

John T. Mooresmith  
jmooresmith@burr.com  
Direct Dial: (334) 387-2072  
Direct Fax: (205) 244-5685

RECEIVED

FEB 04 2014

STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY

RSA Tower  
201 Monroe Street  
SUITE 1950  
Montgomery, AL 36104

Office (334) 241-7000  
Fax (334) 262-0020  
Toll-free (877) 636-0422

BURR.COM

February 4, 2014

**VIA HAND DELIVERY**

Alva M. Lambert  
Executive Director  
State Health Planning and Development  
Agency  
RSA Union Building, Suite 870  
100 North Union Street  
Montgomery, AL 36104

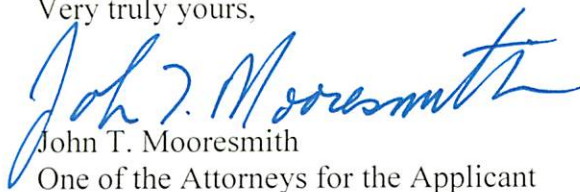
**Re: Notice of Request for Project Modification  
Vestavia Surgical Services, LLC  
Project Number: AL-2007-021  
CON-2544-ASC**

Dear Mr. Lambert:

Pursuant to CON Rule 410-1-10-.03, I enclose an original and two (2) copies of the Notice of Request for Project Modification for CON-2544-ASC, Project Number AL-2007-021, together with a check for the required filing fee specified under CON Rule 40-1-10-.03(1) in the amount of \$4,335.00, which is the amount equal to twenty-five percent (25%) of the original filing fee of \$17,340.00. A copy of this modification request has been served on all parties of record.

Please contact me if you have any questions or if we can provide you with any additional information.

Very truly yours,

  
John T. Mooresmith  
One of the Attorneys for the Applicant

JTM/tg  
Enclosures

John T. Mooresmith  
jmooresmith@burr.com  
Direct Dial: (334) 387-2072  
Direct Fax: (205) 244-5685

RECEIVED

FEB 04 2014

STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY

RSA Tower  
201 Monroe Street  
SUITE 1950  
Montgomery, AL 36104

Office (334) 241-7000  
Fax (334) 262-0020  
Toll-free (877) 636-0422

BURR.COM

February 4, 2014

**VIA HAND DELIVERY**

Alva M. Lambert  
Executive Director  
State Health Planning and Development  
Agency  
RSA Union Building, Suite 870  
100 North Union Street  
Montgomery, AL 36104

**Re: Notice of Request for Project Modification  
Vestavia Surgical Services, LLC  
Project Number: AL-2007-021  
CON-2544-ASC**

Dear Mr. Lambert:

Pursuant to Alabama Certificate of Need Program Rules and Regulations ("CON Rules") 410-1-10-.03, please accept this letter as a Notice of Request for Project Modification for the above referenced certificate of need ("CON"). In accordance with the CON Rules, a copy of this request has been served on all parties of record.

**Background:**

1. In 2007, Vestavia Surgical Services, LLC, filed a certificate of need application for an ambulatory surgery center to be located in Vestavia Hills, Alabama ("Project"). The Executive Summary of the Project stated: "This certificate of need application proposes to develop and operate a new multi-specialty Ambulatory Surgery Center location in Vestavia Hills, Alabama. The facility will be located within Jefferson County. The service area will reach the citizens of Alabama primarily located in Jefferson County. The facility will encompass four operating rooms and two procedure rooms within an estimated 15,500 square feet and create a much needed overflow valve for Brookwood Medical Center's existing operating suites. This will also allow Brookwood Medical Center to remain competitive within the market by partnering with many of its current surgeon utiliziers."

2. The Project was original opposed by Affinity Hospital, Princeton Baptist Medical Center, St. Vincent's Hospital and Birmingham Outpatient Surgery Center.

3. Affinity Hospital and Princeton Baptist Medical Center withdrew their opposition to the Project, and a contested case hearing was conducted. The Hearing Officer recommended approval of the Project, and the Certificate of Need Review Board ("Board") adopted the Recommended Order of the Hearing Officer. Birmingham Outpatient Surgery Center appealed the decision of the Board, but St. Vincent's Hospital did not.

4. The appeal by Birmingham Outpatient Surgery Center was ultimately unsuccessful, and the twelve (12) month time period for CON-2544-ASC started in April of 2013.

### **Proposed Project Modification**

During the lengthy course of the appeal of the CON granted to the Project a number of changes have occurred which have caused the Applicant to reconsider the location for the project. As approved, the Project is to be located in rented space just over the hill on Highway 31 a short distance from Brookwood Medical Center. With passage of the Affordable Care Act a great deal of uncertainty and unpredictability has been injected into the health care industry. Questions exist regarding potential changes in reimbursement, and the potential exists for expanded managed care with requirements and restrictions that are yet unknown. In light of this uncertainty, Brookwood Medical Center has made space available on its campus adjacent to its hospital facility to accommodate the Project.

Relocation of the ambulatory surgery center will make the Project more efficient in its stated purpose of serving as an overflow valve for Brookwood Medical Center's crowded operating rooms, make use of the ambulatory surgery center more convenient for Brookwood's surgeons and their patients, and increase patient safety by having all of the hospital's services immediately available to the ambulatory surgery center. Last week's weather is an example of the enhanced convenience and safety for patients if the Project is relocated. Patients, physicians and staff would be better served by being in space in the hospital than in a separate location in severe weather events.

The relocation will provide opportunities for sharing of services which will result in cost savings for both the surgery center and the hospital. The relocation of the Project to the hospital will allow surgery center access to the hospital's central sterile services, access to medicines during national shortages and backorders, access to laundry and linen services and access to the hospital's anesthesia services for specialized needs not available in a freestanding ambulatory surgery center.

Vestavia Surgical Services, LLC, respectfully requests the Board to allow it to relocate the Project from space which was to be leased on Highway 31 to the campus of Brookwood Medical Center, two (2) minutes driving time away. This will be a *de minimis* distance for the relocation, and the relocation will not increase either the cost or the scope of the project.

Alva M. Lambert  
February 4, 2014  
Page 3

---

It is our understanding that the practice of your agency is to begin a new twelve (12) month period from the date of the project modification for the project to commence.

Please contact me if you have any question or need any additional information.

Very truly yours,



John T. Mooresmith

JTM/tg  
Enclosures

410-1-10-.03(b)

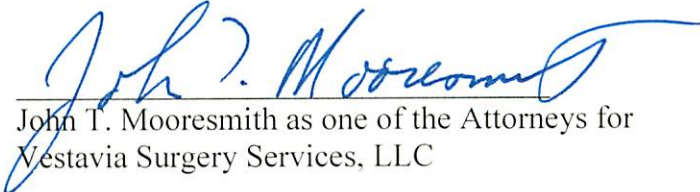
Project Modification After Issuance of Certificate of Need

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served a copy of the foregoing upon the listed parties of record by placing same in the United States Mail, postage prepaid and properly addressed, on this the 4<sup>th</sup> day of February, 2014.

Dennis Nabors, Esq.  
Baker Donelson  
614 South Hull Street  
Montgomery, AL 36104  
As Attorney for St. Vincent's Hospital

David M. Hunt, Esq.  
Gilpin Givhan PC  
Grandview II  
3595 Grandview Parkway, Suite 400  
Birmingham, AL 35243  
As Attorney for Birmingham Outpatient Surgery Center

  
John T. Mooresmith as one of the Attorneys for  
Vestavia Surgery Services, LLC