

BAKER DONELSON

100 LIGHT STREET • BALTIMORE, MARYLAND 21202 • 410.685.1120 • bakerdonelson.com

JOHN J. ELLER, SENIOR COUNSEL
Direct Dial: 410.862.1162
Direct Fax: 443.263.7562
E-Mail Address: jeller@bakerdonelson.com

November 30, 2017

VIA EMAIL & FIRST CLASS MAIL

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

**Re: Thomas Johnson Surgery Center, LLC
Matter No. 17-10-2410
Responses To November 9, 2017 Completeness Questions**

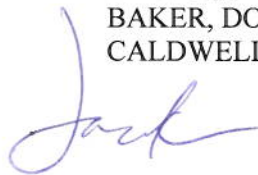

Dear Mr. McDonald:

On behalf of Thomas Johnson Surgery Center, LLC (“TJSC”), we are hereby submitting the required four (4) copies of our responses to the November 9, 2017 completeness questions regarding the above-referenced project. We will also provide Word and electronic copies of our responses and exhibits as appropriate.

I hereby certify that a copy of this response has also been forwarded to the appropriate local health planning agency, as noted below.

If any further information is needed, please let us know.

Sincerely,
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC



John J. Eller, Senior Counsel

JJE/tjr
Enclosures

Kevin McDonald, Chief
Certificate of Need Division
November 30 2017
Page 2

cc: Barbara Brookmeyer, M.D., MPH, Health Officer, Frederick County
Ms. Ruby Potter, Health Facilities Coordination Office
Naomi Allen, CEO
Kristine Lowther, Vice President, Operations
Andrew Solberg, CON Consultant, A.L.S. Healthcare Consultant Services

Thomas Johnson Surgery Center
Matter No. 17-10-2410
Responses to Completeness Questions Received on 11/9/17

CHARITY CARE POLICY

- 1. The CON application on page 15 states that TJSC will publish its notice of availability of charity care in the *Frederick News Post* on an annual basis, while the policy included at Exhibit 8 states that notice of the availability of charity care will be published in the *Washington Post*. Please clarify TJSC’s plan, including which publication TJSC believes is most appropriate for publishing this notice and why.**

TJSC will publish the notice in the *Frederick News Post*.

- 2. Please state or describe the efforts regarding how TJSC will make financial assistance and charity care information available in Spanish, or other languages, as indicated in the policy included at Exhibit 8.**

Based on the patient populations that TJSC serves, TJSC will make the sign and notices and policies available in both English and Spanish. When TJSC has a patient who speaks a language other than English or Spanish, TJSC has physical interpreters for non-English patients. TJSC will have one of these interpreters translate the financial assistance and charity care information as needed. Both English and Spanish versions will be available in writing at the facility and on the TJSC website.

In addition, TJSC uses an online pre-registration process hosted by “Simple Admit” at which its patients enter their health history. This website has an automatic translate feature which patients may use to translate the instructions.



TJSC will make every effort to assure that patients who speak a language other than English will have access to financial assistance and charity care information.

3. Please provide a copy of TJSC’s application for financial assistance.

See Exhibit 1.

4. Please provide a copy of TJSC’s notice of the availability of charity care that will be published annually in a newspaper, if the CON is approved.

The notice that will be published in the newspaper is as follows:

Thomas Johnson Surgery Center (“TJSC”) will provide services free or at a reduced fee to all patients who meet criteria. Each applicant for financial assistance or reduced fee arrangements must meet criteria as set by TJSC. TJSC financial aid is not a substitute for employer-sponsored, public or individually purchased insurance. TJSC will make an effort to provide Financial Assistance application, policies, procedures, and information available in English, Spanish, and/or any other language that will be understandable to target populations of patients utilizing TJSC services. Request for charity or reduced fee arrangements must be made prior to service being rendered. If the patient has not yet applied for Medical Assistance, TJSC staff will assist the patient with the application. Within two business days following a patient’s request for charity care services, application for medical assistance, or both, the facility shall make a determination of probable eligibility. For more information, please go to: www.tjsurgery.com/index.html.

5. Please provide a copy of TJSC’s notice of the availability of charity care that will be posted on the website and in the Admissions and Business Offices, if the CON is approved.

The notice that will be posted on the website will read as follows:

Thomas Johnson Surgery Center (“TJSC”) will provide services free or at a reduced fee to all patients who meet criteria. Each applicant for financial assistance or reduced fee arrangements must meet criteria as set by TJSC. TJSC financial aid is not a substitute for employer-sponsored, public or individually purchased insurance. TJSC will make an effort to provide Financial Assistance application, policies, procedures, and information available in English, Spanish, and/or any other language that will be understandable to target populations of patients utilizing TJSC services. Request for charity or reduced fee arrangements must be made prior to service being rendered. If the patient has not yet applied for Medical Assistance, TJSC staff will assist the patient with the application. Within two business days following a patient’s request for charity care services, application for medical assistance, or both, the facility shall make a determination of probable eligibility. For more information and an application for financial assistance, please go to: www.tjsurgery.com/patient/surgery-prior.html

The link will be to the page with the charity care policy and application.

The notice that will be posted in the Admissions and Business Offices will read as follows:

Thomas Johnson Surgery Center (“TJSC”) will provide services free or at a reduced fee to all patients who meet criteria. Each applicant for financial assistance or reduced fee arrangements must meet criteria as set by TJSC. TJSC financial aid is not a substitute for employer-sponsored, public or individually purchased insurance. TJSC will make an effort to provide Financial Assistance application, policies, procedures, and information available in English, Spanish, and/or any other language that will be understandable to target populations of patients utilizing TJSC services. Request for charity or reduced fee arrangements must be made prior to service being rendered. If the patient has not yet applied for Medical Assistance, TJSC staff will assist the patient with the application. Within two business days following a patient’s request for charity care services, application for medical assistance, or both, the facility shall make a determination of probable eligibility. For more information, please feel free to speak to someone in the business office or call 301.631.3881.

- 6. Please provide a copy of the individual notice of the availability of charity care, the potential for Medicaid eligibility, and the availability of assistance from other government funded programs that will be provided prior to arrival for surgery, if the CON is approved.**

Please see notices provided in response to Questions 4 and 5.

UTILIZATION

- 7. TJSC’s operating room utilization declined in 2016 from the previous year. To what does TJSC attribute this decline?**

There are two reasons for the decline in 2016.

1. One surgeon was out for hand surgery for 6 weeks.
2. Another surgeon left to open her own one-OR facility.

TJSC recovered from this temporary decline in volume. Since the physician left, TJSC has credentialed five additional surgeons, and volumes have more than recovered from their prior levels.

- 8. The application states that TJSC expanded its hours of operation into the later evening hours. Please identify TJSC’s typical hours of operation at this time, and how those hours have changed over time.**

Prior to 2017, TJSC typically opened at 6am and closed at 4:30 p.m. Early in 2017, TJSC expanded its routine hours of operation, closing at 6pm. However, often it closes at 6:30pm, and remains open as long as necessary until discharge of the final patients is

appropriate. The Board is currently discussing opening one Saturday/month. For the type of surgical cases handled at TJSC, extending hours is not the answer, as it would require patients to fast all day before surgery, or to arrive at unreasonably early hours.

CONSTRUCTION COSTS

- 9. Regarding COMAR 10.24.11.05B(7) Construction Costs, the application states that the “response to this standard will be forthcoming”. Please provide a response to this standard.**

Please see the Marshall Valuation Service Analysis in Exhibit 2.

- 10. Please specifically explain the costs listed in Table D. Onsite and Offsite Costs Included and Excluded in Marshall Valuation Costs. These costs should typically match costs reported in the Project Budget. MHCC staff note that the figures in these tables do not match. Please explain or submit a revised version of any tables that are necessary.**

The MHCC’s Table D. - Construction Costs only asks for information on Site Preparation. There are no Site Preparation costs in this project. In the original Table D filed with the CON Table Package, TJSC noted that there are \$5,160 of internal demolition costs which, as explained in the MVS analysis, should not be included in the comparison to the MVS benchmark, as the benchmark does not include demolition costs. However, TJSC has developed an alternative version of Table D which also includes information on Building, A&E Fees, and Permits, in addition to Site Preparation. This is included in Exhibit 3.

VIABILITY

- 11. Please provide the letter signed by an independent Certified Public Accountant that details the financial information considered by the CPA in reaching the conclusion that adequate funds are available that TJSC stated it would provide if required. The instructions associated with the criterion make this necessary.**

Please see Exhibit 4.

- 12. Please describe any relationship that TJSC has with the following authors of letters of support for the project: Steve Heine, Paul Burick, and Keith Roberson.**

Steve Heine and Keith Roberson are both former patients who received surgery at TJSC. They have no affiliation with TJSC.

Paul Burick works for Medtronic Spinal & Biologics, a company that provides surgical technology to many surgical facilities. He often works in the OR along with the surgeons. His experience provides him with a basis for comparing surgical facilities.

EXHIBITS

1. TJSC's Application for Financial Assistance
2. Marshall Valuation Service Analysis
3. Alternative Table D
4. Letter Signed by an Independent Certified Public Accountant
5. Affirmations

Exhibit 1
TJSC's Application for Financial Assistance



Surgical Care Affiliates

THOMAS JOHNSON SURGERY CENTER
FINANCIAL ASSISTANCE APPLICATION

2017 HHS Poverty Guidelines

Patient Name/Responsible Party

Address

City, State, Zip

Date of Service

Patient ID

Number of Persons in Family Unit	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$ 12,060	\$15,060	\$13,860
2	\$16,240	\$20,290	\$18,670
3	\$20,420	\$25,520	\$23,480
4	\$24,600	\$30,750	\$28,290
5	\$28,780	\$35,980	\$33,100
6	\$32,960	\$41,210	\$37,910
7	\$37,140	\$46,440	\$42,720
8	\$41,320	\$51,670	\$47,530
For each additional person, add	\$ 4,180	\$ 5,230	\$ 4,810

_____ Total Number of Persons in Family Unit (required)

INCOME:

Your Employer _____ Monthly Income \$ _____ Please attach proof

Spouse's Employer _____ Monthly Income \$ _____ of income for each to

Monthly Alimony/Child Support Income/Other \$ _____ include last 3 paystubs

Total Monthly Income \$ _____ and last 2 years tax returns

Annual Income \$ _____

Savings Account Balance \$ _____
Bank/Credit Union \$ _____

Amount patient feels they can pay for services each month \$ _____

Account is approved for _____ per month \$ _____

Patient's estimated balance after insurance \$ _____

Patient/Responsible Party

Date

Business Office Manager or Designee

Date

Exhibit 2
Marshall Valuation Service Analysis

Standard .05B(7) – Construction Costs.

The cost of constructing surgical facilities shall be reasonable and consistent with current industry cost experience.

(a) Hospital projects.

(i) The projected cost per square foot of a hospital construction or renovation project that includes surgical facilities shall be compared to the benchmark cost of good quality Class A hospital construction given in the Marshall Valuation Service® guide, updated using Marshall Valuation Service® update multipliers, and adjusted as shown in the Marshall Valuation Service® guide as necessary for site terrain, number of building levels, geographic locality, and other listed factors.

(ii) If the projected cost per square foot exceeds the Marshall Valuation Service® benchmark cost, any rate increase proposed by the hospital related to the capital cost of the project shall not include:

1. The amount of the projected construction cost and associated capitalized construction cost that exceeds the Marshall Valuation Service® benchmark; and

2. Those portions of the contingency allowance, inflation allowance, and capitalized construction interest expenditure that are based on the excess construction cost.

(b) Ambulatory Surgical Facilities.

(i) The projected cost per square foot of an ambulatory surgical facility construction or renovation project shall be compared to the benchmark cost of good quality Class A construction given in the Marshall Valuation Service® guide, updated using Marshall Valuation Service® update multipliers, and adjusted as shown in the Marshall Valuation Service® guide as necessary for site terrain, number of building levels, geographic locality, and other listed factors.

(ii) If the projected cost per square foot exceeds the Marshall Valuation Service® benchmark cost by 15% or more, then the applicant's project shall not be approved unless the applicant demonstrates the reasonableness of the construction costs. Additional independent construction cost estimates or information on the actual cost of recently constructed surgical facilities similar to the proposed facility may be provided to support an applicant's analysis of the reasonableness of the construction costs.

Applicant Response:

The following compares the project costs to the Marshall Valuation Service (“MVS”) benchmark.

I. Marshall Valuation Service Calculation

Type	Outpatient (Surgical) Centers
Construction Quality/Class	A-B/Good
Stories	1
Perimeter	80.2 (Used 320.8)
Height of Ceiling	9.00
Square Feet	420
f.1 Average floor Area	420 (Used 1,680)

A. Base Costs

Basic Structure	369.05
Elimination of HVAC cost for adjustment	0
HVAC Add-on for Mild Climate	0
HVAC Add-on for Extreme Climate	0

Total Base Cost \$369.05

Adjustment for OR Cost Differential 1.89

Adjusted Base Cost 697.5045

B. Additions

Elevator (If not in base)	\$0.00
Other	\$0.00

Subtotal \$0.00

Total \$697.50

C. Multipliers

Perimeter Multiplier 1.35024928
 Product 941.8049489

Height Multiplier (plus/minus from 12') 0.928
 Product \$873.99

Multi-story Multiplier (0.5%/story above 3) 1
 Product \$873.99

D. Sprinklers

Sprinkler Amount -

Subtotal \$873.99

E. Update/Location Multipliers

Update Multiplier 1.04

Product	\$908.95
Location Multiplier	1.04
Product	\$945.31
Adjustment for Renovation Only	50.00%
Final Square Foot Cost Benchmark	\$472.66

Please note the “Adjustment for OR Cost Differential” and “Adjustment for Renovation Only.” MVS does not have a benchmark for renovation. These adjustments derive from an approach that MHCC Staff used in the matter of Massachusetts Avenue Surgery Center (Matter No. 16-15-2378).

II. Cost of Renovation

II. The Project

A. Base Calculations	Actual	Per Sq. Foot
New Construction	\$96,582	\$229.96
Fixed Equipment	In Building	
Site Preparation	\$0	\$0.00
Architectural Fees	\$9,000	\$21.43
Capitalized Construction Interest and Financing Fees		\$0.00
Permits	\$2,000	\$4.76
Subtotal	\$107,582	\$256.15

However this project requires internal demolition. Demolition is not included in the MVS benchmark.

B. Extraordinary Cost Adjustments

	Project Costs	Associated A&E Fees	Associated Cap Interest	Total
Demolition	\$5,160	\$481	\$0	\$5,641
Total Cost Adjustments	\$5,160			\$5,641
Per Square Foot				\$13.43

C. Adjusted Project Cost	\$101,941
Per square foot	\$242.72

III. Comparison

A. Adjusted Project Cost/Sq. Ft.	\$242.72
B. Marshall ValuationService Benchmark	\$472.66

Exhibit 3
Alternative Table D

TABLE D. ONSITE AND OFFSITE COSTS INCLUDED AND EXCLUDED IN MARSHALL VALUATION COSTS

INSTRUCTION: If project includes non-hospital space structures (e.g., parking garages, medical office buildings, or energy plants), complete an additional Table D for each structure.

	NEW CONSTRUCTION COSTS	RENOVATION COSTS
SITE PREPARATION COSTS		
Normal Site Preparation		
Utilities from Structure to Lot Line		
Subtotal included in Marshall Valuation Costs		
Site Demolition Costs		
Storm Drains		
Rough Grading		
Hillside Foundation		
Paving		
Exterior Signs		
Landscaping		
Walls		
Yard Lighting		
Other <i>(Specify/add rows if needed)</i>		
Subtotal On-Site excluded from Marshall Valuation Costs	\$0	
OFFSITE COSTS		
Roads		
Utilities		
Jurisdictional Hook-up Fees		
Other <i>(Specify/add rows if needed)</i>		
Subtotal Off-Site excluded from Marshall Valuation Costs	\$0	
TOTAL Estimated On-Site and Off-Site Costs <u>not</u> included in Marshall Valuation Costs	\$0	\$0
TOTAL Site and Off-Site Costs included and excluded from Marshall Valuation Service*	\$0	\$0
BUILDING COSTS		
Normal Building Costs		\$91,422
Subtotal included in Marshall Valuation Costs	\$0	\$91,422
Internal Demolition		\$5,160
Subtotal Building Costs excluded from Marshall Valuation Costs	\$0	\$5,160
TOTAL Building Costs included and excluded from Marshall Valuation Service*	\$0	\$96,582
A&E COSTS		
Normal A&E Costs	\$0	\$8,519
Subtotal included in Marshall Valuation Costs	\$0	\$8,519

TABLE D. ONSITE AND OFFSITE COSTS INCLUDED AND EXCLUDED IN MARSHALL VALUATION COSTS

INSTRUCTION: If project includes non-hospital space structures (e.g., parking garages, medical office buildings, or energy plants), complete an additional Table D for each structure.

	NEW CONSTRUCTION COSTS	RENOVATION COSTS
A&E Fees Associated with the Extraordinary Costs (Demolition)	\$0	\$481
Subtotal A&E Costs excluded from Marshall Valuation Costs	\$0	\$481
TOTAL A&E Costs included and excluded from Marshall Valuation Service*	\$0	\$9,000
PERMIT COSTS		
Normal Permit Costs	\$0	\$2,000
Subtotal included in Marshall Valuation Costs	\$0	\$2,000
Jurisdictional Hook-up Fees		
Impact Fees		
Amount Spent on the 2012 Project that is not now Usable		
Subtotal Permit Costs excluded from Marshall Valuation Costs	\$0	
TOTAL Permit Costs included and excluded from Marshall Valuation Service*	\$0	\$2,000

Exhibit 4
Letter Signed by an Independent Certified Public Accountant

November 30, 2017

Thomas Johnson Surgery Center
Attn: Naomi Allen
197 Thomas Johnson Drive
Frederick, MD 21702

RE: Thomas Johnson Surgery Center, LLC

Dear Ms. Allen:

We have been engaged to review certain documents provided to us by Thomas Johnson Surgery Center, LLC in order to make a determination as to the viability of Thomas Johnson Surgery Center, LLC's proposal to the Maryland Health Care Commission with respect to adding a second operating room facility.

We are independent with respect to Thomas Johnson Surgery Center, LLC, any of their officers, directors, and LLC members. We have no financial interest in the determination by the Commission as it relates to the proposal. During our engagement, we have reviewed and analyzed documents in order to arrive at our conclusion, including, but not limited to:

- Review of internally prepared financial statements for Thomas Johnson Surgery Center, LLC, including the balance sheet and profit and loss statement as of and for the ten months ended October 31, 2017.
- Review of estimated construction budget and related project costs
- Review of completed Federal income tax returns for the years ended December 31, 2016

In addition to analyzing the above documents, we have also conferred with management as to their assumptions and believe that the assumptions included with the application are achievable.

It is our conclusion based upon the information made available to us, that Thomas Johnson Surgery Center, LLC generates sufficient cash flow from continuing operations and current available funds to provide cash contributions of \$112,411 towards the operating room facility project.

Sincerely,

ALBRIGHT CRUMBACKER MOUL & ITELL, LLC
Certified Public Accountants

Albright Crumbacker Moul & Itell, LLC

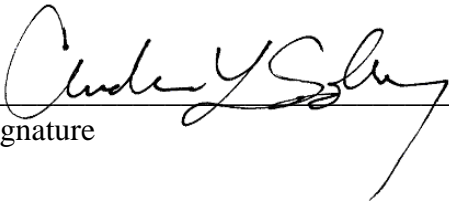
Exhibit 5
Affirmations

I hereby declare and affirm under the penalties of perjury that the facts stated in this Completeness and Additional Information response are true and correct to the best of my knowledge, information, and belief.

Naomi Allen
Signature

11-28-17
Date

I hereby declare and affirm under the penalties of perjury that the facts stated in this Completeness and Additional Information response are true and correct to the best of my knowledge, information, and belief.



Signature

11/29/17

Date