
Technical Director  
Construction Industry Coalition on Water  
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Cc: The Honorable Tony Cardenas  
The Honorable Paul Koretz  
The Honorable Paul Krekorian  
The Honorable Richard Alarcon