

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS – CORRECTED

### FINDINGS

C = Conforming  
CA = Conditional  
NC = Nonconforming  
NA = Not Applicable

Decision Date: June 4, 2021  
Findings Date: June 4, 2021

Project Analyst: Misty L. Piekaar-McWilliams  
Acting Chief: Lisa Pittman  
Project ID #: F-12026-21  
Facility: Atrium Health Union West  
FID #: 180514  
County: Union  
Applicant: The Charlotte-Mecklenburg Hospital Authority  
Project: Cost overrun for project I.D. #F-11618-18 (develop a new satellite acute care hospital campus which will be licensed as part of Atrium Health Union's existing acute care hospital license)

### REVIEW CRITERIA

G.S. §131E-183(a): The Agency shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan (SMFP), the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

The Charlotte-Mecklenburg Hospital Authority (hereinafter referred to collectively as “the applicant”) proposes a cost overrun (COR) for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Carolina HealthCare System (CHS) Union (now known as Atrium Health) by relocating 40 acute care beds, two operating rooms (ORs), one dedicated C-Section OR, one gastrointestinal (GI) endoscopy room, and one computed tomography (CT) scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West

Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

### **Need Determination**

A certificate of need was issued on March 15, 2019, for Project I.D. #F-11618-18 and authorized a capital cost of \$116,213,331. The current application proposes a capital cost increase of \$34,935,912 over the previously approved capital cost for a total combined capital cost of \$151,149,243. The cost overrun application is necessary due to increased site preparation, construction, and equipment costs due to current market conditions compared to the estimated costs in 2018 when the original application was submitted. The application proposes no material change in scope from the originally approved project.

### **Policies**

Project I.D. #F-11618-18 was found to be consistent with *Policy AC-5: Replacement of Acute Care Bed Capacity* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities* as published in the 2018 SMFP. The applicant proposes no changes in the current application which would affect that determination.

In the current COR application, the combined projected capital cost to develop the project is greater than \$2 million; thus, *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities* in the 2021 SMFP applies to this review.

*Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, on page 29 of the 2021 SMFP, states:

*“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.*

*In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4.*

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 is required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan*

*must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control."*

The combined proposed capital expenditure for this project is greater than \$5 million. In Section B, page 29, the applicant provides a written statement:

*"CMHA is committed to energy efficiency and sustainability that balances the need for healthcare services and environmental sustainability in the communities it serves."*

In Section B, pages 29-30, the applicant outlines its guiding principles, describes the outcomes it hopes to accomplish, and states it is using a design team with experience in Energy Star and Hospitals for a Healthy Environment Green Guide for HealthCare. The applicant further states that it was recently named a 2020 Energy Star Partner of the Year by the EPA (Environmental Protection Agency) which is *"the highest level of recognition that a corporate energy management program can receive from the EPA."*

The applicant provides a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion based on the following:

- The application does not propose any changes to the original proposal that would make any need determinations applicable to this review.
- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 because the applicant provides a written statement describing the project's plan to assure improved energy efficiency and water conservation.

(2) Repealed effective July 1, 1987.

(3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic

minorities, women, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

## C

The applicant proposes a COR for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Atrium Health Union by relocating 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

A certificate of need was issued on March 15, 2019, for Project I.D. #F-11618-18 and authorized a capital cost of \$116,213,331. The current application proposes a capital cost increase of \$34,935,912 over the previously approved capital cost for a total combined capital cost of \$151,149,243. The cost overrun application is necessary due to increased site preparation, construction, and equipment costs due to current market conditions compared to the estimated costs in 2018 when the original application was submitted. The application proposes no material change in scope from the originally approved project.

### **Patient Origin**

On page 31, the 2021 SMFP defines the service area for acute care services as:

*“An acute care hospital bed’s service area is the single and multicounty groupings shown in Figure 5.1.”*

Atrium Health Union and AHUW are located in Union County. Figure 5.1 shows Union County as a single acute care bed planning area. Therefore, the service area for the proposed project is Union County. The 2018 SMFP identified the same single county acute care service area for Project I.D. #F-11618-18. Facilities may also serve residents of counties not included in their service area.

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately identified the projected patient origin for the facility. The applicant proposes no changes in the current application which would change the projected patient origin from the previous project, or which would otherwise affect the Agency’s determination in that project.

### **Analysis of Need**

The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>AHUW – Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved (F-11618-18)</b>	<b>Projected Changes to Capital Cost (F-12026-21)</b>	<b>Difference</b>
Purchase Price of Land	\$5,381,286	\$5,086,429	(\$294,857)
Closing Costs	\$144,077	\$151,259	\$7,182
Site Preparation	\$9,334,516	\$9,760,336	\$425,820
Construction/Renovation Contract(s)	\$64,964,447	\$87,639,086	\$22,674,639
Landscaping	\$1,040,077	\$1,040,077	-
Architect/Engineering Fees	\$7,864,638	\$8,806,318	\$941,680
Medical Equipment	\$14,065,075	\$17,907,153	\$3,842,078
Non Medical Equipment	\$377,799	\$779,088	\$401,289
Furniture	\$2,136,467	\$2,701,895	\$565,428
Consultant Fees (CON and legal fees)	\$300,000	\$471,020	\$171,020
Financing Costs	-	\$667,858	\$667,858
Interest during Construction	-	\$5,607,660	\$5,607,660
Other (IS, security, etc.)	\$10,604,949	\$10,531,064	(\$73,885)
<b>Total Capital Cost</b>	<b>\$116,213,331</b>	<b>\$151,149,243</b>	<b>\$34,935,912</b>

In Section C, pages 43-45, the applicant explains why it believes the proposed increase in capital cost is necessary to develop the proposed project:

- Increased Closing Costs: The applicant states the increase is attributable to differences in estimated costs versus actual costs.
- Increased Site Preparation Costs: The applicant states they determined the hospital needs to be oriented on the site differently than originally planned. The different orientation of the building on the land required more work including increased excavation, removal of trees, grading and contouring of the land.
- Increased Construction Contract Costs: In Project I.D. #F-11618-18, the applicant submitted construction costs based on the market conditions at the time of the submission of the application in 2018. The increase in construction contract costs is attributable to actual costs versus estimated costs in 2018. Additionally, the applicant states the majority of the additional construction costs can be attributed to the reorientation of the hospital.
- Increased Architect & Engineering Fees: The applicant states that due to the orientation changes of the building necessary to develop the proposed project in addition to actual costs versus projected costs submitted in 2018, the applicant has incurred additional architect and engineering fees.
- Increased Medical Equipment Costs: The applicant states the increase is attributable to the applicant determining to purchase the medical equipment in lieu of leasing the medical equipment.

- Increased Non Medical Equipment Costs: The applicant states the increase is attributable to items not included in the original application submitted in 2018 but have since been identified as being needed. Items include but are not limited to maintenance tools, environmental services equipment, and dietary point-of-service equipment.
- Increased Furniture Costs: The applicant states the increase is attributable to differences in estimated costs versus actual costs.
- Increased Consultant Fees: The applicant states the increase is attributable to the need to file a COR Certificate of Need application for this project and fees associated with the planning, development and filing of the proposed project.
- Increased Financing Costs and Interest During Construction: The applicant states financing costs and interest during construction were not calculated in the original application. Whereas the applicant still intends to fund the proposed project with accumulated reserves, the applicant has included financing costs in the event that the proposed project is funded with bond financing, which was not contemplated at the time of submission of the previously approved project (Project I.D. #F-11618-18).

The information is reasonable and adequately supported based on the following:

- The applicant adequately explains the reasons the additional costs are necessary to develop the proposed project.
- The applicant provides supporting documentation for its statements in Exhibit F.5-1.
- The applicant does not propose to change the scope of services offered or to change the patients projected to be served by the proposed project.

#### Projected Utilization

In Project I.D. #F-11618-18, the Agency determined the applicant had demonstrated its projected utilization was based on reasonable and adequately supported assumptions. The applicant proposes no changes in the current application which would change the projected utilization from the previous project, or which would otherwise affect the Agency's determination in that project.

In Project I.D. #F-11618-18, the Agency found the application conforming to all relevant statutory criteria and a certificate of need was issued to develop a new satellite hospital campus of Atrium Health Union. In this application, the applicant is not required to demonstrate the need to develop a new satellite hospital campus of Atrium Health Union a second time. The applicant must demonstrate the need it has for the proposed increase in projected capital costs which exceed 15 percent of the previously approved capital costs. There is nothing in the application as submitted which suggests revised projected

utilization calculations are necessary for the applicant to demonstrate the need it has for the proposed increase in projected capital costs to develop the previously approved project.

### **Access**

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately demonstrated the extent to which all residents of the area, including underserved groups, were likely to have access to the proposed services. The applicant proposes no changes in the current application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The application for Project I.D. #F-11618-18 adequately identified the population to be served and there are no changes proposed in this application which would affect that determination.
- The applicant adequately explains why the proposed increase in projected capital cost is necessary to provide the population to be served with the services proposed in this application.
- Projected utilization was deemed reasonable and adequately supported in Project I.D. #F-11618-18 and there are no changes proposed in this application which would affect that determination.
- The application for Project I.D. #F-11618-18 adequately identified the extent to which all residents, including underserved groups, were likely to have access to the proposed services, and there are no changes proposed in this application which would affect that determination.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, ... persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

C

The applicant proposes a COR for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Atrium Health Union by relocating 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

A certificate of need was issued on March 15, 2019, for Project I.D. #F-11618-18 and authorized a capital cost of \$116,213,331. The current application proposes a capital cost increase of \$34,935,912 over the previously approved capital cost for a total combined capital cost of \$151,149,243. The cost overrun application is necessary due to increased site preparation, construction, and equipment costs due to current market conditions compared to the estimated costs in 2018 when the original application was submitted. The application proposes no material change in scope from the originally approved project.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons stated above.

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

The applicant proposes a COR for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Atrium Health Union by relocating 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

In Section E, pages 54-55, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need.

The applicant states the only alternative to filing the COR application is to cease development of the previously approved project or scale back the scope of the previously approved project.

The applicant further states it has already expended \$44 million towards development of the project and ceasing development would be fiscally irresponsible and would fail to account for the population growth in the county. For those reasons, the applicant determined ceasing development of the proposed project was not the most effective alternative. The applicant also determined scaling back the scope of the previously approved project would not be feasible as the applicant expects with the number of physicians and specialties that practice in that part of Union County, a smaller facility would not meet the need of the physicians and specialties given the growth in that area.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need based on the following:

- The applicant does not propose to change the scope of the previously approved Project I.D. #F-11618-18.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.
- The application is conforming to all other statutory and regulatory review criteria. Therefore, the application can be approved.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. The Charlotte-Mecklenburg Hospital Authority (hereinafter certificate holder) shall materially comply with the representations in this application and the representations in Project I.D. #F-11618-18. Where representations conflict, the certificate holder shall materially comply with the last made representation.**

2. **The total combined capital expenditure for both projects is \$151,149,243, an increase of \$34,935,912 over the capital expenditure of \$116,213,331 previously approved in Project I.D. #F-11618-18.**
3. **The certificate holder shall develop a new satellite campus of Atrium Health Union by relocating no more than 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union to Atrium Health Union West.**
4. **Upon completion of this project and Project I.D. #F-11348-17, F-11618-18, and F-11862-20, Atrium Health Union West shall be licensed as a satellite campus of Atrium Health Union, License #H0050, with no more than 40 acute care beds, three ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner. Atrium Health Union Hospital, License #H0050, shall be licensed for no more than 182 acute care beds, seven ORs, two dedicated C-Section ORs, two GI endoscopy rooms, and two CT scanners.**
5. **Progress Reports:**
  - a. **Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
  - b. **The certificate holder shall complete all sections of the Progress Report form.**
  - c. **The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
  - d. **Progress reports shall be due on the first day of every fourth month. The first progress report shall be due on October 1, 2021. The second progress report shall be due on February 1, 2022 and so forth.**
6. **The certificate holder shall not acquire as part of this project any equipment that is not included in the combined proposed capital expenditures in Section Q of this application and of Project I.D. #F-11618-18 and that would otherwise require a certificate of need.**
7. **The certificate holder shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**

- 8. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, the certificate holder shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
    - a. Payor mix for the services authorized in this certificate of need.**
    - b. Utilization of the services authorized in this certificate of need.**
    - c. Revenues and operating costs for the services authorized in this certificate of need.**
    - d. Average gross revenue per unit of service.**
    - e. Average net revenue per unit of service.**
    - f. Average operating cost per unit of service.**
  - 9. The certificate holder shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes a COR for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Atrium Health Union by relocating 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

**Capital and Working Capital Costs**

The applicant projects the total capital cost to develop AHUW (as approved in Project I.D. #F-11618-18) will be \$151,149,243, an increase of \$34,935,912 over the previously approved capital expenditure. The total proposed capital cost is 130 percent of the previously approved capital expenditure and, thus, requires a certificate of need. The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>AHUW – Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved (F-11618-18)</b>	<b>Projected Changes to Capital Cost (F-12026-21)</b>	<b>Difference</b>
Purchase Price of Land	\$5,381,286	\$5,086,429	(\$294,857)
Closing Costs	\$144,077	\$151,259	\$7,182
Site Preparation	\$9,334,516	\$9,760,336	\$425,820
Construction/Renovation Contract(s)	\$64,964,447	\$87,639,086	\$22,674,639
Landscaping	\$1,040,077	\$1,040,077	-
Architect/Engineering Fees	\$7,864,638	\$8,806,318	\$941,680
Medical Equipment	\$14,065,075	\$17,907,153	\$3,842,078
Non Medical Equipment	\$377,799	\$779,088	\$401,289
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Consultant Fees (CON and legal fees)	\$300,000	\$471,020	\$171,020
Financing Costs	-	\$667,858	\$667,858
Interest during Construction	-	\$5,607,660	\$5,607,660
Other (IS, security, etc.)	\$10,604,949	\$10,531,064	(\$73,885)
<b>Total Capital Cost</b>	<b>\$116,213,331</b>	<b>\$151,149,243</b>	<b>\$34,935,912</b>

In Project I.D. #F-11618-18, the Agency determined the applicant had demonstrated the projected capital cost was based on reasonable and adequately supported assumptions. There are no changes proposed in this application which would affect that determination.

In Section C, pages 43-45, the applicant explains the need for the proposed increase in projected capital costs. The discussion regarding analysis of need found in Criterion (3) is incorporated herein by reference.

On Form F.1b in Section Q, the applicant provides the assumptions used to project the proposed increase in capital cost. The applicant adequately demonstrates that the proposed increase in the projected capital cost is based on reasonable and adequately supported assumptions based on the following:

- The applicant had previously demonstrated to the Agency in Project I.D. #F-11618-18 that the projected capital costs in that application were based on reasonable and adequately supported assumptions, and there are no changes proposed in this application which would affect that determination.
- The applicant explains the need for the different costs that make up the combined total increase in capital cost for this COR application and the explanations are reasonable and adequately supported.
- The applicant provides supporting documentation for the need for the proposed capital cost increase in Exhibit F.5-1.

In Project I.D. #F-11618-18, the applicant did not propose any start-up costs or initial operating expenses. The Agency determined Project I.D. #F-11618-18 was conforming to

this criterion. In Section F, page 67, the applicant states there are still no projected start-up costs and initial operating expenses.

### **Availability of Funds**

In Project I.D. #F-11618-18, the Agency determined that the applicant adequately demonstrated it had sufficient funds available for the capital needs of the project in the amount of \$116,213,331. The current application proposes a capital cost increase of \$34,935,912 over the previously approved capital cost for a combined total capital cost of \$151,149,243.

In Section F, page 65, the applicant states the increase in projected capital costs will be funded through accumulated reserves of The Charlotte-Mecklenburg Hospital Authority but has added bond financing costs in the event that the proposed project is funded with bond financing.

Exhibit F.5-2 contains a letter dated February 15, 2021, from the Executive Vice President and Chief Financial Officer of The Charlotte-Mecklenburg Hospital Authority (CMHA) stating CMHA will provide the funding for the projected increase in capital costs from accumulated reserves.

Exhibit F.5-3 contains the Consolidated Financial Statements for CMHA for the years ending December 31, 2019 and 2018. As of December 31, 2019, CMHA had adequate cash and assets to fund the proposed increase in the projected capital cost.

The applicant adequately demonstrates the availability of sufficient funds for the proposed increase in the projected capital cost based on the following:

- The applicant provides a letter from an appropriate company officer confirming the availability of the funding proposed for the capital needs of the project and a commitment to use that funding accordingly.
- The applicant provides adequate documentation of the accumulated reserves it proposes to use to fund the capital needs of the project.

### **Financial Feasibility**

In Project I.D. #F-11618-18, the applicant projected revenues would exceed operating expenses during the third full fiscal year of operation following project completion. In Section F, page 68, the applicant states,

*“Projected operating costs for the first three full fiscal years of the proposed project are expected to be different from the previously approved project based on the additional capital costs proposed in this application and the addition of*

*financing costs in the event the project is funded with bonds rather than accumulated reserves.”*

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section Q, Forms F.2b and F.3b, of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates that the increased capital cost is based on reasonable and adequately supported assumptions for all the reasons described above.
  - The applicant adequately demonstrates availability of sufficient funds for the increased capital cost of the proposal for all the reasons described above.
  - The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of revenues and operating expenses for all the reasons described above.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

### C

The applicant proposes a COR for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Atrium Health Union by relocating 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

The application for Project I.D. #F-11618-18 adequately demonstrated that the project would not result in unnecessary duplication of existing or approved services in the service area and no changes are proposed in this application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons stated above.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

### C

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately demonstrated the availability of sufficient health manpower and management personnel to provide the proposed services. The applicant proposes no changes in the current application which would affect the Agency's determination in that project.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the all the reasons stated above.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

C

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately demonstrated the availability of the ancillary and support services necessary to the provision of the proposed services and adequately demonstrated the proposed services would be coordinated with the existing healthcare system. The applicant proposes no changes in the current application which would affect the Agency's determination in that project.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons stated above.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;

- (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
- (iii) would cost no more than if the services were provided by the HMO; and
- (iv) would be available in a manner which is administratively feasible to the HMO.

NA

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

The applicant proposes a COR for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Atrium Health Union by relocating 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

The applicant projects the total capital cost to develop AHUW (as approved in Project I.D. #F-11618-18) will be \$151,149,243, an increase of \$34,935,912 over the previously approved capital expenditure. The total proposed capital cost is 130 percent of the previously approved capital expenditure and, thus, requires a certificate of need. The application proposes no material change in scope from the originally approved project. The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>AHUW – Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved (F-11618-18)</b>	<b>Projected Changes to Capital Cost (F-12026-21)</b>	<b>Difference</b>
Purchase Price of Land	\$5,381,286	\$5,086,429	(\$294,857)
Closing Costs	\$144,077	\$151,259	\$7,182
Site Preparation	\$9,334,516	\$9,760,336	\$425,820
Construction/Renovation Contract(s)	\$64,964,447	\$87,639,086	\$22,674,639
Landscaping	\$1,040,077	\$1,040,077	-
Architect/Engineering Fees	\$7,864,638	\$8,806,318	\$941,680
Medical Equipment	\$14,065,075	\$17,907,153	\$3,842,078
Non Medical Equipment	\$377,799	\$779,088	\$401,289
Furniture	\$2,136,467	\$2,701,895	\$565,428
Consultant Fees (CON and legal fees)	\$300,000	\$471,020	\$171,020
Financing Costs	-	\$667,858	\$667,858
Interest during Construction	-	\$5,607,660	\$5,607,660
Other (IS, security, etc.)	\$10,604,949	\$10,531,064	(\$73,885)
<b>Total Capital Cost</b>	<b>\$116,213,331</b>	<b>\$151,149,243</b>	<b>\$34,935,912</b>

In Section C, pages 43-45, the applicant identifies the increase or decrease in each line item necessary for the completion of the project as approved in Project I.D. #F-11618-18 and explains why each change is necessary. The applicant explains the majority of the capital cost increase is due to construction costs and states:

*“The previously approved cost for this line item (construction) was an estimate based on the expected work required and the market conditions at the time of preparation of the previously approved application in 2018. The total construction costs proposed in this cost overrun application are based on actual, current contractor bids for the final scope of work rather than design estimates. . . The majority of the additional construction costs can be attributed to the reorientation of the hospital on the site. This adjustment not only will reduce the heat load of the building and improve the aesthetics of the hospital for patients inside and from Highway 74, but it also will improve aerial access by helicopter . . . Further, additional infrastructure costs are associated with reconfiguring some of the space within the previously approved footprint as a result of the proposed reorientation and the submission of Project ID # F-11862-20 to relocate an approved but undeveloped operating room from Union West Surgery Center to Atrium Health Union West. The reconfiguration does not involve any change to the previously approved number or type of regulated assets or to the scope of services.”*

In Exhibit F.5-1, the applicant provides a certified capital cost estimate to illustrate the increase in construction costs and other costs associated with construction such as site preparation costs.

The discussion regarding the need for the increased capital expenditure found in Criterion (3) is incorporated herein by reference. The discussion regarding costs and charges found

in Criterion (5) is incorporated herein by reference. In Project I.D. #F-11618-18, the applicant adequately demonstrated that the cost, design, and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services and no changes are proposed in this application which would affect that determination.

In Project I.D. #F-11618-18, the applicant identified its energy saving features that will be incorporated into the construction plans. The applicant proposes no material change in scope from the originally approved project in this application.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons stated above.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and ... persons [with disabilities], which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:
- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

### C

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately demonstrated the extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved. The applicant proposes no changes in the current application which would affect the Agency's determination in that project.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons stated above.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

In Project I.D. #F-11618-18, the Agency determined the application was conforming to this criterion. The applicant proposes no changes in the current application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately demonstrated the elderly and the medically underserved groups identified in this subdivision would be served by the applicant's proposed services and the extent to which each of these groups would be expected to utilize the proposed services. The

applicant proposes no changes in the current application which would affect the Agency's determination in that project.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately demonstrated it would offer a range of means by which a person would have access to its services. The applicant proposes no changes in the current application which would affect the Agency's determination in that project.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

In Project I.D. #F-11618-18, the Agency determined the applicant had adequately demonstrated that the proposed health services would accommodate the clinical needs of health professional training programs in the area. The applicant proposes no changes in the current application which would affect the Agency's determination in that project.

## **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (15) Repealed effective July 1, 1987.
  - (16) Repealed effective July 1, 1987.
  - (17) Repealed effective July 1, 1987.
  - (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

## C

The applicant proposes a COR for Project I.D. #F-11618-18. That project approved the development of a new satellite campus of Atrium Health Union by relocating 40 acute care beds, two ORs, one dedicated C-Section OR, one GI endoscopy room, and one CT scanner from Atrium Health Union. The new hospital campus, Atrium Health Union West (AHUW), will be located in Matthews, Union County. Project I.D. #F-11862-20 approved the relocation of one OR room from Union West Surgery Center to AHUW for a total of 3 ORs and 1 dedicated C-Section OR upon completion of that project and Project I.D. #F-11618-18.

The application for Project I.D. #F-11618-18 adequately demonstrated the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. No changes are proposed in this application which would affect that determination.

## **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

### C

On Form O in Section Q, the applicant identifies 17 hospital facilities located in North Carolina owned, operated, or managed by the applicant or a related entity.

In Section O, page 93, the applicant states that, during the 18 months immediately preceding the submittal of the application, there was one (1) incident related to quality of care that occurred at Atrium Health Cleveland. The applicant further states that the North Carolina State [Licensure] Agency notified the Centers for Medicare & Medicaid Services (CMS) of the deficiency and the North Carolina [Licensure] State Agency determined the facility violated federal requirements 42 CFR 489.24 and 42 CFR 489.20(1) (mandated by CMS) which created an immediate jeopardy. The applicant provided a letter dated December 11, 2020, from CMS noting that CMS had withdrawn the termination action and that it had received reasonable assurances that a similar violation would not occur.

According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, there were two (2) separate incidents related to quality of care at two (2) of the 17 facilities; those facilities are back in compliance as of the date of these findings. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at all 17 hospital facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.

G.S. 131E-183(b): The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that

academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

In Project I.D. #F-11618-18, the Agency determined Criteria and Standards for Acute Care Beds, promulgated in 10A NCAC 14C .3800, are not applicable because the applicant does not propose to develop new acute care beds. Rather, the applicant proposes to relocate existing Atrium Health Union County acute care beds. The applicant proposes no changes in the current application which would affect that determination. Consequently, the application is conforming to the performance standards in this rule.

In Project I.D. #F-11618-18, the Agency determined Criteria and Standards for Computed Tomography Equipment, promulgated in 10A NCAC 14C .2300, are not applicable because the applicant does not propose to increase the number of CT equipment in the service area; rather, the applicant proposes to relocate an existing unit of Atrium Health Union County CT equipment. The applicant proposes no changes in the current application which would affect that determination. Consequently, the application is conforming to the performance standards in this rule.

In Project I.D. #F-11618-18, the Agency determined Criteria and Standards for Gastrointestinal Endoscopy Procedure Rooms in Licensed Health Service facilities, promulgated in 10A NCAC 14C .3900, are not applicable because the applicant does not propose to develop an ambulatory surgery facility or increase the number of GI endoscopy procedure rooms in the service area. Rather, the applicant proposes to relocate one existing Atrium Health Union County gastrointestinal endoscopy procedure room within Union County. The applicant proposes no changes in the current application which would affect that determination. Consequently, the application is conforming to the performance standards in this rule.

In Project I.D. #F-11618-18, the Agency determined the application was conforming to all applicable Criteria and Standards for Intensive Care Services, promulgated in 10A NCAC 14C .1200, and the applicant proposes no changes in the current application which would affect that determination. Consequently, the application is conforming to the performance standards in this rule.

In Project I.D. #F-11618-18, the Agency determined the application was conforming to all applicable Criteria and Standards for Surgical Services and Operating Rooms, promulgated in 10A NCAC 14C .2100, and the applicant proposes no changes in the current application which would affect that determination. Consequently, the application is conforming to the performance standards in this rule.