



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

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Lieutenant Governor

MARYLOU SUDDERS
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MONICA BHAREL, MD, MPH
Commissioner

August 28, 2017

Mark Cummings, CPA
Principal
CliftonLarsonAllen LLP
300 Crown Colony Drive, Suite 310
Quincy, MA 02169

Re: Webster Park Operator, LLC
d/b/a Webster Park Rehabilitation & Healthcare Center
Project # 5-1302.4
Request for Minor Change

Dear Mr. Cummings:

This letter is in response to your request received on July 31, 2017 submitted on behalf of Webster Park Operator, LLC d/b/a Webster Park Rehabilitation & Healthcare Center (Holder), holder of approved Determination of Need (DoN) Project #5-1302 (Project). The DoN as originally approved authorized new construction and renovations of a long-term care facility located at 54 Webster St, Rockland, MA.

Your request is for a minor amendment to the project pursuant to 105 C.M.R. §§ 100.635(A)(2). Minor Change is defined in the regulation, in relevant part, as "Any increase in the maximum Capital Expenditure of up to 10% of the inflation adjusted originally approved total expenditure ... [any] increase shall be allowed only for contingencies that could not have been reasonably foreseen, that are not reasonably within the control of the Holder, as determined by the Commissioner, and for which the inflationary adjustment contained within 105 CMR 100.310(I)¹ is not appropriate."

¹ 105 CMR 100.310 (I) Unless extended for Good Cause Related to Project Implementation, the Department shall receive from the Holder firm, itemized figures specifying the final project costs, or current phase thereof, which shall not be greater than those approved by the Department pursuant to the issued Notice for Determination of Need *plus* any increase in cost due to the allowable rate of inflation. This submission shall occur within six months following the receipt of written final approval of architectural plans and specifications by the Department or other applicable Government Agency; or, in the case of projects for which a schedule of phased plan submission has been approved, each phase submitted. The Holder shall submit the final project costs in a format specified by the Commissioner. No additional increases in the maximum Capital Expenditure, inflationary or otherwise, shall be approved beyond 12 months after the initial licensure of beds and opening of the facility or service. The final approved project costs shall be submitted by the Commissioner to all Parties of Record. Should the Holder fail

Background

A DoN for this project was originally approved in September 1995 for new construction of a 3-story addition and renovations to an existing 110 Level II bed nursing facility. In 1996, the GSF and MCE were each increased significantly through an Amendment. Much of the increase in space and cost was the result of the requirement to bring the entire facility up to the accessibility regulations of the Massachusetts Architectural Access Board (521CMR). After additional amendments and transfers of ownership this project came before the Department in April 2017 seeking a Significant Change/Amendment (the April Amendment) including an increase in costs as a result of unforeseen that arose during the new construction. These issues included discovery of two underground storage tanks which required removal and necessitated the remediation of the surrounding contaminated soil. The April Amendment as approved authorized a MCE of \$7,371,839. The approved GSF was and remains unchanged from the November 6, 2013 amendment approval, at 31,163 GSF (11,445 GSF of new construction and 19,718 GSF of renovations).

Proposed Amendment

The inflation increase of .49% from the previously amended MCE of \$7,371,8839 (December 2016 dollars) would bring the MCE to \$7,407,962 (July 2017 dollars). The Holder at this time requests an increase 7% over the inflated amount to an MCE of \$7,929,593 (July 2017 dollars). The Holder states that this increase is required to address unforeseen contingencies that were not reasonably within its control, specifically; a sewer main under the existing building burst and soiled the newly renovated and completed patient rooms in the Phase II portion of the work. The failed section of the sewer line had to be removed and replaced with new connections to the existing building. The previously completed patient rooms had to be remediated and then completely renovated again. In addition to the remediation and re-renovation of the patient rooms, additional remediation was required of the existing corridor, the newly renovated Dining Room, Administration Office and Activity Room.

Finding

In accordance with the 2017 Regulation, 100 CMR 100.635(A)(2), the Department has reviewed the Holder's description of the proposed change and associated cost and a narrative comparing the approved project to the proposed Minor Change. 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 grants approval of a Minor Change Amendment to Webster Park Operator, LLC d/b/a Webster Park Rehabilitation & Healthcare Center Project # 5-1302.4. The approved MCE shall be \$7,929,593 (July 2017 dollars), 7% above the inflation increase of .49% to \$7,407,962 (July 2017 dollars) from the previously amended MCE of \$7,371,839 (December 2016 dollars).

to submit final project costs pursuant to 105 CMR 100.310(I)(1), the Holder shall be subject to enforcement actions as set forth within the Notice of Determination of Need's Standard and Other Conditions.

All conditions of the original project approval and subsequent amendments shall remain in effect.

Sincerely,

A handwritten signature in blue ink, appearing to read 'mBne', is written over a horizontal line.

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