



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Determination of Need (DoN) Program  
250 Washington Street Boston, MA 02108

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

MONICA BHAREL, MD, MPH  
Commissioner

August 15, 2017

VIA E-MAIL

Mark Cummings  
Principal  
Clifton Larson Allen LLP  
300 Crown Colony Drive, Suite 310  
Quincy, MA 02169

Re: Alden Court Nursing Care & Rehabilitation Center Request for Minor Amendment – 5-1574.1

Dear Mr. Cummings:

This letter is in response to your request submitted on behalf of Alden Court Nursing Care & Rehabilitation Center (Holder or Alden Court) for an amendment to its approved Determination of Need (DoN) Project #4-1574 (Project). Your request, received on July 17, 2017, is for a Minor Change to the Project pursuant to 105 C.M.R. §§ 100.635(A)(2).

Background

The approved DoN provides for renovation of the existing nursing facility located at 389 Alden Road, Fairhaven, MA 02719 to include an upgrade of the HVAC system and replacement of windows and siding as well as carpet, wall covering, doors, floors, and ceiling panels. The Project contemplated improved ambulance accessibility at the facility by grading an entrance and adding a new canopy.

This is a request pursuant to the DoN regulation in effect as of January 2017. The relevant portion of the regulation requires that the Holder "submit to the Department a written attestation describing the proposed change and associated costs...[along with] a narrative comparison of the approved project and the proposed Minor Change" and that the Department "determine in writing whether the proposed change or modification is Minor, whether it falls within the scope of the Notice of DoN as previously approved by the Department, and whether the proposed change is reasonable". 105 CMR 100.635(A)(2) (Regulation)

Proposed Amendment

The Holder originally planned to change the roof top units and address HVAC in corridors and community spaces. After approval of the Project, the Holder heard about concerns from residents regarding the quality and benefits that residents were deriving from the HVAC system. These concerns

were largely a function of the changing mix and composition of the patient panel. Additionally, subsequent to the planning stages of the project, new options regarding the type of HVAC system became available to the Holder and the Holder determined that it could utilize geo-thermal technology in place of traditional HVAC units. Although this would be more expensive upfront, in terms of installation and setup, in the long run, it would provide more efficient, effective and quality services to the residents and reduce operating costs on a year to year basis. The Holder has thus modified the plan by adding new air conditioning and heating to the post-acute unit; removing inefficient and expensive baseboard heating and replacing it with a renewable geo-thermal system; and adding high efficiency heating and cooling units for all corridors and community spaces in the building. Holder asserts that the changes will result in future cost efficiencies and added comfort for the residents of the facility and further that these changes were reasonably unforeseen.

The request for Minor change also includes a request for an inflation adjustment, increasing the MCE from \$2,354,191 to \$2,495,207 based on a 1.0599 inflation multiplier.

This request for Minor Change includes both an “increase in the maximum Capital Expenditure of up to 10% of the inflation adjusted originally approved total expenditure...for contingencies that could not have been reasonably foreseen” and a change in the MCE to the extent of the inflation adjustment provided. Both of those elements are contemplated by the Regulation and included in the definition of Minor Change.

#### Analysis

The approved MCE of \$2,354,191 (September 2013 dollars) when adjusted for inflation is \$2,495,207 (July 2017 dollars). Holder requests an increase over the inflation adjusted amount for a total MCE of \$2,596,143 (July 2017 dollars).

The Holder described unforeseen changes resulting in cost adjustments in the following areas:

- Depreciable Land Development line item results in a savings of almost \$100,000 by adjusting plans for the ambulance entrance. The original plan contemplated a design that, with additional and in depth planning was determined to be unreasonably costly and Holder adjusted the plan to accommodate the patient needs for a reasonable cost;
- Architectural costs exceed the inflated cost as a result of the changes in the HVAC plans. These costs remain less than 2.6% of the total construction cost; and
- Equipment cost have increased from the inflated projected level as a result of Holder’s decision to prioritize replacement of all of resident room furniture as well as dining room chairs and sitting room furniture.

Each of post-filing and construction costs are increasing only as to the rate of inflation and the Net Interest Expense will decrease as a result of Holder having received less costly financing through HUD, and funding the renovations and equipment through its own Replacement Reserve Fund with no debt service incurred.

Finding

Based upon the information reviewed, the Department finds that the requested change is Minor; falls within the scope of the Notice of Determination of Need as previously approved by the Department; and that the proposed change is reasonable.

Pursuant to 105 CMR 100.635(A) (2), the Department approves this Minor Change to Project #4-1574. The approved MCE shall be \$2,596,143 (July 2017 dollars). The approved GSF remains unchanged, and all other terms and conditions of the originally approved Determination of Need and any prior amendments apply.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MB', is positioned above the printed name of the Commissioner.

Monica Bharel, MD, MPH  
Commissioner

cc: Alice Bonner, EOE  
Stephen Davis, HCFLC  
Daniel Gent, HCFLC  
Sherman Lohnes, HCFLC  
Patty McCusker, CHIA  
Kate Mills, HPC  
Eric Gold, AGO  
Thomas Lane, MassHealth  
Rebecca Rodman, Deputy General Counsel