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February 26, 2015

VIA EMAIL & HAND DELIVERY

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

Re: Non-reviewability Determination Request:
Southern Alabama Surgery Center, LLC d/b/a Surgery Center South
("Surgery Center South")
2800 Ross Clark Circle, Suite 3, Dothan, Alabama 36301
Houston County

Dear Mr. Lambert:

As you know; our firm has the pleasure of representing Southern Alabama Surgery Center, LLC d/b/a Surgery Center South ("Surgery Center South") which owns and operates an ambulatory surgery center ("ASC") located in Dothan, Alabama, serving patients in Houston County.

Pursuant to the Alabama Certificate of Need Program Rules and Regulations ("CON Rules") Section 410-1-7-.02 and Alabama Code § 22-21-260 et. seq., this letter is filed on behalf of Surgery Center South to request ("Request") your determination of the non-reviewability of the proposed expansion of its ASC, which shall involve Surgery Center South leasing 7,569 square feet of shell space within which Surgery Center South proposes to construct: six (6) new additional operating rooms, two (2) of which will be licensed, certified, fully staffed, and operated immediately upon completion of the construction, and four (4) of which will remain unstaffed, possibly unlicensed and/or uncertified, but reserved and held for future use in future years; sixteen (16) total bays for pre-operative and recovery care; counseling space; cleaning stations; a waiting area; restrooms; and a small physician's lounge ("Proposal").

The following factual and legal information is submitted for your review and consideration in support of this Request. A check in the amount of \$1,000.00 as the fee required by the State Health Planning and Development Agency ("SHPDA") for this Request is enclosed herein.

1. Facts and Analysis.

1.1 Surgery Center South is licensed by the Alabama Department of Public Health ("ADPH") and certified by Medicare to conduct, maintain, and operate an ASC located at 2800 Ross Clark Circle, Suite 3, Dothan, Alabama 36301, in Houston County. The Facility License Identification is U3501.

1.2 According to SHPDA records, CON No. 624-ASC was issued to Eye Surgery Center, Inc., on November 11, 1983, to establish the ASC to provide free-standing ambulatory surgery center

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STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

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(a) the construction, development, acquisition through lease or purchase or other establishment of a new health care facility or health maintenance organization; or

(b) any expenditure by or on behalf of a health care facility which as a capital expenditure exceeds the CON statutory threshold for major medical equipment, new annual operating costs, or any other capital expenditure by or on behalf of a health care facility; or

(c) the addition of any new health care facility beds or stations; or

(d) any health service which is proposed to be offered in or through a health care facility which was not offered on a regular basis in or through a health care facility within the preceding twelve-month period; or

(e) any other reviewable event under the existing CON laws, rules and regulations of the State of Alabama.

2.2 This Proposal also does not involve any relocation of the ASC or any change of ownership.

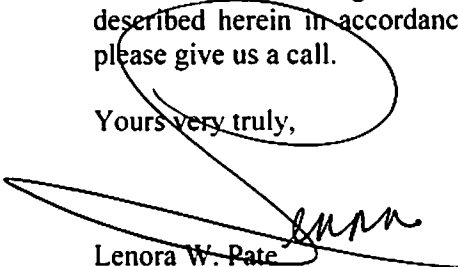
3. Conclusion and Request.

3.1 This Proposal does not involve a new institutional health service subject to CON Review pursuant to Alabama Code § 22-21-260, et seq. and CON Rule 410-1-4-.01, because it simply enables Surgery Center South to continue to provide its existing free-standing ambulatory surgery center services to better serve the need and demands of its patients and existing Medical Staff; does not involve any expenditure by or on behalf of a health care facility in excess of the current CON statutory expenditure thresholds; does not involve any other new institutional health service subject to CON review; does not involve any other reviewable event under the Alabama CON laws, rules and regulations; does not involve any change of ownership; and does not involve any relocation of the ASC.

3.2 Hence, this Proposal is due to be determined as non-reviewable in accordance with the Alabama CON law, rules, and regulations.

3.3 Thank you for your prompt consideration of this Request. We look forward to receiving from you at your earliest opportunity written confirmation that no further regulatory approvals by you, the State Health Planning and Development Agency, or the CON Board are required for the Proposal described herein in accordance with the laws and regulations cited herein. If you have any questions, please give us a call.

Yours very truly,


Lenora W. Pate
Joseph T. Ritchey
Bruce "Andy" Andrews
FOR THE FIRM

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**c: Sharron Sullivan
Sebastian Heersink, M.D.**

Exhibit A

Schematic for this Proposal

Leased Shell Space is highlighted in pink, and consists of two sections. First, the section labeled “New Construction Surgery Center South” contains two (2) operating rooms which will be licensed and certified, fully staffed and operated immediately upon completion of licensure and certification of this Proposal. The section labeled “Future Use Surgery Center South” contains four (4) operating rooms which will remain unstaffed, possibly unlicensed and/or uncertified, and reserved for future use.

NO.	DATE	DESCRIPTION
1	10/1/07	ISSUED FOR PERMIT
2	10/1/07	ISSUED FOR CONSTRUCTION
3	10/1/07	ISSUED FOR AS-BUILT

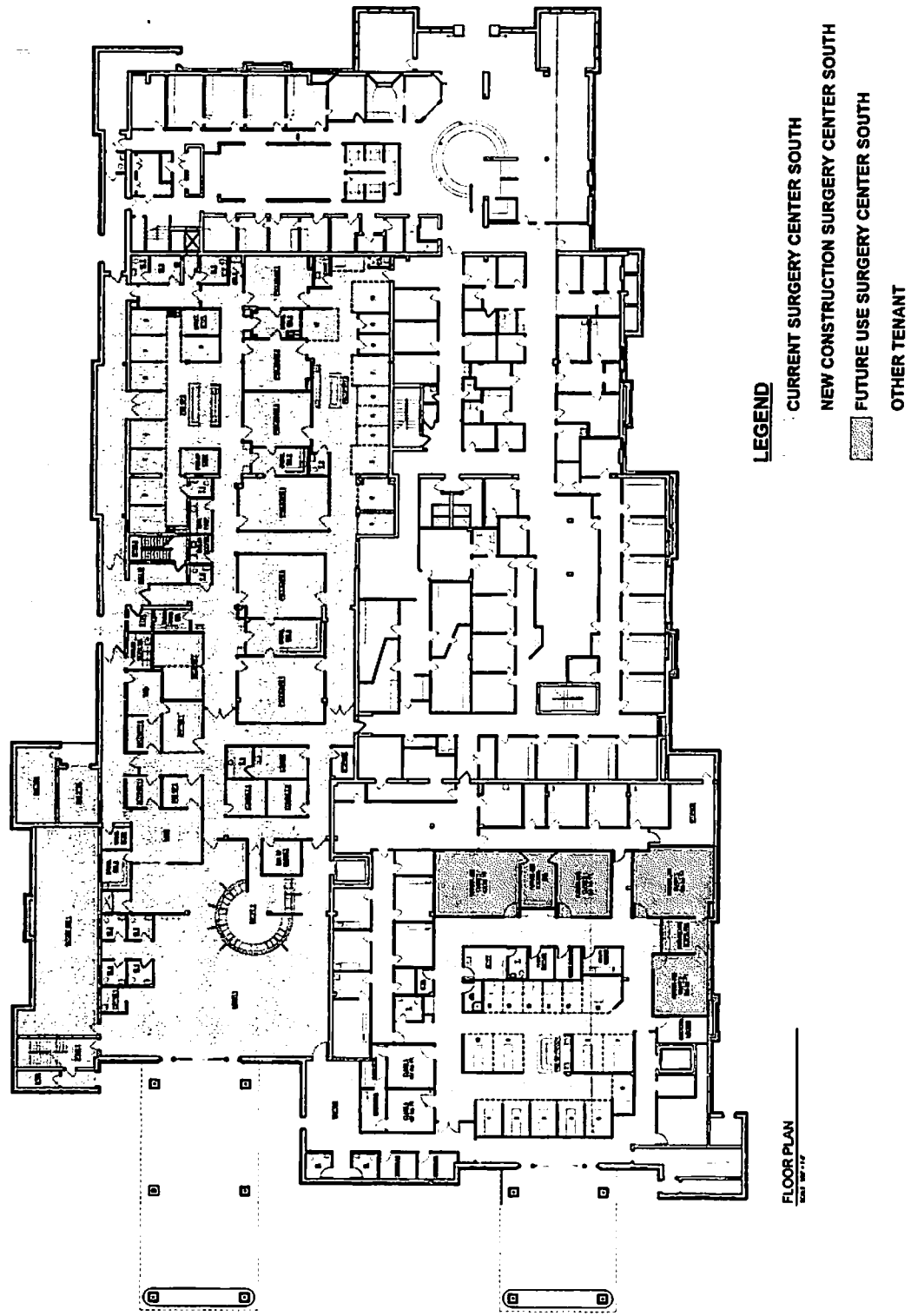


Exhibit B

**Memorandum dated September 17, 2014 from Alva M. Lambert,
Executive Director of the State Health Planning and Development Agency**



**STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
100 NORTH UNION STREET, SUITE 870
MONTGOMERY, ALABAMA 36104**

MEMORANDUM

DATE: September 17, 2014
TO: Interested Parties
FROM: Alva M. Lambert *AMB*
Executive Director
SUBJECT: New Certificate of Need Application Fee and
Monetary Threshold for Review
Effective October 1, 2014

Section 22-21-271, Code of Alabama, 1975 and Rule 410-1-7-.06 of the *Alabama Certificate of Need Program Rules and Regulations* require that the maximum application fee be indexed for inflation along with the threshold for new institutional health services listed in §22-21-263, Code of Alabama, 1975. The United States Department of Labor Consumer Price Index (CPI) – All Urban Consumers, Professional Medical Services, averaged an increase of 1.8% for the months of September 2013 through August 2014 (series id CUUR0000SEMC).

The expenditure threshold for major medical equipment will be increased from \$2,757,204 to \$2,808,834; the new annual operating cost will be increased from \$1,102,881 to \$1,122,733; and any other capital expenditure by or on behalf of a healthcare facility or health maintenance organization will be increased from \$5,514,408 to \$5,613,667.

Based on a 1.8% increase in the CPI, the maximum Certificate of Need filing fee will be increased from \$20,995 to \$21,373.

AML/kwm

**MAILING ADDRESS: P.O. BOX 303025, MONTGOMERY, ALABAMA 36130-3025
PHONE: (334) 242-4103 FAX: (334) 242-4113**

Exhibit C

Schedule of Major Medical Equipment

QTY	ITEM	Price Each	Total Cost
16	Patient Stretchers	\$2,200	\$35,200
22	Patient Monitors	\$3,500	\$77,000
1	Water Softener	\$3,500	\$3,500
1	Lobby/Lounge Furniture	\$10,000	\$10,000
12	May Stands	\$500	\$6,000
12	Back Tables	\$500	\$6,000
2	OR Beds	\$3,000	\$6,000
10	PC's/Computer Work Stations	\$800	\$8,000
3	Autoclaves	\$8,000	\$24,000
6	Anesthesia Carts	\$5,000	\$30,000
1	Crash Cart	\$12,000	\$12,000
1	Blanket/Fluid Warmer	\$8,000	\$8,000
2	Medicine Cabinets	\$750	\$1,500
6	Surgeon Stools	\$600	\$3,600
6	OR Lights	\$5,000	\$30,000
	GI Equipment*		\$225,000
	Total Projected Capital Expenditures		\$485,000

Important Notes

A	<p>*Possible Acquisition of GI Equipment. Surgery Center South plans to utilize equipment it already owns during the first year of operations. Such equipment will be transferred from the existing ASC space to the new operating rooms. Surgery Center South may, however, need to acquire some or all new equipment by the time construction is completed. Therefore, Surgery Center South has included in this Proposal the cost of acquiring entirely new equipment for the two operating rooms which will be licensed, certified, and placed into operation during the first year of operations.</p>
B	<p>Equipment contained on this list above is what Surgery Center South plans to purchase to equip six (6) operating rooms, but place into service two (2) operating rooms. When the two newly licensed and certified operating rooms are placed into service, the two operating rooms in the existing ASC previously utilized for GI services in the then-previous year will be used for other procedures, utilizing existing equipment.</p>

Exhibit D

New Annual Operating Costs. Surgery Center South has projected its new annual operating costs during the first year of operations which are the result of this Proposal, using conservative assumptions and additional contingencies. Such projections include all costs of operations of this Proposal, including but not limited to major cost categories such as employee salaries and benefits, supplies, uniforms, utilities, lease of space, maintenance, insurance, property tax, housekeeping, and IT services. Surgery Center South's projections are based on actual historical costs incurred. Although Surgery Center South plans to convert its existing operating/procedure rooms currently used for Gastrointestinal ("GI") procedures and services to other uses once this Proposal is completed and the two (2) new operating rooms are placed into service, Surgery Center South does not expect a substantial increase in cases during the first year of operations of this Proposal. As demand for GI services has grown currently to need the two new operating rooms, other specialties are currently extending their hours and working unfavorable schedules, and will continue to do so. Once the two (2) new operating rooms described in this Proposal are licensed, certified, and open, Surgery Center South plans for its entire ASC to follow its traditional normal operating schedules. Even with several very conservative assumptions and additional contingencies built into its projections, Surgery Center South's new annual operating costs during the first year of operations of the two (2) new operating rooms described in this Proposal are below the applicable threshold.

- **Staffing Costs.** Costs to fully staff the operating rooms with all newly hired staff are included in this Proposal, although Surgery Center South expects that many current staff will be utilized and/or transferred to the new operating rooms. Projections for salaries and benefits for such newly hired staff are based on current actual wage rates and costs of benefits incurred by Surgery Center South for the same positions. The staffing costs utilized are the maximum staffing costs that it may incur in the first year of operations of this Proposal, totaling \$626,000, if all new staff are hired.
- **Lease Costs.** The Leased Shell Space is not included as part of the ASC's current lease. Surgery Center South will lease the Leased Shell Space through a new triple net operating lease of 7,569 square feet at an annual cost of \$16.79 per square foot, for a total annual lease cost in the first year of this Proposal of approximately \$127,000. Cost per square foot of the Leased Shell Space was based on another lease of shell space in the same building of the ASC recently negotiated between arm's length third parties. Surgery Center South will build out the interior of the Leased Shell Space itself and capitalize the build out cost as a leasehold improvement. Such construction costs are described separately on Exhibit E.
- **Supplies.** Surgery Center South's cost projection for supplies underlying this Proposal was determined based on the actual cost of supplies per case incurred currently. Surgery Center South projects that operating the two (2) new operating rooms in the first year of the Proposal, at maximum capacity, will represent a caseload increase in GI services of approximately 50% as compared to its caseload of GI services prior to opening two (2) new operating rooms described in this Proposal. Surgery Center South projects that it will incur approximately \$170,000 of new supply costs in the first year of this Proposal, operating at maximum capacity.
- **Other Costs.** Based on actual costs currently incurred and applicable rates for expenses such as taxes, utilities, and services of outside vendors, Surgery Center South projects that its other new annual operating costs in the first year of this Proposal will amount to approximately \$78,000.

Exhibit E

Other Capital Expenditure.	
Estimated Cost of Construction	\$1,609,000
Construction Contingency	\$200,000
Subtotal of Cost of Construction	\$1,809,000
Financing cost, amortized over 10 years at 3.25%	\$312,284.68
Total Other Capital Expenditure, including financing costs	\$2,121,284.68