

## REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: July 3, 2023

Findings Date: July 3, 2023

Project Analyst: Julie M. Faenza

Co-Signer: Mike McKillip

Project ID #: F-12319-23

Facility: Atrium Health Lake Norman

FID #: 190513

County: Mecklenburg

Applicant: The Charlotte-Mecklenburg Hospital Authority

Project: Cost overrun for Project ID #F-12010-20 (develop a new acute care hospital)

### REVIEW CRITERIA

G.S. 131E-183(a): The Department 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, 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 “CMHA,” “Atrium,” or “the applicant”) proposes a cost overrun for Project ID #F-12010-20, the applicant’s proposal to develop Atrium Health Lake Norman, a new acute care hospital.

A certificate of need was issued on May 28, 2021, for Project I.D. #F-12010-20 and authorized a capital expenditure of \$153,929,552. The current application proposes a capital cost increase of \$74,544,304 (a 48.4% increase) over the previously approved capital expenditure for a total combined capital expenditure of \$228,473,856. The applicant states that this cost overrun application is necessary due to increased costs, primarily related to construction and site preparation, since the issuance of the original certificate of need. The applicant proposes no material change in scope from the originally approved project in this application.

## **Need Determination**

There were no need determinations in the 2020 State Medical Facilities Plan (SMFP) applicable to Project ID #F-12010-20 and the applicant proposes no changes in the current application which would affect that determination. The applicant does not propose to increase the number of licensed beds in any category, add any new health services, or acquire equipment for which there is a need determination in the 2023 SMFP. Therefore, there are no need determinations applicable to this review.

## **Policies**

Project ID #F-12010-20 was found to be consistent with *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities* as published in the 2020 SMFP.

For this review, *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, as published in the 2023 SMFP, also applies.

*Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, on page 30 of the 2023 SMFP, states:

*“Any person proposing a capital expenditure greater than \$4 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 for 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 capital expenditure of the project is greater than \$4 million. In Section B, pages 29-30, the applicant describes its plan to assure improved energy efficiency and water conservation.

### **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 because the applicant adequately demonstrates that the proposal is consistent with Policy GEN-4.

- (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 cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

Project ID #F-12010-20 proposed to develop Atrium Health Lake Norman by relocating acute care beds approved to be developed at Carolinas Medical Center (Project ID #F-11811-19), acute care beds approved to be developed at Atrium Health University City (Project ID #F-11812-19), an operating room (OR) approved to be developed at Carolinas Medical Center (Project ID #F-11815-19), and an existing OR located at Atrium Health University City. A certificate of need was issued on May 28, 2021, for Project I.D. #F-12010-20 and authorized a capital expenditure of \$153,929,552. The current application proposes a capital cost increase of \$74,544,304 (a 48.4% increase) over the previously approved capital expenditure for a total combined capital expenditure of \$228,473,856. The applicant states that this cost overrun application is necessary due to increased costs, primarily related to construction and site preparation, since the issuance of the original certificate of need. The applicant proposes no material change in scope from the originally approved project in this application.

### **Patient Origin**

The 2020 SMFP defined the service area for acute care beds as “. . . *the service area in which the bed is located. The acute care bed service areas are the single and multicounty groupings shown in Figure 5.1.*” Figure 5.1 in the 2020 SMFP showed Mecklenburg County as its own

acute care bed service area. The 2020 SMFP defined the service area for ORs as “...the service area in which the operating room is located. The operating room service areas are the single and multicounty groupings shown in Figure 6.1.” Figure 6.1 in the 2020 SMFP showed Mecklenburg County as its own OR service area. The service areas for acute care beds and ORs as defined in the 2023 SMFP are functionally the same as the definition in the 2020 SMFP. The facility will be located in Mecklenburg County; thus, the service area for this facility is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

In Section C, pages 47-48, the applicant states it does not project any changes to patient origin. Project ID #F-12010-20 was not conforming with Criterion (3) with regard to projected patient origin; however, additional information submitted by the applicant as part of a settlement agreement adequately identified the projected patient origin for the facility. No changes are proposed in this application which would affect that determination.

**Analysis of Need**

The following table compares the capital cost approved in Project ID #F-12010-20, the changes proposed in this application, and the new projected capital costs, as reported on Form F.1b in Section Q.

	<b>Previously Approved Capital Expenditures (Project ID #F-12010-20)</b>	<b>Total Combined Proposed Capital Expenditure – both projects</b>	<b>Net Increase/(Decrease) in Capital Expenditure (Project ID #F-12319-23)</b>
Purchase Price – Land	\$3,410,399	\$5,084,042	\$1,673,643
Closing Costs	\$112,705	\$125,191	\$12,486
Site Preparation	\$9,203,073	\$23,696,825	\$14,493,752
Construction Contracts	\$77,733,518	\$123,574,659	\$45,841,141
Landscaping	\$1,296,980	\$1,000,000	(\$296,980)
Architect/Engineering Fees	\$10,718,000	\$10,249,197	(\$468,803)
Medical Equipment	\$20,398,024	\$24,758,876	\$4,360,852
Non-Medical Equipment	\$155,903	\$2,563,402	\$2,407,499
Furniture	\$3,734,000	\$3,296,493	(\$437,507)
Consultant Fees	\$300,000	\$389,260	\$89,260
Financing Costs	\$681,194	\$988,359	\$307,165
Interest During Construction	\$5,481,756	\$7,878,286	\$2,396,530
Other	\$20,704,000	\$24,869,266	\$4,165,266
<b>Total Capital Cost</b>	<b>\$153,929,552</b>	<b>\$228,473,856</b>	<b>\$74,544,304</b>

In Section C, pages 44-47, the applicant states that cost overrun application is necessary due to increased costs, primarily related to construction and site preparation, since the issuance of the original certificate of need. The applicant states the reason behind the increases is primarily related to costs that increased significantly during the COVID-19 pandemic and were known to affect the construction industry in particular. The applicant also explained any projected decreases in capital expenditures for certain categories of spending.

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

- There have been numerous cost overrun applications submitted to the Agency within the last several years due to increases in construction costs related to the COVID-19 pandemic, and the representations made by the applicant are consistent with representations made by unrelated applicants.
- The applicant adequately explains the reasons additional costs are necessary to develop the proposed project.
- Project ID #F-12010-20 was not conforming with Criterion (3) with regard to demonstration of need; however, additional information submitted by the applicant as part of a settlement agreement adequately demonstrated the need for the proposed project, and no changes are proposed in this application which would affect that determination.

### Projected Utilization

In Section C, page 48, the applicant states it does not project any changes to projected utilization as part of the proposed project. Project ID #F-12010-20 was not conforming with Criterion (3), specifically with regard to projected utilization; however, additional information submitted by the applicant as part of a settlement agreement adequately demonstrated projected utilization was based on reasonable and adequately supported assumptions. No changes are proposed in this application which would affect that determination.

### Access to Medically Underserved Groups

In Section C, pages 48-49, the applicant states it does not project changes to access by medically underserved groups as a result of the proposed project. The application for Project ID #F-12010-20 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 which was 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:

- In supplemental information provided to the Agency as part of a settlement agreement, the applicant adequately identified the population it proposed to serve as part of Project ID #F-12010-20, 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 expenditure is necessary to provide the population to be served with the services proposed in this application.
  - In supplemental information provided to the Agency as part of a settlement agreement, the applicant adequately demonstrated projected utilization in Project ID #F-12010-20 was reasonable and adequately supported, and there are no changes proposed in this application which would affect that determination.
  - The application for Project ID #F-12010-20 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.

NA

The applicant proposes a cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

Project ID #F-12010-20 was not conforming with Criterion (3a); however, additional information submitted by the applicant as part of a settlement agreement adequately demonstrated the needs of the population would be met adequately by alternative arrangements and the proposed project would not adversely impact the ability of underserved groups to access these services following project completion.

In this cost overrun application, the applicant does not propose to reduce a service, eliminate a service, or relocate a facility or service. Therefore, Criterion (3a) is not applicable to this review.

- (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 cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

In Section E, pages 55-56, 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 alternatives considered were:

- Cease Development of Atrium Health Lake Norman: the applicant states the growth and development of the Lake Norman area makes development of the project a conservative way to meet the need of the growing population in the area. Additionally, the applicant states that it has already spent over \$27 million toward developing the proposed project; therefore, this is not an effective alternative to meet the need.
- Develop Atrium Health Lake Norman on a Smaller Scale: the applicant states it could develop Atrium Health Lake Norman without a cost overrun by developing it on a much smaller scale, but the services it proposed to develop there are needed there. The applicant further states that because much of the cost increase is related to the site and construction, it may not be possible to develop the facility on a smaller scale without a cost overrun; therefore, this is not an effective alternative to meet the need.

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

- The applicant does not propose any change to the scope of the project as described in the application, supplemental information provided during settlement negotiations, and as described in the certificate of need for Project ID #F-12010-20.
- The application is conforming to all statutory and regulatory review criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

### **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 all representations made in the certificate of need application.**

2. **The certificate holder shall develop Atrium Health Lake Norman as approved in the certificate of need for Project ID #F-12010-20, with no change of scope in the development of the proposed project.**
  3. **The total combined capital expenditure for this project and Project ID #F-12010-20 is \$228,473,856, an increase of \$74,544,304 over the capital expenditure of \$153,929,552 previously approved in Project ID #F-12010-20.**
  4. **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.**
  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. **The first progress report shall be due on November 1, 2023.**
  6. **The certificate holder shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.**
  7. **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 cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).



**Capital and Working Capital Costs**

The certificate of need for Project ID #F-12010-20 approved a capital expenditure of \$153,929,552. The applicant states that, to develop the previously approved project, it requires a total capital expenditure of \$228,473,856, 148.4% of the originally approved capital expenditure, and which exceeds the 115% statutory limit for capital expenditures in an approved project.

The following table compares the capital cost approved in Project ID #F-12010-20, the changes proposed in this application, and the new projected capital costs, as reported on Form F.1b in Section Q.

	Previously Approved Capital Expenditures (Project ID #F-12010-20)	Total Combined Proposed Capital Expenditure – both projects	Net Increase/(Decrease) in Capital Expenditure (Project ID #F-12319-23)
Purchase Price – Land	\$3,410,399	\$5,084,042	\$1,673,643
Closing Costs	\$112,705	\$125,191	\$12,486
Site Preparation	\$9,203,073	\$23,696,825	\$14,493,752
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Architect/Engineering Fees	\$10,718,000	\$10,249,197	(\$468,803)
Medical Equipment	\$20,398,024	\$24,758,876	\$4,360,852
Non-Medical Equipment	\$155,903	\$2,563,402	\$2,407,499
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Consultant Fees	\$300,000	\$389,260	\$89,260
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Interest During Construction	\$5,481,756	\$7,878,286	\$2,396,530
Other	\$20,704,000	\$24,869,266	\$4,165,266
<b>Total Capital Cost</b>	<b>\$153,929,552</b>	<b>\$228,473,856</b>	<b>\$74,544,304</b>

In Section C, pages 44-47, the applicant states that cost overrun application is necessary due to increased costs, primarily related to construction and site preparation, since the issuance of the original certificate of need. The applicant states the reason behind the increases is primarily related to costs that increased significantly during the COVID-19 pandemic and were known to affect the construction industry in particular. The applicant also explained any projected decreases in capital expenditures for certain categories of spending.

In Section F, page 67, the applicant projects start-up costs of \$2,491,846 and initial operating costs of \$17,992,564 for a total combined working capital cost of \$20,484,410, which is an increase of \$5,516,540 over the working capital costs as projected (\$14,967,870) in Project ID #F-12010-20. The applicant states that while the scope of the proposed project is not changing, the project is not projected to be complete until 18 months after the date it projected to offer services in the certificate of need for Project ID #F-12010-20, and the additional working capital costs are for the impact of inflation as well as increased interest expenses if the applicant chooses to use bond financing (because the total capital cost will be higher).

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

- The applicant provides detailed explanations about what the proposed increases in capital and working capital costs are to justify the proposed increases.
- The applicant considers the impact of factors such as inflation and interest costs due to the increased timetable to develop the proposed project.

### **Availability of Funds**

In Section F, pages 66-68, the applicant states that the proposed increase in both capital and working capital costs will be funded by the accumulated reserves of CMHA.

Exhibit F.5-2 contains a letter dated February 15, 2023 from the Executive Vice President and Chief Financial Officer of CMHA. The letter states CMHA will fund the entire capital and working capital costs with accumulated reserves and commits to using the available accumulated reserves to develop the proposed project.

Exhibit F.5-3 contains Atrium Health Enterprise's Combined Financial Statements and Other Financial Information for the year ending December 31, 2021. According to the Combined Financial Statements, as of December 31, 2021, the applicant had adequate cash and assets to fund the proposed project.

The applicant adequately demonstrates the availability of sufficient funds for the capital and working capital needs of the project based on the following:

- The applicant provides appropriate documentation to confirm the availability of the accumulated reserves it plans to use to develop the proposed project.
- In Project ID #F-12010-20, the applicant adequately demonstrated the availability of sufficient funds for the capital and working capital needs of the proposed project, and the applicant does not propose any changes in this cost overrun application which would affect that determination.

### **Financial Feasibility**

In Section F, pages 68-69, the applicant states the financial projections it previously provided in Project ID #F-12010-20 will change, even though the applicant is not proposing a change to the scope of the project, because the facility will now offer services later than originally anticipated and inflation will impact revenues.

On Form F.2b in Section Q, the applicant projects that operating expenses will exceed revenues for each of the first three full fiscal years of the proposed project, as shown in the table below.

<b>Revenues and Operating Expenses – Atrium Health Lake Norman – FYs 1-3 (CYs 2026-2028)</b>			
	<b>FY 1 (CY 2026)</b>	<b>FY 2 (CY 2027)</b>	<b>FY 3 (CY 2028)</b>
Gross Revenue (Charges)	\$91,953,638	\$148,449,686	\$213,108,031
Net Revenue	\$24,334,169	\$39,295,346	\$56,424,930
Operating Expenses (Costs)	\$41,267,140	\$49,091,099	\$57,452,171
<b>Net Income/(Loss)</b>	<b>(\$16,932,971)</b>	<b>(\$9,795,752)</b>	<b>(\$1,027,242)</b>

The applicant provides the assumptions and methodology it uses to project income and operating expenses immediately following Form F.3 in Section Q. The applicant states that Form F.2b shows the projected revenue and operating expenses for Atrium Health Lake Norman if it pursued funding via bond financing. The applicant further states that if it does not pursue bond financing, net revenues will be positive by the third full fiscal year because interest expense would be removed from the operating costs. The changes are illustrated in the table below.

<b>Revenues and Operating Expenses – Atrium Health Lake Norman – FYs 1-3 (CYs 2026-2028) Without Bond Financing, Interest Expenses Removed From Operating Costs</b>			
	<b>FY 1 (CY 2026)</b>	<b>FY 2 (CY 2027)</b>	<b>FY 3 (CY 2028)</b>
Gross Revenue (Charges)	\$91,953,638	\$148,449,686	\$213,108,031
Net Revenue	\$24,334,169	\$39,295,346	\$56,424,930
Operating Expenses (Costs)	\$34,880,089	\$42,845,898	\$51,353,017
<b>Net Income/(Loss)</b>	<b>(\$10,545,919)</b>	<b>(\$3,550,551)</b>	<b>\$5,071,912</b>

As noted in the discussion about availability of funds above, the applicant provides its Combined Financial Statements for the year ending December 31, 2021. In addition to demonstrating availability of capital and working capital expenditures for the proposed project, the Combined Financial Statements show the applicant has adequate cash and assets to fund any operating losses for the proposed project even if the applicant chooses to pursue bond financing.

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

- The applicant provides detailed financial projects and explains the impact of pursuing different avenues of funding.
- The applicant provides adequate documentation to demonstrate that the proposed project can be financially feasible even if it is not profitable by the end of the third full fiscal year following completion of the project.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits of 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 capital and working capital costs are based on reasonable and adequately supported assumptions for all the reasons described above.
  - The applicant adequately demonstrates availability of sufficient funds for the capital and working capital needs 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 cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

The 2020 SMFP defined the service area for acute care beds as “. . . *the service area in which the bed is located. The acute care bed service areas are the single and multicounty groupings shown in Figure 5.1.*” Figure 5.1 in the 2020 SMFP showed Mecklenburg County as its own acute care bed service area. The 2020 SMFP defined the service area for ORs as “. . . *the service area in which the operating room is located. The operating room service areas are the single and multicounty groupings shown in Figure 6.1.*” Figure 6.1 in the 2020 SMFP showed Mecklenburg County as its own OR service area. The service areas for acute care beds and ORs as defined in the 2023 SMFP are functionally the same as the definition in the 2020 SMFP. The facility will be located in Mecklenburg County; thus, the service area for this facility is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Project ID #F-12010-20 was not conforming with Criterion (6); however, additional information submitted by the applicant as part of a settlement agreement adequately demonstrated that the proposed project would not result in unnecessary duplication of existing or approved hospitals in Mecklenburg County. The applicant does not propose any changes in this cost overrun application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application

- Exhibits to the application
- Information which was 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.

- (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

The applicant proposes a cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

The application for Project ID #F-12010-20 adequately demonstrated the availability of resources, including health manpower and management personnel to provide the proposed services, and no changes are proposed in this application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was 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.

- (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

The applicant proposes a cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

The application for Project ID #F-12010-20 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, and no changes are proposed in this application which would affect that determination.

## **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was 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.

- (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 cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

A certificate of need was issued on May 28, 2021, for Project I.D. #F-12010-20 and authorized a capital expenditure of \$153,929,552. The current application proposes a capital cost increase of \$74,544,304 (a 48.4% increase) over the previously approved capital expenditure for a total combined capital expenditure of \$228,473,856. The applicant states that cost overrun application is necessary due to increased costs, primarily related to construction and site preparation, since the issuance of the original certificate of need. The applicant proposes no material change in scope from the originally approved project in this application.

	Previously Approved Capital Expenditures (Project ID #F-12010-20)	Total Combined Proposed Capital Expenditure – both projects	Net Increase/(Decrease) in Capital Expenditure (Project ID #F-12319-23)
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Site Preparation	\$9,203,073	\$23,696,825	\$14,493,752
Construction Contracts	\$77,733,518	\$123,574,659	\$45,841,141
Landscaping	\$1,296,980	\$1,000,000	(\$296,980)
Architect/Engineering Fees	\$10,718,000	\$10,249,197	(\$468,803)
Medical Equipment	\$20,398,024	\$24,758,876	\$4,360,852
Non-Medical Equipment	\$155,903	\$2,563,402	\$2,407,499
Furniture	\$3,734,000	\$3,296,493	(\$437,507)
Consultant Fees	\$300,000	\$389,260	\$89,260
Financing Costs	\$681,194	\$988,359	\$307,165
Interest During Construction	\$5,481,756	\$7,878,286	\$2,396,530
Other	\$20,704,000	\$24,869,266	\$4,165,266
<b>Total Capital Cost</b>	<b>\$153,929,552</b>	<b>\$228,473,856</b>	<b>\$74,544,304</b>

In Section C, pages 44-47, the applicant states that cost overrun application is necessary due to increased costs, primarily related to construction and site preparation, since the issuance of the original certificate of need. The applicant states the reason behind the increases is primarily related to costs that increased significantly during the COVID-19 pandemic and were known to affect the construction industry in particular. The applicant also explained any projected decreases in capital expenditures for certain categories of spending.

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 Section K, pages 81-82, the applicant adequately explains how the cost, design, and means of construction represent the most reasonable alternative for the proposal based on the following:

- The applicant is not proposing to change the scope of the construction or design previously proposed in Project ID #F-12010-20.
- The applicant adequately explains why the increased cost is necessary for the proposed project.
- Project ID #F-12010-20 was conforming with this criterion and this application does not propose any changes which would affect that determination.

In Section K, page 82, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services based on the following:

- The applicant is not proposing to change the scope of the project as proposed in Project ID #F-12010-20.
- The applicant states it has set aside excess revenues to be able to pay for projects like these without needing to increase costs or charges to patients.
- Project ID #F-12010-20 was conforming with this criterion and this application does not propose any changes which would affect that determination.

In Section B, pages 29-30, the applicant identifies and describes any applicable energy saving features that will be incorporated into the construction plans.

### **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.

- (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 ID #F-12010-20, the Agency determined the applicant 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 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.

- (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 persons with disabilities to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

In Project ID #F-12010-20, 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 ID #F-12010-20, the Agency determined the applicant 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 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.

- (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 ID #F-12010-20, the Agency determined the applicant 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 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.

- (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

The applicant proposes a cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

In Project ID #F-12010-20, the Agency determined the applicant adequately demonstrated that the proposed health services would accommodate the clinical needs of health professionals training programs in the area. 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 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 cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

The 2020 SMFP defined the service area for acute care beds as “. . . *the service area in which the bed is located. The acute care bed service areas are the single and multicounty groupings shown in Figure 5.1.*” Figure 5.1 in the 2020 SMFP showed Mecklenburg County as its own acute care bed service area. The 2020 SMFP defined the service area for ORs as “. . . *the service*

*area in which the operating room is located. The operating room service areas are the single and multicounty groupings shown in Figure 6.1.”* Figure 6.1 in the 2020 SMFP showed Mecklenburg County as its own OR service area. The service areas for acute care beds and ORs as defined in the 2023 SMFP are functionally the same as the definition in the 2020 SMFP. The facility will be located in Mecklenburg County; thus, the service area for this facility is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Project ID #F-12010-20 was not conforming with Criterion (18a); however, additional information submitted by the applicant as part of a settlement agreement adequately demonstrated the expected effects of the proposed services on competition in Mecklenburg County and how any enhanced competition would have a positive impact on the cost effectiveness, quality, and access to the services proposed. The applicant does not propose any changes in this cost overrun 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

The applicant proposes a cost overrun for Project ID #F-12010-20 (develop Atrium Health Lake Norman, a new acute care hospital).

On Form O in Section Q, the applicant identifies the hospitals located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of 18 of these types of facilities located in North Carolina.

In Section O, page 94, the applicant states that, during the 18 months immediately preceding the submittal of the application, there were no incidents which resulted in a finding of immediate jeopardy at any of the facilities listed on Form O. According to the files in the Acute and Home Care Licensure and Certification Section, DHRS, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in one of these facilities; however, the facility is now back in

compliance. 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 18 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.

NA

Project ID #F-12010-20 proposed to develop a new acute care hospital by relocating existing acute care beds, ORs, and other medical equipment, including a CT scanner. The Criteria and Standards for Computed Tomography Equipment promulgated in 10A NCAC 14C .2300 were applicable to that review. Project ID #F-12010-20 was not conforming with the applicable administrative rules; however, additional information submitted by the applicant as part of a settlement agreement adequately demonstrated conformity with the administrative rules. The administrative rules promulgated in 10A NCAC 14C .2300 were repealed on January 1, 2022.

There were no other administrative rules applicable to Project ID #F-12010-20, and there are no administrative rules that were not applicable to Project ID #F-12010-20 and that would be applicable to this review.