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STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



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May 25, 2017

VIA E-MAIL (shpda.online@shpda.alabama.gov)

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ALVA M. LAMBERT
Executive Director
State Health Planning and Development Agency
100 North Union Street, Suite 870
Montgomery, AL 36140

**Re: *The Children's Hospital of Alabama
Request for Non-Reviewability Determination***

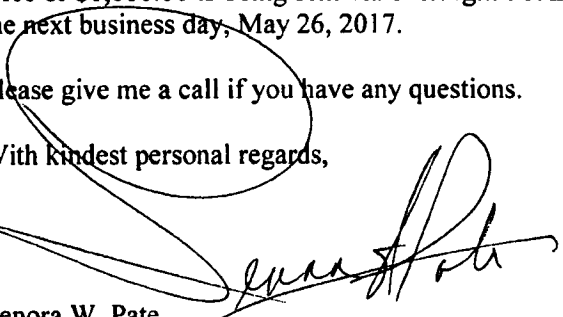
Dear Mr. Lambert:

On behalf of The Children's Hospital of Alabama ("Children's Hospital") and pursuant to the Alabama Certificate of Need ("CON") Program Rules and Regulations ("CON Rules") § 410-1-7-.02 and § 410-1-3-.09, attached hereto as **Exhibit A** is a Request for your determination that the construction of a new, non-clinical office building and adjacent 1,500 space parking deck on the Children's Hospital campus does not require a CON in that it does not involve a new institutional health service, and, is expressly **exempt** from Certificate of Need Review pursuant to Alabama Code §22-21-265(c) and CON Rule § 410-1-4-.01(1)(j).

In accordance with CON Rule § 410-1-3-.09, a pdf copy of this Request is being submitted electronically on the 25th day of May, 2017, to shpda.online@shpda.alabama.gov; a paper original will be preserved in our files; and a fee of \$1,000.00 is being sent via overnight FedEx to SHPDA on the 25th day of May, 2017, for delivery on the next business day, May 26, 2017.

Please give me a call if you have any questions.

With kindest personal regards,



Lenora W. Pate
FOR THE FIRM

LWP/lcc
Enclosure

Birmingham Huntsville Mobile Fort Lauderdale Orlando Pensacola



ALVA M. LAMBERT
May 25, 2017
Page 2

c: Deborah Compton
Brad Williams
Mike McDevitt
Christi Napper

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MAY 25 2017

STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

EXHIBIT A

**BEFORE THE STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY OF THE STATE OF ALABAMA**

IN THE MATTER OF:)	
)	
THE CHILDREN'S HOSPITAL OF ALABAMA)	Request for Non-Reviewability
)	Determination
)	RV-_____

REQUEST FOR NON-REVIEWABILITY DETERMINATION

On behalf of The Children's Hospital of Alabama ("Children's Hospital") and pursuant to the Alabama Certificate of Need Program Rules and Regulations ("CON Rules") § 410-1-7-.02 and § 410-1-3-.09, and Alabama Code § 22-21-260, *et. seq.*, this Request is hereby filed with the State Health Planning and Development Agency ("SHPDA") for a determination that, the proposal by Children's Hospital, more fully described herein, to construct a new non-clinical office building and adjacent 1,500 space parking deck on its campus, is not subject to CON Review for the reasons stated below, and that no CON is required for this proposal ("Proposal").

The following factual and legal information is hereby included in support of this Request, and a Children's Hospital check in the amount of \$1,000 made payable to the State Health Planning and Development Agency is being filed in accordance with CON Rule § 410-1-3-.09, simultaneously with SHPDA, as the required filing fee for this Request pursuant to CON Rule § 410-1-7-.02.

PROPOSAL

1. Facts:

1.1 Children's Hospital is a not-for-profit Pediatric Specialty Hospital located in Birmingham, Alabama in Jefferson County. Since 1911, Children's Hospital has provided specialized medical care for ill and injured children, offering inpatient and outpatient services throughout Central Alabama. Ranked among the best pediatric medical centers in the nation by U.S. News and World Report,

Children's provided care for children from every county in Alabama, 42 other States, and 10 Foreign Countries last year, representing more than 748,000 outpatient and Emergency Department visits, and nearly 16,000 inpatient discharges. Children's Hospital has more than 4,700 employees. With more than 2 Million square feet, Children's Hospital is one of the largest pediatric medical facilities in the United States.

1.2 Due to the growth in its outpatient clinic volume, faculty recruitment efforts, employee base, and corresponding need for additional **non-clinical** office support staff, Children's Hospital is experiencing non-clinical office space and parking shortage needs. As the main campus of Children's Hospital has expanded with the opening of the Benjamin Russell Hospital for Children in 2012, and subsequent adaptive reuse of existing facilities for clinical programs, the need for additional parking and additional non-clinical office space on the campus of Children's Hospital has increased tremendously.

1.3 Children's Hospital currently leases approximately 47,000 square feet of **non-clinical** office space throughout downtown Birmingham. To consolidate and relocate this off-campus leased space to on-campus non-clinical office space and to accommodate further non-clinical office space capacity on the main campus, Children's Hospital has identified a significant need for a **new non-clinical office building for non-clinical staff offices on its main campus**.

1.4 In addition to identifying non-clinical staff office needs, Children's has also identified the need for additional **on-campus parking** to address a current parking deficit and accommodate future parking growth needs. Children's Hospital completed a parking study in 2016 and identified a current 95% occupancy rate in the two main parking decks of Children's Hospital during high patient visit times which far exceeds the 88% industry standard. The current parking limitations and deficit have resulted in patients not reaching outpatient clinics in a timely manner. As a short term remedy to accommodate its patients' parking needs, Children's has recently procured temporary staff parking elsewhere on campus and in neighboring facilities in nearby areas.

1.5 In summary, the Proposal allows for the relocating of its non-clinical office staff from leased off campus offices to a new non-clinical staff support office building on campus, and additional parking for the current off-site employees relocating to the campus pursuant to this Proposal, and much needed additional parking for patients.

1.6 The Proposal, therefore, consists of a **six story non-clinical office building** with approximately 115,000 gross square feet (or 100,000 usable square feet), and a **12 story parking deck with approximately 1,500 spaces**.. Approximately 50% of the office building will be shell space to accommodate future growth, while relocating the current 47,000 square feet of leased non-clinical office staff space off campus into the new on campus 6 story non-clinical office staff building.

1.7 The Proposal will be located on the Children's campus on Block 151, just north of 4th Avenue South in the Parkside District of Birmingham, Alabama, where the Children's Hospital surface parking lot B, warehouse, and it's Central Energy Plant ("CEP") currently reside. Block 151 is bounded on the North by 3rd Avenue South, on the South by 4th Avenue South, and on the West by 16th Street, and on the East by 17th Street. This location provides a unique opportunity for an elevated bridge connection to the existing Children's Park Place building immediately south across 4th Avenue and the "Main Street" connector to all Children's on-campus facilities. Hence the Proposal will include the elevated bridge, and will utilize the existing CEP for cooling, heating, and emergency generator power for the new structures. In preparation for the Proposal's construction, the existing Children's Hospital surface parking lot will be vacated and the warehouse will be razed; however, the Central Energy Plant will be preserved with adequate adjacent land saved for needed future expansions of that facility.

1.8 Currently, the Alabama Children's Hospital Foundation owns the land where the proposed non-clinical office building and the 1,500 parking space deck are being planned. Options are being evaluated now on whether Children's Hospital will lease or acquire the land from the Foundation. The non-clinical office-staff building and parking deck, however, will be operated by Children's Hospital for the housing and parking of its non-clinical office support staff.

1.9 The new proposed Children’s Hospital on-campus non-clinical office building will **not** include any clinical space or clinical operations. Hence, it will not allow for Children’s Hospital to provide any new institutional health services at all in the proposed non-clinical office building. It will provide only for the consolidation and relocation of the non-clinical office support staff operating Children’s Human Resources, Financial, and other business support activities in the existing 47,000 square feet of non-clinical office space currently leased off campus around Birmingham. In addition, it will include 50,000 square feet which will remain in shell space condition for future operations for non-clinical staff offices only.

1.10 The Proposal will involve the following costs:

- Equipment - \$1,185,307
- Capital Costs \$53,814,693
- First Year Annual Operating Costs \$2,602,540

2. Legal Analysis.

2.1 The Proposal does not involve a “new institutional health service” subject to CON Review within the meaning of Alabama Code § 22-21-263 and CON Rule § 410-1-4-.01, in that the Proposal does not include:

- (a) the construction, development, acquisition through lease or purchase or other establishment of a new health care facility or health maintenance organization;
- (b) any expenditure by or on behalf of a health care facility or health maintenance organization, the capital expenditure of which exceeds the CON statutory thresholds for major medical equipment, new annual operating costs, or any other capital expenditure by or on behalf of a health care facility (**exempt** per Alabama Code § 22-21-265(c), per Paragraph 2.2 hereof below);
- (c) the addition of any new health care facility beds or stations;

(d) any health service which is proposed to be offered in or through Children's Hospital which was not offered on a regular basis in or through Children's Hospital within the preceding twelve (12) month period; or

(e) any other reviewable event under the existing CON Laws, Rules, or Regulations of the State of Alabama.

2.2 Moreover, the Proposal is expressly **exempted from CON Review by Alabama Code § 22-21-265(c)** which provides as follows:

Notwithstanding any other provision of this Article to the contrary, the modernization or construction of a non-clinical building, parking facility, or any other non-institutional health services capital item on the existing campus of a healthcare facility shall be exempt from Certificate of Need Review, provided the construction or modernization does not allow the healthcare facility to provide new institution health services subject to review and not previously provided on a regular basis.

2.3 Furthermore, CON Rule 410-1-4-.01(1)(j), provides that

the modernization or construction of a non-clinical building, parking facility or any other non-institutional health services capital item on the existing campus of a health care facility shall be exempt from Certificate of Need review provided the construction or modernization does not allow the health care facility to provide any new institutional health services subject to review and not previously provided on a regular basis.

2.4 The Proposal, therefore, is expressly **exempted** from CON Review pursuant to the above quoted CON law and regulation.

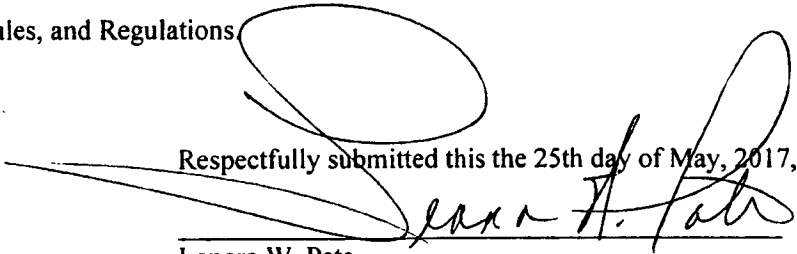
2.5 Considering that the Proposal involves only the construction of a non-clinical office building and a 1,500 space adjacent parking deck on the Children's Hospital campus and does not allow Children's Hospital or any healthcare facility to provide any new institutional health services subject to CON Review, the Proposal is not subject to CON Review under any existing laws, rules, or regulations of the State of Alabama.

3. Conclusion and Request.

3.1 This Proposal does not involve a new institutional health service subject to CON Review under the CON Rules § 410-1-4-.01, *et. seq.* and Alabama Code § 22-21-260, *et. seq.* Rather, the Proposal is expressly **exempted** from CON Review pursuant to CON Rule § 410-1-4-.01(1)(j) and Alabama Code §22-21-265(c) since the construction of a non-clinical office building and adjacent parking facility on the existing Children's Hospital campus does not allow Children's Hospital to provide any new institutional health services subject to review. This Proposal allows Children's Hospital to continue to provide its existing services at a capacity consistent with its growth in outpatient clinic volume, faculty recruitment efforts, employee base, and support staff needs with much needed non-clinical office and parking space located on its campus, rather than located in leased off-campus space.

3.2 Therefore, this Proposal is due to be determined as non-reviewable in accordance with the Alabama CON Laws, Rules, and Regulations

Respectfully submitted this the 25th day of May, 2017,



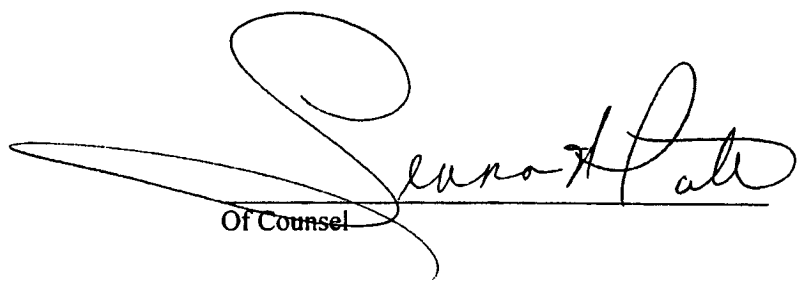
Lenora W. Pate
Attorney\ for The Children's Hospital of Alabama

OF COUNSEL:

Sirote & Permutt, P.C.
2311 Highland Avenue South
Birmingham, Alabama 35205
205.930.5162

CERTIFICATE OF SERVICE

I hereby certify that a PDF copy of the above and foregoing Exhibit A was electronically filed this the 25th day of May, 2017, with the State Health Planning and Development Agency via shpda.online@shpda.alabama.gov in accordance with CON Rule § 410-1-3-.09.


Of Counsel

Affirmation of Requesting Party:

The Undersigned, being first duly sworn, hereby makes oath or affirms that he, **WM. MICHAEL WARREN, JR.**, the President and CEO of the Children's Hospital of Alabama, has knowledge of the facts in this Request, and to the best of his information, knowledge and belief such facts are true and correct.


Wm. Michael Warren, Jr.

Seal

Subscribed and Sworn to before me this the 25th day of May 2017


Notary Public
My Commission Expires: _____

