



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

August 24, 2021

Kenneth Burgess

kburgess@poynerspruill.com

Exempt from Review

Record #: 3638
Date of Request: August 10, 2021
Facility Name: CarePartners Rehabilitation Hospital
FID #: 923508
Business Name: CarePartners Rehabilitation Hospital, LLLP
Business #: 3396
Project Description: Renovate space on the main campus to convert semi-private rooms to private rooms for a total of 48 private rooms with 48 private rehabilitation beds and 16 semi-private rooms with 32 semi-private rehabilitations beds upon project completion
County: Buncombe

Dear Mr. Burgess:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(g). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Agency. Changes in a project include but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Ena Lightbourne
Project Analyst

Micheala Mitchell
Chief, Certificate of Need

cc: Construction Section, DHSR
Acute and Home Care Licensure and Certification Section, DHSR

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

August 10, 2021

Kenneth L. Burgess
Partner
D: 919.783.2917
F: 252.783.1075
kburgess@poynerspruill.com

VIA E-MAIL

Micheala Mitchell, Chief
Lisa Pittman, Assistant Chief
N.C. Department of Health and Human Services
N.C. Division of Health Service Regulation
Certificate of Need Section
809 Ruggles Drive, Raleigh, N.C. 27603
Via email to: lisa.pittman@dhhs.nc.gov
Micheala.mitchell@dhhs.nc.gov

RE: **Notice of Exemption: Renovation of Existing CarePartners Rehabilitation Hospital Space, Facility I.D. No. 923508**

Dear Lisa:

I am writing on behalf of our client CarePartners Rehabilitation Hospital, LLLP (“CarePartners” or “the Hospital”) to provide the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (“the CON Section” or “the Agency”) with prior written notice of CarePartners’ intent to renovate existing space in the building in order to convert some of the hospital’s existing eighty (80) licensed rehabilitation beds from semi-private rooms to private rooms (“the Project”). We believe the proposed project is exempt from further CON Section review, and does not require a certificate of need (“CON”) pursuant to N.C. Gen. Stat. section 131E-184(g).

Background and Project Description

CarePartners is a rehabilitation hospital which is licensed by the N.C. Department of Health and Human Services, Division of Health Service Regulation (“DHSR”) for eighty (80) inpatient rehabilitation beds, license number H0081 and Facility I.D. No. 923508. **See Exhibit A** (copy of CarePartners license). The Hospital is located at 68 Sweeten Creek Road in Asheville, North Carolina. CarePartners provides a wide range of inpatient rehabilitation services, from traditional physical, speech and occupational therapies to specialty rehabilitation programs. CarePartners offers a full continuum of post-acute rehabilitation services. The current CarePartners facility was constructed in 1945 and has had numerous renovations since that time. In recent years, inpatient rehabilitation services have moved towards more patient-centered care delivered in private rooms that maximize patients’ privacy, comfort and recovery.

Currently the CarePartners rehabilitation unit consists of eighty (80) total licensed beds. Twenty-six (26) of those beds are housed in private rooms and fifty-four (54) of the existing beds are housed in twenty-seven (27) semi-private rooms.

The Project involves renovating approximately 13,455 square of existing space to convert certain existing semi-private rooms to private rooms and to upgrade other common areas and patient care areas. Upon project completion, CarePartners’ eighty (80) licensed rehab beds will be housed in forty-eight (48) private rooms and sixteen (16) semi-private rooms for a total of forty-eight (48) private beds and thirty-two (32)

Lisa Pittman
August 10, 2021
Page 2

semi-private beds. The newly-constructed space will also house an "activities of daily living" suite, and space for swallow studies, staff support and offices.

The Project does not involve the development of additional bed capacity. The Hospital is currently licensed for eighty (80) inpatient rehabilitation beds and after the Project is completed, the Hospital will still be licensed for eighty (80) inpatient rehabilitation beds. **See Exhibit B for schematics reflecting the project scope.**

For the reasons stated below, we believe that the Proposed Project is exempt from CON Section review pursuant to N.C. Gen. Stat. § 131E-184(g), and thus CarePartners is not required to obtain a CON before proceeding with the Proposed Project.

Applicable Legal Authorities

The CON Law precludes any person from offering or developing a "new institutional health service" without first obtaining a CON. N.C. Gen. Stat. § 131E-178(a). The definition of "new institutional health service" includes, *inter alia*, the following:

- Incurring an obligation for a capital expenditure that exceeds \$2,000,000.00 to develop or expand a health service or health service facility, or which "relates" to the provision of a health service.

N.C. Gen. Stat. §§ 131E-176(16)(b). However, the CON Law includes a specific exemption for health-related capital expenditures in excess of \$2,000,000.00 where the sole purpose of the capital expenditure is "to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility located on the main campus." N.C. Gen. Stat. § 131E-184(g). That exemption, where applicable, eliminates the need to obtain a CON before incurring the capital expenditure. As described further below, the Proposed Project which is the subject of this Exemption Notice involves a capital expenditure in excess of \$2,000,000.00. However, the project is exempt from CON Section review based upon the exemption at N.C. Gen. Stat. § 131E-184(g). That exemption is described below.

The Statutory Exemption For Renovation, Replacement Or Expansion Of An Existing Health Facility On The Same Campus

N.C. Gen. Stat. § 131E-184(g) provides an express exemption from CON Section review for capital expenditures that exceed \$2,000,000.00 where:

1. The sole purpose of the capital expenditure is to renovate, replace on the same site, or expand the entirety or a portion of an existing health service facility located on the main campus;
2. So long as the capital expenditure does not result in:
 - a. A change in bed capacity as defined in G.S. 131E-176(5); or
 - b. The addition of a health service facility or any other new institutional health service other than that allowed by G.S. 131E-176(16)b; and
 - c. The CON Section receives prior written notice of the planned expenditure along with documentation demonstrating that the provider meets the exemption.

**The Proposed Project Involves The Renovation And Expansion Of Existing
Space On CarePartners' Main Campus**

The Proposed Project which is the subject of this Exemption Notice is projected to cost in excess of \$2,000,000.00. The total project cost is anticipated to be approximately \$9,899,162.00. Of that amount, \$6,593,000.00 will be expended on construction, related to renovating existing space at the main building at CarePartners. The remaining funds will be expended on certain medical equipment (addressed below), non-medical equipment, furniture and fixtures, and interest expense. Even though the statutory exemption applicable to the Proposed Project does not depend upon CarePartners remaining below any statutorily-designated capital expenditure amount, we have nonetheless included a certified Projected Capital Cost Form with this submission. **See Exhibit C (Projected Capital Cost Form)**. We have also included a statement from Tyler Groesser, CarePartners' Chief Financial officer, attesting that the estimated total project costs are approximately \$9,899,162.00. **See Exhibit C.**

Even though total projected costs exceed \$2,000,000.00, the Proposed Project qualifies for the statutory exemption at N.C. Gen. Stat. § 131E-184(g) because the sole purpose of the project and related expenditure is to renovate or expand a portion of an existing health service facility on the hospital's main campus. The Proposed Project consists of renovating and expanding existing space located in the main hospital building at CarePartners Rehabilitation Hospital on the hospital's main campus.

The term "campus" is defined at N.C. Gen. Stat. § 131E-176(2c) as "the adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way, of a health service facility and related health care entities." For the purposes of the exemption at N.C. Gen. Stat. § 131E-184(g), "main campus" is defined as:

- a. The site of the main building from which a licensed health service facility provides clinical patient services and exercises financial and administrative control over the entire facility, including the buildings and grounds adjacent to that main building; and
- b. Other areas and structures that are not strictly contiguous to the main building but are located within 250 yards of the main building.

N.C. Gen. Stat. § 131E-176(14n).

CarePartners consists of two (2) buildings both in close proximity to one another between Sweeten Creek Road and London Road in Asheville, North Carolina. The main hospital building is located at 68 Sweeten Creek Road and contains the CarePartners Rehabilitation Hospital as well as CarePartners' outpatient rehabilitation services and its related home health agency. The main building at 68 Sweeten Creek Road, where the Proposed Project will be located, is the site from which the hospital exercises clinical and administrative control over the entire hospital. **See Exhibit E** (map of CarePartners Hospital campus). CarePartners' Chief Executive Officer, Chief Financial Officer, and Chief Nursing Officer are all located in the main hospital building. Together, they exercise all financial and administrative control over the rehabilitation hospital and its services. The main hospital building is also the location from which CarePartners provides clinical patient services. As such, the Proposed Project will be located in the main hospital building and so clearly is on the "main campus" within the meaning of N.C. Gen. Stat. § 131E-176(14n).

CarePartners' Proposed Project Does Not Involve A Change In Bed Capacity

The Proposed Project does not involve a change in bed capacity as defined by N.C. Gen. Stat. § 131E-176(5). That section defines "change in bed capacity" in pertinent part as: (i) any relocation of health service facility beds from one licensed facility or campus to another, or (ii) any redistribution of health service facility bed capacity among the categories of health service facility beds defined in N.C. Gen. Stat. § 131E-176(9c), or (iii) any increase in the number of health service facility beds. The Proposed Project involves only the renovation and expansion of existing operating space on CarePartners' main campus for the purpose of converting existing semi-private patient rooms to private rooms. The Project does not involve any relocation of health service facility beds from one licensed campus to another, any increase in the number of health service beds or any redistribution of health service facility beds among the categories identified at N.C. Gen. Stat. § 131E-176(9c).

The Equipment To Be Acquired And Installed As Part Of The Proposed Project Does Not Constitute Major Medical Equipment Under The CON Statute

The CON Statute treats as a "new institutional health service" requiring a CON the acquisition of major medical equipment. N.C. Gen. Stat. § 131E-176(16)p. Major medical equipment is defined as "a single unit or single system of components with related functions which is used to provide medical and other health services and which costs more than seven hundred fifty thousand dollars ("750,000)." N.C. Gen. Stat. 131E-176(14o).

CarePartners' Proposed Project does not involve the acquisition of medical equipment which meets the definition of "major medical equipment" under the CON Statute. The total medical equipment budget for the Proposed Project is approximately \$847,934.00. No single item or single system of components planned for the Proposed Project comes anywhere close to the \$750,000.00 major medical equipment threshold in terms of cost.

Also, the Proposed Project does not include the acquisition of any of the equipment defined at N.C. Gen. Stat. § 131E-176(16)f1 as a "new institutional health service" which, if listed there, would require CarePartners to obtain a CON before acquiring the equipment.

CarePartners' Proposed Project Is Not A New Institutional Health Service Under Any Other Provision Of N.C. Gen. Stat. § 131E-176(16)

The Proposed Project does not qualify as a "new institutional health service" under any other provision of the CON Statute, specifically including N.C. Gen. Stat. section 131E1-17(16). The Proposed Project does not involve the construction or other development a new health service or health service facility, the acquisition of major medical equipment or any other item or service which qualifies as a new institutional health service. Other than the proposed project expenditure which exceeds \$2,000,000.00, and from which CarePartners qualifies for an exemption pursuant to N.C. Gen. Stat. 131E-184(g), there are no other "new institutional health service" definitional elements that apply to the Proposed Project.

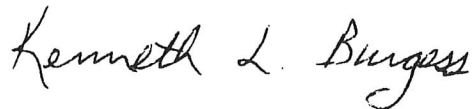
Lisa Pittman
August 10, 2021
Page 5

Conclusion

For the reasons recited herein, the proposed project qualifies under the exemption from CON Section review set forth at N.C. Gen. Stat. § 131E-184(g). Please allow this letter to serve as the advance written notice required by N.C. Gen. Stat. § 131E-184(g). We would appreciate the CON Section acknowledging at its earliest opportunity that the proposed project, as described herein, is not subject to CON Section Review and that CarePartners may proceed with the project without first obtaining a CON.

Please let me know if you have questions or need further information regarding this notice.

Very truly yours,

A handwritten signature in black ink that reads "Kenneth L. Burgess". The signature is written in a cursive style with a large, prominent "K" and "B".

Kenneth L. Burgess
Partner

cc: Cathi Durham
Sondra Smith

Exhibits

EXHIBIT A

State of North Carolina

Department of Health and Human Services Division of Health Service Regulation

Effective January 01, 2021, this license is issued to

CarePartners Rehabilitation Hospital, LLLP

to operate a hospital known as

CarePartners Rehabilitation Hospital

located in Asheville, North Carolina, Buncombe County.

*This license is issued subject to the statutes of the
State of North Carolina, is not transferable and shall remain
in effect until amended by the issuing agency.*

Facility ID: 923508

License Number: H0081

Bed Capacity: 80

Rehabilitation 80,

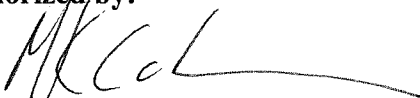
Dedicated Inpatient Surgical Operating Rooms: 0

Dedicated Ambulatory Surgical Operating Rooms: 0

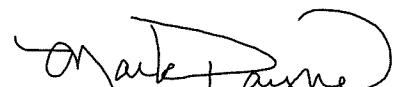
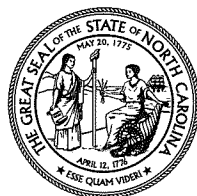
Shared Surgical Operating Rooms: 0

Dedicated Endoscopy Rooms: 0

Authorized by:



**Secretary, N.C. Department of Health and
Human Services**



Director, Division of Health Service Regulation

EXHIBIT B

LOBBY / WAITING
MAJOR RENOVATION - 109 SF

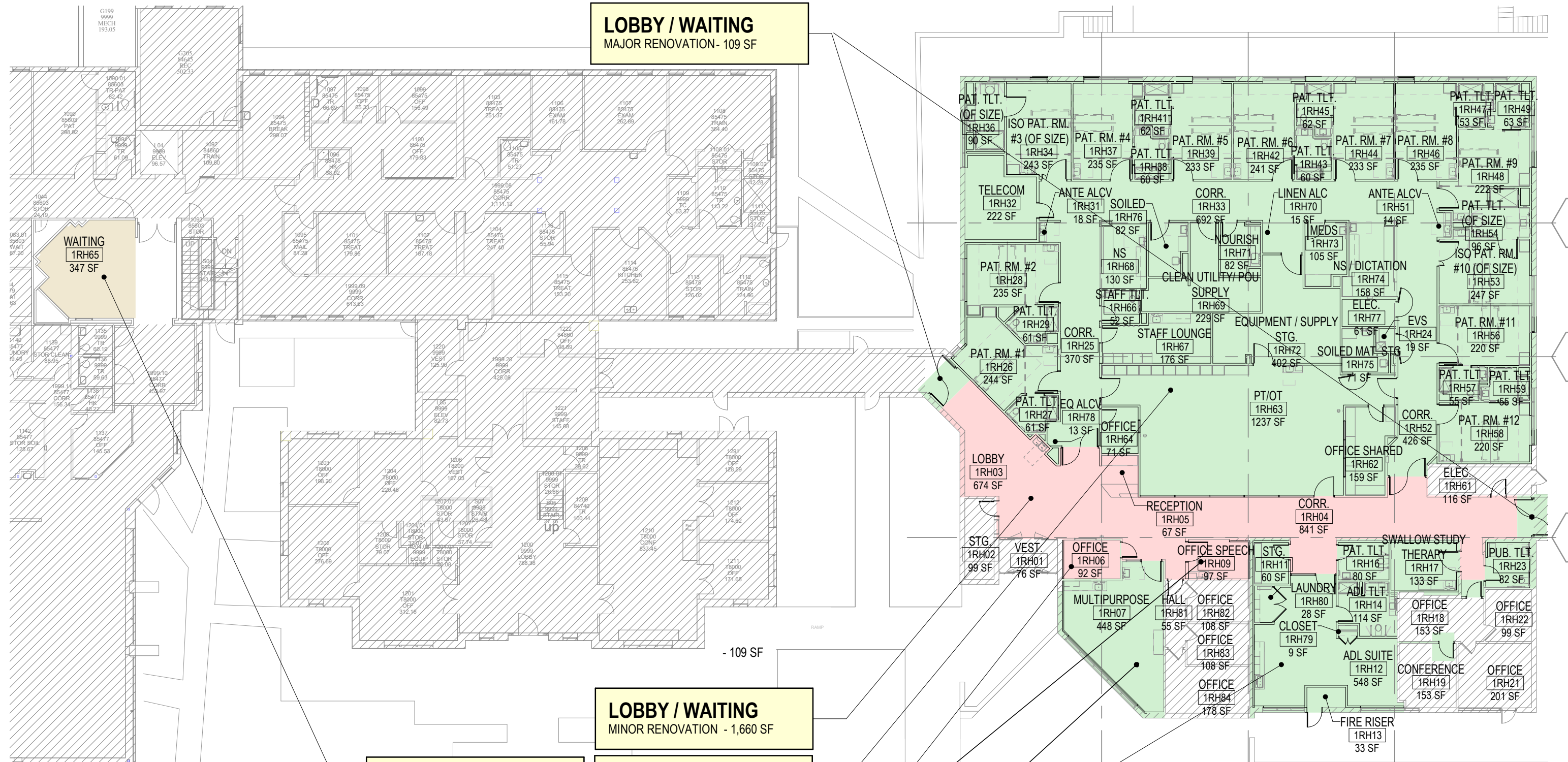
LOBBY / WAITING
MINOR RENOVATION - 1,660 SF

LOBBY / WAITING
COSMETIC RENOVATION - 347 SF

REHAB NURSING UNIT
MAJOR RENOVATION - 9,479 SF

NURSING UNIT
MINOR SCOPE - 193 SF

NURSING UNIT
MAJOR RENOVATION - 1809 SF



LEGEND:

	NEW CONSTRUCTION		MINOR RENOVATION
	MAJOR RENOVATION		COSMETIC RENOVATION
	EXISTING TO REMAIN		

EXHIBIT C

**Projected Capital Cost Form
CarePartners Inpatient Rehab Hospital Renovation**

Building Purchase Price	\$0.00
Purchase Price of Land	\$0.00
Closing Costs	\$0.00
Site Preparation	\$0.00
Construction/Renovation Contract(s)	\$6,593,000.00
Landscaping	\$0.00
Architect / Engineering Fees	\$0.00
Medical Equipment	\$847,934.00
Non-Medical Equipment	\$937,440.00
Furniture	\$55,378.00
Consultant Fees (specify)	\$0.00
Financing Costs	\$0.00
Interest during Construction	\$92,000.00
Other (specify)	\$1,273,410.00
Total Capital Cost	\$9,899,162.00

CERTIFICATION BY A LICENSED ARCHITECT OR ENGINEER

I certify that, to the best of my knowledge, the projected capital cost for the proposed project is complete and correct.

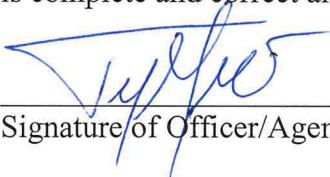


 Laura Gwyn, AIA, LEED AP BD+C
 Perkins&Will

Date Signed: 8/3/2021 _____

CERTIFICATION BY AN OFFICER OR AGENT FOR THE PROPONENT

I certify that, to the best of my knowledge, the projected total capital cost for the proposed project is complete and correct and that it is our intent to carry out the proposed project as described.



 Signature of Officer/Agent

Tyler Groesser
 CFO, CarePartners and Asheville Specialty Hospital

Date Signed: 8/4/21 _____

EXHIBIT D

STATEMENT OF TYLER J. GROESSER

1. I am the Chief Financial Officer for CarePartners Health (“CarePartners”). I am personally familiar with CarePartners’ Proposed Project which involves renovation of existing space at CarePartners Rehabilitation Hospital and I make this statement in support of CarePartners’ Notice of Exemption to the N.C. Certificate of Need Section.

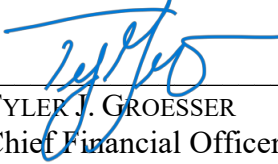
2. As part of my duties as Chief Financial Officer, I am responsible for the oversight of all finances, and thus am very familiar with the operations, of CarePartners Rehabilitation Hospital.

3. I am personally familiar with the proposed project which involves renovating existing hospital space to convert the hospital’s existing eighty (80) licensed rehabilitation beds from semi-private to private rooms, at the hospital’s location at 68 Sweeten Creek Road, Asheville, N.C.

4. I certify that the total costs of the project are approximately NINE MILLION, EIGHT HUNDRED NINETY-NINE THOUSAND, ONE HUNDRED SIXTY-TWO DOLLARS (\$ 9,899,162.00).

5. Furthermore, as part of this project, CarePartners Rehabilitation Hospital will not acquire any new major medical equipment, increase total licensed bed capacity or develop any other new institutional health services described in N.C. Gen. Stat. §131E-176 (16).

This the 5th day of August, 2021.



TYLER J. GROESSER
Chief Financial Officer
CarePartners Health

EXHIBIT E



From: [Mitchell, Micheala L](#)
To: [Waller, Martha K](#)
Cc: [Lightbourne, Ena](#); [Pittman, Lisa](#)
Subject: FW: [External] CarePartners Rehabilitation Hospital Notice of Exemption
Date: Tuesday, August 10, 2021 12:58:16 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[CarePartners Exemption Letter with Exhibits 08.10.21.pdf](#)

Ken sent another one Martha. Thank you!

Micheala Mitchell, JD
[NC Department of Health and Human Services](#)
[Division of Health Service Regulation](#)
Section Chief, Healthcare Planning and CON Section
809 Ruggles Drive, Edgerton Building
2704 Mail Service Center
Raleigh, NC 27699-2704
Office: 919 855 3879
Micheala.Mitchell@dhhs.nc.gov

Don't wait to vaccinate. Find a COVID-19 vaccine location near you at [MySpot.nc.gov](#).
[Twitter](#) | [Facebook](#) | [Instagram](#) | [YouTube](#) | [LinkedIn](#)

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort is prohibited by law. If you have received this e-mail in error, please notify the sender immediately and delete all records of this email.

From: Burgess, Kenneth L. <KBurgess@poynerspruill.com>
Sent: Tuesday, August 10, 2021 12:42 PM
To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>; Pittman, Lisa <lisa.pittman@dhhs.nc.gov>
Cc: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: [External] CarePartners Rehabilitation Hospital Notice of Exemption

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Micheala, Lisa and Ena, attached please find an Exemption Notice I am filing on behalf of our client CarePartners Rehabilitation Hospital, LLLP in Asheville, North Carolina, in connection with certain renovations of existing space at the hospital. Please let me know if you have questions or need additional information regarding the Exemption Notice. Thank you, Ken Burgess

Kenneth L. Burgess | Partner



1151 Falls Road, Suite 1000

Rocky Mount, N.C. 27804

D: 919 783 2917 | **M:** 919 449 4754

Kburgess@poynerspruill.com | www.poynerspruill.com



This message constitutes a confidential attorney-client communication. If you have received this communication in error, do not read it. It is not intended for transmission to, or receipt by, any unauthorized persons. Please delete it from your system without copying it, and notify the sender by reply email or by calling 919-783-6400, so that our address record can be corrected. Thank you.