GENERAL COUNSEL'S REPORT COVER PAGE

December 14, 2016

A. The Health Center of Hermitage, Hermitage (Davidson County), TN – CN1404-011

Request for 24 month extension, from August 1, 2017 to August 1, 2019, because of delays encountered by the project being put on hold pending the resolution of discrepancies between the life safety codes of CMS and the State of Tennessee on similar NHC projects. The resolution of life safety codes issues took considerable time.

Unanimously approved on the June 25, 2014 Consent Calendar for the change of site/relocation for an approved but unimplemented certificate of need (CN1306-022A) for a 90* bed Medicare-certified nursing home to a new site containing approximately 14.02 acres at 4214 Central Pike in Hermitage. The estimated project cost is $19,241,697.00.

Steps have been taken toward completion of the project, including site acquisition, approval of zoning changes, site engineering, the expenditure of $1.8 million, and other actions.

Agency Staff recommends the Approval of the 24 month extension of CN1404-011, from August 1, 2017 to August 1, 2019, because the delays were beyond the applicant's control and significant steps have been taken toward implementation of the CON.

BUTLER | SNOW

November 15, 2016

Melanie M. Hill
Executive Director
Tennessee Health Services and
Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, TN 37243

RE: The Health Center at Hermitage, CN1404-011A, Request for Extension

Dear Ms. Hill:

This letter is submitted on behalf of the project referenced above for the purpose of requesting an extension of the expiration date for the certificate of need.

Background

The Health Center at Hermitage is a 90-bed skilled nursing bed facility to be located on a 14-acre site in the Hermitage area of Davidson County. The project is owned by National HealthCare Corporation (NHC), and the project site will include a significant assisted living facility in addition to the proposed nursing home. The nursing home facility will focus on post-acute rehabilitative care, and it has significantly support from local hospitals and physicians.

The certificate of need application was approved by the Agency at its meeting on June 24, 2014, and the certificate of need expires on August 1, 2017. Significant steps have been taken to complete the project, but it will not be possible to complete the project before the expiration date of the certificate of need.

Steps Toward Completion

Subsequent to approval of the project on June 24, 2014, the following actions have been completed:

- Completed purchase of the site
- Obtained approval of zoning changes to accommodate the project
- Site engineering
- Sewer easement from an adjoining landowner
- Plans refinement

The Pinnacle at Symphony Place
150 3rd Avenue South, Suite 1600
Nashville, TN 37201

DAN H. ELROD
615.651.6702
dan.elrod@butlersnow.com

T 615.651.6700
F 615.651.6701
www.butlersnow.com

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The total investment in completion of the project as November 1, 2016, exceeded $1,800,000.

Reasons for Delay in Completion

The project has been delayed because of problems NHC encountered with respect to completing two other projects in Tennessee. The problem arose out of the fact that, until very recently, the Tennessee life safety code for nursing homes was different than the life safety code used by CMS. Tennessee adopted the 2012 life safety code several years ago, but CMS used the 2000 life safety code. CMS adopted the 2012 code effective July 5, 2016, to be used in surveys beginning November 1, 2016.

The disparity between the Tennessee and CMS codes caused NHC considerable difficulty in two instances, necessitating delay in proceeding with The Health Center at Hermitage project. The issue arose first in the case of NHC-HealthCare- Sumner, CN1108-029A. The Sumner facility was completed in accordance with plans approved by the Tennessee Department of Health and licensed on July 21, 2015. However, the facility could not obtain Medicare certification because of a building feature that did not comply with the older 2000 code used by CMS (although it was in full compliance with the 2012 code adopted by Tennessee). In order to obtain Medicare certification, alterations to the facility were necessary, and the facility did not obtain certification until November of 2015. The delay in being able to serve patients, as well as the cost of the building alternations, resulted in significant financial loss.

The disparity between Tennessee and CMS codes also interfered with the timely completion of The Health Center of Nashville, CN-11070024A. Construction of this facility was already underway when the issue at the Sumner facility came to light. NHC undertook review of the plans for the Nashville project and discovered the state-approved plans for the Nashville project were not compliant with the older CMS life safety code (although fully compliant with the newer Tennessee code). Work was halted on the project so that changes could be made to achieve compliance with the CMS code. This additional work delayed opening of the facility for approximately 60 days.

The problems with the Sumner and Nashville facilities occurred at the time NHC was preparing to undertake detailed planning for the Hermitage project. NHC understandably concluded that work on the Hermitage project should not proceed until there was more clarity about the applicable building standards. This issue was resolved when CMS adopted the 2012 code on July 5, 2016.

Extension Necessary to Complete the Project

NHC remains fully committed to the successful completion of the project. The project continues to have strong support from area hospitals and physicians. In light of the work that remains, and in order to insure sufficient time to complete the project and obtain necessary inspections and licensing, an extension of the expiration date for twenty-four (24) months (until August 1, 2019), is respectfully requested.

The original application required a filing fee of $43,196.63. In support of the requested extension, we are enclosing a check in the amount of $1,803.37, which is the difference between the original fee paid and the maximum fee of $45,000.

We would appreciate this request being included on the agenda for the Agency's meeting scheduled for December 14, 2017. Please let us know if you have any questions or if you need additional information. Thank you for your attention to this request.

Very truly yours,

BUTLER SNOW LLP

Dan H. Elrod

clw
Enclosure
cc: Jim Christoffersen
Bruce Duncan

State of Tennessee
Health Services and Development Agency
Andrew Jackson Building, 9th Floor, 502 Deaderick Street, Nashville, TN 37243
www.tn.gov/hsda Phone: 615-741-2364 Fax: 615-741-9884

ANNUAL PROGRESS REPORT
ANNUAL REVIEW FOLLOWING CERTIFICATION

Project Name: The Health Center of Hermitage

Certificate of Need #: CN1404-011A

Legal Owner: The Health Center of Hermitage, LLC

Approval Date: 6/25/14

Expiration Date: 8/1/17

Project Description:

Change of site/relocation for an approved but unimplemented certificate of need (CN1306-022A) for a 90 bed Medicare-certified nursing home from an unaddressed 13 acre site at Bell Road near Woodland Point Road and Couchville Pike in Nashville (Davidson County), TN to a new site containing approximately 14.02 acres at 4214 Central Pike in Hermitage (Davidson County), TN

******PLEASE SUBMIT EVIDENCE TO SUPPORT EACH ANSWER******

In a brief narrative, please describe the current stage of completion for the project (use another sheet of paper if necessary). **Please note that this report will not be considered complete without this information.**

Please see attached narrative describing the current stage of completion for the project.

A. CONSTRUCTION PROJECTS

1. Anticipated date of project completion. August 1, 2019
2. Provide written confirmation from the contractor documenting the stage of construction at the current time.
3. If proposed construction costs have increased over ten (10%) percent please provide information as an attachment to this form. Please note that such an overrun could require additional action before the Agency.

B. NON-CONSTRUCTION PROJECTS

Not Applicable

1. Anticipated date of service implementation, acquisition or operation of the facility or equipment as certified.
2. Provide written confirmation from the institutional representative verifying the occupancy/opening date for the service, equipment, or facility.

Signature of Authorized Agent or Chief Operating Officer

9/1/16
Date

HSDA-0054 (Revised 11/18/2010 – All forms prior to this date are obsolete)

Current Stage of Completion for the Project

To date, the project has incurred expenditures of $1,974,005 to acquire the site, rezoning expenses and miscellaneous development cost. However, construction has not begun at this time. While the plan design process was initially undertaken, it was stopped last year, due to issues raised by the Centers for Medicare & Medicaid Services (CMS) regarding code interpretations relative to two previously approved construction plan drawings by the Tennessee Department of Health for two other NHC projects, NHC Place, Sumner and NHC Place at the Trace. Because of the CMS review of these other projects, which were under construction and/or near completion, construction was stopped until a resolution and clarification was received. The first determination by CMS resulted in changes to the plans, which then required TN Department of Health review and approval. It was only after approval was received that construction could be restarted, and the projects were finally completed, licensed and certified. Needless to say, NHC sustained substantial time and financial losses on both projects due to delays which were unprecedented in the company's development history.

The problem encountered in the other two projects occurred when NHC was beginning detailed planning and designs for construction drawings for NHC HealthCare, Hermitage. Because the problems with the other two projects were disruptive and expensive to resolve, we determined that plan development should not occur until we had final CMS clarification, ratification and certification of these two aforementioned projects. NHC is now comfortable that its plans and design will be favorably surveyed and inspected for certification by CMS. Consequently, we have restarted the development of plans for NHC HealthCare, Hermitage. Due to the delay, the applicant will be requesting a CON extension for NHC HealthCare, Hermitage well before the expiration date.

State of Tennessee
Health Services and Development Agency
Andrew Jackson, 9th Floor, 502 Deaderick Street, Nashville, TN 37243
www.tn.gov/hsda Phone: 615-741-2364 Fax: 615-741-9884

July 23, 2014

Bruce K. Duncan, Assistant Vice President
National HealthCare Corporation
100 Vine Street, 12th Floor
Murfreesboro, TN 37130

RE: The Health Center of Hermitage - CN1404-011A

Dear Mr. Duncan:

As referenced in our recent letter, please find enclosed your Certificate of Need for the above-referenced application that was approved at the June 25, 2014 meeting of the Tennessee Health Services and Development Agency.

The Health Services and Development Agency Rules require that an *Annual Progress Report be submitted each year* and a *Final Project Report form is to be submitted within ninety (90) days after completion of a project* which shall include completion date, final costs, and other relevant information in regards to the project, pursuant to Public Acts 2002, Chapter No. 780, § 16-11-1609(d). Also required is the registration of certain medical equipment pursuant to Tennessee Code Annotated § 68-11-1607(i), which states "*The owners of the following types of equipment shall register such equipment with the health services and development agency: computerized axial tomographers, lithotripters, magnetic resonance imagers, linear accelerators and positron emission tomography." ....."The survey shall include but not limited to the identification of the equipment and utilization data according to source of payment."*

The aforementioned forms can be found on the Agency's website at www.tennessee.gov/HSDA. Should you have any questions or require further information regarding this Certificate, please do not hesitate to contact this office.

Sincerely,

Melanie M. Hill
Executive Director

MMH/mab

cc: Trent Sansing, Division of Health Statistics, Office of Policy, Planning & Assessment
Ann R. Reed, Health Care Facilities - Licensure
Bill Harmon, Director of Engineering, Health Care Facilities

STATE OF TENNESSEE
Health Services and Development Agency

Certificate of Need No. **CN1404-011A** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: The Health Center of Hermitage, LLC
100 Vine Street
Murfreesboro, TN 37130

For: The Health Center of Hermitage

This Certificate is issued for: The change of site/relocation for an approved but unimplemented certificate of need (CN1306-022A) for a 90* bed Medicare-certified nursing home from an unaddressed 13 acre site at Bell Road near Woodland Point Road and Couchville Pike in Nashville (Davidson County), Tennessee to a new site containing approximately 14.02 acres at 4214 Central Pike in Hermitage (Davidson County), Tennessee.

*These beds are not subject to the 2013-2014 Nursing Home Bed Pool.

On the premises located at: 4214 Central Pike
Hermitage (Davidson County), TN 37076

For an estimated project cost of: $19,241,697.00

The Expiration Date for this Certificate of Need is

August 1, 2017

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: June 25, 2014

D. Zy Johnson
Chairman

Date Issued: July 23, 2014

Melanie McKee
Executive Director

HF-0022 (Rev.1/04)