

November 20, 2018

**BARRETT
& SINGAL**

Via Email and Hand Delivery – Return Receipt Requested

Nora Mann, Esq., Program Director
Determination of Need Program
Department of Public Health
250 Washington Street
Boston, MA 02108

Re: Application Number – DFCI-18060111-HE
Dana-Farber Cancer Institute, Inc. Determination of Need Application for a
Substantial Capital Expenditure

Dear Attorney Mann:

On behalf of Dana-Farber Cancer Institute, Inc. (“Applicant”), we write to thank the Department of Public Health (“Department”) for its collaborative approach in reviewing the proposed substantial capital expenditure. We appreciate the efforts of the Department’s staff to conduct a thoughtful analysis of the potential effects of the proposed project.

Pursuant to 105 CMR 100.510(C), we write to submit written comments on behalf of the Applicant regarding certain of the proposed conditions contained in the “Other Conditions” section of the Department’s Staff Report to the Public Health Council (the “Report”) for the above-captioned application for a Determination of Need. The Applicant understands that one of principal purposes of the proposed conditions is to ensure that a transparent community health initiative process is implemented. However, due to developments with community health needs assessment processes, as well as changes to the Applicant’s External Determination of Need Advisory Committee (“Advisory Committee”), the Applicant seeks to clarify certain of the conditions contained in the Report as shown in both redlined (Exhibit A) and clean (Exhibit B) format. These clarifications have been discussed with Mr. Ben Wood, Director of the Office of Community Health Planning and Engagement at the Department to explain the rationale for the requested changes. In support of the proposed changes to the conditions, we offer the following comments.

1. In regard to Condition 3, the Applicant has informed Mr. Wood that its Board of Trustees (“Board”) will need to approve its revised Community Engagement Plan Form. However, due to the approaching date of the Public Health Council Meeting (December 12, 2018) and the Board’s meeting schedule, there is insufficient time to obtain Board approval and

submit the form by December 15, 2018 as noted in the condition. Consequently, the Applicant requests that a revised Community Engagement Plan Form be submitted by February 12, 2019, two months post Public Health Council vote on the proposed project.

2. Within Condition 4, the Department requests that “a charter type document” be included with the revised Community Engagement Plan Form submission. The Applicant is requesting that the term “memorandum of understanding” be removed from this condition and that required documentation be referred to as a charter only. Furthermore, since the charter will need to be reviewed and thoroughly discussed by the Advisory Committee over the course of (potentially) multiple meetings, the Applicant requests to submit these materials three months post Public Health Council vote on the proposed project, no later than March 12, 2019.
3. With respect to Condition 5, the Applicant has identified Nicole Freedman, Director of Transportation for the City of Newton, to serve on its Advisory Committee. Ms. Freedman has significant experience in developing and implementing transportation initiatives and will represent the Transportation and Planning sector on the Applicant’s Advisory Committee. Consequently, given the Applicant’s compliance with the Department’s required constituencies for its Advisory Committee, the Applicant requests that this condition be removed from the Staff Report.
4. In regard to Condition 7, the Applicant requests that the CHI timeline be revised to incorporate the aforementioned requested changes to the submission dates of the revised Community Engagement Plan Form and the Advisory Committee’s Charter. Exhibits A and B include a revised CHI timeline.

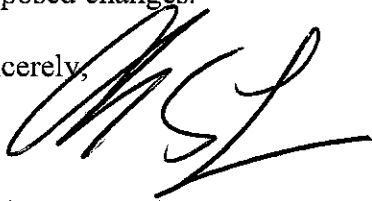
The Applicant appreciates your consideration of our suggested clarifications to certain of the proposed conditions as explained above and set forth in the attachment (which includes both a clean version of our proposed conditions and a redlined version that shows the requested changes to the conditions in the Report).

Nora Mann, Esq., Program Director
Determination of Need Program
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Please contact Crystal Bloom, Esq. or me if you have any questions regarding this letter and our proposed changes.

Sincerely,



Andrew S. Levine
Enclosure

cc: R. Rodman, Esq.
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Attachment/Exhibit

A

Other Conditions

1. Of the total required CHI contribution of \$8,742,500, \$2,141,912 will be directed to the CHI Statewide Initiative, \$6,425,738 will be dedicated to local approaches to the DoN Health Priorities (includes resources for evaluation of strategies), and \$174,850 is allowed, pending full explanation in the revised Community Engagement Plan, to be used for administrative purposes to implement community engagement activities and management of CHI processes such as issuing RFPs, and related activities. To comply with the Holder's obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for \$2,141,912 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative). The Holder must submit the funds to HRiA within one month from the date of the Notice of Approval. The Holder must promptly notify DPH (CHI contact staff) when the payment has been made.
2. Funds will be distributed over a 3-5-year period subject to choice of Health Priority strategies and final Department approval and based on the CHI Timeline (Attachment 2).
3. A revised Community Engagement Plan will be submitted by ~~December 15th, 2018~~ February 12, 2019. All activities described in the revised Community Engagement Plan to be submitted and approved by DPH by ~~December 15th~~ February 12, 2019 are conditions of approval.¹
4. ~~The Community Engagement Plan will include memorandum of understanding or a~~ A charter type document formally describing the decision-making role of the advisory committee ~~members will be submitted to the Department of Public Health by March 12, 2019.-~~
5. ~~The Community Engagement Plan will include a new member representing the Transportation and Planning sector.~~
6. The 2019 CHNA/CHIP will include an analysis of social determinant of health information consistent with DPH's Health Priorities and the 2019 CHNA/CHIP will be the basis for choosing funded strategies.
7. Compliance with the CHI timeline, set out at Attachment 2, shall be a condition to this DoN. (see Attachment 2).
8. Pursuant to the Standard Condition set forth in 105 CMR 100.310(L), the Holder shall annually report on the payer mix of its patient panel. If there is a material decrease in the Holder's public payer mix, the Holder shall provide justification for such change and propose a remedial plan to increase public payer mix.

¹ In this context, DPH notes and understands the nature of the care provided by the Applicant (a comprehensive cancer care institute) while noting its intention to broaden community engagement activities beyond those employed for the Applicant's 2016 CHNA.

Attachment 2

**CHI Timeline for Dana-Farber Cancer Institute
Required Pursuant to Condition 7**

- By ~~December 15th~~ February 12, 2019 complete and submit a revised Community Engagement Plan to DPH based on the community engagement activities planned for the COBTH 2019 CHNA/CHIP.
- By March 12, 2019 develop and submit a charter formally describing the decision-making role of the External DoN Advisory Committee.
- One to three months post-approval: Dana-Farber begins working with a third-party evaluator to evaluate all aspects of engagement and the CHI activities.
- One to five months post-approval: Additional community engagement activities are carried out to supplement the Collaborative's community engagement activities.
- Six to seven months post-approval: 2019 CHNA and additional community engagement activities completed; summary report on community engagement activities is submitted to DPH.
- Seven to eight months post-approval: The External DoN Advisory Committee begins selection of the Health Priorities for CHI funding based on the priorities identified through the 2019 CHNA/CHIP.
- Eight to nine months post-approval: The External DoN Advisory Committee selects Health Strategies for noted Health Priorities and submits the Health Priorities and Strategies Selection Form to the Department of Public Health for review and approval.
- Ten months post-approval: The External DoN Advisory Committee conducts a conflict of interest disclosure process to determine which members of the Committee will move on to the External DoN Allocation Committee. External DoN Advisory Committee members with no conflict of interest will move on to the External DoN Allocation Committee. Additionally, the External DoN Allocation Committee will be supplemented with content experts and others to facilitate the solicitation process.
- Eleven to twelve months post-approval: The External DoN Allocation Committee is developing the RFP process and determining how this process will work in tandem with ongoing community benefit activities and engagement being conducted by Dana-Farber's Community Benefits Office.
- Eleven to twelve months post-approval: Dana-Farber's Community Benefits Office will begin working with HRiA to provide technical assistance to applicants submitting RFP responses. HRiA will begin this work at the Bidders conferences for the RFP.
- Twelve to thirteen months post-approval: The RFP for funding is released.
- Thirteen to fourteen months post-approval: Bidders conferences are held on the RFP.
- Fifteen to sixteen months post-approval: Responses are due for the RFP.

- Seventeen to eighteen months post-approval: Funding decisions are made, and the disbursement of funds begins.

Attachment/Exhibit

B

Other Conditions

1. Of the total required CHI contribution of \$8,742,500, \$2,141,912 will be directed to the CHI Statewide Initiative, \$6,425,738 will be dedicated to local approaches to the DoN Health Priorities (includes resources for evaluation of strategies), and \$174,850 is allowed, pending full explanation in the revised Community Engagement Plan, to be used for administrative purposes to implement community engagement activities and management of CHI processes such as issuing RFPs, and related activities. To comply with the Holder's obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for \$2,141,912 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative). The Holder must submit the funds to HRiA within one month from the date of the Notice of Approval. The Holder must promptly notify DPH (CHI contact staff) when the payment has been made.
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5. The 2019 CHNA/CHIP will include an analysis of social determinant of health information consistent with DPH's Health Priorities and the 2019 CHNA/CHIP will be the basis for choosing funded strategies.
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