

20 August 2019

Mayor Steve Ly
Members of the City Council
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California, 95758

Re: **Defer Authorization of CNU Bonds**

Dear Mayor Ly and Council Members:

NEST requests that the City **defer** consideration of a Resolution approving the issue of \$900 Million revenue bonds for the California Northstate Medical Center Campus Hospital Project (CNU). The project was abruptly announced on December 20, 2018, as a private “for-profit” Level II Trauma hospital located in the existing Stonelake Landing. The CNU Application describes a 12 story (271 feet) hospital, including several 4 story parking structures for approximately 3300 vehicles, a dormitory for 300 students and other related buildings. This project is in a 200-year flood plain without an Urban Level of Flood Protection. The Application remains woefully incomplete. The project is not ready for prime time.

Since its inception, the CNU project has been described as a private “for-profit” enterprise. In a response to a question, “How will this project be financed?”, (Comments on the Application) CNU responded with the following: “The project is privately financed and CNU is committed to the completion of the project as proposed” (emphasis added). Therefore, it is surprising that CNU is now seeking City approval through a non-profit, for authorizing almost a billion dollars of tax-exempt bonds from the California Public Finance Authority (CPFA). Apparently, the developer was unable to raise enough capital in the private market to proceed with the project as a “for profit” hospital. This should give the city pause. Elk Grove should not extend its imprimatur on authorizing bond authority for an expensive immature project, in very early development, at a prohibited location.

Prior to authorizing bonds for CNU project at Stonelake Landing, there are several issues that the City Council needs to consider. While the City is not in direct financial risk, it has a reputational risk for a large project with significant development challenges and very real negative impacts on the local community and environment.

200-year Flood Plain Risk - The proposed CNU hospital project is in a 200- year flood plain without an Urban Level of Flood Protection (ULFP). The Stonelake Landing location of the hospital was zoned and approved by the County of Sacramento before 2000 and prior to the incorporation of Elk Grove. Local dry levees provide a 100-year level of flood protection for the area. Subsequent to the development of the existing Stonelake Landing, California enacted Senate Bill 5 (2007) requiring new or reconstruction projects to meet have an” Urban Level of Flood Protection”. Hurricane Katrina and other flood related incidents raised concerns for the legislature about development in flood prone areas of the Sacramento-San Joaquin Valley. The City of Elk Grove has complied with the requirements of SB 5/SB 1278 in the adoption of its General Plan and Municipal Code (July 27,2016).

The Elk Grove General Plan SA 14 states: “The City shall locate and encourage other agencies to locate , new essential government service facilities and essential health care facilities outside of the 100-year

and 200-year flood hazard zones, except in cases where such locations would compromise facility functioning”.

The Proposed CNU Trauma Hospital is in an area **prohibited** for such development by the Elk Grove General Plan and Municipal Code.

The City Staff delivered a Staff Report on the 200-year flood plain study to the City Council on July 24, 2019. (See E.G. City Council Agenda Item 10.2, July 24, 2019). Attachment 2 of the Report (pg.21), documents that the CNU hospital site southeast of the intersection of I-5 and Elk Grove Blvd. is in the 200-year flood plain subject to 3-10 feet of flooding. (see attachment to this letter).

Moreover, the Staff Report documents that there are no current plans by the Sacramento Area Flood Control Agency (SAFCA) or the County to strengthen the east-side Sacramento River Levee to provide 200-year flood protection. There has been no showing that the U.S. Army Corps of Engineers is currently planning to strengthen these levees in any time horizon parallel with the planned construction of the 400- bed CNU Hospital. In short, it is unlikely that there will be an Urban Level of Flood Protection at the site of the proposed hospital any time within the relevant planning horizon. This should be a red flag for the Council in considering the instant Resolution.

The City of Elk Grove should forego a Resolution approving the issuance of any tax- exempt bond for the construction of a hospital in a flood plain without an Urban Level of Flood Protection.

Due Diligence - The City of Elk Grove should not, at this time, approve the issuance of bonds by CPFA for the benefit of the Northern California Health Services and Research Foundation Inc. (NCHSRFI), an IRS 501(c)(3), California public benefit corporation which will be the borrower. The City should exercise due diligence in ensuring the borrower has the ability of managing up to \$900 million and the experience necessary in building a 400- bed hospital.

Available public records show the following:

Previously, the Northern California Pharmacy and Health Science Research Foundation (C3308397) registered in November 2010, appears to be affiliated with CNU. The primary activity of the foundation was:

“To provide financial support relative to health science research & medical education: To promote evidence- based medicine through research/seminar; To provide financial support to medical/pharmacy students pursuing education”.

These are all worthy endeavors, within the competency of the Board, but there was no indication that the foundation was structured or competent in building and operating a large hospital and trauma center.

The foundation filed an annual renewal fee report with the California Attorney General, June 04, 2019. The filing showed as of 12/31/18 the Foundation had \$0.00 assets and 0.00 revenues.

The Staff analysis identifies the borrower as the Northern California Health Services and Research Foundation organized earlier this month on August 6, 2019. According to staff, CNU organized the foundation for various purposes including “...to construct hospitals clinics, and related housing”.

Apparently, the original foundation changed its name and amended its purpose to include constructing medical facilities.

The question for the City is whether the Board of the foundation has the necessary experience to build and operate a 400-bed hospital and medical complex? The City is lending its good name to authorize the financing through enormous tax- exempt bonds for this project.

Finally, "What's the rush?" An existing non-profit amended and restated its Articles of Incorporation on August 6, 2019, allowing it to seek authorization for nearly \$1 Billion in tax-exempt hospital revenue bonds. Immediately thereafter, August 9, 2019, the City noticed a Public hearing for August 21, 2019 as required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Why, during the "dog days of summer" must the City rush approval of CNU's request? Given that the developer has stated that it is a "for profit" hospital, the City should assume that they have enough private capital to bring the project to the point where it is ready for prime time. The developer, and its private investors, can be reimbursed through these bonds at some subsequent time when the project has completed its environmental review and secured necessary entitlements. **The City of Elk Grove should defer** approval of authorizing such bonds until the project is more mature.

Timing of TEFRA Authorization - A review of TEFRA approval by public agencies, in Northern California, as well as Sacramento County, suggests that generally projects are much further along in their development process, having secured necessary entitlements, or are refinancing and adding additional projects before a TEFRA approval. Many of these are low-income or other housing needs consistent with the local government General Plans or policies, which are straightforward. This project located in the 200- year flood plain, is not consistent with the Elk Grove General Plan and is a huge amount of money for a small untested non-profit. It is in the very early stages of the Draft Environmental Impact Report (DIER) and does not have its sought-after entitlements.

Therefore, the City Council should defer consideration of a Resolution approving the issuance of Bonds by the California Public Finance Authority for the CNU project until such time the EIR is approved and the project has secured the entitlements necessary to move the project forward.

Thank you for your consideration.

Sincerely,

Jan Smutny-Jones for NEST

Cc: California Public Finance Authority.