



North Carolina Department of Health and Human Services
Division of Health Service Regulation

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

January 16, 2013

William W. Stewart
K & L Gates, LLP
P.O. Box 14210
Research Triangle Park NC 27709-4210

No Review

Facility or Business: Rex Surgery Center of Cary, LLC
Project Description: Renovations to the facility
County: Wake
FID #: 070819

Dear Mr. Stewart:

The Certificate of Need Section (CON Section) received your letter of January 4, 2013 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

Moreover, you need to contact the Construction and Acute and Home Care Licensure and Certification Sections of the Division of Health Service Regulation to determine if they have any requirements for development of the proposed project.

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

Please contact the CON Section if you have any questions. Also, in all future correspondence you should reference the Facility I.D. # (FID) if the facility is licensed.

www.ncdhhs.gov • <http://www.ncdhhs.gov/dhsh>
Tel (919) 855-3873 • Fax (919) 733-8139

Location: Edgerton Building, 809 Ruggles Drive • Raleigh, NC 27603
Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704
An Equal Opportunity/ Affirmative Action Employer



Sincerely,



Michael J. McKillip, Project Analyst



Craig R. Smith, Chief
Certificate of Need Section

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



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William W. Stewart
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bill.stewart@klgates.com

January 4, 2013

Via Hand Delivery

Craig R. Smith
N.C. Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section
809 Ruggles Drive
Raleigh, NC 27603

Re: No Review Letter Regarding Renovations to Rex Surgery Center of Cary, LLC

Dear Mr. Smith:

Our client, Rex Surgery Center of Cary, LLC, is requesting a "No Review" determination that certain renovations proposed for Rex Surgery Center of Cary, located at 1505 SW Cary Parkway, Cary, North Carolina, are not reviewable as a new institutional health service under the North Carolina Certificate of Need ("CON") law, or otherwise trigger CON review.

Rex Surgery Center of Cary is a licensed free-standing ambulatory surgery facility with four operating rooms, which is separately licensed from Rex Hospital. The overall purpose of the renovations is to improve the process of patient care. The renovations are needed due to the recent increase in surgery volume at Rex Surgery Center of Cary.

As detailed herein, the project consists of reconfiguring rooms, adding a procedure room, adding storage rooms and adding a physicians lounge. The project also will allow sterile processing to be performed on-site. Because the case volume at Rex Surgery Center of Cary has increased, it would be more efficient and less costly for sterile processing to be performed in-house at the Center, as opposed to being outsourced as is currently done. In addition, the project involves renovating part of the parking lot to develop a mobile lithotripsy truck pad.

A floor plan highlighting the areas to be renovated is attached as Exhibit 1. The renovations consist of the following:

- Phase 1 – Renovations are to convert this room from an anesthesia supply room to a sterile storage room.

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- Phase 2 – Renovations are to convert this space from vacant space to four patient station rooms (also known as patient bays or pre- and post- operative rooms), one tank room, three storage rooms, and a physicians lounge.
- Phase 3 – Renovations are to convert four patient station rooms (also known as patient bays or pre- and post- operative rooms) to one procedure room.
- Phase 4 – Renovations relating to the interior of the building are to convert miscellaneous storage space to one sub-sterile/processing room, one storage/utility room, and one restroom. The renovations relating to the exterior of the building are to convert part of the parking lot into a mobile lithotripsy truck pad.
- Phase 5 – Renovations are to convert a sub-sterile room into an anesthesia workroom.

The total costs of the proposed renovations, including all categories of costs in N.C. Gen. Stat. § 131E-176(16)b and equipment associated with the renovations, is \$934,133.83. (See Exhibit 2, Proposed Total Capital Cost; Exhibit 3, Certified Cost Estimate Letter; Exhibit 4, Equipment List) This \$934,133.83 figure includes all costs associated with the categories in N.C. Gen. Stat. § 131E-176(16)b, including the “cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities, including staff effort and consulting and other services, essential to the” proposed renovations.

The proposed renovations do not trigger any of the definitions of a “new institutional health service,” which implicates CON review. N.C. Gen. Stat. § 131E-178 provides that no person shall offer or develop a “new institutional health service” without first obtaining a CON. The term “new institutional health service” is defined in over fifteen different ways at N.C. Gen. Stat. § 131E-176(16). Among these definitions is N.C. Gen. Stat. § 131E-176(16)b, which defines a “new institutional health service” to include:

. . . [T]he obligation by any person of a capital expenditure exceeding two million dollars (\$2,000,000) to develop or expand a health service or a health service facility, or which relates to the provision of a health service. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities, including staff effort and consulting and other services, essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if the expenditure exceeds two million dollars (\$2,000,000).

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See N.C. Gen. Stat. § 131E-176(16)b.

Rex's proposal does not constitute a "new institutional health service" under N.C. Gen. Stat. § 131E-176(16)b because the proposal does not exceed the \$2,000,000 threshold. Moreover, the equipment to be acquired is not *per se* reviewable pursuant to the CON statutory scheme, does not result in the development of a "diagnostic center" under N.C. Gen. Stat. § 131E-176(7a), and is not "major medical equipment" under N.C. Gen. Stat. § 131E-176(14o). (See Exhibit 4, Equipment List) Accordingly, the proposed renovations do not require Rex to obtain a CON pursuant to N.C. Gen. Stat. § 131E-176(16)b, or any other provision of the CON statutes.

Based upon the foregoing information and the attached documents, Rex Surgery Center of Cary, LLC hereby requests that the Agency provide a written response confirming that the project described herein does not require Rex Surgery Center of Cary, LLC to obtain a CON pursuant to N.C. Gen. Stat. § 131E-176(16)b, or any other provision of the CON statutes.

Please let us know if you need additional information. We thank you for your consideration of this submission.

Sincerely,



William W. Stewart

Enclosures

Craig R. Smith
January 4, 2013
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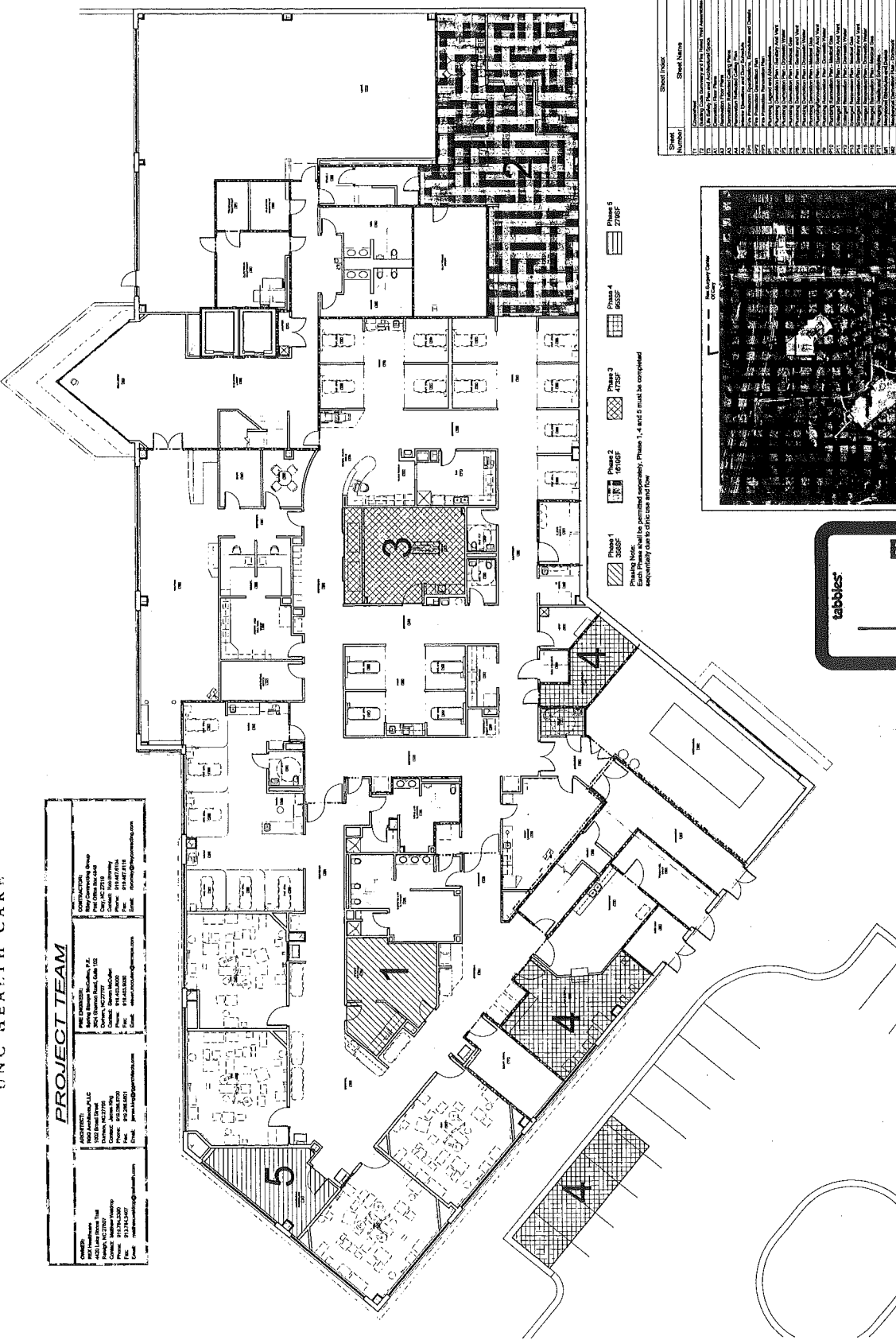
Exhibits

1. Floor Plan
2. Proposed Total Capital Cost Chart
3. Architect Cost Certification Letter
4. Equipment List

REX Rex Surgery Center of Cary

UNC HEALTH CARE

PROJECT TEAM	
OWNER: UNC HealthCare, Inc. 1000 Bland Street Durham, NC 27703 Phone: 919.286.2000 Fax: 919.286.2000 Email: unc@unc.edu	ARCHITECT: RGG Architects, PLLC 1000 Bland Street Durham, NC 27703 Phone: 919.246.5700 Fax: 919.246.5700 Email: info@rggarchitects.com
GENERAL CONTRACTOR: HOK, Inc. 3000 Shuman Blvd, Ste 100 Cary, NC 27513 Phone: 919.467.8800 Fax: 919.467.8800 Email: info@hok.com	MECHANICAL CONTRACTOR: HOK, Inc. 3000 Shuman Blvd, Ste 100 Cary, NC 27513 Phone: 919.467.8800 Fax: 919.467.8800 Email: info@hok.com



Phase 1 [diagonal hatching] Phase 2 [cross-hatch] Phase 3 [horizontal hatching] Phase 4 [vertical hatching] Phase 5 [stippled]

Phase 1
 Phase 2
 Phase 3
 Phase 4
 Phase 5

Each Phase shall be permitted separately. Phases 1, 4 and 5 must be completed sequentially with 60 days rest and flow.

Sheet Number	Sheet Name
1	Site Plan
2	Phase 1 - Foundation
3	Phase 1 - Structure
4	Phase 1 - Mechanical
5	Phase 1 - Electrical
6	Phase 1 - Plumbing
7	Phase 1 - Fire Protection
8	Phase 1 - Landscape
9	Phase 1 - Civil
10	Phase 1 - Utility
11	Phase 1 - Other
12	Phase 2 - Foundation
13	Phase 2 - Structure
14	Phase 2 - Mechanical
15	Phase 2 - Electrical
16	Phase 2 - Plumbing
17	Phase 2 - Fire Protection
18	Phase 2 - Landscape
19	Phase 2 - Civil
20	Phase 2 - Utility
21	Phase 2 - Other
22	Phase 3 - Foundation
23	Phase 3 - Structure
24	Phase 3 - Mechanical
25	Phase 3 - Electrical
26	Phase 3 - Plumbing
27	Phase 3 - Fire Protection
28	Phase 3 - Landscape
29	Phase 3 - Civil
30	Phase 3 - Utility
31	Phase 3 - Other
32	Phase 4 - Foundation
33	Phase 4 - Structure
34	Phase 4 - Mechanical
35	Phase 4 - Electrical
36	Phase 4 - Plumbing
37	Phase 4 - Fire Protection
38	Phase 4 - Landscape
39	Phase 4 - Civil
40	Phase 4 - Utility
41	Phase 4 - Other
42	Phase 5 - Foundation
43	Phase 5 - Structure
44	Phase 5 - Mechanical
45	Phase 5 - Electrical
46	Phase 5 - Plumbing
47	Phase 5 - Fire Protection
48	Phase 5 - Landscape
49	Phase 5 - Civil
50	Phase 5 - Utility
51	Phase 5 - Other



EXHIBIT

tabbles

1

1. Planning Plan
 11/25/2012

PROPOSED TOTAL CAPITAL COST OF PROJECT

Project Name: Rex Surgery Center of Cary

Provider/Company: Rex Surgery Center of Cary, LLC

A. Site Costs

(1) Full purchase price of land.....		\$ _____
Acres _____ Price per Acre	\$ _____	
(2) Closing costs.....		\$ _____
(3) Site Inspection and Survey.....		\$ _____
(4) Legal fees and subsoil investigation		\$ _____
(5) Site Preparation Costs		
Soil Borings.....	\$ _____	
Clearing-Earthwork...	\$ _____	
Fine Grade For Slab...	\$ _____	
Roads-Paving.....	\$ _____	
Concrete Sidewalks....	\$ _____	
Water and Sewer.....	\$ _____	
Footing Excavation....	\$ _____	
Footing Backfill.....	\$ _____	
Termite Treatment....	\$ _____	
Other (Specify).....	\$ _____	
Sub-Total Site Preparation Costs		\$ _____
(6) Other (Specify)		\$ _____
(7) Sub-Total Site Costs		\$ _____

B. Construction Contract

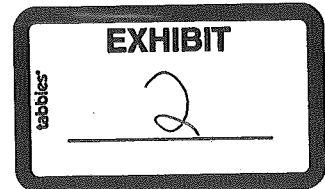
(8) Cost of Materials	\$275,265.65
(9) Cost of Labor	\$225,217.35
(10) Other (Specify)	\$ _____
(11) Sub-Total Construction Contract	\$500,483.00 *See attached certified cost estimate

C. Miscellaneous Project Costs

(12) Furniture		\$ 5,400.00
(13) Equipment Purchase/Lease		\$201,267.23
(14) IT		\$ 78,607.80
(15) Security, Artwork, Signage, Nurse Call		\$ 13,884.74
(16) Fixtures/Accessories		\$ 5,000.00
(17) Consultant Fees		
Architect and Engineering Fees	\$ 84,600.00	
Legal Fees	\$ _____	
Market Analysis	\$ _____	
Sub-Total Consultant Fees		\$ 84,600.00
(18) Financing Costs (e.g. Bond, Loan, etc.)		\$ _____
(19) Interest During Construction		\$ _____
(20) Other (Specify)		\$ _____
Other (DHSR Review/Inspection)		\$ 1,350.00
Other (Misc. Printing)		\$ 1,000.00
Other (Contingency)		\$ 42,541.06

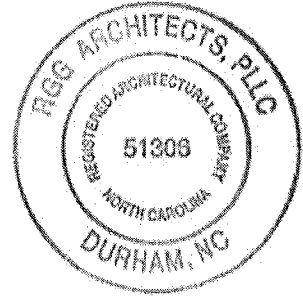
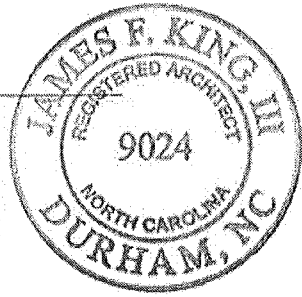
(21) Sub-Total Miscellaneous **\$433,650.83**

(22) Total Capital Cost of Project (Sum A-C above) **\$934,133.83**



I certify that, to the best of my knowledge, the above construction related costs of the proposed project named above are complete and correct.* See attached Certified Cost Estimate

James F. King, III
(Signature of Licensed Architect or Engineer)

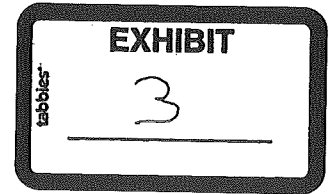


I assure that, to the best of my knowledge, the above capital costs for the proposed project are complete and correct and that it is my intent to carry out the proposed project as described.

Brenda M. Spay
(Signature of Officer Authorized to Represent Provider/Company)
CEO
(Title of Officer)

December 27, 2012

Will Pittman
Rex Healthcare
4420 Lake Boone Trail
Raleigh, North Carolina 27607



Re: **Cost Certification**
Renovations to Rex Surgery Center of Cary, LLC

Dear Mr. Pittman:

At your request, I have reviewed the scope of work for Rex Surgery Center of Cary's project to renovate several areas at the Rex Surgery Center of Cary, which is an existing ambulatory surgery center in Cary, NC. The work involves reconfiguring and renovating various rooms, as well as creating a pad for a mobile lithotripsy machine. Among the renovations, the work will result in creating new central sterile processing space, creating a procedure room, reconfiguring pre/post operative space, creating an anesthesia workroom, creating storage space, creating a restroom, and creating a physician lounge.

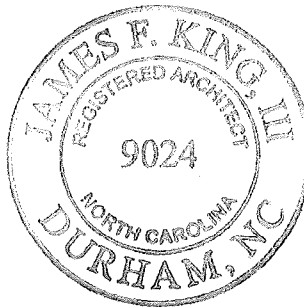
As a licensed architect in the State of North Carolina, I have reviewed the construction costs for this project and hereby certify, to the best of my knowledge, information, and belief, the estimated costs are complete and reasonable. Based on historical cost data, our experience with the costs on comparative health care projects, and published construction costing data, the probable cost for the general construction is \$500,483.00.

If RGG Architects may assist you further with this project or you need any additional information, please contact me.

Sincerely,
RGG Architects, PLLC

A handwritten signature in black ink that reads "James F. King, III". The signature is stylized and includes a small "AIA" logo at the end.

James F. King, III AIA
Project Architect



Rex Surgery Center of Cary - Renovation

Equipment List

Description	Cost	Vendor Installation Costs	Vendor Shipping Costs	NC Tax	Total Cost
Sterilelink Autoclave (lg)	\$44,182.60	\$1,000.00	\$1,575.00	8%	\$50,498.21
Sterilelink Autoclave (sm)	\$32,898.00	\$1,000.00	\$1,575.00	8%	\$38,310.84
Sterilelink Washer Disinfector	\$50,339.60	\$2,000.00	\$3,150.00	8%	\$59,928.77
Sterilelink Steam Boiler	\$15,418.80	\$1,000.00	\$950.00	8%	\$18,758.30
Maxima Custom Storage	\$23,456.00	None	None	8%	\$25,332.48
Skytron PR Light	\$3,002.00	\$775.00	None	8%	\$4,079.16
Armstrong Medical Anes Carts	\$3,436.55	None	None	8%	\$3,711.47
Ohmeda Vac Regulators	\$600.00	None	None	8%	\$648.00
TOTAL					\$201,267.23*

*Total reflected on line (13) in Proposed Total Capital Cost Chart (Exhibit 2).

