

IN THE MATTER OF THE CONSOLIDATION OF \* BEFORE THE  
UNIVERSITY OF MARYLAND UPPER \* MARYLAND HEALTH  
CHESAPEAKE MEDICAL CENTER AND \* CARE COMMISSION  
UNIVERSITY OF MARYLAND \*  
HARFORD MEMORIAL HOSPITAL \*

**Matter No. 17-12-EX003**

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**STAFF REPORT**

**REQUEST FOR PROJECT CHANGE  
AFTER EXEMPTION FROM CERTIFICATE OF NEED APPROVAL**

**I. INTRODUCTION**

**Background**

The University of Maryland Upper Chesapeake Health System (UCHS) proposed to restructure its health care services by modernizing the UCHS delivery system and consolidating services. UCHS proposed three related and interdependent projects including: (1) the conversion of University of Maryland Harford Memorial Hospital (HMH) to a freestanding medical facility (FMF) to be constructed in Aberdeen; (2) construction of a special psychiatric hospital to be co-located with the FMF and (3) the merger and consolidation of University of Maryland Upper Chesapeake Medical Center (UCMC) and HMH by relocating MSGA beds. The projects at Aberdeen Campus are complete and the Commission has issued first use approval. The HMH conversion and bed tower project at UCMC is the last project to be completed.

To accommodate the relocation of beds from HMH to UCMC, the Commission granted an Exemption from Certificate of Need Review on April 16, 2020, authorizing UCMC to construct a 78,870 square foot three-story bed tower above the existing two-story University of Maryland Kaufman Cancer Center. There were four components of this project: (1) the fifth floor housing a 30 bed MSGA unit; (2) the fourth floor housing a 42- bed dedicated observation unit; (3) the third floor built as shell space, and (4) the 20,960 square feet combined renovation and additions to the UCMC’s existing main hospital to expand support services, food services, environmental services, IT, and a Fire Command Center for the high-rise building.

The estimated approved costs for this project were \$84,406,807, including \$73,590,773 in capital expenditures, a budgeted inflation allowance of \$2,448,512 and \$8,367,521 in financing costs and other cash requirements.

The applicants stated that the primary purpose for this consolidation was to better align with the State’s Total Cost of Care model, with the development of patient care rooms in a manner that would be efficient and cost effective, and to improve the continuum of care. Further, the

applicants maintained that this change would transform its health care delivery model to improve patient health, reduce costs, reduce redundancy of clinical care services, and provide better care coordination.

### **Requested Project Change**

The applicants are requesting a project change to increase the capital costs by \$13,379,892, a 15.9 percent increase for the project. The increase brought the total construction expenditure from \$84,406,807 to \$97,786,699, which has largely already been spent. This increase in costs was attributed to two of the components of the project: the third-floor shell space and the renovations to the main building. The applicant showed that the remaining two components, the fourth and fifth floor costs were collectively constructed within the approved total capital costs of \$63,444,882.

Due to the size of the project, different components of the project were completed earlier than others. The fourth and fifth floors of the approved bed tower at UCMC were complete as of December 4, 2023. To accommodate the timely closure of HMH and the transfer of beds to UCMC, the applicants requested a limited first use approval for only the fourth and fifth floors at UCMC on January 19, 2024.<sup>1</sup> The applicants presented evidence that the project budget overage was related to the unfinished portion of the project, so the Executive Director approved a partial first use on January 26, 2024 to help efficiently allow the projects to move forward and start providing services. The approval of this limited first use also allowed the specialty psychiatric hospital located adjacent to the FMF to open.

UCMC and HMH state the increased budget was driven by multiple factors: (1) the COVID-19 pandemic and economic market significantly affected labor and material costs; (2) the need for architectural, engineering, and structural redesign due to previously unknown conditions of the existing roof and support beams on top of which the three-story project; (3) increased costs associated with the redesign of the mechanical systems which required the use of temporary equipment (electrical panels, chillers and other mechanical equipment); and (4) the failure of a subcontractor to perform the contract work on mechanical systems.

## **II. APPLICABLE REGULATIONS**

If an applicant seeks to make a permissible change from a project that has received Commission approval, it must seek approval from the Commission pursuant to COMAR 10.24.01.17.<sup>2</sup> Any of the following changes would place a project at variance with its CON exemption, and require Commission approval in advance:

- (1) A significant change in physical plant design;
- (2) 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 application, inflated by 10 percent per year;

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<sup>1</sup> See Appendix II for the amended first use request from the applicants dated January 19, 2024.

- (4) A change in the financing mechanisms of the project;
- (5) A change in the location or address of the project.<sup>3</sup>

This project requires Commission action because the project incurred “capital cost increases that exceed the approved capital cost inflated by an amount determined by applying the Building Cost Index published in the *Health Care Cost Review* from the application submission date to the date of the filing of a request for approval of a project change” as provided in COMAR 10.24.01.17B(2).

Under COMAR 10.24.01.17D(3), the Commission may approve the requested change, approve the change in part or with conditions, not approve the change with explanation, or require a complete CON exemption review because of the scope of the requested change.

### **The Change in Project Cost Exceeds the Inflation Allowance**

The applicants are projecting that the project will increase total current capital costs by \$20,988,300. Under the procedural regulations, the capital costs for a project can increase up to the inflation allowance without needing Commission approval. The inflation allowance is calculated using the building cost indices published on a quarterly basis by IHS Global Insight in the *Healthcare Cost Review*.<sup>4</sup> However, project capital cost increases that exceed that inflation allowance must be approved by the Commission.

On April 16, 2020, the Commission approved a total capital cost of \$73,590,773 based on the applicants cost estimate. Using the building cost inflation index referenced above, Commission staff calculated the inflation allowance for this project--\$4,150,520, or 5.64%, well below the estimated cost increase of \$20,988,300. Thus, because the increased costs exceed the inflation allowance, COMAR 10.24.01.17B(2) requires Commission authorization of the proposed cost increase.

### **III. COST INCREASE AND FINANCIAL IMPACT**

The applicants compared the original total project costs of \$84,406,807 approved by the Commission in April of 2020 with the current estimate for the project. The breakdown of the additional uses of funds in the budget increase include: \$17,905,806 for construction; \$2,000,000 for renovations, and a net \$1,082,494 increase in other capital costs, for movable equipment, food service equipment, IT, other capital costs and capitalized interest.

There was an increase in the total capital costs of \$18,539,787 but due to a net reduction in financing cost of \$5,159,895, the actual increase of total uses of funds was \$13,379,892. Full details on the budget and the changes since original approval are available in Appendix I.

### **Developing the MVS Benchmark for the Proposed Project**

The applicants and MHCC staff performed independent analyses to arrive at the MVS benchmark value calculated for the proposed project. In this project, the applicants propose the

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<sup>3</sup> COMAR 10.24.01.17B

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[https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_con/documents/2023\\_3rd\\_Qtr\\_cost\\_indexes%20\\_cap\\_cost\\_modification\\_20231117.pdf](https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/documents/2023_3rd_Qtr_cost_indexes%20_cap_cost_modification_20231117.pdf)

new construction 88,850 square foot addition above an existing building. The applicants calculated an MVS value of \$513.75 per square foot, while Commission staff arrived at an MVS value of \$514.01 per square foot. The applicants and Commission staff used the base cost for a good quality, Class A construction for a general hospital. The differences were due to rounding differences as shown in Table 1 below.

**Table 1: Calculation of Marshall Valuation Service Benchmark  
For UCMC New Patient Tower – January 2024**

<b>New Construction Class</b>	<b>Applicants Calculation</b>	<b>MHCC Calculation</b>
<b>Quality</b>	<b>A</b>	<b>A</b>
<b>Type Structure</b>	<b>Good</b>	<b>Good</b>
<b>New Patient Tower</b>	<b>New Patient Tower</b>	<b>New Patient Tower</b>
Floors	6	6
Total Square Footage	88,850	88,850
Average Perimeter	492	492
Weighted Average Wall Height	16.8	16.8
Average Area Per Floor	14,808	14,808
<b>Base Cost</b>		
Base Cost	\$560.00	\$560
Department Differential Cost	0.88	0.88
Gross Base Cost	\$492.59	\$492.80
Perimeter Multiplier	0.931774667	0.932
Story Height Multiplier	1.11	1.110
Multi-story Multiplier	1.01	1.010
Refined Square Foot Cost	\$514.65	\$514.90
Sprinkler Add-on	\$4.40	\$4.40
Adjusted Refined Square Foot cost	\$519.05	\$519.30
Current Cost Modifier	1.01	1.01
Local Multiplier	0.98	0.98
CC & Local Multipliers	1.112	1.112
MVS Building Cost Per Square Foot	\$513.75	\$514.01
<b>Building Square Footage</b>		
Building Square Footage	88,850	88,850
MVS Building Costs	\$45,646,688	\$45,669,788
Final MVS Cost Per Square Foot	\$513.75	\$514.01

**Comparing Estimated Project to the MVS Benchmark**

The applicants calculated an estimated cost of \$549.70 per square foot for the new patient tower, whereas Commission staff calculated the cost at \$526.61 per square foot, a difference of \$23. Please see Table 2 below, which compares the applicants and MHCC staff’s analysis in evaluating the new construction project costs with the MVS benchmark value.

**Table 2: Comparison of New Construction Budget  
To Marshall Valuation Service Benchmark**

<b>Patient Tower - New Construction</b>	<b>Applicants</b>	<b>MHCC Staff</b>
Building	\$53,646,619	\$53,646,619
Fixed Equipment	included	included
Normal Site Prep.	\$3,364,804	\$3,364,804
Arch./Eng. Fees	\$7,311,481	\$7,311,481
Permits	\$ 417,785	\$ 417,785
Total	\$64,740,689	\$64,740,689
<b>Adjustments-Exclude from MVS</b>		
Total On-Site & Off-Site Costs excluded from MVS (subtract)	\$19,485,902	\$19,485,902
Net Project Costs	\$45,254,787	\$45,254,787
Allocated Financing Expenses (add)	\$3,586,137	\$1,534,805*
Project Cost for MVS Comparison	\$48,840,924	\$46,789,592
Square Footage	88,850	88,850
Cost Per Square Foot	\$549.70	\$526.61
Adj. MVS Cost/Square Foot	\$513.75	\$514.01
Over	\$35.95	\$12.60
Over Total Costs	\$3,194,158	\$1,119,510

Source: Applicants change request letter dated December 22, 2023, Exhibit 2, Revised Table E.

\* Applicants included gross inflation during construction and contingency allowance which is not included in the MHCC calculation

Table 2 is a comparison of the MVS calculation values for the cost of constructing the new patient tower and the total on-site and off-site costs excluded from MVS evaluation. Commission staff calculated a lower project cost for MVS comparison at \$46,789,592, which included adding a proportion of the Allocated Financing Expense (approximately \$1.5 million), while the applicants added other costs not applicable in this initial calculation. Commission staff found that the total cost of new construction exceeded the MVS benchmark value by \$12.60 per square foot or 2.5 percent, for a total of \$1,119,510.

COMAR 10.2410.04B(7) requires that if applicants propose a rate increase related to the capital cost of the new patient tower, it shall not include the amount of the projected construction cost that exceeds the MVS benchmark and those portions of the contingency allowance, inflation allowance and capitalized construction interest expenditure that are based on the excess construction cost.

The excess construction cost must also be adjusted for the contingency and inflation allowances. These costs are apportioned by the percentage that the applicants exceeded the MVS benchmark (2.5%) calculated by staff. The resulting exclusion is shown in the Table 3:

**Table 3: MHCC Staff Calculation of Excess Cost**

Construction cost exceeding benchmark (\$12.60 x 88,850 square feet)	\$1,119,510
The portion of interest that should be excluded (\$4,048,680 x 2.5 %)	\$101,217
The portion of the contingencies that should be excluded (\$144,000 x 2.5 %)	\$3,600
<b>Total to be excluded from any rate increase proposed by the hospital related to the capital cost of the project</b>	<b>\$1,133,327</b>

Based on this analysis, staff recommends that approval of the project change include the following condition:

Any future change to the financing of this project involving adjustments in rates set by the Health Services Cost Review Commission must exclude \$1,133,327. This figure includes the estimated new construction costs that exceed the Marshall Valuation Service guideline cost and portions of the contingency allowance and inflation allowance that are based on the excess construction cost.

#### **IV. ANALYSIS AND RECOMMENDATION**

The applicants failed to submit a timely request in accordance with COMAR 10.24.01.17 by incurring the increased capital costs before seeking Commission approval. The Exemption from Certificate of Need Order issued by the Commission for this project set forth project change requirements, including capital cost increases. The applicants state that they failed to timely seek a project change approval because the UM UCH employee who was responsible for managing the three projects was reassigned within the UMMS system and was no longer responsible for this project as of September 2021. Additionally, the applicants state in authorizing the expenditures, the UCH's executive staff and Board of Directors viewed the three projects collectively and that the approximately \$17 million in overture at the UCMC project was offset by an approximately \$17 million in costs savings at the two remaining projects at Aberdeen.

While the procedural regulations in effect prior to December 1, 2023, did not explicitly address project changes of approved CON exemptions, COMAR 10.24.01.17 addressed project changes after CON issuance, which provide a framework and relevant considerations for reviewing this request. The Commission has previously applied this regulation to requests for project changes after approval of an exemption from CON review. Notwithstanding the changes to the regulations in 2023 that clarified post approval requirements for approved CON exemptions, the Commission had a longstanding track record of requiring all projects to proceed in accordance with COMAR 10.24.01.17, including requests for project changes after approval of an exemption from CON review.<sup>5</sup>

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<sup>5</sup> *In the Matter of the Conversion of University of Maryland Laurel Regional Hospital to a Freestanding Medical Facility*, Dkt. No. 18-16-EX002 (Apr. 20, 2023).

The project approved by the Commission in April of 2020 permitted the relocation of HMH hospital beds to UCMC at a total project cost of \$84,406,807. UCMC now requests a \$13,379,892 increase for additional construction and project costs. MHCC staff reviewed the budget revisions and the source of funds in the current project change request. While expenses increased by nearly \$21 million, applying the contingency and inflationary allowances of \$6.6 million towards the total yields an increase of total funds of \$13.4 million. Staff concludes that UMMS could absorb the cost increases of the project. The funding for the increased project cost will be from cash, authorized bonds, and interest income from the bonds.

Staff concludes that the project change request is permissible under COMAR 10.24.01.17B. There are no material changes to the nature of the project, the location, or the immediate capacity. Staff also concludes that this requested change would not alter the findings that the Commission made in 2020 concerning the need and the positive impact of converting HMH to an FMF and moving beds to the campus of UCMC. For these reasons, staff recommends that the Commission APPROVE the requested Project Change after Approval of an Exemption from CON review.

<p><b>IN THE MATTER OF THE CONSOLIDATION OF</b></p> <p><b>UNIVERSITY OF MARYLAND UPPER</b></p> <p><b>CHESAPEAKE MEDICAL CENTER AND</b></p> <p><b>UNIVERSITY OF MARYLAND</b></p> <p><b>HARFORD MEMORIAL HOSPITAL</b></p> <p><b>Matter No. 17-12-EX003</b></p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p><b>BEFORE THE</b></p> <p><b>MARYLAND HEALTH</b></p> <p><b>CARE COMMISSION</b></p>
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**FINAL ORDER**

Based on Commission staff’s analysis of this request for a project change after issuance of an exemption from Certificate of Need, it is this 22<sup>nd</sup> day of February 2024, **ORDERED** that:

The request by University of Maryland Upper Chesapeake Medical Center (UCMC) and University of Maryland Harford Memorial Hospital (HMH) for a project change to the April 16, 2020, Exemption from Certificate of Need to Merge and Consolidate UCMC and HMH at a total project cost of **\$97,786,699** is **APPROVED** with the following conditions:

- (1) UCMC must seek First Use approval before using any portion of the remaining project.
- (2) Commission review and approval is required before building out the shell space.
- (3) UCMC shall address its non-compliance with its April 2020 Exemption from CON for any future projects.
- (4) Any future change to the financing of this project involving adjustments in rates set by the Health Services Cost Review Commission must exclude \$1,133,327. This figure includes the estimated new construction costs that exceed the Marshall Valuation Service guideline cost and portions of the contingency allowance and inflation allowance that are based on the excess construction cost.

In addition, the conditions set forth in the original Exemption from Certificate of Need continue to apply:

Any future change to the financing of this project involving adjustments in rates set by the Health Services Cost Review Commission must exclude:

- (1) \$9,531,995, which includes the estimated costs of excess space for inpatient

nursing units and the cost of the portions of the contingency allowance, escalation and capital construction interest and inflation allowance that are based on the excess construction cost; and

- (2) \$16,359,163, which includes the estimated costs of shell space and the cost of the portions of the contingency allowance, escalation and capital construction interest and inflation allowance that are based on the excess construction cost.

## **MARYLAND HEALTH CARE COMMISSION**

**APPENDIX I:**

**REVISED PROJECT BUDGET**

## APPENDIX I: REVISED BUDGET

<b>Uses of Funds</b>			
<b>Capital Costs</b>			
<b>Renovations</b>			
	<b>Original</b>	<b>Difference</b>	<b>Revised</b>
Building	\$2,852,180	2,000,000	4,852,180
Fixed Equipment	\$4,736,462	0	4,736,462
Architect/Engineering Fees	\$300,045	0	300,045
Permits (Building, Utilities, Etc.)	\$142,879	0	142,879
<b>Subtotal-Renovations</b>	<b>\$8,031,566</b>	<b>2,000,000</b>	<b>10,031,566</b>
<b>New Construction</b>			
Building	\$39,639,186	14,007,433	53,646,619
Fixed Equipment (not included in construction)	\$0	0	0
Site and Infrastructure	\$246,346	3,118,458	3,364,804
Architect/Engineering Fees	\$4,628,765	2,702,716	7,331,481
Permits (Building, Utilities, Etc.)	\$2,320,586	(1,902,801)	417,785
<b>Subtotal-New Construction</b>	<b>\$46,834,883</b>	<b>17,905,806</b>	<b>64,740,689</b>
<b>Other Capital Costs</b>			
Movable Equipment	\$2,520,000	5,268,688	7,788,688
Owner Contingency Allowance	\$4,511,181	(4,211,181)	300,000
Gross interest during construction period	\$6,566,503	1,868,264	8,434,767
Other	\$3,640,790	(357,427)	3,283,363
<b>Subtotal-Other Capital</b>	<b>\$18,724,324</b>	<b>1,082,494</b>	<b>19,806,818</b>
<b>Total Current Capital Costs</b>	<b>\$73,590,773</b>	<b>20,988,300</b>	<b>94,579,073</b>
Inflation Allowance	\$2,448,512	(2,448,512)	0
Land Purchase			0
<b>Total Capital Costs</b>	<b>\$76,039,286</b>	<b>18,539,787</b>	<b>94,579,073</b>
<b>Financing Cost and Other Cash Requirements</b>			
Loan Placement Fees	\$709,979	94,427	804,406
CON Application Assistance			
Legal Fees	\$110,322	227,508	337,830
Other Consulting Fees	\$884,309	(884,309)	0
Non-CON Application Assistance			
Legal, Consult, Debt Service	6,662,911	(4,597,521)	2,065,390
<b>Subtotal</b>	<b>\$8,367,521</b>	<b>(5,159,895)</b>	<b>3,207,626</b>
<b>Total Uses of Funds</b>	<b>\$84,406,807</b>	<b>13,379,892</b>	<b>\$97,786,699</b>
<b>Sources of Funds</b>			
Bonds	\$82,718,126	13,379,892	96,098,018
Other (Interest Earned)	\$1,688,681	0	1,688,681
<b>Total Sources of Funds</b>	<b>\$84,406,807</b>	<b>13,379,892</b>	<b>97,786,699</b>

Source: Project Budget, from original CON exemption request and project change request letter dated 12/22/23

**APPENDIX II:**

**AMENDED FIRST USE REQUEST**

January 19, 2024

**VIA EMAIL**

Ms. Ruby Potter  
[ruby.potter@maryland.gov](mailto:ruby.potter@maryland.gov)  
Health Facilities Coordination Officer  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215

Re: **Amended Request for Limited First-Use Review and Approval**  
Merger and Consolidation of UM Upper Chesapeake Medical Center and UM  
Harford Memorial Hospital Exemption from CON Review – Docket Number 17-  
12-EX003

Dear Ruby:

On behalf of Upper Chesapeake Health System, Inc. (“UM UCH”) and its subsidiary hospitals, the University of Maryland Upper Chesapeake Medical Center, Inc. (“UCMC”) and University of Maryland Harford Memorial Hospital, Inc. (“HMH”), and pursuant to COMAR § 10.24.01.18.A, I write to submit an amended request for limited first use review and approval for the fourth and fifth floor bed towers constructed at UCMC pursuant to the approved merger and consolidation of UCMC and HMH, for which the Maryland Health Care Commission granted an Exemption from Certificate of Need Review on April 16, 2020 (the “CON Exemption”).

We appreciate the Commission’s engagement on this important transition for the patients and community served by UM UCH. For ease of review, detailed below are key points related to this request.

1. **Project Portions Conform to Original CON Exemption Approval:** The fourth and fifth floors of the bed tower at UCMC were constructed in conformity with the project drawings approved by the Commission through the CON Exemption.
2. **Project Cost Summary Statement. Exhibits 1 and 2** of this amended request for limited first use review and approval detail updated budget and final cost information for the entire project. Based on an updated allocation of project costs, the fourth and fifth floors were constructed with total capital costs below the Commission approved total capital cost for this project.<sup>1</sup>
3. **The Commission is Permitted to Grant Limited First Use Approval.** The Commission’s regulation, COMAR 10.24.01.18A permits the Commission staff to grant first use approval of “any portion of a facility or service developed under a CON or other Commission approval,” including an exemption from CON review. Because

January 19, 2024

Page 2

the Commission approved a single budget for all components of the project, UCMC and HMH have endeavored to reasonably allocate costs between each of four components of the approved project at UCMC.

On behalf of the UM UCH team, we recognize the significant request and burden to Commission staff associated with UM UCH's recent filings. That said, we believe it is crucial to emphasize that the limited first use approval at UCMC is paramount for ensuring uninterrupted patient care and the smooth transition of medical services.

**I. RECONFIGURATION OF UM UPPER CHESAPEAKE HEALTH OVERVIEW AND BACKGROUND**

UM UCH currently consists of: (1) UCMC; (2) HMH; (3) the Patricia D. and M. Scot Kaufman Cancer Center (an affiliate of the University of Maryland Marlene and Stewart Greenebaum Cancer Center) located on the campus of UCMC; (4) the Klein Ambulatory Care Center located on the campus of UCMC; (5) the Senator Bob Hooper House, a residential hospice facility in Forest Hill; (6) Upper Chesapeake Medical Services, a physician practice group; and (7) the Klein Family Center, which treats mental health and addictions issues in Bel Air. UCMC and HMH are the only acute general hospitals in Harford County. HMH, however, was constructed in phases between 1943 and 1972 and has outlived its useful life. Renovation of the facility would not have been cost-effective.

In furtherance of delivering convenient and quality care to the residents of Harford County and as part of the reconfiguration of UM UCH, on April 16, 2020, the Commission approved three separate projects consisting of:

(1) ***Approved Expansion at UCMC*** – An exemption from CON review for UCMC to:

- a. Construct a new 78,870 square foot three-story bed tower (26,290 square feet per floor) above the existing two-story UM Kaufman Cancer Center, which will house 30 MSGA beds on the fifth floor, a 42-bed observation unit on the fourth floor, shell space on the third floor, and 740 square feet of renovations to the existing Kaufman Cancer Center for an elevator lobby and public toilets;
- b. Renovate a 12,000 square foot addition to the existing main hospital building for expansion of support and food services; and
- c. Construct an 8,690 square foot addition to the existing main hospital building to expand environmental and information technology services.

(2) ***Approved Conversion of HMH to a Freestanding Medical Facility***. An exemption from CON review for HMH to convert to a freestanding medical facility and relocate

to a new facility with 25 emergency treatment spaces and 17 observation beds located at 635 McHenry Road in Aberdeen, Maryland.

- (3) ***Approved UCH Behavioral Health Pavilion at Aberdeen.*** A Certificate of Need to construct a new 33 bed special psychiatric hospital above the FMF with an outpatient department housed in an adjacent medical office building.

The projects at the Aberdeen Campus have been substantially complete since December 22, 2022. They were completed under budget by a combined \$17 million in total use of funds. The Office of Health Care Quality has toured both projects and granted provisional approvals. UM UCH separately requested full first use approval of the two Aberdeen projects on December 22, 2023.

For HMH to convert to an FMF and close, however, UM UCH has been awaiting completion of the bed tower project at UCMC. While the bed tower project is substantially complete, approved renovations and new building construction at UCMC's existing main hospital, which will not impact patient care, will continue through May 2024.

As set forth more fully below, UCMC requests limited first use approval of the new MSGA and observation units located on the fourth and fifth floors of the bed tower on **January 31, 2024**. The Commission's grant of first use approval for these units is crucial for the timely and smooth transition of inpatients and observation patients, enabling HMH's conversion to a freestanding medical facility and the opening of a specialty psychiatric hospital in Aberdeen. Subject to Commission first use approval, inpatients and observation patients at UCMC will be moved to the new 30 bed MSGA unit on the fifth floor of the new bed tower and the 42 bed observation unit on the fourth floor.

This will allow HMH to convert to a freestanding medical facility, which will be necessary to accommodate overflow of emergency patients and transition of observation patients. In turn, first use approval will (a) create space for the transfer of inpatients from HMH to UCMC to fill vacated rooms; (b) permit HMH to close as an acute general hospital; and (c) allow UCH to open the specialty psychiatric hospital in Aberdeen on **February 6, 2024**.

## **II. UCMC BED TOWER FIRST USE APPROVAL REQUEST**

UCMC and HMH respectfully request limited first use approval of only the fifth floor MSGA and fourth floor observation patient units at UCMC for purposes of the smooth transition of patients on January 31, 2024. Additionally, a waiver from the Commission of the sixty (60) day period for filing of a request for first use approval is also sought.

The Commission's regulation, COMAR 10.24.01.18A, permits the Commission staff to grant first use approval of "any portion of a facility or service developed under a CON or other

January 19, 2024

Page 4

Commission approval,” including an exemption from CON review. Further, as the expansion of UCMC was approved through an exemption from CON review, there cannot be any interested parties who may contest this first-use approval request.

Finally, because the Commission approved a single budget for all components of the UCMC expansion project, UCMC and HMH have endeavored to reasonably allocate costs between each of four components of the project – (1) the fifth floor housing a 30 bed MSGA unit; (2) the fourth floor housing a 42-bed dedicated observation unit; (3) the third floor built as shell space; and (4) the 20,960 square feet combined renovation and additions to UCMC’s existing main hospital. A final project budget allocating the costs between these four components is enclosed as **Exhibit 1**. This is not a circumstance in which UCMC and HMH are seeking to impermissibly divide a project into component parts to avoid the Commission’s review. Rather, consistent with the Commission’s ability to award first use approval of a “portion” of an approved project, UCMC allocated costs accordingly to each portion of an already approved project. As described below, UM UCH acknowledges that certain additional Commission approvals will be required for UCMC to fully implement the UCMC expansion project.

In **Exhibit 1**, costs for the “Hospital Building” and “Central Plant” are included in columns E and F. These costs were then allocated to the four components of the project in columns G through J. Total costs are included in column K. As previously described, neither the general contractor for the project nor UCMC tracked capital expenditures using the Commission’s Table E (project budget). A description of the calculations and assumptions made in allocating costs among the four components is enclosed as **Exhibit 2**. The allocation of costs is supported by the affirmation of the project manager for UM UCH, UCMC’s, and HMH’s parent organization.

### III. COMPLIANCE AND CONDITIONS

UM UCH recognizes that first use of the full expansion project will require the Commission to approve a request for post-approval project change as it incurred costs in excess of those approved through the CON Exemption. Furthermore, use of the shell space constructed on the third floor of the bed tower addition will require either a Certificate of Need or a Determination of Coverage in the future depending on determined use of the third floor. Nevertheless, based on a judicious allocation of project costs among the four components of the project, the fourth and fifth floors were collectively constructed with total capital costs of \$63,444,882. This figure stands \$10,145,891 below the Commission-approved total capital cost for the entire project, without considering \$3,912,770 in allowable inflation. In summary, the construction of the fourth and fifth floors incurred expenses that were \$14,058,661 below the Commission’s approved total capital cost adjusted for allowable inflation.

Additionally, while there were certain unanticipated costs associated with the project, including the need for temporary mechanical and electrical systems and reengineering of the roof

January 19, 2024

Page 5

of the Kaufman Cancer Center to support the tower on top of it, the bed tower and other components of the project were constructed in conformity with the project drawings approved by the Commission. Accordingly, the Executive Director and Commission staff may determine that the fourth and fifth floors of the approved bed tower at UCMC were constructed in conformity with the CON Exemption and grant first use approval in accordance with COMAR 10.24.01.18.

The Commission imposed the following conditions on the approved project:

“Any future change to the financing of this project involving adjustments in rates set by the Health Services Cost Review Commission must exclude:

- (1) \$9,531,995, which includes the estimated costs of excess space for inpatient nursing units and the cost of the portions of the contingency allowance, escalation and capital construction interest, and inflation allowance that are based on the excess construction cost; and
- (2) \$16,359,163, which includes the estimated costs of shell space and the cost of the portions of the contingency allowance, escalation and capital construction interest, and inflation allowance that are based on the excess construction cost.”

UM UCH, UCMC, and HMH acknowledge and will abide by each of these conditions. To be clear, UM UCH does not intend to seek a rate adjustment from the HSCRC associated with the project approved through the CON Exemption. UM UCH anticipates that any future Commission approval of a request for post-approval project change will impose additional exclusions on amounts for which UCMC may not seek rate adjustments, and it will abide by those conditions.

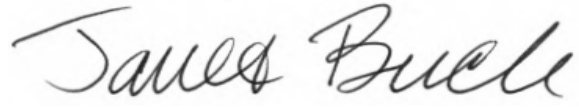
As you know, the Commission’s regulations provide that first use review may be performed by a local health department or Commission Staff. We understand that as of December 1, 2023, a review and report by the Harford County Department of Health is no longer provided for by COMAR 10.24.01.18 for first use approval. We are at your service in facilitating whatever steps the Commission staff deems necessary to perform its review and approval of limited first use.

Thank you for your assistance. If you have any questions, please feel free to contact me at (410) 347-1353.

January 19, 2024

Page 6

Sincerely,



James C. Buck  
Alison B. Lutich  
Gallagher Evelius & Jones LLP  
*Counsel for Upper Chesapeake Health System,  
Inc.*

Enclosures

cc: Ben Steffen, Executive Director  
Wynee Hawk, Director, Center for Health Care Facilities Planning & Development  
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Mark Shaver, SVP Strategy, Physician Services & Business Development at UM Upper  
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**APPENDIX III**

**MARSHALL VALUATION SERVICE REVIEW**

## **Marshall Valuation Service Review**

### **The Marshall Valuation System – what it is, how it works**

In order to compare the cost of a proposed construction project to that of similar projects as part of a cost-effectiveness analysis, a benchmark cost is typically developed using the Marshall Valuation Service (MVS). MVS cost data includes the base cost per square foot for new construction by type and quality of construction for a wide variety of building uses.

The base cost reported in the MVS guide are based on the actual final costs to the owner and include all material and labor costs, contractor overhead and profit, average architect and engineering fees, nominal building permit costs, and processing fees or service charges and normal interest on building funds during construction. It also includes normal site preparation costs including grading and excavation for foundations and backfill for the structure; and utilities from the lot line to the structure figured for typical setbacks.

The MVS costs *do not include* costs of buying or assembling land, piling or hillside foundations (these can be priced separately), furnishings and fixtures not found in a general contract, general contingency set aside for some unknown future event such as anticipated labor and material cost increases. Also not included in the base MVS costs are site improvements such as signs, landscaping, paving, walls, and site lighting. Offsite costs such as roads, utilities, and jurisdictional hook-up fees are also excluded from the base costs.<sup>6</sup>

MVS allows staff to develop a benchmark cost using the relevant construction characteristics of the proposed project and the calculator section of the MVS guide. In developing the MVS benchmark costs, the base costs are adjusted for a variety of factors (e.g., an add-on for sprinkler systems, the presence or absence of elevators, number of building stories, the height per story, and the shape of the building. The base cost is also adjusted to the latest month and the locality of the construction project.)

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<sup>6</sup> Marshall Valuation Service Guidelines, Section 1, p. 3 (January 2024).