



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

August 24, 2021

Kenneth Burgess

kburgess@poynerspruill.com

Exempt from Review

Record #: 3643
Date of Request: August 11, 2021
Facility Name: Mission Hospital
FID #: 943349
Business Name: MH Mission Hospital, LLLP
Business #: 3045
Project Description: Renovate the Women's Center located on the main campus of Mission Hospital
County: Buncombe

Dear Mr. Burgess:

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

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

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

Sincerely,

Ena Lightbourne
Project Analyst

Micheala Mitchell
Chief, Certificate of Need

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

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

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

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

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

August 10, 2021

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

VIA E-MAIL

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

Ena Lightbourne
Project Analyst
N.C. Department of Health and Human Services
N.C. Division of Health Service Regulation
Certificate of Need Section
809 Ruggles Drive, Raleigh, N.C. 27603
Via email to: ena.lightbourne@dhhs.nc.gov

RE: **Notice of Exemption: Renovation of Existing Mission Hospital's Women's Center, Facility I.D. No. 943349**

Dear Lisa and Ena:

I am writing on behalf of our client MH Mission Hospital, LLLP ("Mission" or "the Hospital") to provide the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section ("the CON Section" or "the Agency") with prior written notice of Mission's intent to upgrade and renovate portions of the Women's Center which is located in the main building on the Mission Hospital main campus ("the Project"). We believe the proposed project is exempt from further CON Section review, and does not require a certificate of need ("CON") pursuant to N.C. Gen. Stat. section 131E-184(g).

Background and Project Description

Mission's Women's Center (the "Center") was constructed in 1995 and, since that time, has had only minor renovations. The Center is in need of renovations to outdated patient care units, the patient lobby and the exterior of the Center to enhance patient, staff and physician accessibility and satisfaction. In addition, a portion of a former emergency room ("ER") which is currently vacant will be converted into an obstetrics ER to provide capacity for obstetrics emergency room triage. Following is a summary of the major components of the planned renovations:

- The 16-bed labor and delivery room and 34-bed postpartum units will receive aesthetic upgrades and improvements;

Lisa Pittman
August 10, 2021
Page 2

- The lobby area, comprising about 4,300 square feet, will receive aesthetic upgrades;
- An existing patient driveway will be reconfigured for easier access and circulation, additional parking will be added and certain upgrades to entrance doors and the building exterior canopy will be made;
- LED lighting will be added to increase visibility at the Center's entrance;
- A portion of a former, but currently vacant, ER will be built out for an obstetrics ER with 10 positions;
- Certain information and communications systems will be upgraded; and
- Two air handler units will be replaced.

Total project costs are estimated at approximately \$20,675,160.000. **See Exhibits A** (Projected Capital Cost Form) and **B** (Statement of Mission's Chief Operating Officer), both documenting estimated project costs.¹

We have included as **Exhibit C** a schematic drawing showing the location in the Mission Hospital main building of the site of the planned renovations. The Women's Center is shown via a red circle on the attached diagram and is located in East Building/G Tower. That tower includes a currently-empty space that was formerly an ER (2nd floor), the Pediatrics and PICU Unit (3^d floor), Labor and Delivery (4th floor), the Postpartum Unit (5th floor), the NICU (6th floor) and the Adult Pulmonary Unit (7th floor). The Project will allow Mission to upgrade and improve various areas of the Women's Center, to repurpose currently unused space and to reconfigure existing space to create a more satisfying aesthetic and clinical experience for patients, staff and physicians.

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

Applicable Legal Authorities

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

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

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

¹ Because the statutory exemption under which Mission is proceeding is not dependent on Mission being above or below a designated capital expenditure, a Projected Capital Cost Form is technically not required for this Exemption but we are including one to provide a general cost overview of the Project.

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

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

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

The Proposed Project Involves The Renovation And Expansion Of Existing Space On Mission's Main Campus

The Proposed Project which is the subject of this Exemption Notice is projected to cost in excess of \$2,000,000.00. The total project cost is anticipated to be approximately \$20,675,160.00. Of that amount, \$16,146,900.00 will be expended on construction to renovate existing space in the East Building/G Tower in the main building at Mission Hospital. The remaining amount will be expended on information and communication systems, and certain miscellaneous furniture, accessories and equipment, such as defibrillators, clinical monitoring systems, pediatric paddles and monitors. As previously noted, we have included a statement from Joseph R. Rudisill, Mission's Chief Operating Officer, attesting that the estimated total project costs are approximately \$20,675,160.00. **See Exhibit B.**

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

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

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

N.C. Gen. Stat. § 131E-176(14n).

The Project will be developed in the main Mission Hospital building on the hospital's main campus at 509 Biltmore Avenue in Asheville, North Carolina. Mission's Chief Executive Officer, Chief Operating Officer

Lisa Pittman
August 10, 2021
Page 4

and Chief Financial Officer are all located in the main hospital building. Together, they exercise all financial and administrative control over the hospital's Women's Center and its services. The main hospital building is also the location from which Mission provides clinical patient services. As such, the Proposed Project will be located in the main hospital building and so clearly is on the "main campus" within the meaning of N.C. Gen. Stat. § 131E-176(14n).

The Proposed Project does not involve a change in bed capacity as defined by N.C. Gen. Stat. § 131E-176(5). That section defines "change in bed capacity" in pertinent part as: (i) any relocation of health service facility beds from one licensed facility or campus to another, or (ii) any redistribution of health service facility bed capacity among the categories of health service facility beds defined in N.C. Gen. Stat. § 131E-176(9c), or (iii) any increase in the number of health service facility beds. The Proposed Project involves only the renovation and expansion of existing space on Mission's main campus for the purpose of renovating and improving patient care areas, lobbies and exterior aspects of the Women's Center. The Project does not involve any relocation of health service facility beds from one licensed campus to another, any increase in the number of health service beds or any redistribution of health service facility beds among the categories identified at N.C. Gen. Stat. § 131E-176(9c). Further, the Project does not involve the development or addition of any bed capacity, operating rooms, health services or facilities that fall within the definition of "new institutional health services" at N.C. Gen. Stat. section 131E-176(16).

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

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

Mission's Proposed Project does not involve the acquisition of medical equipment which meets the definition of "major medical equipment" under the CON Statute. The total equipment budget for the Proposed Project is approximately \$1,763,300.00, which also includes certain furniture items. As noted above, the primary equipment to be acquired as part of the Proposed Project consists of minor medical equipment items such as nurse call systems and fetal monitors, one ultrasound unit costing approximately one hundred and thirty thousand dollars (\$130,000) and other non-medical equipment, furniture and communication and information equipment upgrades. No single item or single system of components planned for the Proposed Project comes anywhere close to the \$750,000.00 major medical equipment threshold in terms of cost.

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

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

The Proposed Project does not qualify as a "new institutional health service" under any other provision of the CON Statute, specifically including N.C. Gen. Stat. section 131E1-17(16). The Proposed Project does

Lisa Pittman
August 10, 2021
Page 5

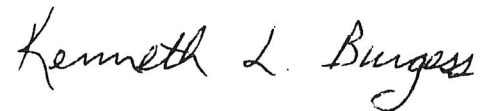
not involve a change in bed capacity, the construction or other development a new health service or health service facility, the acquisition of major medical equipment or any other item or service which qualifies as a new institutional health service. Other than the proposed project expenditure which exceeds \$2,000,000.00, and from which Mission qualifies for an exemption pursuant to N.C. Gen. Stat. 131E-184(g), there are no other "new institutional health service" definitional elements that apply to the Proposed Project.

Conclusion

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

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

Very truly yours,



Kenneth L. Burgess
Partner

cc: Joseph R. Rudisill
Cathi Durham
Sondra Smith

Exhibits

EXHIBIT A

**Projected Capital Cost Form
Mission Hospital Women's Services Renovations**

Building Purchase Price	\$0.00
Purchase Price of Land	\$0.00
Closing Costs	\$0.00
Site Preparation	\$0.00
Construction/Renovation Contract(s)	\$16,146,900.00
Landscaping	\$0.00
Architect / Engineering Fees	\$1,095,600.00
Medical Equipment (*includes Furniture)	\$1,763,300.00
Non-Medical Equipment (IT and Telecomm)	\$1,237,060.00
Furniture*	\$0.00
Consultant Fees (specify)	\$0.00
Financing Costs	\$0.00
Interest during Construction	\$432,300.00
Other (specify)	\$0.00
Total Capital Cost	\$20,675,160.00

CERTIFICATION BY A LICENSED ARCHITECT OR ENGINEER

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



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

Date Signed: 8/3/2021 _____

CERTIFICATION BY AN OFFICER OR AGENT FOR THE PROPONENT

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

Joseph R. Rudisill

Digitally signed by Joseph R.
 Rudisill
 Date: 2021.08.04 16:05:48 -04'00'

 Signature of Officer/Agent

Date Signed: _____

Joseph Rudisill
 COO, Mission Hospital

EXHIBIT B

STATEMENT OF JOSEPH R. RUDISILL

1. I am the Chief Operating Officer for MH Mission Hospital, LLLP (“Mission”). I am personally familiar with Mission Hospital’s Proposed Project which involves renovation and upgrading of the Hospital’s Women’s Center and I make this statement in support of Mission’s Notice of Exemption to the N.C. Certificate of Need Section.

2. As part of my duties as Chief Operating Officer, I am responsible for the oversight of all operations for Mission Hospital, which includes its Women’s Center.

3. I am personally familiar with the proposed project which involves renovating, upgrading and reconfiguring portions of the Women’s Center located in the East Building/G Tower of the hospital’s main campus at 509 Biltmore Avenue, Asheville, N.C.

4. Under pain of perjury I certify that the total costs of the project are approximately TWENTY MILLION, SIX HUNDRED SEVENTY-FIVE THOUSAND, ONE HUNDRED SIXTY DOLLARS (\$ 20,675,160.00).

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

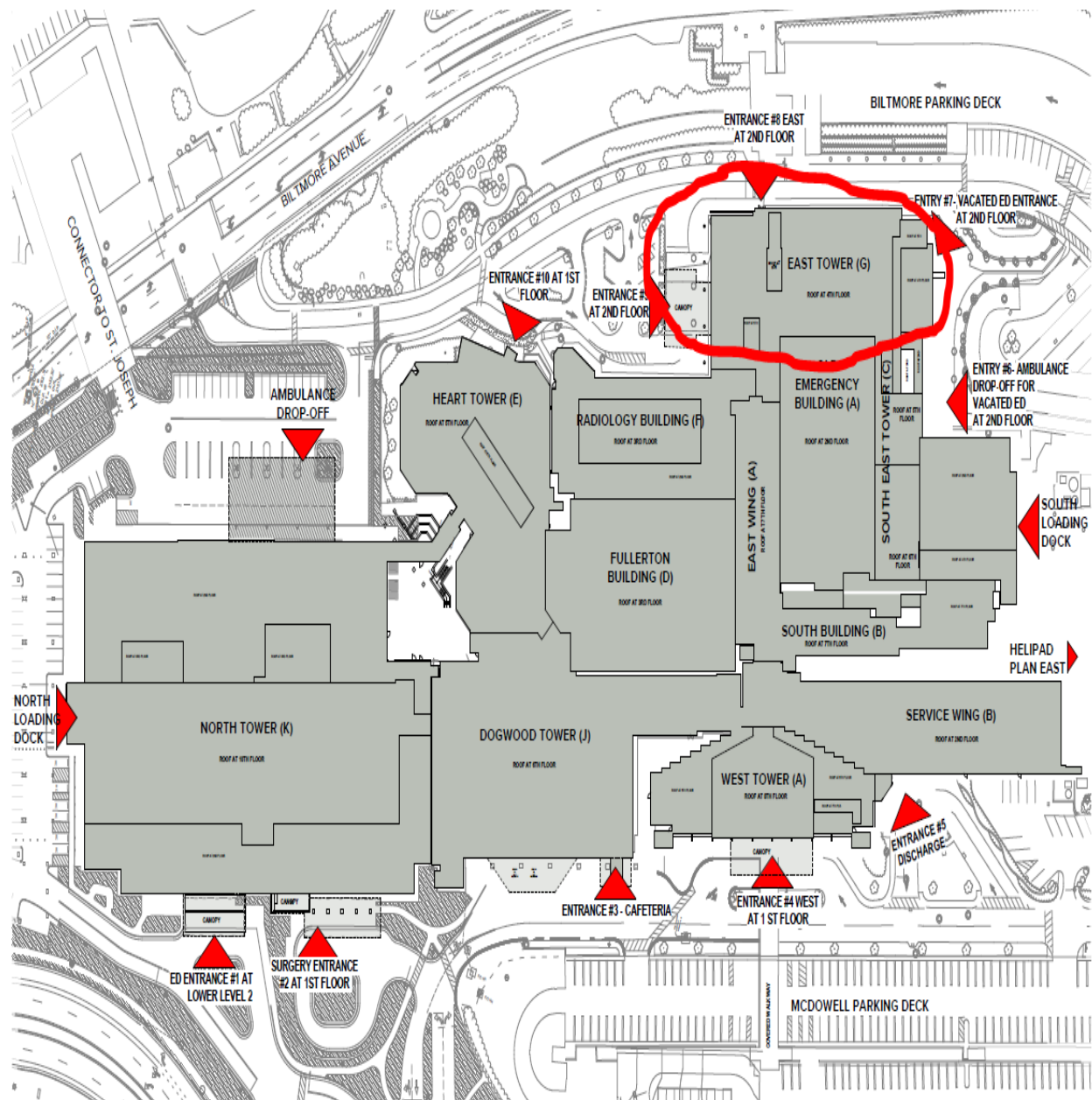
This the 5th day of August, 2021.

**Joseph R.
Rudisill**

Digitally signed by Joseph
R. Rudisill
Date: 2021.08.05 13:41:09
-04'00'

JOSEPH R. RUDISILL
Chief Operating Officer
MH Mission Hospital, LLLP

EXHIBIT C



From: [Mitchell, Micheala L](#)
To: [Burgess, Kenneth L.](#); [Pittman, Lisa](#)
Cc: [Lightbourne, Ena](#); [Waller, Martha K](#)
Subject: RE: [External] Mission Hospital Women's Center Renovation Exemption Notice
Date: Tuesday, August 10, 2021 10:26:59 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)

Received. Thanks Ken.

Best,

Micheala

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

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

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

From: Burgess, Kenneth L. <KBurgess@poynerspruill.com>
Sent: Tuesday, August 10, 2021 10:25 AM
To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>; Pittman, Lisa <lisa.pittman@dhhs.nc.gov>
Cc: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: [External] Mission Hospital Women's Center Renovation Exemption Notice

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

Dear Micheala, Lisa and Ena, attached please find an Exemption Notice I am filing on behalf of our client MH Mission Hospital, LLLP in connection with certain renovations to the Women's Center at the main hospital in Asheville. Please let me know if you have any questions or need further information regarding this proposed project. Thank you, Ken Burgess

Kenneth L. Burgess | Partner



1151 Falls Road, Suite 1000

Rocky Mount, N.C. 27804

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

Kburgess@poynerspruill.com | www.poynerspruill.com



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