

CO 2018-029

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May 01 2018

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY



**Kevin D. Morgan**  
morgan@baudino.com  
Resident in Des Moines Office

**Via Electronic Mail**

May 1, 2018

State Health Planning and Development Agency  
Attn: Alva M. Lambert, Executive Director  
RSA Union Building  
100 N. Union Street – Suite 870  
Montgomery, Alabama 36104

RE: Notice of Change of Ownership/Control  
Cherokee Medical Center, SHPDA ID 019-6530313

Dear Mr. Lambert:

We respectfully submit this letter as an attachment to the accompanying Notice of Change of Ownership/Control (“Notice”) submitted electronically to the State Health Planning and Development Agency (“SHPDA”) in compliance with all applicable provisions of ALA. CODE § 22-21-270 (1975 as amended) and Chapter 410-1-7-.04, Rules and Regulations of the Alabama Certificate of Need Program (“Rules”) by NNZ Holdings, LLC, Cherokee County Health Care Authority, and Floyd Cherokee Medical Center, LLC in connection with the change of ownership, change of operator, and change of name of Cherokee Medical Center, a 60-licensed bed general acute care hospital located at 400 Northwood Drive, Centre, Cherokee County, Alabama, 35960 (the “Hospital”).

Under the terms of an Asset Purchase Agreement dated April 14, 2018, by and among Centre Hospital Corporation, an Alabama corporation which is the current owner and operator of the Hospital (“CHC”), several of CHC’s affiliates, including Centre Clinic Corp., an Alabama corporation (“CCC”), Centre RHC Corp., an Alabama corporation (“CRHCC”), and Centre HBP Services, LLC, a Delaware limited liability company (“CHBPS”) (CHC, CCC, CRHCC, and CHBPS are collectively referred to as the “Sellers”), the Cherokee County Health Care Authority, an Alabama public corporation organized and existing under the Health Care Authorities Act of 1982, Code of Ala. §§ 22-21-310 *et seq.* (“Authority”), and Floyd Cherokee Medical Center, LLC, an Alabama limited liability company (“FCMC”), the Sellers agreed to sell, transfer and convey all of the assets used in the operation of the Hospital and related services, with title to all real

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property, buildings, and improvements used in the operation of the Hospital to be transferred from Sellers to the Authority, and with title to all tangible and intangible personal property used in the operation of the Hospital, including but not limited to equipment and inventory, to be transferred to FCMC. The purchase price for all assets to be sold, conveyed and transferred under the Asset Purchase Agreement is \$1,700,000.00, minus certain adjustments and prorations between the parties which have not yet been determined (“Purchase Price”), the total amount of which is to be paid by the Authority, with title to the assets transferred as described above. Pursuant to the Asset Purchase Agreement, the closing of the foregoing transactions is set to occur not later than May 31, 2018 with operation of the Hospital by FCMC beginning 12:01 AM June 1, 2018.

Simultaneous with the closing of the transactions under the Asset Purchase Agreement described above, a lease agreement between the Authority and FCMC (“Lease Agreement”) will commence under which the Authority will lease to FCMC the real property, buildings and improvements acquired by the Authority under the Asset Purchase Agreement and used in the operation of the Hospital. Under the Lease Agreement, FCMC will be the lessee of such real property, buildings, and improvements, and will be the operator of the Hospital, with a change in the name of the Hospital to “Floyd Cherokee Medical Center,” under a license to be issued by the Division of Provider Services, Alabama Department of Public Health to FCMC.

As provided under Ala. Code § 22-21-270(d), the certificate of need associated with the Hospital (“CON”) has vested in and continues in full force and effect as part of the Hospital. Under the terms of the Lease Agreement, the Authority will have and maintain ultimate authority and control over the disposition of the CON, as the Authority’s approval is required for any of the following actions, any of which SHPDA may deem to result in the disposition of the CON: (i) a change in essential services provided at or through the Hospital by FCMC; (ii) a sale of the real property, buildings and improvements used in the operation of the Hospital; or (iii) closure of the Hospital. Because of the foregoing provisions of the Lease Agreement, and despite any provisions in the Asset Purchase Agreement which purport to require the transfer of title to all tangible and intangible personal property used in the operation of the Hospital and related services from the Sellers to FCMC, it is the position of the Authority and FCMC that the Authority will in fact be the holder of the CON and the “Acquiring Entity” for purposes of the Notice, as again, the Authority will have and maintain authority and control over the disposition of the CON upon the closing of the transactions under the Asset Purchase Agreement and the commencement of the Lease Agreement.

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Attached to the Notice is an organizational chart showing the current organizational structure of Cherokee Medical Center, the proposed transactions set to occur effective 12:01 AM June 1, 2018, and the post-June 1, 2018 organizational structure of Floyd Cherokee Medical Center. As shown on the current Cherokee Medical Center organizational chart, NNZ Holdings, LLC, a Florida limited liability company (“NNZH”), is the owner of one hundred percent of the capital stock of CHC. As such, it is our understanding that approval of the disposition of the CON associated with the Hospital requires approval by NNZH. For this reason, NNZH has been identified as the “Owner” in Part II of the Notice. CHC, the actual owner and operator of the Hospital, is identified in Part II of the Notice as the “Operator.” As explained above, the Authority is identified as the “Acquiring Entity” in Part III of the Notice. Finally, FCMC, which will be the operator of the Hospital upon the commencement of the Lease Agreement, is identified as the “Operator” in Part III of the Notice.

The Lease Agreement does not require and FCMC does not intend in the immediate future to acquire any additional major capital equipment for use at the Hospital, however, FCMC understands that any acquisition of equipment must comply with Alabama’s Certificate of Need laws. The transactions contemplated by the Asset Purchase Agreement and the Lease Agreement do not include any construction costs or additional capital expenditures, however again, FCMC understands that any such construction plans or additional capital expenditures would also need to comply with the Certificate of Need laws.

As provided under Ala. Code § 22-21-270(d), the CON has vested in and continues in force and effect as a part of the Hospital, and thus according to the same section of the Code of Alabama the CON will survive changes of control and changes of ownership of the Hospital without further certificate of need approval by the State Health Planning and Development Agency. Based on the above description of the transactions contemplated by the Asset Purchase Agreement and the Lease Agreement and a showing in the Notice that there will be no change in health services, conversion of beds, or increase or decrease in bed capacity, we respectfully request that you exercise your authority under Chapter 410-1-7-.04(2) of the Rules and determine that a certificate of need is not required for the consummation of the transactions contemplated by the Asset Purchase Agreement and the Lease Agreement. In accordance with the Rules, payment in the amount of \$2,500.00 has been made through the Electronic Payment Portal available through SHPDA’s website.

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Should you have any questions with regard to the Notice, please do not hesitate to reach out to me at (515) 282-1010 or [morgan@baudino.com](mailto:morgan@baudino.com).

Thank you for your attention to this matter.

Sincerely,



Kevin D. Morgan

cc: Victor Moldovan, Esq.  
Thomas Manning, Esq.

**Baudino Law Group, PLC**  
2600 Grand Avenue, Suite 100  
Des Moines, Iowa 50312  
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C02018-029

**NOTICE OF CHANGE OF OWNERSHIP/CONTROL**

The following notification of intent is provided pursuant to all applicable provisions of ALA. CODE § 22-21-270 (1975 as amended) and ALA. ADMIN. CODE r. 410-1-7-.04. This notice must be filed at least twenty (20) days prior to the transaction.

- Change in Direct Ownership or Control (of a vested Facility; ALA. CODE §§ 22-20-271(d), (e))
- Change in Certificate of Need Holder (ALA. CODE § 22-20-271(f))
- Change in Facility Management (Facility Operator)

Any transaction other than those above-described requires an application for a Certificate of Need.

**Part I: Facility Information**

SHPDA ID Number: 019-6530313  
(This can be found at [www.shpda.alabama.gov](http://www.shpda.alabama.gov), Health Care Data, ID Codes)

Name of Facility/Provider: Cherokee Medical Center  
(ADPH Licensure Name)

Physical Address: 400 Northwood Drive  
Centre, AL 35960

County of Location: Cherokee

Number of Beds/ESRD Stations: 60

CON Authorized Service Area (Home Health and Hospice Providers Only). Attach additional pages if necessary. \_\_\_\_\_

**Part II: Current Authority** (Note: If this transaction will result in a change in direct ownership or control, as defined under ALA. CODE § 22-20-271(e), please attach organizational charts outlining current and proposed structures.) See Attachment 1

Owner (Entity Name) of Facility named in Part I: NNZ Holdings, LLC

Mailing Address: 8411 West Oakland Park Blvd, Suite 302  
Sunrise, FL 33351

Operator (Entity Name): Centre Hospital Corporation

**Part III: Acquiring Entity Information**

Name of Entity: Cherokee County Health Care Authority

Mailing Address: c/o Eric Ellis 1731 Easton Court  
Auburn, Alabama 36830

Operator (Entity Name): Floyd Cherokee Medical Center, LLC

Proposed Date of Transaction is on or after: June 1, 2018

**Part IV: Terms of Purchase**

Monetary Value of Purchase: \$ 1,700,000

Type of Beds: Acute

Number of Beds/ESRD Stations: 60

**Financial Scope:** to include Preliminary Estimate of the Cost Broken Down by Equipment, Construction, and Yearly Operating Cost:

Projected Equipment Cost: \$ See Attachment 2

Projected Construction Cost: \$ \_\_\_\_\_

Projected Yearly Operating Cost: \$ \_\_\_\_\_

Projected Total Cost: \$ \_\_\_\_\_

**On an Attached Sheet Please Address the Following:** See Attachment 3

- 1.) The services to be offered by the proposal (the applicant will state whether he has previously offered the service, whether the service is an extension of a presently offered service, or whether the service is a new service).
- 2.) Whether the proposal will include the addition of any new beds.
- 3.) Whether the proposal will involve the conversion of beds.
- 4.) Whether the assets and stock (if any) will be acquired.

**Part V: Certification of Information**

**Current Authority Signature(s):**

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s): ARON DURALL



Operator(s): \_\_\_\_\_

Title/Date: PRESENIAT

April 26, 2018

SWORN to and subscribed before me, this 26<sup>th</sup> day of April, 2018.

(Seal)



[Signature]  
Notary Public

My Commission Expires: Aug 13<sup>th</sup> 2020

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): \_\_\_\_\_

Operator(s): \_\_\_\_\_

Title/Date: \_\_\_\_\_

SWORN to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Author: Alva M. Lambert  
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975  
History: New Rule

SWORN to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_,

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): Eric Ellis \_\_\_\_\_

*Eric Ellis*

Operator(s): \_\_\_\_\_

Title/Date: Chairman \_\_\_\_\_

SWORN to and subscribed before me, this 30 day of APRIL, 2011.

(Seal)



*[Signature]*  
Notary Public

My Commission Expires: 11/7/2021

Author: Alva M. Lambert

Statutory Authority: § 22-21-271(c), Code of Alabama, 1975

History: New Rule



SWORN to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Acquiring Authority Signature(s):**

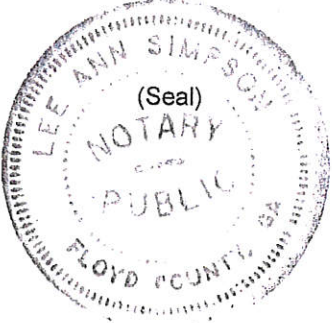
I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Kurt Stuenkel

Operator(s): Kurt Stuenkel

Title/Date: President/CEO

SWORN to and subscribed before me, this 30<sup>th</sup> day of April, 2018.

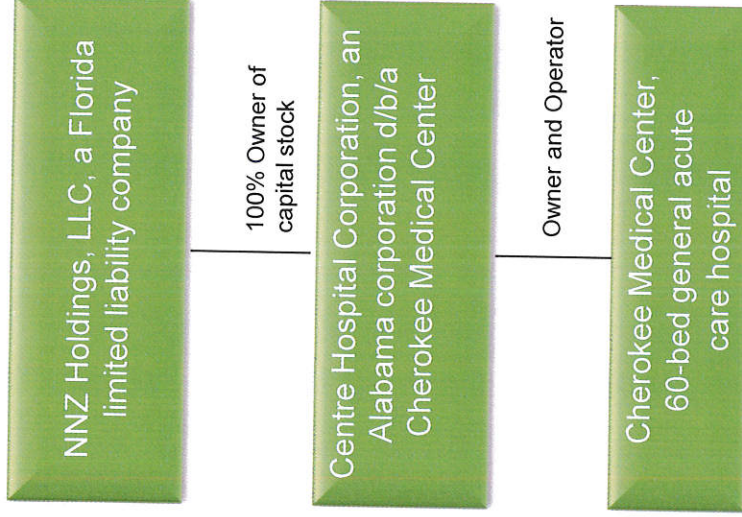


Lee Ann Simpson  
Notary Public

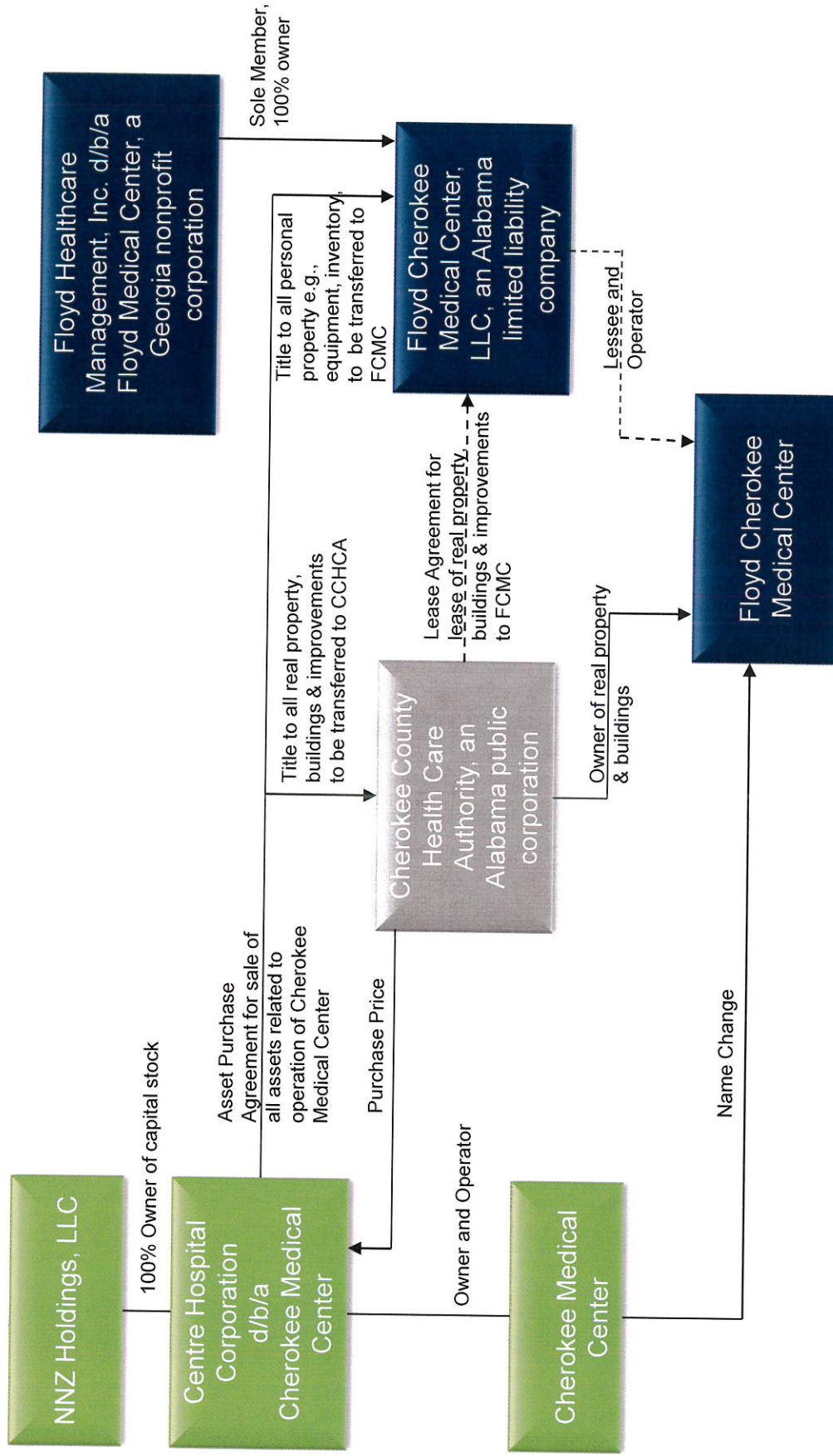
My Commission Expires: 4/11/2022

Author: Alva M. Lambert  
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975  
History: New Rule

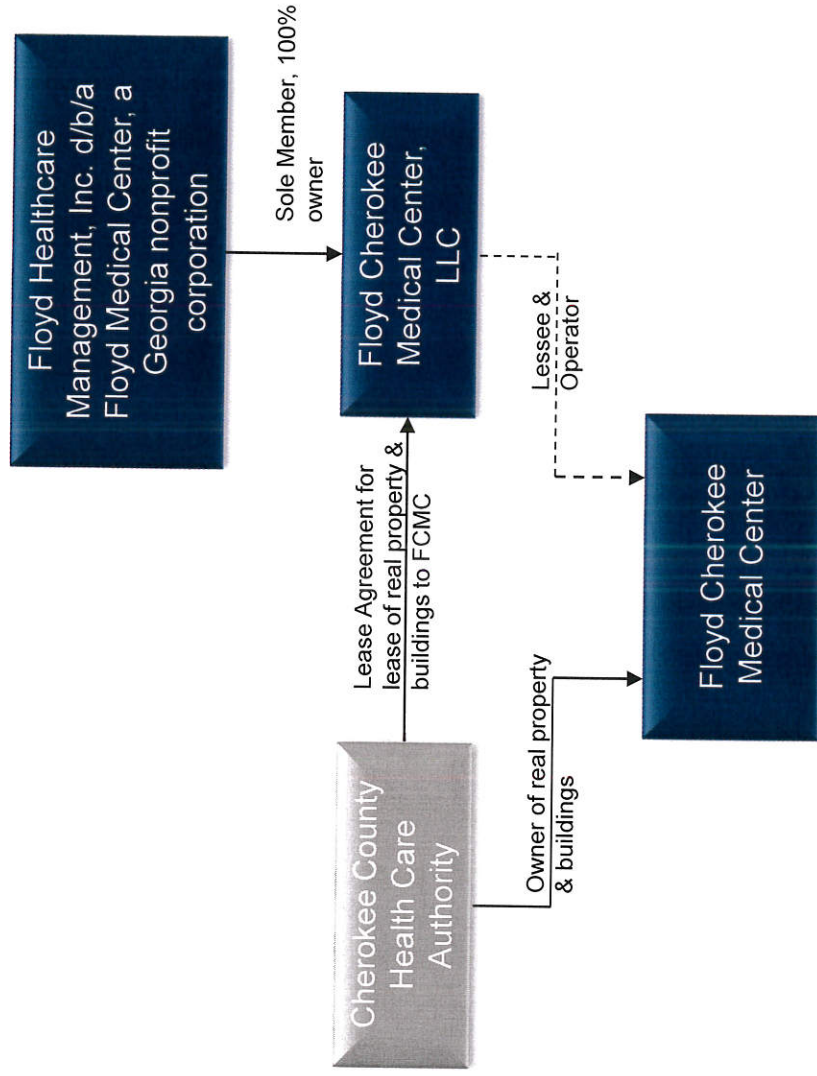
# Current Cherokee Medical Center Organizational Structure



# Transaction Proposed to Occur Effective June 1, 2018



# Floyd Cherokee Medical Center Organizational Structure Effective June 1, 2018



**Attachment 2 to Notice of Change of Ownership/Control**

**Cherokee Medical Center, SHPDA ID Number 019-6530313**

**Part IV: Terms of Purchase**

**Financial Scope: to Include Preliminary Estimate of the Cost Broken Down by Equipment, Construction, and Yearly Operating Cost:**

Under the terms of the Asset Purchase Agreement, as defined in and described in more detail in the cover letter attached to this Notice, the Purchase Price for the transactions contemplated under the Asset Purchase Agreement, negotiated and agreed upon through arms-length negotiations between the parties, is \$1,700,000.00, minus certain adjustments and prorations between the parties which have not yet been determined, with the Purchase Price to be paid to the Sellers by the Authority. As the Purchase Price includes all real property, buildings, and improvements being sold, conveyed, and transferred by the Sellers to the Authority and all tangible and intangible personal property assets being sold, conveyed, and transferred to FCMC, all as provided under the Asset Purchase Agreement, the parties have not allocated any particular part of the Purchase Price to the real property or the personal property. The Purchase Price does not reflect any new costs for major medical equipment, new annual operating costs, or other capital expenditures. The Projected Yearly Operating Cost identified below is based on the current operation of the Hospital, and thus does not reflect any new annual operating costs. In light of the foregoing, the information for the Financial Scope section of Part IV is as follows:

Projected Equipment Cost:	\$0
Projected Construction Cost:	\$0
Projected Yearly Operating Cost:	\$15,024,000
Projected Total Cost:	\$15,024,000

### **Attachment 3 to Notice of Change of Ownership/Control**

#### **Cherokee Medical Center, SHPDA ID Number 019-6530313**

1. Services to be Offered by the Proposal. The transactions contemplated under the Asset Purchase Agreement and Lease Agreement, as defined and described in the cover letter attached to this Notice, will not result in any new or additional services to those already authorized to be provided at Cherokee Medical Center. Cherokee Medical Center, which effective June 1, 2018 will be owned by the Cherokee County Health Care Authority (“Authority”) and operated by Floyd Cherokee Medical Center, LLC, under the name “Floyd Cherokee Medical Center” pursuant to the Lease Agreement, is a licensed 60-bed hospital located in the City of Centre, Cherokee County, Alabama. The Hospital serves the health care needs of the residents of Cherokee County and the surrounding areas as a general acute care hospital. It is the goal of Floyd Cherokee Medical Center, LLC to fulfill this mission within the capabilities of the facility and its staff and to do so in a caring and compassionate manner. Floyd Cherokee Medical Center will serve patients of all ages regardless of national or ethnic origin, economic status, lifestyle, creed or beliefs.

Floyd Cherokee Medical Center, LLC will offer the following services at Floyd Cherokee Medical Center, which are currently provided at Cherokee Medical Center:

- Acute care services, including inpatient and outpatient
- 24-hour, 365-day emergency services
- Radiologic services, including CT, ultrasound, nuclear medicine, MRI, Fluro, and general x-rays
- Clinical laboratory services, including inpatient and outpatient

- Surgical services
  - Physical therapy, occupational therapy, speech therapy
  - Respiratory therapy
  - Non-invasive cardiology, including echocardiograms, venous studies, and stress testing
  - Basic in-hospital pharmacy services
  - Nutritional services
2. Whether the Proposal Will Include the Addition of Any New Beds. The proposal does not include the addition of any new beds.
  3. Whether the Proposal Will Include the Conversion of Any Beds. The proposal does not include the conversion of any beds.
  4. Whether the Assets and Stock (if any) Will be Acquired. No stock will be acquired by the Cherokee County Health Care Authority (“Authority”) or Floyd Cherokee Medical Center, LLC (“FCMC”) from Center Hospital Corporation (“CHC”), which is the current owner of Cherokee Medical Center, or CHC’s sole shareholder, NNZ Holdings, LLC. As described in more detail in the cover letter attached to this Notice, the transactions contemplated by the Asset Purchase Agreement and the Lease Agreement in combination involve a sale of the assets used in the operation of Cherokee Medical Center under the Asset Purchase Agreement, with title to such assets to be transferred as provided in the Asset Purchase Agreement, and the lease of real property, buildings, and improvements acquired by the Authority under the Asset Purchase Agreement and used in the operation of the Hospital by the Authority to FCMC. The accounts receivable of Cherokee Medical Center will stay with CHC. There are a very few, if any, minor equipment type items that

will be purchased by FCMC. Any purchase of equipment will be minimal in both number and value.