

ATTACHMENT 8

COMPLIANCE WITH CONDITIONS ON PREVIOUS CONS

MARYLAND HEALTH CARE COMMISSION

Certificate of Need

TO: Carl J. Schindelar
President
Franklin Square Hospital Center
9000 Franklin Square Drive
Baltimore, Maryland 21237

July 20, 2006
(Date)

RE: Expansion of Hospital Facilities

05-03-2173
(Docket No.)

PROJECT DESCRIPTION

Franklin Square Hospital Center ("FSHC" or the "Hospital") will construct a 388,015 gross square feet ("GSF") five-story (above grade) addition on the eastern side of the existing main hospital building. This new construction will house the following facilities and services:

- Basement level – mechanical rooms, primary electrical service and distribution rooms, service/storage/repair/maintenance shops and offices;
- First floor – a replacement emergency department ("ED") with 70 treatment spaces allocated among six treatment zones (triage, "fast track," adult emergent care, cardiac/trauma, psychiatric, and pediatric). The pediatric zone will integrate ED treatment space and a nine-bed inpatient pediatric unit replacing the existing pediatric unit. The first floor will also include a new main entrance lobby, waiting areas, gift shop, and retail pharmacy;
- Second floor – two intensive care units totaling 50 beds, replacing the hospital's existing intensive care units; and
- Floors three through five – two 36-bed general medical/surgical units on each floor, for a total of 216 medical/surgical beds.

The project will result in a total physical bed capacity at FSHC of 378 acute care beds, an increase of 16 beds over current acute care bed capacity. It will add 125 patient rooms.

The project will include construction of a four-level parking garage, with approximately 1,100 parking spaces. The project will also involve relocation of the existing loading dock and incinerator, the creation, through renovation, of a circulation corridor linking the new dock location with the existing circulation facilities of the hospital, renovation to provide additional needed corridor connection between the new construction and the existing hospital structure, and the development of new power generation and mechanical systems capabilities and the modernization of existing building systems, adequate to power, heat, ventilate, and air condition the post-project hospital facilities.

Planned use of vacated space, as of July, 2006, included expansion of outpatient services on the first floor of the existing hospital and administrative services on the upper floors, where inpatient nursing units are being vacated.

The estimated current capital cost of the project is \$161,837,234. Inflation and interest during the construction period are estimated to add \$45.4 million and financing and other cost requirements are estimated to add \$17.7 million dollars for a total project cost of \$224,878,180. FSHC plans to fund the project through bond indebtedness of \$162.2 million, \$42.5 million in cash equity, \$9.4 million in fundraising, and \$10.9 million in interest income from the bond proceeds. The Hospital is not requesting a rate increase for the project at this time.

ORDER

The Maryland Health Care Commission reviewed the Staff Report and Recommendation and, based on this analysis and the record in this review, ordered, on July 20, 2006, that a CON be issued for the project, subject to the following conditions:

1. Upon completion of the project, FSHC will not place any of the nine MSGA nursing units replaced by the MSGA beds being constructed in the new addition or the former pediatric unit into operation for routine inpatient care without Commission approval; and
2. Any future change to the financing of this project involving adjustments in rates set by the Health Services Cost Review Commission must exclude the cost associated with the excess square footage of the new nursing units, which is calculated to be \$5,327,100, using the fully adjusted MVS ("Marshall Valuation Service") estimated cost per square foot for the new construction.

PERFORMANCE REQUIREMENTS

In accordance with COMAR 10.24.01.12, the project is subject to the following performance requirements:

Phase 1 - Roadways, Utilities, and Surface Parking:

1. Obligation of not less than \$7.5 million, or 51% of the total capital expenditure for Phase 1 of the project, as documented by a binding construction contract no later than July 20, 2007, which is 12 months from the date of this Certificate of Need; and
2. Completion of the first approved phase of construction within 24 months after the effective date of the binding construction contract for Phase 1.

Phase 2 – Parking Garage:

1. Obligation of not less than \$12.7 million, or 51% of the total capital expenditure for Phase 2 of the project, as documented by a binding construction contract no later than 12 months after completion of Phase 1 of the project; and
2. Completion of the second approved phase of construction within 24 months after the effective date of the binding construction contract for Phase 2.

Phase 3 – New Patient Tower:

1. Obligation of not less than \$128.6 million, or 51% of the total capital expenditure for Phase 3 of the project, as documented by a binding construction contract no later than 12 months after completion of Phase 2 of the project; and
2. Completion of the third approved phase of construction within 36 months after the effective date of the binding construction contract for Phase 3.

Franklin Square Hospital Center must notify the Commission, in its Quarterly Reports, when the hospital executes the binding construction contract for the project and when Phase 1 of the project is complete, because the deadlines for completing the project are based on these dates.

Failure to meet these performance requirements will render this Certificate of Need void, subject to the requirements of COMAR 10.24.01.12F through I.

PROPOSED CHANGES TO APPROVED PROJECT

Before making any changes to the facts in the Certificate of Need application approved by the Commission, Franklin Square Hospital Center must notify the Commission in writing and receive Commission approval of each proposed change, including the obligation of any funds above those approved by the Commission in this Certificate of Need, in accordance with COMAR 10.24.01.17.

SUBMISSION OF PROJECT DRAWINGS TO DHMH

The project's architect or engineer is required to contact the Plans Review and Approval section of the Department of Health and Mental Hygiene, to ascertain the specific information concerning the project's drawings and specifications that the law requires to be submitted and approved prior to the initiation of construction.

QUARTERLY STATUS REPORTS

Franklin Square Hospital Center must submit quarterly status reports to the Commission, beginning October 20, 2006, three months from the date of this Certificate of Need, and continuing through the completion of the project.

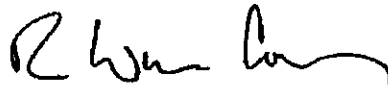
REQUEST FOR FIRST USE REVIEW

Franklin Square Hospital Center must request in writing, not less than 60 days but not more than 120 days before the first use of each portion of the new and renovated space, a first use review from the Commission and the Office of Health Care Quality specifying the anticipated date of first use. The Commission will review the request in consultation with the Office of Health Care Quality, and in accordance with COMAR 10.24.01.18., to determine whether the project conforms to the Certificate of Need. First use approval remains in effect for 90 days. If the space is not occupied within 90 days of approval, Franklin Square Hospital Center shall reapply for first use review.

ACKNOWLEDGMENT OF RECEIPT OF CON

Acknowledgment of your receipt of this CON, stating acceptance of its terms and conditions, is required within thirty (30) days.

MARYLAND HEALTH CARE COMMISSION



Rex W. Cowdry, M.D.
Executive Director

cc: Wendy Kronmiller, Office of Health Care Quality
Pierre Vigilance, M.D., Baltimore County Health Department
Howard Jones, Office of Plans Review, DHMH
Robert Murray, Executive Director, HSCRC

STATE OF MARYLAND

Marilyn Moon, Ph.D.
CHAIR

Rex W. Cowdry, M.D.
EXECUTIVE DIRECTOR



MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410 358- 236

November 30, 2007

VIA TELECOPIER TO 443.777.7904 AND U.S.MAIL

Eric Slechter, Planning Director
Franklin Square Hospital Center
9000 Franklin Square Drive
Rosedale, Maryland 21237

Re: Franklin Square Hospital Center
Docket No. 05-03-2173

Dear Mr. Slechter:

Maryland Health Care Commission staff has reviewed the proposed changes in the design of the above-referenced expansion and renovation project at Franklin Square Hospital Center (“FSHC”) that was authorized by the Commission in July, 2006.

These changes include:

- An 8-level building addition with no basement and a smaller footprint rather than the approved 6-level building addition, including basement. The addition will have six floors of medical/surgical/gynecologic/ addictions (“MSGA”) beds rather than the four floors of MSGA beds in the approved plan;
- The replacement emergency department on the first floor, which continues to incorporate a 9-bed pediatric unit, is redesigned to incorporate 80 emergency department (“ED”) treatment spaces rather than the 70 in the approved CON application;
- A 20,432 square foot mechanical eighth floor will fulfill the functions of the originally planned basement level of the addition;
- The reconfiguration of the nursing unit floors will involve new construction of 24 more medical/surgical patient rooms and 8 fewer intensive care patient rooms, for a net increase of 16 single occupancy rooms and beds in the newly constructed building addition. The approved total bed capacity for the project would remain at 378 beds

through the retirement of 16 additional existing medical/surgical beds, of the total 42 existing medical/surgical beds which FSHC intended to continue in operation; and

- An 18,000 square foot “power plant” will be constructed rather than the two basement-level emergency power substations and new generator plant in the original project.

Franklin Square Hospital Center estimates that the project, with the design changes outlined above, can be implemented at a lower current capital cost (\$190,500,500 compared to the approved capital cost of \$207,200,000) and a lower total project cost (\$193,368,591 compared to the approved total project cost of \$224,878,180.)¹ You have indicated that, in this most recent estimate of new construction, the cost for “new construction,” “other capital costs,” and the “inflation allowance,” totaling \$175 million, are very firm, because of the existence of guaranteed price contract agreements. With respect to financing and other project cash requirements, the project cost savings are wholly attributable to the elimination of the requirement for a debt service reserve fund, estimated at \$15.2 million in the approved project estimate. In correspondence provided earlier this year, you outlined that it was determined that “the security package currently in place under the System’s (MedStar Health) existing Master Trust Indenture and supplements thereto provided sufficient security for investors. Therefore, a debt service reserve fund was not needed.”

The information FSHC has provided indicates that the format of the primary project component, the addition of a tower, incorporating a first floor replacement emergency department and pediatric unit, and replacement of most of the hospital’s MSGA beds in the remaining floors, remains unchanged. The tower addition will have a smaller footprint. This reduced perimeter will necessitate the incorporation of two additional levels for MSGA beds and, overall, the tower will contain smaller nursing units on each of the upper floors than originally planned, but without any changes in overall planned bed capacity. A mechanical penthouse floor will replace the basement level. Given these facts, the proposed design changes are not considered to represent “changes in physical plant design” of a “significance” requiring Commission review and approval. As noted above, the capital cost of the project is not increasing. Rather, it is now estimated to be lower than the cost approved.

The substantive change in clinical service capacity proposed by FSHC is the increase in emergency department treatment spaces. The hospital currently has 89 total ED “beds,” consisting of 54 treatment beds, 13 non-treatment beds, and 22 observation/holding beds, which are substandard, hall-way space added to decompress the congested ED situation. The replacement ED approved for FSHC in 2006 was planned to provide 77 patient “beds”, which FSHC characterized as 70 “treatment beds and 7 non-treatment beds, which included a decontamination/HAZMAT bed and 6 triage beds. FSHC’s final design, using a smaller footprint, incorporates 80 treatment spaces rather than the 70 approved in the CON application.

The American College of Emergency Physicians (“ACEP”) publication, *Emergency Department Design*, which was referenced as a guideline in the review of this project, recommends, as appropriate, a range of 50 to 68 treatment beds for EDs experiencing 90,000 visits and 55 to 75 treatment beds for EDs with 100,000 visits. FSHC projected over 100,000

¹ Quarterly Progress Report, October 20, 2007

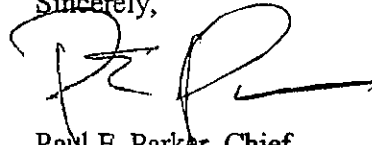
ED visits by 2011, when the proposed replacement ED is projected to come on line, and this projection was found to be conservative by MHCC in its review of the project. ED demand has outpaced the projections included in FSHC's CON application. The hospital is reported to have experienced 98,270 total ED visits in FY2006.² If ED demand at FSHC increases by 9% between 2006 and 2012 (which was the rate of growth projected by FSHC in its CON application for the period of 2005 to 2011), FSHC would be projected to experience demand for 107-108,000 ED visits by 2012.³ ACEP recommends a range of 60 to 82 treatment spaces at annual visit volumes of 110,000 visits. At 110,000 ED visits, 80 treatment spaces would be utilized at approximately 1,375 visits per bed per year. This is in line with recently recorded average statewide utilization experience in Maryland (1,343 ED visits per treatment space, statewide, in FY2006).

The addition of ED treatment space capacity is not a specifically regulated category of project under Maryland's CON program (as is, for example, the addition of inpatient beds) and changing the planned capacity of a hospital ED is not an impermissible modification. Given the information considered above, the additional ED treatment spaces incorporated into the final design are in line with trends in ED demand at FSHC and are not viewed as a significant change, with respect to physical plant design, given that the first level of the building addition, which will house the replacement ED, encompasses less building space.

FSHC has provided information indicating that the other three types of changes requiring Commission approval are not occurring. The projected operating expense and revenue increases are within the 10% annual inflation allowance, the project financing mechanisms involved are not changing, and the location of the project is not changing. For these reasons, Commission approval of the redesigned project is not required.

Please call me at 410-764-3261 if you have any questions.

Sincerely,



Paul E. Parker, Chief
Certificate of Need

cc: Pamela Barclay
Suellen Wideman, AAG
Pierre Vigilance, M.D., Health Officer, Baltimore County

² HSCRC, Financial Data Base, FY2006

³ This is a substantially more moderate rate of growth in ED visit volume than FSHC has recently experienced. ED visits at FSHC increased over 40% between 2000 and 2005).