



Sirote & Permutt, PC
2311 Highland Avenue South
Birmingham, AL 35205-2972

PO Box 55727
Birmingham, AL 35255-5727

July 29, 2014

VIA E-MAIL & HAND DELIVERY

Alva M. Lambert
State Health Planning & Development Agency
100 North Union Street, Suite 870
Montgomery, AL 36130

**Re: Project Modification Request
Renal Treatment Centers – Southeast, LP d/b/a East Jefferson Dialysis
Project No. AL 2013-059; CON 2644-ESRD**

Dear Mr. Lambert:

This Project Modification Request is hereby filed on behalf of our client, Renal Treatment Centers – Southeast, LP d/b/a East Jefferson Dialysis (“East Jefferson Dialysis”), a subsidiary of DaVita Healthcare Partners Inc. (“DaVita”), to modify Project No. AL 2013-059 and CON 2644-ESRD related to the approved establishment and operation of a new state-of-the-art end stage renal disease (“ESRD”) facility consisting of two (2) existing in-center hemodialysis stations to be relocated from DaVita’s Birmingham East Dialysis, plus the addition of eight (8) new in-center hemodialysis stations, for a total of ten (10) in-center hemodialysis stations, in east Jefferson County, Alabama (“Project”).

Pursuant to Certificate of Need (“CON”) Rule § 410-1-10-.03, East Jefferson Dialysis respectfully requests the approval of this Project Modification Request to modify the Project as follows: i) change the current Doing Business As (“DBA”) name from East Jefferson Dialysis to Springs Dialysis, ii) relocate two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to East Jefferson Dialysis¹, iii) add one (1) new home training station to be used alternately for home peritoneal dialysis training and home hemodialysis training, and iv) increase the total estimated cost for the Project from \$4,755,000 to \$5,715,000 which is an increase of \$960,000.

This Project Modification Request is necessary for the following reasons:

1. Our client has learned from the Alabama Department of Public Health (“ADPH”) Licensure Division that the current DBA name, East Jefferson Dialysis, is too similar to an existing licensed health care provider in Alabama and must be changed to comply with the ADPH licensure and certification process. Consequently, this Project Modification Request is being filed to modify the Project to change the current DBA from Renal

¹ Magic City Dialysis is simultaneously filing a Project Modification Request to relocate two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to East Jefferson Dialysis, a copy of which is enclosed.

Lenora W. Pate
Attorney at Law
lpate@sirote.com
Tel: 205-930-5162
Fax: 205-212-3801



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Treatment Centers – Southeast, LP d/b/a East Jefferson Dialysis to Renal Treatment Centers – Southeast, LP d/b/a Springs Dialysis. Hence, only the DBA name will change; the legal entity remains unchanged.

2. For the reasons set forth in the enclosed Magic City Dialysis Project Modification Request, Magic City Dialysis is only able to add two (2) of its four (4) approved but undeveloped new in-center hemodialysis stations to its existing treatment floor without construction. Therefore, this Project Modification Request is also filed to relocate the remaining two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to East Jefferson Dialysis. Relocation is expressly allowed under CON Rule § 410-1-10-.03(2) with approval by the CON Review Board and has been approved for previous CON projects.

3. Since the issuance of CON 2644-ESRD on October 3, 2013, East Jefferson Dialysis has determined that there will be a need for home training services (home peritoneal dialysis training and home hemodialysis training) at its new state-of-the-art ESRD facility in east Jefferson County. Home training stations and patients being treated by a facility in the home setting are not counted by the State Health Plan when determining the need for additional in-center hemodialysis stations in a particular county. Instead, the State Health Plan anticipates that a certain percentage of new ESRD patients will opt for home dialysis. Hence, the State Health Plan does not limit the number of home training stations allowed in a given county.

Thus, this Project Modification Request is also filed to add one (1) new home training station to be used alternately for home peritoneal dialysis training and home hemodialysis training. The provision of a new service is expressly allowed under CON Rule § 410-1-10-.03(2) with approval by the CON Review Board and has been approved for previous CON projects.

Consequently, we suggest that the “Services to be provided” section of CON 2644-ESRD be modified. It currently states that:

The applicant is seeking to establish and operate, in East Jefferson County, AL, a new state-of-the-art end stage renal disease (“ESRD”) facility consisting of two (2) existing hemodialysis stations to be relocated from DaVita’s Birmingham East Dialysis, plus the addition of eight (8) new hemodialysis stations for a total of ten (10) hemodialysis stations.

It is suggested that the “Services to be provided” section of CON 2644-ESRD is revised as follows:

The applicant is seeking to establish and operate, in East Jefferson County, AL, a new state-of-the-art end stage renal disease (“ESRD”) facility consisting of two (2) existing in-center hemodialysis stations to be relocated from DaVita’s Birmingham East Dialysis, two (2) approved but undeveloped new in-center hemodialysis stations to be relocated from DaVita’s Magic City Dialysis, plus the addition of eight (8) new in-center hemodialysis stations and one (1) new home training station to be used alternately for home peritoneal dialysis training and home hemodialysis training for a total of thirteen (13) hemodialysis stations.

4. The establishment and operation of a larger new state-of-the-art ESRD facility consisting of thirteen (13) hemodialysis stations will result in increased estimated Project costs. Specifically, East Jefferson Dialysis



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anticipates a \$110,000 increase in construction cost, a \$25,000 increase in equipment cost, and a \$225,000 increase in lease cost due to a longer term lease with a higher annual rent. Therefore, this Project Modification Request is also being filed to increase the total estimated cost for the Project from \$4,755,000 to \$5,715,000 which is a net increase of \$960,000. Such an increase in estimated Project cost falls below the financial thresholds for review and is expressly allowed under CON Rule § 410-1-10-.03.

As required, enclosed are the revised pages to the original CON Application reflecting the changes outlined above, including Pages 1-7, 9-11, 13-19, Exhibit C (Schematic), and a new executed Signature Page. Also enclosed is a filing fee of \$5,635.75 which is 25% of the original CON Application fee for this Project (\$22,543.00). As there was no opposition to this Project, there are no parties of record in the underlying administrative proceeding that must be notified regarding this Project Modification Request.

As always, we appreciate your assistance and look forward to receiving a modified CON for East Jefferson Dialysis reflecting the changes outlined above. If you have any questions, please give me a call immediately.

Very truly yours,



Lenora W. Pate
FOR THE FIRM

LWP/lc
Enclosures

c: Nicole Horn
Gayle Ozbirn
Amy Sanford, Esq.
Sarah Tally
Kelli F. Robinson, Esq.

Magic City Dialysis Project Modification Request



Sirote & Permutt, PC
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Birmingham, AL 35205-2972

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Lenora W. Pate
Attorney at Law
lpate@sirote.com
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Fax: 205-212-3801

July 29, 2014

VIA E-MAIL & HAND DELIVERY

Alva M. Lambert
State Health Planning & Development Agency
100 North Union Street, Suite 870
Montgomery, AL 36130

**Re: Project Modification Request
Flor Dialysis, LLC d/b/a Magic City Dialysis
Project No. AL 2013-058; CON 2643-ESRD**

Dear Mr. Lambert:

This Project Modification Request is hereby filed on behalf of our client, Flor Dialysis, LLC d/b/a Magic City Dialysis ("Magic City Dialysis"), a subsidiary of DaVita Healthcare Partners Inc. ("DaVita"), to modify Project No. AL 2013-058 and CON 2643-ESRD related to the approved expansion of Magic City Dialysis to add four (4) new in-center hemodialysis stations to its existing facility located at 300 22nd Street, Birmingham, Alabama, in Jefferson County ("Project").

In follow up to the progress report and notice of firm commitment being filed simultaneously, and pursuant to Certificate of Need ("CON") Rule § 410-1-10-.03, Magic City Dialysis respectfully requests the approval of this Project Modification Request to modify the Project as follows: i) reduce the approved expansion of Magic City Dialysis from the addition of **four (4)** new in-center hemodialysis stations to the addition of only **two (2)** new in-center hemodialysis stations, ii) decrease the total estimated cost for the Project from **\$820,000** to **\$400,000** which is a decrease of **\$420,000**; and iii) **relocate the remaining two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to East Jefferson Dialysis**, a new DaVita-owned end stage renal disease ("ESRD") facility under development in east Jefferson County pursuant to CON 2644-ESRD (Project No. AL 2013-059).¹

This Project Modification Request is necessary for the following reasons:

1. Since the issuance of CON 2643-ESRD on October 3, 2013, and the filing of its first Progress Report in April 2014, Magic City Dialysis has reevaluated the number of new in-center hemodialysis stations it can

¹ East Jefferson Dialysis is simultaneously filing a Project Modification Request related, in part, to the relocation of the remaining two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to East Jefferson Dialysis, a copy of which is enclosed.



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add to its existing treatment floor. Magic City Dialysis currently consists of fourteen (14) in-center hemodialysis stations and two (2) isolation stations, for a total of sixteen (16) stations.²

It was anticipated at the time Magic City Dialysis proposed the addition of four (4) new in-center hemodialysis stations, as set forth in the CON Application filed by Magic City Dialysis, that Magic City Dialysis could place all four (4) new in-center hemodialysis stations on its existing treatment floor without the need for construction. To accomplish this, Magic City Dialysis intended to obtain an isolation waiver from the Centers for Medicare & Medicaid Services ("CMS"), eliminate its two (2) isolation stations, and then add two (2) of the new approved in-center hemodialysis stations to the former isolation room and the other two (2) new approved in-center hemodialysis stations to its existing treatment floor. Magic City Dialysis, however, was unable to obtain the CMS isolation waiver. Hence, Magic City Dialysis must continue to operate its two (2) existing isolation stations, and will only be able to add two (2) new in-center hemodialysis stations to its existing treatment floor without construction.

Therefore, this Project Modification Request is being filed to reduce the approved expansion of Magic City Dialysis from the addition of four (4) new in-center hemodialysis stations to the addition of only two (2) new in-center hemodialysis stations.

Consequently, we suggest that the "Services to be provided" section of CON 2643-ESRD be modified. It currently states that:

The applicant is seeking to add four (4) new hemodialysis stations to its existing facility consisting of fourteen (14) hemodialysis stations, two (2) isolation stations, four (4) home peritoneal stations and two (2) home hemodialysis stations for a total of twenty-six (26) stations.

It is suggested that the "Services to be provided" section of CON 2643-ESRD is revised to state as follows:

The applicant is seeking to add two (2) new hemodialysis stations to its existing facility consisting of fourteen (14) hemodialysis stations and two (2) isolation stations, for a total of eighteen (18) stations.

2. As a result of a reduced expansion of Magic City Dialysis, this Project Modification Request is also being filed to decrease the total estimated cost for the Project from \$820,000 to \$400,000 which is a net decrease of \$420,000. Specifically, Magic City Dialysis has already fully equipped two (2) new in-center hemodialysis stations with existing dialysis machines and chairs reallocated to Magic City Dialysis from DaVita's existing inventory, and had no cost expenditure related to this equipment. Consequently, the estimated equipment cost for the Project has been reduced from \$265,000 to \$0. The estimated increase in first year annual operating cost has also been reduced from \$555,000 to \$400,000.

² Since issuance of CON 2643-ESRD, four (4) home peritoneal stations and two (2) home hemodialysis stations have been relocated from Magic City Dialysis to Red Mountain Home Training pursuant to CON 2617-ESRD (Project No. AL 2013-014).



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3. Finally, this Project Modification is also filed to relocate the remaining two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to East Jefferson Dialysis, a new DaVita-owned end stage renal disease ("ESRD") facility under development in east Jefferson County pursuant to CON 2644-ESRD (Project No. AL 2013-059). East Jefferson Dialysis is simultaneously filing a Project Modification Request related, in part, to this relocation of two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to East Jefferson Dialysis.

As required, enclosed are the revised pages to the original CON Application reflecting the reduced expansion and the decrease in the total estimated cost for Project No. AL 2013-058, including Pages 1-5, 8, 10, and a new executed Signature Page. Also enclosed is a filing fee of \$2,550.00 which is 25% of the original CON Application fee for this Project (\$10,200.00). As there was no opposition to this Project, there are no parties of record in the underlying administrative proceeding that must be notified regarding this Project Modification Request.

As always, we appreciate your assistance and look forward to receiving a modified CON for Magic City Dialysis reflecting the reduced expansion and the decrease in estimated Project cost. If you have any questions, please give me a call immediately.

Very truly yours,

Lenora W. Pate
FOR THE FIRM

LWP/lc
Enclosures

c: Nicole Horn
Gayle Ozbirn
Amy Sanford, Esq.
Sarah Tally
Kelli F. Robinson, Esq.

**ALABAMA
CERTIFICATE OF NEED
APPLICATION**

For Staff Use Only

INSTRUCTIONS: Please submit an original and twelve (12) copies of this form and the appropriate attachments to the State of Alabama, State Health Planning and Development Agency, 100 North Union Street, Suite 870, Montgomery, Alabama 36130-3025. (Post Office Box 303025)

Project # _____
Date Rec. _____
Rec by: _____

Attached is a check in the amount of \$ 22,543.00
Refer to Rule 410-1-7-06 of the Certificate of Need Program Rules and Regulations to determine the required filing fee.

PART ONE: APPLICANT IDENTIFICATION AND PROJECT DESCRIPTION

I. APPLICANT IDENTIFICATION (Check One) HOSPITAL (☐) NURSING HOME (☐)
OTHER (X) (Specify) ESRD

A. Renal Treatment Centers – Southeast, LP d/b/a Springs Dialysis
Name of Applicant (in whose name the CON will be issued if approved)

<u>3500 Blue Lake Parkway Suite 230</u>	<u>Birmingham</u>	<u>Jefferson</u>
Address of DaVita Administrative Offices	City	County
(Address of Springs Dialysis in East Jefferson County to be determined upon award of CON)		
<u>Alabama</u>	<u>35243</u>	<u>(205) 986-0592</u>
State	Zip Code	Phone Number

B. _____
Name of Facility/Organization (if different from A)

Address	City	County
State	Zip Code	Phone Number

C. _____
Name of Legal Owner (if different from A or B)

Address	City	County
State	Zip Code	Phone Number

D. Lenora W. Pate (Counsel for Applicant)
Name and Title of Person Representing Proposal and with whom SHPDA should communicate

<u>Sirote & Permutt, P.C., 2311 Highland Ave. S.</u>	<u>Birmingham</u>	<u>Jefferson</u>
Address	City	County
<u>Alabama</u>	<u>35205</u>	<u>(205) 930-5162</u>
State	Zip Code	Phone Number

I. APPLICANT IDENTIFICATION (continued)

E. Type Ownership and Governing Body

- | | | | |
|----|------------------------|-------------------------------------|--|
| 1. | Individual | <input type="checkbox"/> | |
| 2. | Partnership | <input type="checkbox"/> | |
| 3. | Corporate (for profit) | <input checked="" type="checkbox"/> | <u>DaVita Healthcare Partners Inc.</u>
Name of Parent Corporation |
| 4. | Corporate (non-profit) | <input type="checkbox"/> | _____
Name of Parent Corporation |
| 5. | Public | <input type="checkbox"/> | |
| 6. | Other (specify) | <input type="checkbox"/> | _____ |

F. Names and Titles of Governing Body Members and Owners of This Facility

OWNERS

Renal Treatment Centers – Southeast, LP d/b/a Springs Dialysis is a subsidiary of DaVita Healthcare Partners Inc.

GOVERNING BOARD MEMBERS OF RENAL TREATMENT CENTERS, INC.:

Kim M. Rivera-Sanchez; Steven I Grieger; James K. Hilger; Dennis L. Kogod; Chetan P. Mehta; Javier J. Rodriguez; Thomas O. Usilton, Jr.; Arturo Sida; David Finn; and Soyon Ahn Hardy

GOVERNING AUTHORITY OF SPRINGS DIALYSIS (as required by the Alabama State Board of Health, Alabama Department of Public Health):

Jacki Ward; Gayle Ozbirn; and a Medical Director to be determined

II. PROJECT DESCRIPTION

Project/Application Type (check all that apply)

- | | |
|--|---|
| <input checked="" type="checkbox"/> New Facility
Type <u>ESRD Facility</u> | <input type="checkbox"/> Major Medical Equipment
Type _____ |
| <input type="checkbox"/> New Service
Type _____ | <input type="checkbox"/> Termination of Service or Facility |
| <input checked="" type="checkbox"/> Construction/ <u>Expansion</u> /Renovation
Type <u>Eight (8) new stations in Jefferson County</u> | <input checked="" type="checkbox"/> <u>Other Capital Expenditure</u>
Type <u>Relocation of two (2) existing stations in Jefferson County</u> |
| <input type="checkbox"/> Change in Service | |

III. EXECUTIVE SUMMARY OF THE PROJECT (brief description)

Renal Treatment Centers – Southeast, LP d/b/a Springs Dialysis (“Springs Dialysis” or “Applicant”), a subsidiary of DaVita Healthcare Partners Inc. (“DaVita”), proposes to establish and operate in east Jefferson County a new state-of-the-art end stage renal disease (“ESRD”) facility consisting of two (2) existing in-center hemodialysis stations to be relocated from DaVita’s Birmingham East Dialysis, two (2) approved but undeveloped new in-center hemodialysis stations to be relocated from DaVita’s Magic City Dialysis, plus the addition of eight (8) new in-center hemodialysis stations and one (1) new home training station to be used alternately for home peritoneal dialysis training and home hemodialysis training.¹

¹ This CON Application is filed pursuant to LOI 2013-022 which was received by the State Health Planning and Development Agency (SHPDA) on January 22, 2013.

If approved, this proposed Project will 1) help address the demonstrated, substantial unmet need for dialysis services in Jefferson County; 2) help address the capacity issues at Birmingham East Dialysis, an ESRD facility located at 1105 East Park Drive, Birmingham, Alabama; 3) help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services; and 4) provide dialysis patients in east Jefferson County and surrounding counties with scheduling options and convenient location options, thus providing meaningful patient choice and quality of life.

This proposed Project will address the demonstrated, substantial unmet need for dialysis services in Jefferson County and, specifically, the capacity issues for dialysis services at DaVita's Birmingham East Dialysis. Birmingham East Dialysis currently has twenty (20) hemodialysis stations and operates two (2) shifts per day, six (6) days per week. It currently has 81 in-center hemodialysis patients and is, therefore, operating at 127% of its maximum optimal capacity according to the State Health Plan guidelines.²

Moreover, based on the State Health Plan methodology utilizing the present in-center hemodialysis stations in Jefferson County, there is currently a need for an additional 36 or 46 hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified hemodialysis stations in Jefferson County are currently operating at 111% of maximum optimal capacity as defined by the State Health Plan. To help address the demonstrated, substantial unmet need for dialysis services in Jefferson County in accordance with the State Health Plan, this proposed Project will provide eight (8) new hemodialysis stations to specifically address the unmet need for dialysis services in east Jefferson County, and, specifically, at Birmingham East Dialysis which is currently operating at 127% of its maximum optimal capacity as defined by the State Health Plan.

The proposed Project consists of the establishment and operation of a new ESRD facility rather than the expansion of the Birmingham East Dialysis facility because expansion is not possible due to the size constraints of the Birmingham East Dialysis lot. In addition, the treatment floor at Birmingham East Dialysis is currently crowded with twenty (20) hemodialysis stations. The proposed relocation of two (2)

² Birmingham East Dialysis currently exceeds the "Maximum Optimal Capacity" levels, as defined by the 2004-2007 State Health Plan. Present Capacity is defined in Section 410-2-3-.05(2)(a)(2) of the State Health Plan as two (2) shifts per day, six (6) days per week, based on the fact that most patients require three (3) dialysis treatments per week. Third shift ("evening dialysis") will not be considered in calculating capacity since patient demand for this shift is erratic and unpredictable. Optimal Capacity is defined in Section 410-2-3-.05(2)(a)(3) of the State Health Plan as 80% of present capacity, thus making provision for cost-effective use of services and orderly growth, as well as reserving some capacity for downtime, transients, and back up of home patients. Optimal capacity is, therefore, 9.6 dialysis treatments per station per week (.80 x 12 dialysis treatments/station/week = 9.6 dialysis treatments/station/week). Maximum Optimal Capacity is defined in Section 410-2-3-.05(2)9a(4) of the State Health Plan as the number of patients that can receive treatment under optimal capacity on a three dialysis treatment per week schedule.

Below is the Maximum Optimal Capacity for Birmingham East Dialysis:

Total Stations	20
Dialysis Treatments/Station/Week	x 12
Capacity	240 Available Dialysis Treatments/Week
Optimal Utilization	x .80
Optimal Capacity	192 Available Dialysis Treatments/Week
Patient Usage	÷ 3 Dialysis Treatments/Week
Maximum Optimal Census	64

Applying the methodology in Section 410-2-3-.05 of the State Health Plan, the Maximum Optimal Census for a 20-station facility is 64 patients. Birmingham East Dialysis currently has 81 patients and is, therefore, operating at approximately 127% of maximum optimal capacity as defined in the State Health Plan.

hemodialysis stations to Springs Dialysis will help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services. The proposed Project will also provide a convenient location option for existing patients of Birmingham East Dialysis, as well as future patients residing in the area. It is anticipated that at least (10) patients of Birmingham East Dialysis will transfer to Springs Dialysis if the proposed Project is approved.

Thus, approval of this proposed Project by the Certificate of Need ("CON") Review Board will effectively meet the demonstrated, substantial unmet need of the population and significantly improve accessibility to dialysis services in east Jefferson County and the surrounding area. Moreover, approval of this proposed Project will enable DaVita, a nationally recognized provider of comprehensive dialysis services, to offer its Jefferson County patients meaningful patient choice through additional scheduling options and convenient location options.

IV. COST

A.	Construction (includes modernization expansion)	
1.	Predevelopment	
2.	Site Acquisition	
3.	Site Development	
4.	Construction	\$975,000
5.	Architect and Engineering Fees	\$95,000
6.	Renovation	
7.	Interest during time period of construction	
8.	Attorney and consultant fees	
9.	Bond Issuance Costs	
10.	Other	
11.	Other	
	TOTAL COST OF CONSTRUCTION	\$1,070,000
B.	Purchase	
1.	Facility	
2.	Major Medical Equipment	\$385,000
3.	Other Equipment	\$185,000
	TOTAL COST OF PURCHASE	\$570,000
C.	Lease	
1.	Facility Cost Per Year \$135,000 x 15 Years =	\$2,025,000
2.	Equipment Cost per Month	
	_____ x _____ Months =	
3.	Land-only Lease Cost per Year	
	_____ x _____ Years	
	TOTAL COST OF LEASE(s)	\$2,025,000
	(compute according to generally accepted accounting principles)	
	Cost if Purchased	N/A
D.	Services	
1.	X New Service Facility	
2.	X Expansion by adding 8 new hemodialysis stations in Jefferson County	
3.	_____ Reduction or Termination	
4.	X Relocation of 2 existing hemodialysis stations in Jefferson County	
5.	X Relocation of 2 approved but undeveloped hemodialysis stations in Jefferson County	
	FIRST YEAR ANNUAL OPERATING COST²	\$2,050,000
E.	Total Cost of this Project (Total A through D) (should equal V-C on page A-5)	\$5,715,000

² The estimated First Year Annual Operating Cost of \$2,050,000 includes the estimated first year lease cost of \$135,000. Hence, the first year lease cost is included under Section IV(C) (Lease) and Section IV (D) (First Year Annual Operating Cost).

IV. COST (continued)

F. Proposed Finance Charges

- | | | |
|----|---|----------|
| 1. | Total Amount to Be Financed | \$ _____ |
| 2. | Anticipated Interest Rates | _____ |
| 3. | Term of Loan | _____ |
| 4. | Method of Calculating Interest on Principal Payment | _____ |

V. ANTICIPATED SOURCE OF FUNDING

		Amount	Source
A.	Federal		
1.	Grants	\$ _____	_____
2.	Loans	_____	_____
B.	Non-Federal		
1.	Commercial Loan	_____	_____
2.	Tax-exempt Revenue Bonds	_____	_____
3.	General Obligation Bonds	_____	_____
4.	New Earning and Revenues	_____	_____
5.	Charitable Fund Raising	_____	_____
6.	Cash on Hand	\$5,715,000	Applicant and/or DaVita, Inc.
7.	Other	_____	
C.	TOTAL (should equal IV-E on page A-3)		\$5,715,000

VI. TIMETABLE

- | | | |
|----|-------------------------------|---|
| A. | Projected Start/Purchase Date | <u>Upon award of CON</u> |
| B. | Projected Completion Date | <u>Within 12 months of receipt of CON</u> |

PART TWO: PROJECT NARRATIVE

Note: In this part, please submit the information as an attachment. This will enhance the continuity of reading the application.

The applicant should address the items that are applicable to the project.

I. MEDICAL SERVICE AREA

- A. Identify the geographic (medical service) area by county (ies) or city, if appropriate, for the facility or project. Include an 8 ½ x 11" map indicating the service area and the location of the facility.**

The proposed facility will be located in east Jefferson County. The primary health service area will be Jefferson County. A map identifying the health service area and the proposed location of the facility is attached as Exhibit A.

Secondary health service areas will be St. Clair, Bibb, Blount and Shelby Counties.

- B. What population group(s) will be served by the proposed project? Define age groups, location and characteristics of the population to be served.**

Springs Dialysis will serve patients in need of dialysis therapy twelve (12) years of age and older. The population to be served by the proposal is as follows:

Primary population to be served by the Proposal:

	Total Population	White	Non-White
Jefferson	660,442	352,601	307,841
TOTAL	660,442	352,601	307,841

Secondary population to be served by the Proposal:

	Total Population	White	Non-White
St. Clair	94,811	84,903	9,908
Bibb	23,439	18,214	5,225
Blount	60,857	59,088	1,769
Shelby	224,846	189,677	35,169
TOTAL	403,943	351,882	52,071

SOURCE: All population statistics are as determined by the Center for Business and Economic Research, The University of Alabama (CBER), January 2013.

Kidney failure or ESRD occurs when the kidneys are no longer able to provide waste removal functions for the body. At this point, dialysis or kidney transplantation becomes necessary for survival.

- About 110,000 patients in the United States started treatment for ESRD in 2007.
- Leading causes of ESRD are diabetes and hypertension. In 2006, 7 out of 10 new cases of ESRD in the United States had diabetes or hypertension listed as the primary cause. Less common causes include glomerulonephritis, hereditary kidney disease, and malignancies such as myeloma.

II. HEALTH CARE REQUIREMENTS OF THE MEDICAL SERVICE AREA

A. What are the factors (inadequacies) in the existing health care delivery system which necessitate this project?

DaVita's Birmingham East Dialysis, an ESRD facility located at 1105 East Park Drive, Birmingham, Alabama, is currently operating at 127% of its maximum optimal capacity according to the State Health Plan guidelines. Expansion of Birmingham East Dialysis is not possible due to the size constraints of its lot. In addition, the treatment floor at Birmingham East Dialysis is currently crowded with twenty (20) hemodialysis stations. It is anticipated that at least ten (10) patients of Birmingham East Dialysis will transfer to Springs Dialysis if the proposed Project is approved.

Moreover, based on the State Health Plan methodology utilizing the present in-center hemodialysis stations in Jefferson County, there is currently a need for an additional 36 or 46 hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified hemodialysis stations in Jefferson County are currently operating at 111% of maximum optimal capacity as defined by the State Health Plan.

Therefore, the proposed relocation of two (2) existing in-center hemodialysis stations from Birmingham East Dialysis and two (2) approved but undeveloped new in-center hemodialysis stations from Magic City Dialysis to the new state-of-the-art Springs Dialysis in east Jefferson County, along with the addition of eight (8) new in-center hemodialysis stations and one (1) new home training station, is necessary to: 1) help address the demonstrated substantial unmet need for hemodialysis services in Jefferson County; 2) help address the capacity issues at Birmingham East Dialysis; 3) help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services; and 4) provide dialysis patients in east Jefferson County and surrounding counties with scheduling options and convenient location options, thus providing meaningful patient choice and quality of life.

B. How will the project correct the inadequacies?

The establishment and operation of a new state-of-the-art ESRD facility consisting of two (2) existing in-center hemodialysis stations to be relocated from Birmingham East Dialysis, two (2) approved but undeveloped new in-center hemodialysis stations to be relocated from Magic City Dialysis, plus the addition of eight (8) new in-center hemodialysis stations and one (1) new home training station to be used alternately for home peritoneal dialysis training and home hemodialysis training in east Jefferson County will help correct the inadequacies in the existing system.

Approval of the proposed Project will allow DaVita to 1) help address the demonstrated substantial unmet need for hemodialysis services in Jefferson County; 2) help address the capacity issues at Birmingham East Dialysis; 3) help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services; and 4) provide dialysis patients in east Jefferson County and surrounding counties with scheduling options and convenient location options, thus providing meaningful patient choice and quality of life.

Based on the State Health Plan methodology utilizing the present in-center hemodialysis stations in Jefferson County, there is currently a need for an additional 36 or 46 hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified hemodialysis stations in Jefferson County are currently operating at 111% of maximum optimal capacity as defined by the State Health Plan.

This proposed Project will address the demonstrated, substantial unmet need for hemodialysis services in Jefferson County and, specifically, the capacity issues for hemodialysis services at DaVita's Birmingham East Dialysis, which is currently operating at 127% of its maximum optimal capacity as defined by the State Health Plan. Furthermore, because of the cost and

operational efficiencies involved in this proposed Project, the proposed Project will not only correct the inadequacies present in the current system, it will do so in the most cost-effective way to meet the demonstrated, substantial unmet need in the Jefferson County health service area.

C. Why is your facility/organization the appropriate facility to provide the proposed project?

DaVita Healthcare Partners, Inc. (DaVita), the parent corporation of Springs Dialysis, is the largest independent provider of dialysis services in the United States. DaVita serves nearly 1,900 outpatient dialysis centers, serving approximately 149,000 patients.

Springs Dialysis is the most appropriate applicant for this proposed Project based on the long history of operations in Jefferson County of DaVita's ten (10) existing dialysis facilities. DaVita enjoys an established relationship with the Jefferson County community, nephrologists serving Jefferson County, and ESRD patients living in Jefferson County and other surrounding counties and states. DaVita has excellent professional, management, and manpower capabilities to meet the current health needs in Jefferson County. Additionally, DaVita works collaboratively with the Alabama Kidney Foundation to improve ESRD care and quality of life for ESRD patients in Jefferson County.

DaVita will continue to use utilization monitoring and quality improvement processes to address unmet and undermet health needs in Jefferson County, including the continued acceptance of Medicaid patients and other medically underserved patients for which ESRD services would be appropriate.

DaVita is also committed to communicating and cooperating with all planning, regulatory, and utility agencies and organizations that influence the facility's destiny. DaVita has its own Licensure and Certification Division which has excellent relationships with all Alabama agencies. Springs Dialysis will be reviewed, licensed and certified by the Alabama Department of Public Health prior to opening.

D. Describe the need for the population served or to be served for the proposed project and address the appropriate sections of the State Health Plan and the Rules and Regulations under 410-1-6-.07. Provide information about the results of any local studies which reflect a need for the proposed project.

The following analysis is based on the total population of Jefferson County plus the only contiguous county that does not currently have a licensed dialysis center, Bibb County.⁵

Based on the methodology provided in Section 410-2-3-.05(2)(b)(2) of the State Health Plan, the present need is as follows:

2016 Jefferson County Population Projection ⁶	660,442 (352,601/307,841)
Plus 2016 Bibb County Population Projection	23,439 (18,214/5,225)
Total 2016 Population Projection	683,881 (370,815/313,066)
Incidence Rate ⁷	289 <u>or</u> 331 new patients

⁵ According to Section 410-2-3-.05(2)(b)(2)(i) of the State Health Plan, new end stage renal disease patient projections shall be based on the total population of the county in which the hemodialysis stations are to be located plus any contiguous county that does not have a dialysis center.

⁶ All population statistics are as determined by the Center for Business and Economic Research, The University of Alabama, January 2013. The numbers in parentheses represent the white and non-white population for the specified county.

Existing Patients	1408
Total Patients	1697 <u>or</u> 1739
Less Deaths (14.4%)	(244 <u>or</u> 250)
Less Transplants (2.6%)	(44 <u>or</u> 45)
Less Home Training (8.2% of new patients)	(24 <u>or</u> 27)
Projected 2016 Patients	1385 <u>or</u> 1417
Patients Per Station	3.2
Required Stations	433 <u>or</u> 443
Existing Stations in Jefferson County ⁸	397
Additional Hemodialysis Stations Needed	36 <u>or</u> 46

The establishment of Springs Dialysis consisting of two (2) existing in-center hemodialysis stations to be relocated from Birmingham East Dialysis, two (2) approved but undeveloped new in-center hemodialysis stations to be relocated from Magic City Dialysis, plus the addition of eight (8) new in-center hemodialysis stations and one (1) new home training station to be used alternately for home peritoneal dialysis training and home hemodialysis training, would help address this demonstrated, substantial unmet need, allowing for better and more efficient health service of dialysis patients in Jefferson County and the surrounding counties.

- E. If the application is for a specialized or limited-purpose facility or service, show the incidence of the particular health problem.**

Not Applicable.

- F. Describe the relationship of this project to your long-range development plans, if you have such plans.**

The goal of DaVita is to meet the needs of its dialysis patients by providing quality, compassionate, cost-effective care. The establishment of Springs Dialysis is directly in line with DaVita's mission of providing the dialysis patient community with efficient state-of-the-art service. Thus, the proposed Project is fully compatible with DaVita's long range plans.

⁷ The Alabama State Health Plan allows for two different methodologies to determine the incidence rate of new patients. The higher number of new patients (331) reflects the sum of 719 cases per million non-white population per year plus (+) 285 cases per million white population per year. This is calculated as follows: 313,066 (total non-white population) multiplied by .000719 (719 cases per million non-white population per year) equals 225.094454 new patents. 370,815 (total white population) multiplied by .000285 (285 cases per million white population per year) equals 105.682275. The combination of the white and non-white totals equals 330.776729 or (rounded) 331 new patients.

The lower number of new patients (35) reflects 422 cases per million per year. This calculation is as follows: 683,881 (total population) multiplied by .000422 (422 cases per million per year) equals 288.597782 or (rounded) 289 new patients.

⁸ Home Training Stations and Isolation Stations are not included in the State Health Plan need methodology. Ala. Admin. Code R. 410-2-3-.05(2)(a).

23. **Steel City Dialysis (1809 Avenue H, Birmingham, AL 35218) currently operating at 141% of maximum optimal capacity.**

B. How will the proposed project affect existing or approved services and facilities in the medical service area?

This proposed Project will compliment the existing services, as there is a demonstrated, substantial unmet need for additional hemodialysis stations in the health service area.

C. Will there be a detrimental effect on existing providers of the service? Discuss methodologies and assumptions.

No, two (2) of the existing hemodialysis stations at Birmingham East Dialysis must be relocated to help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services.

Additionally, the proposed Project should have no detrimental effect on existing providers since there is a demonstrated, substantial unmet need for an additional 36 or 46 hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified hemodialysis stations in Jefferson County are currently operating at 111% of maximum optimal capacity as defined by the State Health Plan.

Moreover, this proposed Project will specifically address the unmet need for dialysis services at Birmingham East Dialysis allowing DaVita—a nationally recognized, comprehensive provider of dialysis services—to alleviate its own capacity issue and better serve its existing patients of Birmingham East Dialysis, as well as future patients residing in the east Jefferson County area, by providing scheduling options and a new convenient location option.

D. Describe any coordination agreements or contractual arrangements for shared services that are pertinent to the proposed project.

Not applicable.

E. List the new or existing ancillary and/or supporting services required for this project and briefly describe their relationship to the project.

Springs Dialysis will provide all services required for operation of the facility through either employee or independent contractor staff. Transplantation services will be available through arrangements with the University of Alabama Transplant Team in Birmingham (UAB). Routine laboratory services will be provided by DaVita Labs in Florida, and stat laboratory services will be provided at the University of Alabama Hospital in Birmingham (UAB).

IV. POTENTIAL LESS COSTLY OR MORE EFFECTIVE ALTERNATIVES

A. What alternatives to the proposed project exist? Why was this proposal chosen?

One alternative to this Project is to leave all existing hemodialysis stations at the over-capacity and space-constrained Birmingham East Dialysis. This alternative is not a viable option.

DaVita could also add a third shift at Birmingham East Dialysis; however, Springs Dialysis has determined that this alternative is not a viable option. Birmingham East Dialysis currently operates two (2) shifts per day, six (6) days per week. It currently has 81 in-center hemodialysis patients and is, therefore, operating at 127% of its maximum optimal capacity according to the State Health Plan guidelines.

For many patients, the third shift schedule is not feasible due to the lack of public and private (paid) transportation after 6 p.m. and the inconvenience for family and friends to transport them in the evening. Notably, Section 410-2-3-.05(2)(a)(3) of the 2004-2007 State Health Plan does not consider a third shift in calculating patient capacity, since “patient demand for this shift is erratic and unpredictable.”

Expansion of Birmingham East Dialysis is also not a viable option. Expansion is not possible due to the size constraints of the Birmingham East Dialysis lot. In addition, the treatment floor at Birmingham East Dialysis is currently crowded with twenty (20) hemodialysis stations.

This proposed Project was chosen because the establishment and operation of Springs Dialysis in east Jefferson County will allow DaVita to 1) help address the demonstrated substantial unmet need for dialysis services in Jefferson County; 2) help address the capacity issues at Birmingham East Dialysis; 3) help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services; and 4) provide dialysis patients in east Jefferson County and surrounding counties with scheduling options and convenient location options, thus providing meaningful patient choice and quality of life.

B. How will this project foster cost containment?

This proposed Project will foster cost containment through improved efficiency and productivity. Specifically, the Project will maximize efficient use of space in which to provide patient services. The Project will also increase efficiency via physical plant design and state-of-the-art dialysis machines and water systems. Furthermore, the existing DaVita support structure will support Springs Dialysis.

C. How does the proposal affect the quality of care and continuity of care for the patients involved?

The proposed Project will improve quality of care and quality of life by improving patient accessibility to dialysis services in a new, state-of-the-art facility. If approved, the proposed Project will afford patients more flexibility in scheduling and a new location option, making both their lives and the lives of their families easier. In addition, the same physicians serving patients at the existing Birmingham East Dialysis will also be serving patients at Springs Dialysis. Therefore, the proposed Project will have a positive impact on both quality and continuity of care, as well as overall quality of life.

V. DESCRIBE COMMUNITY REACTION TO THE PROJECT (Attach endorsements if desired)

Both the medical and patient communities, as well as the community at large, are supportive of this Project. Attached to this Application as Exhibit B are fourteen (14) letters of support.

VI. NON-PATIENT CARE

If appropriate, describe any non-patient care objectives of the facility, i.e., professional training programs, access by health professional schools and behavioral research projects which are designed to meet a national need.

Spring Dialysis intends to provide internships to local college and Certified Clinical Hemodialysis Technician (CCHT) graduates. These internships would increase exposure to dialysis services during a student's college experience, thus allowing students to have a better overall understanding of the relationship between ESRD and the variety of co-morbid conditions that contribute to ESRD. Spring Dialysis also intends to participate in clinical studies with its nephrologists.

VII. MULTI-AREA PROVIDER

If the applicant holds itself as a multi-area provider, describe those factors that qualify it as such, including the percentage of admissions which resides outside the immediate health service area in which the facility is located.

Not applicable.

VIII. HEALTH MAINTENANCE ORGANIZATION

If the proposal is by or on behalf of a health maintenance organization (HMO), address the rules regarding HMOs, and show that the HMO is federally qualified.

Not applicable.

IX. ENERGY-SAVING MEASURES

Discuss as applicable the principal energy-saving measures included in this project.

This proposed Project will increase efficiency via state-of-the-art dialysis machines and water systems. If approved, the proposed Project will also include energy-saving measures, such as occupancy sensors in rooms for lighting; a high efficiency heating, ventilating and air conditioning ("HVAC") system; high efficiency (R30) building insulation; high efficiency double-paned insulated windows; all fluorescent lighting; programmable thermostats so HVAC set points change based on occupancy; photo cell for exterior lighting versus a time clock; insulated doors; and solar shades on exterior windows.

X. OTHER FACTORS

Describe any other factor(s) that will assist in understanding and evaluating the proposed project, including the applicable criteria found at 410-1-6 of the Alabama Certificate of Need Program Rules and Regulations which are not included elsewhere in the application.

410-1-6-.02 State Health Plan or Plans

"(1) The proposed new institutional health service shall be consistent with the appropriate state health facility and services plans effective at the time the application was received by the State Agency, which shall include the latest approved revisions of the following plans: (a) the most recent Alabama State Health Plan;"

In summary, as has been addressed throughout this CON Application, this proposed Project by Springs Dialysis meets all applicable criteria found at Section 410-1-6 of the CON Rules and Regulations. The proposed Project is consistent with all applicable provisions of the 2004-2007 State Health Plan. The proposed Project is fully compatible with DaVita's overall long range development plan, as well as DaVita's long range development plan in Jefferson County. The proposed Project is the least costly, most efficient, most appropriate, and most effective means for addressing the need for dialysis services in Jefferson County.

Furthermore, the proposed Project is financially feasible; specific data in support of this proposed Project in Jefferson County for Springs Dialysis is reasonable, relevant and appropriate; the proposed Project has been carefully evaluated and is consistent with the overall health and health-related plans of DaVita; the proposed Project is location appropriate with access to transportation, available manpower, and the Applicant is committed to communicating and cooperating with all planning, regulatory, and utility agencies and organizations that influence the facility's destiny; and there is a reasonable potential for the facility to meet licensure standards for the proposed additional hemodialysis stations.

Springs Dialysis anticipates no adverse effect of the proposed Project on any of the existing kidney disease treatment centers in Jefferson County. The medical and patient communities, as well as the community at large, are supportive of this proposed Project.

The proposed Project will contribute in meeting the health related needs of traditionally medically underserved groups including low income persons, racial and ethnic minorities, women, and handicapped

persons. The proposed additional hemodialysis stations will be accessible to all in the Jefferson County community, including the medically underserved.

The proposed Project will be complimentary to and supportive of the existing health system. Springs Dialysis is the most appropriate applicant for this proposed Project based on DaVita's established relationships in Jefferson County and ESRD patients living in Jefferson County and the surrounding area, and has excellent professional, management, and manpower capabilities to meet the current health needs and the unmet need for dialysis services in Jefferson County.

The proposed Project maximizes cost containment, protects the environment, and conserves energy. The proposed Project conforms to local zoning ordinances and building codes and complies with all applicable state statutes and regulations for the protection of the environment. Furthermore, the proposed Project will be developed and operated in compliance with the appropriate state licensure rules, regulations, and standards.

PART THREE: CONSTRUCTION OR RENOVATION ACTIVITIES

Complete the following if construction/renovation is involved in this project. Indicate N/A for any questions not applicable.

I. ARCHITECT Bob Cherry or Doug McNab
Firm Cherry McNab Architects
Address 8148 Old Federal Road
City/State/Zip Montgomery, AL 36117
Contact Person Bob Cherry or Doug McNab
Telephone (334) 271-3015
Architect's Project Number N/A

II. ATTACH SCHEMATICS AND THE FOLLOWING INFORMATION

A. Describe the proposed construction/renovation:

Leasehold improvements to include a patient waiting area, a patient prep area, treatment area, support and administrative areas, storage and water treatment areas for thirteen (13) station ESRD facility. Schematics are attached as Exhibit C.

B. Total gross square footage to be constructed/renovated: Approximately 7000 square feet

C. Net useable square footage (not including stairs, elevators, corridors, toilets): Approximately 7000 square feet

D. Acres of land to be purchased or leased 0

E. Acres of land owned on site 0

F. Anticipated amount of time for construction or renovations 12 months

G. Cost per square foot \$152.86 (\$1,070,000/7000 sq. ft.)

H. Cost per bed (if applicable) N/A

PART FOUR: UTILIZATION DATA AND FINANCIAL INFORMATION

This part should be completed for projects under \$500,000.00 and/or those projects for ESRD and home health. If this project is not one of the items listed above, please omit Part Four and complete Part Five. Indicate N/A for any questions not applicable.

I.	UTILIZATION	Years:	PROJECTED	PROJECTED
			thru 12/2015	thru 12/2016
A.	ESRD			
	# Patients		26	36
	# Procedures		2731	4052
B.	Home Health Agency			
	# Patients			
	# of Visits			
C.	New Equipment			
	# Patients			
	# Procedures			
D.	Other			
	# Patients			
	# Procedures			

II. Percent of Gross Revenue

Source of Payment	Projected		
	2015	2016	2017
ALL Kids*	0	0	0
Blue Cross/Blue Shield	32.25	32.25	32.25
Champus/Tricare	0	0	0
Charity Care**	0	0	0
Medicaid	4.21	4.21	4.21
Medicare	45.31	45.31	45.31
Other Commercial Insurance	1.71	1.71	1.71
Self Pay	1.06	1.06	1.06
Medicare Assigned	13.57	13.57	13.57
Veterans Administration	1.89	1.89	1.89
Workers' Compensation	0	0	0
TOTAL	100 %	100 %	100 %

Note: Refer to the Healthcare Financial Management Association (HFMA) Principles and Practices Board Statement Number 15, Section II.

*ALL Kids uses Blue Cross/Blue Shield of Alabama

** Springs Dialysis is willing to provide uncompensated care in appropriate circumstances.

III. CHARGE INFORMATION

A. List schedule of current charges related to this project.

	In Center - Hemodialysis	PD	Home Hemodialysis
Medicare Rate	236.84	240.63	247.38
Medicaid	218.22	121.05	120.84
Blue Cross	1487.83	745.15	870.08

B. List schedule of proposed charges after completion of this project. Discuss the impact of project cost on operational costs and charges of the facility or service.

Any increased operational costs associated with this expansion will be controlled by operational efficiencies and will not be passed on to the patients or insurance companies.

PART FIVE: UTILIZATION DATA AND FINANCIAL INFORMATION

This part should be completed for projects which cost over \$500,000.00 or which propose a substantial change in service, or which would change the bed capacity of the facility in excess of ten percent (10%), or which propose a new facility. ESRD, home health, and projects that are under \$500,000.00 should omit this part and complete Part Four.

I. Percent of Gross Revenue

Source of Payment	Historical		Projected		
	200	200	200	200	200
ALL Kids					
Blue Cross/Blue Shield					
Champus/Tricare					
Charity Care (see note below)					
Medicaid					
Medicare					
Other commercial insurance					
Self pay					
Other					
Veterans Administration					
Workers' Compensation					
TOTAL	%	%	%	%	%

Note: Refer to the Healthcare Financial Management Association (HFMA) Principles and Practices Board Statement Number 15, Section II.

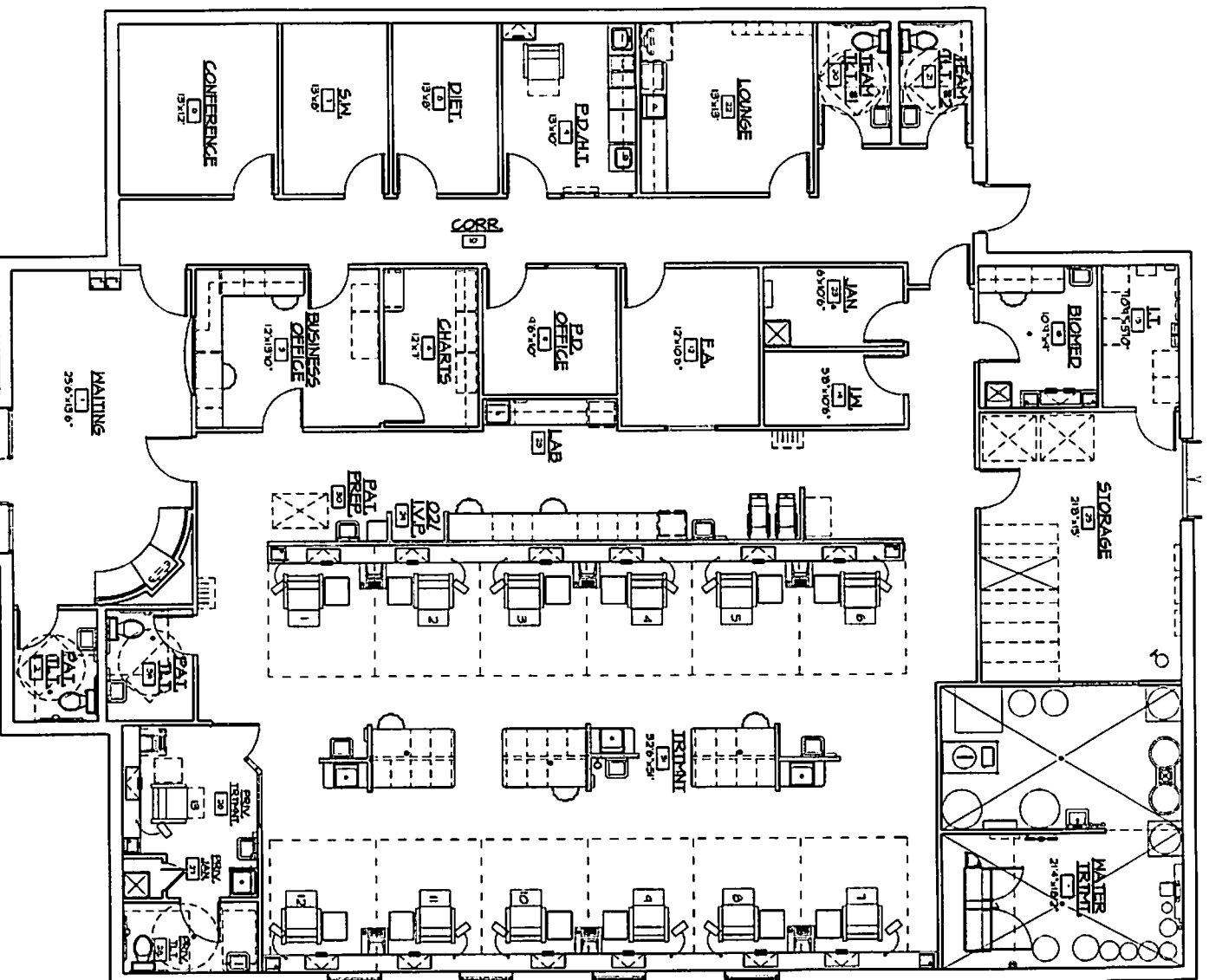
II. CHARGE INFORMATION

C. List schedule of current charges related to this project.

D. List schedule of proposed charges after completion of this project. Discuss the impact of project cost on operational costs and charges of the facility or service.

Exhibit C:

Schematic



PRELIMINARY FLOOR PLAN #1

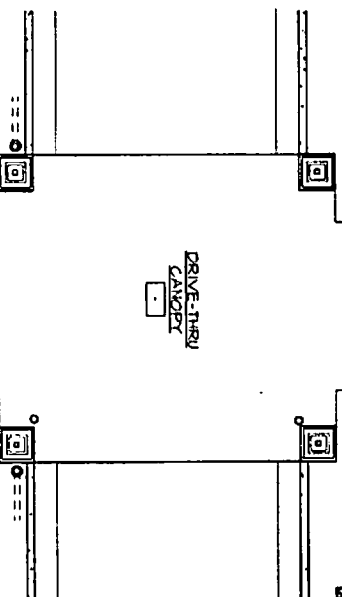
NOT TO SCALE
6110 SF.
1-22-2014

Davita, Inc.

SPRINGS DIALYSIS
C. ROBERT CHERRY ARCHITECT

200 Oak Forest Road
Birmingham, AL 35244
205-988-4444

DAVITA - AMERICAN SOCIETY OF ARCHITECTS




I. CERTIFICATION

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

**RENAL TREATMENT CENTERS –
SOUTHEAST, LP
D/B/A SPRINGS DIALYSIS**


(“APPLICANT”)

**By: Renal Treatment Centers, Inc.
Its: General Partner**

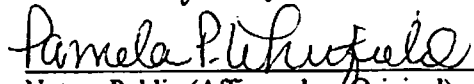

By: Gayle Ozbirn
Its: Regional Operations Director

DAVITA HEALTHCARE PARTNERS INC.

(“PARENT COMPANY”)


By: Gayle Ozbirn
Its: Regional Operations Director

21 day of July, 2014


Notary Public (Affix seal on Original)

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Nov 17, 2014
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Author: Alva M. Lambert

Statutory Authority: § 22-21-267, 271, 275, Code of Alabama, 1975

History: Amended March 19, 1996 and July 25, 2002