



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

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June 12, 2017

VIA EMAIL

Nina Edwards, Esq.
Donoghue Barrett & Singal
One Beacon Street, Suite 1320
Boston, MA 02108-3106

Re: Henry C. Nevins Home, Inc. Significant Amendment - Project #3-1577.2

Dear Ms. Edwards:

This letter is in response to your request received on March 30, 2017 and submitted on behalf of Henry C. Nevins Home, Inc. ("Nevins" or "Holder"), a/k/a The Nevins Nursing and Rehabilitation Center, holder of approved Determination of Need ("DoN") Project #3-1577 ("Project"). The DoN approval authorizes limited new construction and renovations to a 154 bed long-term care facility located at 10 Ingalls Court Methuen, MA. Your request is for a significant amendment to the Project pursuant to 105 CMR 100.635(A)(3).

Background

On February 21, 2014, Nevins received approval for new construction and significant renovations to an existing facility. The Project included: renovation of resident rooms, and nursing stations; infrastructure upgrades; and the creation of additional rehabilitation space through limited new construction. A significant portion of the project was to create four smaller Level II nursing units, ranging in size from 30 to 43 beds, by reconfiguring three larger units. The approved maximum capital expenditure ("MCE") in the approved DoN was \$5,715,464 (December 2013 dollars) and the approved gross square feet ("GSF") of new construction was 1,924 and 21,100 GSF of renovations.

On June 10, 2016 the Department approved a significant amendment for an increase in GSF and an increase in MCE. The basis for that Amendment was that when developing final plans and during plan review it was determined that additional space needed to be included as a result of significantly greater degree of deterioration of infrastructure and systems than anticipated. The Amended DoN included 27,072 GSF of renovations and 4,070 GSF of new construction and the approved MCE was \$7,900,593. Those goals were and remain increased resident privacy and improving operating efficiency.

Proposed Amendment

The Holder comes to the Department with a request for Significant Amendment pursuant to the regulations in effect as of January 2017 which require, *inter alia*, an analysis of whether the proposed change or modification falls within the scope of the Notice of Determination of Need as previously approved by the Department, and whether the proposed change is reasonable; a review of the Holder's description of the proposed change and associated cost implications, both to the Holder, as well as to the Holder's existing Patient Panel; and a detailed narrative, comparing the approved project to the proposed Significant Change, and the rationale for such change. See, 105 CMR 100. 635(A)(3).

The Application for Significant Change describes three categories of changes to the project as it was approved.

1. Unforeseen circumstances:

During Phase 1, now complete, the Holder identified additional deferred maintenance and other circumstances resulting in the need to upgrade certain systems and renovate additional resident areas to address compliance with updated building codes. When the ceilings were opened, it was determined that additional electrical work needed to be done to comply with building codes. The Holder determined that since the ceilings were open, they should install additional air conditioning capacity given the warmer summer weather and that it would be more efficient and cost effective to replace the aged emergency generator. As the Holder renovated additional patient rooms, it needed to upgrade bathrooms to comply with accessibility requirements. Finally, since the project was approved, the older roof has aged significantly and it was determined that replacement was needed. As a result of the required modifications, the Holder is requesting modifications to the scope and costs of the Project.

2. Changes to the gross square feet ("GSF") for both new construction and renovations:

The changes in the approved GSF exceed the threshold set forth for a Minor Change to a DoN and thus meet the requirements a Significant Change.

Because of the added costs for renovations and repairs, the Holder decided not to go forward with construction of new space for certain out-patient services. As a result, the Holder seeks approval to reduce the GSF of new construction by 17%, from 4,060 to 3,347 GSF and to increase the renovations by 23%, from 31,132 to 38,335 GSF.

3. Changes to the approved MCE:

The approved and amended MCE of \$7,900,593 (January 2016 dollars) will be increased to \$10,603,902 (March 2017 dollars). As shown below the requested costs are 22% above the approved costs.

	Inflation Adj. Approved Jan 2016- Mar 2017	Requested Mar-17	Change
Land Costs:			
Site Survey and Soil Investigation	26,144	11,000	-138%
Other Non-Depreciable Land Dev.	<u>5,752</u>	<u>-</u>	
Total Land Costs	31,896	11,000	-190%
Construction Costs:			
Construction Contract	6,340,229	8,118,737	22%
Architectural Cost and Engineering	640,536	944,080	32%
Pre- filing Planning & Development	162,815	75,926	-114%
Post-filing Planning & Development	31,373	27,904	-12%
Major Movable Equipment	<u>522,887</u>	<u>745,424</u>	30%
Total Construction Costs	7,697,841	9,912,071	22%
Financing Costs:			
Cost of Securing Financing	<u>532,494</u>	<u>680,831</u>	22%
Total Financing Costs	<u>532,494</u>	<u>680,831</u>	22%
Maximum Capital Expenditure	\$8,262,231	\$10,603,902	22%

The projects' cost increases result from increases to the construction contract to address the unforeseen infrastructure and compliance issues as well as increases in the cost of financing. The increase in moveable equipment costs reflect the additional purchases made due to the expansion of the renovation¹.

The Holder provided an explanation of the increases over the inflation adjusted amount. Given the extent of damage and required work, these unforeseen costs associated with the repairs are reasonable and within the scope of the original application.

The Holder asserts that the proposed change will not have a negative cost implication to the facility, or its patient panel. The Holder does not expect that the needs, nature of care delivered, or the payer mix of its patient panel will change over time. Payments for care include a mix of Medicare, MassHealth, third party payers and private pay. Private pay patients generally experience an annual 2-3% increase to cover annual cost increases and this practice will not change. The fixed or case-mix based rates from Medicare and third party payers will not change. The MassHealth rate is anticipated to increase the capital payment rate from the current \$20.25 to \$35.23.

In terms of operational expenses, the Holder expects its approved monthly Housing and Urban Development loan payments will increase from \$28,326 to \$61,957 as a result of the costs of this project. At the same time, the Holder asserts that due to the extensive infrastructure repairs and upgrades, it will

¹ More specifically the costs include: \$15K for replacement of an aged and outdated nurse call system that was added to project; \$80K for upgrading the outdated computer server and new computers, kiosks, and software to manage EMRs; \$30k for unforeseen circumstances that required rewiring of communications and security systems; \$85K for additional resident room furnishings, including electric beds, over-bed tables, recliners and other furnishings due to change in scope of Phase II; and \$15K for the replacement of internal signage

achieve savings in energy, operations and maintenance costs that will offset the increased debt service requirements.

Finding

In accordance with the 2017 Regulation, 100 CMR 100.635, the Department has reviewed: the Holder's description of the proposed change; a narrative comparing the approved project to the proposed Significant Change; the rationale for such change; and associated cost implications, both to the Holder, and to the Holder's existing Patient Panel. Additional requirements of the regulation, including the submission of the application to parties of record, and the filing of a Certificate of Truthfulness and Proper Submission pursuant to 105 CMR 100.000 have been fulfilled.

Based upon the information reviewed, the Department finds: 1) that the proposed change falls within the scope of the Notice of Determination of Need as previously approved by the Department; and 2) that the proposed change is reasonable.

Pursuant to 105 CMR 100.635(A)(3), the Department grants approval of the Request for Significant Change to Henry C. Nevins Home, Inc. d/b/a The Nevins Nursing and Rehabilitation Center Project # 3-1577.2. The approved MCE shall be \$10,603,902. The approved GSF shall be 41,682 GSF (3,347 GSF of new construction and 38,335 GSF of renovations).

All other terms and conditions of the originally approved Determination of Need and prior amendments apply.

Sincerely,



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