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AL2018-005

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STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

October 5, 2020

Via Electronic Filing

([shpda.online@shpda.alabama.gov](mailto:shpda.online@shpda.alabama.gov) & SHPDA Online Filing)

Ms. Emily T. Marsal

Executive Director

State Health Planning and Development Agency

100 North Union Street, Suite 870

Montgomery, Alabama 36104

RE: Project Modification Request  
CON 2913-ASC; Project Number AL 2018-005  
Bay Eyes Surgery Center, Inc.

Dear Ms. Marsal:

On September 28, 2020, a Progress Report relating to CON 2913-ASC granted to Bay Eyes Surgery Center, Inc. ("Bay Eyes") was filed notifying the Alabama State Health Planning and Development Agency (the "Agency") that Bay Eyes inaugurated the new service approved by CON 2913-ASC by performing non-ophthalmic surgical procedures. The Agency responded to the Progress Report on October 1, 2020, and requested information relating to the construction/renovation plans that were described in the CON application. The Agency indicated that a Project Modification should be requested if construction/renovation is no longer contemplated at this time.

In response to the Agency's request, please accept this letter as a request for project modification, pursuant to Rule 410-1-10-.03 of the Alabama Certificate of Need Program Rules and Regulations ("SHPDA Rules") for CON 2913-ASC for the reasons expressed herein.

In addition to approving its expansion to a multi-specialty ambulatory surgery center ("ASC"), CON 2913-ASC indicated that "[a]t the conclusion of the proposal, the facility will operate four (4) Class-C operating rooms." However, Bay Eyes does not intend to undertake the renovation described in its CON application to expand to four operating rooms at this time and will continue operating its multi-specialty ASC in its existing space and offering multi-specialty surgical procedures in the existing operating rooms.

When Bay Eyes filed its CON application in November 2017, it intended to undertake the renovation described in its CON application in addition to expanding to multiple specialties. Over the past three years, a number of factors have impacted Bay Eyes' plans for this surgery center. As the Agency is aware, Bay Eyes now intends to transfer certain of its multi-specialty surgery center assets to a new owner upon receipt of all appropriate regulatory approvals. Due to this

planned transfer and other changes that have occurred over the past three years, Bay Eyes no longer intends to undertake the construction project described in its 2017 CON application.

The requested modification will not involve the addition of beds, a change in bed classification, or the provision of new health services not specified in the CON application. The requested modification does not involve any increase in proposed project costs or a physical relocation of the facility.

In response to the Agency's October 1, 2020, request, Bay Eyes respectfully requests the issuance of a project modification to CON 2913-ASC to reflect that Bay Eyes does not intend to renovate its ASC to operate four (4) Class-C operating rooms. CON 2913-ASC qualifies for a project modification pursuant to Rule 410-1-10-.03 (project modifications after issuance of CON) for the reasons stated herein. All parties of record in the underlying administrative proceeding relating to CON-2913-ASC will be notified of this request for project modification as required by Rule 410-1-10-.03(1)(b). A filing fee in the amount of \$7,946.05, which is 35% of the original CON Application fee, will be delivered to the Agency via Fed Ex.

Should you have any questions or need further information, please feel free to contact either of us. Thank you in advance for your assistance with this matter.

Best regards,



Holly S. Hosford

cc: James E. Williams, Counsel for Intervenors in Project AL 2018-005  
([JWilliams@mewlegal.com](mailto:JWilliams@mewlegal.com))