

December 20, 2013

Kevin McDonald, Chief  
Certificate of Need Division  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215

Howard L. Sollins  
hlsollins@ober.com  
410.347.7369 / Fax: 443.263.7569

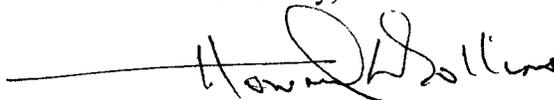
Offices In  
Maryland  
Washington, D.C.  
Virginia

Re: **Seasons Hospice and Palliative Care of Maryland, Inc.**  
**Docket No. 11-03-2318**  
**Establishment of Inpatient Hospice Unit at MedStar**  
**Franklin Square Medical Center**  
**Amended Project Change After Certification**

Dear Mr. McDonald:

On behalf of Seasons Hospice and Palliative Care of Maryland, Inc., we are hereby submitting an Amended Request for Project Change After Certification (the "Request"). For your convenience, six copies of the Request are being submitted. If at all possible, we would greatly appreciate this request being considered at the Commission's January, 2014 meeting. If there are any questions about the attached submission, or if any further discussion is needed, please let me know.

Sincerely,



Howard L. Sollins

HLS/lam

Enclosures

cc: Paul Parker, Director  
Joel Riklin, Program Manager  
Suellen Wideman, Assistant Attorney General  
Gregory Wm. Branch, MD, MBA, CPE, Health Officer –  
Baltimore County Health Department  
Thomas C. Dame, Esq.  
Peter P. Parvis, Esq.  
Mr. Todd Stern  
Mr. Dean H. Forman  
Mr. Andrew Solberg  
Mr. Robert Lally  
Ms. Patricia Cameron

IN THE MATTER OF	*	BEFORE THE
SEASONS HOSPICE & PALLIATIVE CARE OF MARYLAND	*	MARYLAND HEALTH CARE COMMISSION
Docket No. 11-03-2318	*	
	*	
* * * * *		

**AMENDED REQUEST FOR  
PROJECT CHANGE AFTER  
CERTIFICATION**

---

Seasons Hospice & Palliative Care of Maryland (“Seasons”), by its undersigned counsel, asks the Maryland Health Care Commission (the “Commission”) to approve a project change to this Certificate of Need (“CON”) to increase the capital cost of this project.

**INTRODUCTION**

On July 18, 2013, the Commission issued a CON authorizing Seasons to develop a 16 bed inpatient hospice unit at MedStar Franklin Square Medical Center (“MFSMC”). The unit is to be located on the third floor of the hospital, as proposed in the CON application. The approved capital costs are \$535,000 (excluding inflation). The approved total project cost is \$621,197 (including the inflation proposed by Seasons).

The increase in costs is generally defined by two groups. First, Seasons received bids for the project all of which exceed the approved Capital Costs within the project budget. The successful bid that is comparable to the approved capital budget is

\$594,838. Second, in the development phase of the project following approval, Seasons decided to add three additional improvements to the unit, for which Seasons will have to bear the costs. These are the upgrade of ceiling tiles in the corridor outside the rooms, an upgrade to the fire alarm in the unit, and the installation of additional patient bathrooms and a new hall shower. The upgrade to the bathrooms is required to ensure ADA compliance. The total cost of these design changes is \$89,443.

Despite these cost increases, the project costs (including the costs borne by MFSMC) are well below the Marshall Valuation Service benchmark that the Commission uses as a measure of reasonableness.

**III. Comparison**

<b>A. Adjusted Project Cost/Sq. Ft.</b>	<b>\$83.57</b>
<b>B. Marshall Valuation Service Benchmark</b>	<b>\$370.83</b>

The increased costs will not result in increased costs to payers or patients due to the way hospices are reimbursed.

**DISCUSSION**

**I. BIDS EXCEED THE APPROVED CAPITAL COSTS**

Seasons submitted its CON application for the unit at MFSMC on July 8, 2011. As stated previously, the MHCC approved the application on July 18, 2013, i.e. two years later. The approved Current Capital Costs in the approved project budget were \$535,000, excluding inflation. Applying the inflation index which the Commission requires applicants to use once an application is approved would add 3.25% inflation. In performing this calculation, the process outlined in the document on the Commission’s website: “Determining the Threshold for Required Approval of Changes in Certificate of

Need Approved Capital Cost” was used. See, the examples under [http://mhcc.dhmd.maryland.gov/certificateofneed/Documents/cap\\_cost\\_2nd\\_%20qtr\\_2013.pdf](http://mhcc.dhmd.maryland.gov/certificateofneed/Documents/cap_cost_2nd_%20qtr_2013.pdf).

Filing Date	7/8/2011				
Mid-Point of Construction	1/15/2014				
Step 1	2012.3	%MOVAVG	1.2	1.012	A
Step 2	2013.3	%MOVAVG	1.2	1.012	B
Step 3	A * B			<b>1.0241</b>	C
	2013.3		1.097		
	2014.1		1.106		
			1.008204	<b>1.0325</b>	

Applying 3.25% to the approved Capital Costs results in allowable capital costs of \$552,388. ( $\$535,000 \times 1.0325 = \$552,388$ )

Seasons received three bids for the project. Seasons has chosen the middle bid for the project because the bidder recently has performed substantial work at MFSSMC (including the second floor of the same building) and is most familiar with its physical plant, making its bid the most reliable. The Building Costs that is comparable to the one that was approved (\$400,000) would rise to \$594,838. While it only raises the costs by \$194,838, it does exceed the Approved Capital Costs approved by the Commission, inflated using the Commission’s index.

The original Project Budget was developed more than four years ago. At the time, Seasons worked with staff of MFSSMC to estimate the cost of renovation and used as its model the cost Seasons incurred in renovating a similar unit at Northwest Hospital

Center. Seasons relied on the best information it could obtain at the time and could not have foreseen that the actual bids would come in higher four years later.

As discussed above, Seasons decided to add three additional improvements to the unit.

Upgrade Ceiling Tiles in Corridor	\$14,590
Fire Alarm	\$36,755
ACC and Hall Shower	<u>\$38,098</u>
Total	\$89,443

In addition, Architectural costs have increased because of the added actions proposed by Seasons and "value engineering" to enhance efficiencies. Seasons is also increasing the Minor Movable Equipment costs. The reason that these are higher than expected is predominantly due to purchasing I.T. equipment. Seasons recently learned that the unit must use equipment that is compatible with the hospital network and, therefore, must purchase all of the items through MFSMC.

Seasons has also included a 4% Contingency Cost in the budget to cover the cost of unplanned change orders might occur during the course of the project.

## **II. THE PROPOSED PROJECT MODIFICATION IS APPROVABLE**

The Commission's regulations at COMAR 10.24.01.17A require notification of any proposed project changes. Certain types of proposed project changes are impermissible, including the following (§.17C):

1. Changes in the fundamental nature of a facility or the services to be provided in the facility from those that were approved by the Commission;

2. Increases in the total licensed bed capacity or medical service categories from those approved;
3. Any change that requires an extension of time to meet the applicable performance requirements specified under Regulation .12 of this chapter, except as permitted under Regulation .12E of this chapter.

The proposed changes identified in this filing do not change the fundamental nature of the project; will not result in an increase in the total licensed bed capacity as previously approved; and will not require any extension of time to meet applicable performance requirements. Seasons is signing a construction contract for more than 51% of its approved capital budget by December 18, 2013, complying with its first performance requirement. It plans to initiate construction within the requisite 4 months and, at this point does not anticipate a need for a performance requirement extension to complete the project. Hence, Seasons maintains that the proposed changes are permissible.

Though all project changes require notification to the Commission, only the following types of changes to a project require formal Commission approval (§.17B):

1. Before making a significant change in physical plant design;
2. Before incurring capital cost increases that exceed the approved capital cost inflated by an amount determined by applying the Building Cost Index published in Health Care Cost Review from the application submission date to the date of the filing of a request for approval of a project change;
3. When total projected operating expenses or revenue increases exceed the projected expenses or revenues in the approved Certificate of Need Application, inflated by 10 percent per year;
4. Before changing the financial mechanisms of the project;

5. Before changing the location or address of the project.

With respect to §.17B(1), there will not be any changes in physical plant design.

Capital costs will increase, hence §.17B(2) is applicable. Total projected operating expenses and revenue will not exceed projected expenses or revenues, hence §.17B(3) is not applicable.

Regarding §17B(4), the financing mechanisms for the project contemplated in the CON application (i.e., Cash) will not change. Hence, we do not believe that there are changes in the financing mechanism that would require Commission approval. However, as stated previously, MFSSMC will now be a source of funds, as it will pay for the upgrades that it is proposing.

The location or address of the project will not change, hence §.17B(5) is not applicable.

For these reasons, we ask for approval to move forward with this project modification.

**CONCLUSION**

For all of the reasons set forth above, Seasons respectfully requests that the Commission approve the proposed changes described above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. L. Sollins", written over a horizontal line.

Howard L. Sollins, Esq.  
Counsel, Seasons Hospice and Palliative  
Care of Maryland

## Exhibits

- 1 – Project Drawings
- 2 – Revised Project Budget
- 3 – MVS Analysis
- 4 – Affirmations

**Exhibit 1**  
**Project Drawings**



**Exhibit 2**  
**Revised Project Budget**

A. Use of Funds	As Approved	Modified
1. Capital Costs:		
a. <u>New Construction</u>		
(1) Building	_____	_____
(2) Fixed Equipment (not included in construction)	_____	_____
(3) Land Purchase	_____	_____
(4) Site Preparation	_____	_____
(5) Architect/Engineering Fees	_____	_____
(6) Permits, (Building, Utilities, Etc.)	_____	_____
<b>SUBTOTAL</b>	_____ 0	_____ 0
b. <u>Renovations</u>		
(1) Building	_____ \$400,000	_____ \$684,281
(2) Fixed Equipment (not included in construction)	_____	_____
(3) Architect/Engineering Fees	_____ 30,000	_____ 77,268
(4) Permits, (Building, Utilities, Etc.)	_____ 5,000	_____ 5,000
<b>SUBTOTAL</b>	_____ 435,000	_____ 766,549
c. <u>Other Capital Costs</u>		
(1) Major Movable Equipment	_____	_____
(2) Minor Movable Equipment	_____ 100,000	_____ 200,000
(3) Contingencies 4%	_____	_____ 38,662
(4) Other ()	_____	_____
Misc	_____	_____
<b>Subtotal of c</b>	_____ 100,000	_____ 238,662
<b>TOTAL CURRENT CAPITAL COSTS</b> (a - c)	_____ 535,000	_____ 1,005,211
d. Non Current Capital Cost		
1 Interest (Gross)	_____	_____

2 Inflation ( )	17,388 <sup>1</sup>	
<b>TOTAL PROPOSED CAPITAL COSTS</b>	<b>552,388<sup>2</sup></b>	<b>1,005,211</b>
(a - d)		
<b>2. <u>Financing Cost and Other Cash Requirements:</u></b>		
a. Loan Placement Fees		
b. Bond Discount		
c. Legal Fees (CON Related)	30,000	30,000
d. Legal Fees (Other)	20,000	20,000
e. Printing		
f. Consultant Fees		
CON Application Assistance	20,000	20,000
g. Liquidation of Existing Debt		
h. Debt Service Reserve Fund		
i. Principal Amortization Reserve Fund		
j. Other (Asset Management Fees, Phase 1)		
<b>TOTAL (a - h)</b>	<b>70,000</b>	<b>70,000</b>
<b>3. <u>Working Capital Startup Costs</u></b>		
<b>TOTAL USES OF FUNDS (1 - 3)</b>	<b>622,388<sup>2</sup></b>	<b>1,075,211</b>

**B. Sources of Funds for Project:**

1. Cash	622,388	1,075,211
2. Pledges: Gross _____		

<sup>1</sup> Seasons included \$16,197 of Inflation in its approved Project Budget filed as part of its completeness responses. The Total Capital Costs, including the \$16,197 of projected inflation, were \$551,197, and the Total Project Costs were \$621,197. The inflation shown in the above Project Budget reflects the 3.25% of inflation allowed by the inflation index posted on the Commission website, as explained in the body of this modification request.

less allowance for  
uncollectables \_\_\_\_\_  
= Net

3. Gift, bequests	_____	_____
4. Interest income (gross)	_____	_____
5. Authorized Bonds	_____	_____
6. Mortgage	_____	_____
7. Working capital loans	_____	_____
8. Grants or Appropriation		
(a) Federal	_____	_____
(b) State	_____	_____
(c) Local	_____	_____
9. Other (Specify)	_____	_____
<b>TOTAL SOURCES OF FUNDS (1 - 9)</b>	<u>622,388</u>	<u>1,075,211</u>

**Exhibit 3**  
**MVS Analysis**

## I. Marshall Valuation Service Calculation

Type		General Hospital
Construction Quality/Class		A/Good
Stories		1
Perimeter		532
Height of Ceiling		11.00
Square Feet		9,172 <sup>2</sup>
f.1	Average floor Area	9,172
<b>A. Base Costs</b>		
	Basic Structure	354.99
	Elimination of HVAC cost for adjustment	0
	HVAC Add-on for Mild Climate	0
	HVAC Add-on for Extreme Climate	0
<b>Total Base Cost</b>		<b>\$354.99</b>
<b>B. Additions</b>		
	Elevator (If not in base)	\$0.00
	Other	\$0.00
<b>Subtotal</b>		<b>\$0.00</b>
<b>Total</b>		<b>\$354.99</b>
<b>C. Multipliers</b>		
Perimeter Multiplier		0.99730784
	Product	354.0343101
Height Multiplier (plus/minus from 12')		0.997
	Product	\$352.97
Multi-story Multiplier (0.5%/story above 3)		1
	Product	\$352.97

---

<sup>2</sup> While Seasons is renovating 9,172 sf, it will lease 8,619 sf. Seasons is paying for some renovation of the lobby on the floor which is outside of the unit and which is not included in the lease. Because this area is included in the renovation, Seasons included it in the original Chart 1 (which showed 9,172 sf) and in the MVS analysis.

**D. Sprinklers**

Sprinkler Amount	-
<b>Subtotal</b>	<b>\$352.97</b>

**E. Update/Location Multipliers**

Update Multiplier	1.02	13-Dec
Product	\$360.03	

Location Multiplier	1.03	13-Oct
Product	\$370.83	

<b>Final Square Foot Cost Benchmark</b>	<b>\$370.83</b>
---	-----------------

**II. Cost of New Construction**

Seasons has included both its renovation cost and the upgrades that MFSCM proposes in the Building cost.

**II. The Project**

<b>A. Base Calculations</b>	<b>Actual</b>	<b>Per Sq. Foot</b>
New Construction	\$684,281	\$74.61
Fixed Equipment	In Building	
Site Preparation	\$0	\$0.00
Architectural Fees	\$77,268	\$8.42
Capitalized Construction Interest	\$0	\$0.00
Permits	\$5,000	\$0.55
<b>Subtotal</b>	<b>\$766,549</b>	<b>\$83.57</b>

**III. Comparison**

**III. Comparison**

<b>A. Adjusted Project Cost/Sq. Ft.</b>	<b>\$83.57</b>
<b>B. Marshall Valuation Service Benchmark</b>	<b>\$370.83</b>

One can see that Seasons estimates that the costs are considerably below the MVS benchmark.

Perimeter	→			Calculated:	Below	Actual	Above	
	Below	Actual	Above					
Area		500	532	600		500	532	600
Below	8,000	1.007		1.04	Below	1.007		1.04
Actual	9,172				Actual	0.988248	<b>0.9973078</b>	1.01656
Above	10,000	0.975		1	Above	0.975		1

Area Interpolation

1	1.007	-	0.975	=	0.032
2	9172	-	8000	=	1172
3	10000	-	8000	=	2000
4	1172	/	2000	=	0.586
5	0.032	*	0.586	=	0.018752
6	1.007	-	0.018752	=	0.988248
7	1.04	-	1	=	0.04
8	0.04	*	0.586	=	0.02344
9	1.04	-	0.02344	=	1.01656

Perimeter Interpolation

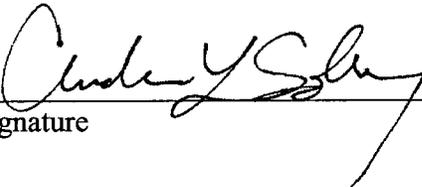
10	600	-	500	=	100
11	532	-	500	=	32
12	32	/	100	=	0.32
13	1.01656	-	0.988248	=	0.028312
14	0.028312	*	0.32	=	0.0090598
15	0.988248	+	0.0090598	=	0.9973078

	Perimeter	Area
1	532	9,172
Total	532	9,172
Avg	532	9,172

Height	
11	0.997

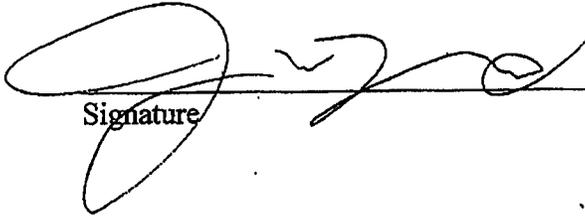
**Exhibit 4**  
**Affirmations**

I hereby declare and affirm under the penalties of perjury that the facts stated in this Request for a CON Modification and its attachments are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Signature

12/20/13  
\_\_\_\_\_  
Date

I hereby declare and affirm under the penalties of perjury that the facts stated in this Request for a CON Modification and its attachments are true and correct to the best of my knowledge, information, and belief.



Signature

12/9/2013  
Date

