

IN THE MATTER OF  
SHEPPARD PRATT AT ELLICOTT CITY  
RELOCATION AND REPLACEMENT OF  
SPECIAL PSYCHIATRIC HOSPITAL

Matter No. 15-13-2367

CON Granted: September 20, 2016

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BEFORE THE  
MARYLAND HEALTH  
CARE COMMISSION

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**SECOND REQUEST FOR POST-APPROVAL PROJECT CHANGE**

Sheppard Pratt Health System, Inc. (“Sheppard Pratt”), by its undersigned counsel, respectfully requests the Maryland Health Care Commission (the “Commission”) to approve a second project change to the Certificate of Need (“CON”) issued on September 20, 2016, as described herein.

**I. BACKGROUND OF APPROVED PROJECT**

The Commission issued a Certificate of Need (“CON”) on September 20, 2016, authorizing Sheppard Pratt to relocate and replace its special psychiatric hospital located at 4100 College Avenue, Ellicott City, Maryland with an 85-bed special psychiatric hospital in ElkrIDGE, Maryland. (**Exhibit 1**, September 20, 2016 CON.)

**II. BASIS FOR SECOND REQUESTED PROJECT CHANGE**

Sheppard Pratt submitted its CON application on April 10, 2015, and modified the application on August 22, 2016. The Commission approved \$96,532,907 in total use of funds for the project. On March 18, 2021, following the submission of Sheppard Pratt’s initial Request for

Post-Approval Project Change (“Initial Project Change Request”), the Commission approved an increased project budget in the amount of \$105,638,412.

Sheppard Pratt requests approval for a second post-approval project change to increase the capital costs of the project principally due to an oversight in the calculation of construction period interest at the time of preparation and submission of the Initial Project Change Request, which was not discovered until recently, after the Commission approved of the Initial Project Change Request.

Following approval of the Initial Project Change Request, Sheppard Pratt engaged in discussions with the Health Services Cost Review Commission (“HSCRC”) regarding a request for rate adjustment, which relates in part to this hospital project. In reviewing the approved budget for the project, HSCRC staff noted that Sheppard Pratt did not reconcile the capitalized interest with the revised construction timeline for the project completion. The original project budget, as well as the budget submitted with the Initial Project Change Request, included capitalized interest for the initial estimated time period of construction.<sup>1</sup> When the construction timeline was extended, Sheppard Pratt overlooked the need to update the interest expense. As a result, the capitalized interest was understated by approximately \$7.4 million.

Revised Tables E, G, and H, showing the proposed changes following Commission approval of the Initial Project Change Request, are attached collectively as **Exhibit 2**. All of the

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<sup>1</sup> The original CON included an incorrectly short performance requirement timeline. The Commission later corrected the performance requirement, which allowed Sheppard Pratt to extend the originally planned construction timeline.

changes to these tables resulted from working with the HSCRC staff on the rate adjustment request. The changes are explained below:

**Table E:**

Line A.1.d.(3) – As noted above, interest during construction period increased by \$7.4 million. The increase is related to the timing of debt issuance and delays in construction. The increase in capitalized interest does not reflect increased cost of the construction of the project, but rather accounting for the interest expense.

Lines B.1-7b. – Some of the sources of funds changed based on Sheppard Pratt’s discussions of the funding of the hospital project with HSCRC staff. The revised sources of funds reflect cash sourced from a working capital loan, rather than from operations. Philanthropy funds were reconciled to account for the only gift that was allocated by donor for the new hospital. The bond fund was reconciled and interest income from bond proceeds was added at the HSCRC request. State grants were increased by \$2.5 million as Sheppard Pratt expects the entire \$10 million in state appropriations to be received by the opening of the new hospital.

**Tables G and Table H:**

Some small adjustments were made to the revenue, expense and payer mix figures as Sheppard Pratt examined current revenue and expense trends. Depreciation was updated to include the additional capitalized interest. The rate improvement is still estimated at this time, but is deemed to be reasonable based on current rate relief received through the COVID-19

pandemic. The FY 2022 columns are equal in Tables G and H because the commencement of FY 2022 will occur in less than one month.

### **III. COMPARISON OF NEW TOTAL PROJECT COSTS AND ALLOWABLE CURRENT PROJECT COSTS**

To assess whether the Commission must approve the increases in project costs described above, the CON-approved costs must be inflated by means of the inflation index set forth in the Commission's regulations to determine the currently allowable project costs. *See* COMAR § 10.24.01.17B(2). This computation is based on 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." The inflation allowance is not a material factor in this request because the inflation allowance was just updated at the time of the Initial Project Change Request less than three months ago. Thus, any small additional inflation allowance would not cover an increase of \$7.4 million in construction period interest expense.

Because the increase in the project's total current project cost exceeds the allowable total current project cost, Sheppard Pratt must obtain Commission approval. *See* COMAR § 10.24.01.17B(2).

### **IV. THE REQUESTED PROJECT CHANGES ARE APPROVABLE**

The following types of changes to a project require formal Commission approval:

- (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.

COMAR § 10.24.01.17B. The only applicable change here is the increase of capital costs exceeding the approved capital costs inflated by the allowable amount.

Certain types of proposed project changes are impermissible, including the following:

- (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.

COMAR § 10.24.01.17C.

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 beyond what is permitted under COMAR § 10.24.01.12E to meet applicable performance requirements.

### **CONCLUSION**

For the foregoing reasons, Sheppard Pratt respectfully requests that the Commission approve the proposed changes described above.

Respectfully submitted,

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Date: June 8, 2021