



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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Secretary

MONICA BHAREL, MD, MPH
Commissioner

May 29, 2018

Ladan Azarm
Executive Director
VK Marlborough, LLC
400 Bolton Street
Marlborough, MA 01752

Re: VK Marlborough, LLC, d/b/a The Reservoir Center for Health & Rehabilitation
Request for Minor Amendment to DoN 4-1584.2
Pending DoN # 18022121-AM

Dear Mr. Azarm:

This letter is in response to your request submitted on behalf of VK Marlborough, LLC, (Holder) for an amendment to its approved Determination of Need (DoN) Project #4-1584 (Project). This request is for a Minor Change to the Project pursuant to 105 C.M.R. 100.635(A)(2). As proposed, the Holder seeks approval to increase the maximum capital expenditure (MCE) of the project from \$8,952,402 (April 2016 dollars) to \$9,362,378 (February 2018 dollars).

Background

The DoN (as approved in 2014¹), authorized renovation of an existing nursing facility located at 400 Bolton Street, Marlborough, MA. The DoN included renovation of 49,935 gross square feet (GSF) of the existing 58,154 GSF facility; replacement of the existing HVAC system, generator, and boilers and all lighting fixtures; upgrades of the electrical and plumbing systems; and painting, the replacement of wall coverings, and new flooring throughout the facility. The Applicant's stated goals were to address needed physical plant improvements, and to create a more optimal environment for residents and staff.

By letter dated July 29, 2016, the Holder received approval for an amendment to increase the costs of the project from \$5.6m to \$8.9m (April 2016 dollars) resulting from what the Holder described as an unforeseen need for extensive asbestos abatement, and additional phasing to avoid displacing residents.

¹ The original DoN approval was for \$5,571,038 (July 2014 dollars).

The DoN Regulation at 105 CMR 100.635(A)(2) which governs minor change amendments, requires a determination that, based upon the information submitted to the Department, "the proposed change or modification is Minor, it falls within the scope of the Notice of DoN as previously approved by the Department, and the proposed change is reasonable." In addition, "an increase [in capital expenditure] shall be allowed only for contingencies that could not have been reasonably foreseen, [and] that are not reasonably within the control of the Holder..."

Proposed Amendment

The Holder requests authorization to increase the capital cost for the Project by \$409,985 (February 2018 dollars) which will increase the total approved capital expenditure from \$8,952,402 (April 2016 dollars) to \$9,362,387 (February 2018 dollars). In support, the Holder states that it encountered additional age-related facility problems as work got underway, and determined that four bathrooms and the windows in the entire facility need replacement. Both the windows and the bathrooms are original to the 1973 wood framed structure. These requirements were not evident during the preliminary plan development for the DoN submission. Determining the extent of the poor condition of the windows and bathrooms would have required contractors to enter all occupied rooms, thereby compromising the privacy of patients. However, the Holder has received complaints from residents and others regarding drafty windows and, because replacement of the boiler and HVAC are already approved parts of this project, the window replacement will maximize the efficiency of those systems. The Holder asserts that these additional expenditures are within the scope of the original Approval which included creating energy efficiencies and improving the daily quality of life for the current residents.

The proposed increase in capital cost constitutes a Minor Change as that term is defined in 105 CMR 100.000; the proposed work is within the scope of the previously approved Notice of DoN, and the proposed change is reasonable. Based on these findings, the Holder's request for Minor Change pursuant to 105 CMR 100.635(A)(2) is approved.

Sincerely,



Monica Bharcl, MD, MPH
Commissioner

Cc: Alice Bonner
Stephen Davis
Daniel Gent
Sherman Lohmes
Patty McCusker
Kate Mills
Eric Gold
Thomas Lane
Rebecca Rodman