

August 24, 2016

DELIVERED ELECTRONICALLY AND BY FIRST CLASS MAIL

Donna Jerry
Senior Health Policy Analyst
Green Mountain Care Board
89 Main Street, Third Floor City Center
Montpelier, Vermont 05620

Re: Docket No. GMCB-010-15con, Proposed Ambulatory Surgery Center
Response to Questions 005 posed on 07/29/2016

Dear Donna:

Thank you for the questions in your July 29, 2016 letter. As requested, we have restated the questions in **bold** font and answered the questions in un-bolded font.

- 1. Regarding your response to question 23 of the Board's questions dated February 10, 2016, provide a plan indicating dimension lines for each room/area representing the length, width and square footage of each space (Dimension Plan).**

Please see Exhibit 1 attached.

- 2. Provide a detailed construction cost estimate based on the CSI division format.**

As we stated in the Green Mountain Care Board's Table 2 of our Application, because the Green Mountain Surgery Center will be leased, the applicant will not incur any construction costs in building the building. The fit-up costs to the building's interior were detailed in Applicant's Table 2 on pages 17 and 18 of the Application. The fit-up costs (totaling \$1,609,875) are presented by item: the item's cost per square foot and the total cost per item.

The Applicant has filed three iterations of the Green Mountain Care Board's Table I "Project Costs," which includes construction costs. The first was filed with the Application on July 2, 2015. The second was filed on December 23, 2015 in response to your August 28, 2015 request for revisions (GMCB Q001). See question 19. The third was filed on March 31, 2016 in response to your January 20, 2016 request for additional revisions (GMCB Q002). See question 1. Despite these revisions, the underlying information (no construction costs associated with the building; \$1,609,875 in fit-up costs) have remained the same.

If what we have already provided is not in the correct format, please provide additional guidance about specifications that you require.

3. Provide a copy of the letter of commitment from the lending institution for planned debt financing in the amount up to \$1,800,000 to be used for initial inventory, furniture/fixtures, working capital and other start-up costs. (Application at 68.)

On Page 58 of our Application, we stated that "ACTD has had extensive discussions with a community bank and expects to obtain a commitment letter shortly for debt financing in the amount of up to \$1,800,000, subject to customary conditions and contingencies, including receipt of a certificate of need," and then on Pages 58-59 that "[w]e expect to raise an aggregate amount of \$1,132,838 through equity, which would reduce our loan amount to \$680,000."

Subsequently, in our response to Question 4(d) of GMCB Q002 (posed 1/20/2016) which we submitted on March 31, 2016, we stated:

"There have been no changes to our banking/loan requirements from those stated in Section III of our Application. We continue to expect to raise an aggregate amount of \$1,132,838 through equity. Our anticipated debt needs are accordingly \$680,000, as noted on page 58-59. We have requested and obtained an updated pre-approval letter from a community bank for a loan in the amount of \$680,000."

Because the pre-approval letter for the \$680,000 loan referenced in this response has by this point become dated, we have requested and obtained an updated pre-approval letter. Note that this pre-approval letter has revised interest rate terms from those in the previous pre-approval letter (and which we summarized in our response to Question 4(d) of GMCB Q002). The current pre-approval letter from Union Bank is attached as Exhibit 2.

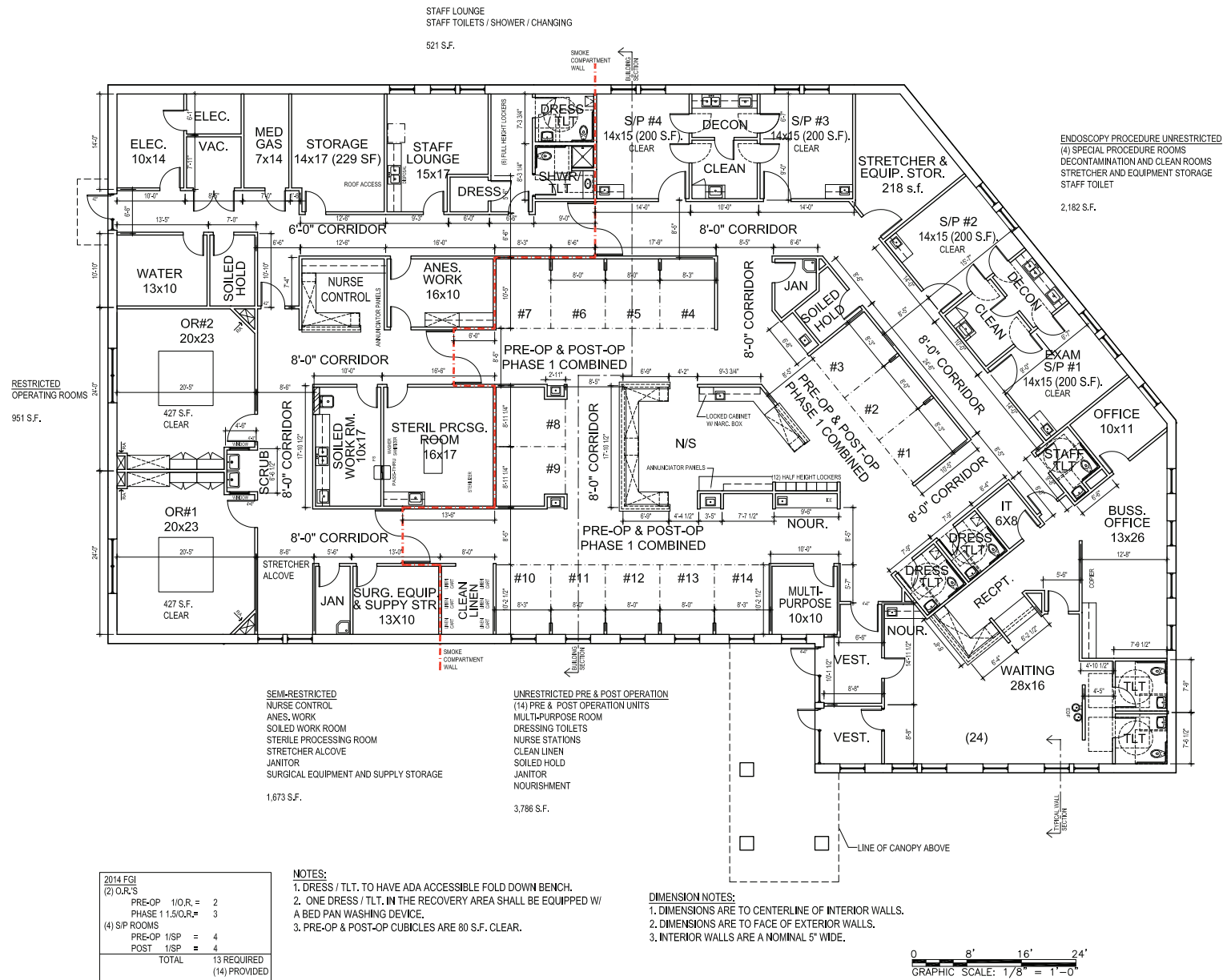
Please let us know if you have any additional questions or need clarification regarding any of these responses.

Sincerely,



Eileen Elliott
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC

cc: Judy Henkin, Esq., General Counsel, Green Mountain Care Board
Lauren Layman, Esq., Vermont Association of Hospitals and Health Systems
Anne Cramer, Esq., Vermont Association of Hospitals and Health Systems
Jill Berry Bowen, CEO, Northwestern Medical Center
Jonathan Billings, V.P. of Planning & Community Relations, Northwestern Medical Center
Lila Richardson, Esq., Office of the Healthcare Advocate
Kaili Kuiper, Esq., Office of the Healthcare Advocate



UnionBank

Member FDIC Equal Housing Lender

Exhibit 2

May 15, 2016

THOMAS DOWHAN, MD
MEMBER MANAGER
ACTD LLC
CHASE MILL BUILDING
SUITE 310
WINOOSKI, VT 05404

Dear Dr. Dowhan:

Please accept this letter as the Union Bank's pre-approval to provide financing to you subject to the following terms and conditions, which may change as your project progresses, we review your financial projections and approval is received from our Board of Directors:

BORROWER: ACTD, LLC

GUARANTORS:

[REDACTED]
[REDACTED] and [REDACTED] will offer an unlimited personal guaranty in support of this loan commitment.

LOAN AMOUNT: \$680,000.00

PURPOSE: Provide funding for start-up operating costs, working capital and medical equipment for a proposed ambulatory surgical center.

TERM: 20 years.

INTEREST RATE: A fixed rate of interest equal to the Federal Home Loan Bank of Boston CDA program 10/10 rate as of three days prior to closing, plus 180 basis points.
OR
A fixed rate of interest for the first seven (7) years equal to the Federal Home Loan Bank of Boston CDA program 7/10 rate as of three days prior to closing, plus 180 basis points. After the seven (7) year fixed rate period, the interest rate on the loan shall be adjusted to the Prime Rate of Interest (as published from time to time in the Money Rates Section of the Wall Street Journal) plus 1% variable as Prime changes.

TERMS OF PAYMENT: For the first five (5) years of the loan term, the Borrower will pay monthly payments of interest only on the outstanding balance. At the conclusion of the five (5) year period the loan will convert to monthly payments of principal and interest sufficient to amortize the loan balance over the remaining term.

DOCUMENT
PREPARATION FEE: \$2,000.00 will be due and payable at closing.

ACTD LLC
May 15, 2016

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INSURANCE TRACKING FEE: \$65.00 will be due and payable at closing.

ORIGINATION FEE: \$ 5,000.00 will be due and payable at closing.

PREPAYMENT PENALTY:

Should this loan be prepaid, in whole or in part, at any time prior to its maturity, Borrower promises to pay a prepayment fee that will be equal to the prepayment fee assessed to the Union Bank by the Federal Home Loan Bank of Boston (hereinafter referred to as FHLBB) for Union Bank's prepayment of its loan from FHLBB being used to fund the herein described loan. The prepayment fee shall be calculated by the Federal Home Loan Bank of Boston or its successors or assigns, at its sole discretion, based on a formula which shall be equal to 100% of the present value of lost cash flow by FHLBB based upon the rate that FHLBB is charging on its loan to Union Bank and the current yield on Federal Home Loan Bank securities of the same maturity as that remaining on the loan, discounted at the current yield on Federal Home Loan Bank securities of the remaining maturity. The current yield on Federal Home Loan Bank securities is defined as the yield on Federal Home Loan Bank consolidated obligations (without concessions), as estimated for the prepayment date by the Federal Home Loan Bank System's Office of Finance. In addition, the prepayment fee will include any additional costs FHLBB may incur, including but not limited to the cost of terminating interest rate swaps, futures, and options contracts, in order to render FHLBB financially indifferent to the decision to prepay. Borrower agrees to give Bank ten (10) days' notice prior to prepayment.

DEPOSIT ACCOUNT REQUIREMENTS

The Borrower shall actively maintain with the Bank substantially all of its depository accounts.

COLLATERAL:

1. A first security interest under the Uniform Commercial Code on all cash, deposit accounts, tax refunds, books and records, accounts receivable, contracts, contract rights, and inventory, wherever situated, including raw materials, work-in-process, and finished goods; all equipment, machinery, furniture, fixtures, together with all replacements thereof, all attachments, accessories and parts, all general intangibles, now owned or hereafter acquired, including any and all substitutions thereof and additions thereto, and proceeds of same.

INSURANCE:

Borrower(s) shall be required to maintain all risk insurance equal to the amount of the Bank's loan but not less than 80% coinsurance coverage with the Bank named as lender's loss payable on personal property. The Bank shall be named as loss payee and mortgagee on real property and as lender's loss payable on personal property. Borrower(s) must obtain National Flood Insurance if mortgaged premises are located in a special flood hazard zone in a participating community. If at any time during the terms of this loan it is determined that your property is located within a designated flood zone, you will be required to purchase flood insurance coverage. Evidence of proper insurance coverage shall be forwarded annually to the Bank.

ENVIRONMENTAL COMPLIANCE:

The Borrower hereby represents and warrants to the Bank that the Borrower and all real property pledged to secure the loans is in full compliance with any and all judgments, decrees, orders, licenses, and all federal or state laws, regulations or rules pertaining to environmental or hazardous waste or materials ("Environmental Laws"). To the Borrower's actual knowledge there has been no use of the collateral and there are no materials present on the real property pledged as security that would give rise to liability under any Environmental Laws, except as disclosed in writing to the Bank by the Borrower. The Borrower's business and use of the property pledged to the Bank, as presented conducted and as conducted in the future, will not give rise to any liability under any Environmental Laws.

ACTD LLC
May 15, 2016

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FINANCIAL STATEMENTS:

1. ANNUALLY: Federal Tax Return for ACTD, LLC is to be provided to the Bank within ninety (90) days of the end of the fiscal year.
2. ANNUALLY: The federal tax return and personal financial statement for [REDACTED] [REDACTED] and [REDACTED] is to be provided to the Bank within ninety (90) days of the end of the calendar year.
3. Financial statements and/or tax returns shall be prepared by an accountant acceptable to the Bank, in a form acceptable to the Bank, at the Borrower or Guarantor's expense.
4. Such other financial information, as the Bank may require from time to time, shall be provided in a timely manner.

OTHER TERMS AND CONDITIONS:

1. The borrower will be responsible for all fees connected with this loan, including, but not limited to, those itemized above.
2. This commitment is issued subject to the Borrower obtaining a Certificate of Need.
3. Prior to closing the Borrowers shall provide the Bank with invoice(s) for equipment being purchased, listing identifying numbers or VIN as applicable.
4. Prior to closing we will need a copy of the executed Operating Agreement certified by the secretary or other record keeper and a copy of the Certificate of Organization certified by the Secretary of State for ACTD, LLC prior to closing.
5. We will also need an Authorizing Resolution, certified by the secretary or other record keeper of ACTD, LLC showing that the members or the manager(s) have taken the required action to approve and authorize the borrowing and have authorized a person or persons to sign the loan documents.
6. We require a Certificate of Incumbency, signed by the secretary or other record-keeper of ACTD, LLC, certifying the names of the current members or managers of the LLC and the authenticity of the signatures of the authorized signers.
7. The Bank requires an Opinion of Counsel for ACTD, LLC as to the due organization, existence, and good standing of the LLC, its authority to enter into the loan transaction, its due authorization of the transaction, and the enforceability of the loan documents.
8. Prior to closing, borrower must provide evidence of an equity injection of \$1,132,000.
9. Prior to closing the Borrower shall provide the Bank with copies of any permits, authorizations and approvals obtained under Environmental Laws to operate its business. Upon Lender's request, Borrower shall furnish Lender with copies of all such permits, authorizations and approvals and any amendments and renewals of them, and shall immediately notify Lender of any expiration, revocation, or suspension thereof, or any order to show cause why suspension or revocation should not occur or any equivalent of such an order, or any notice or allegation of noncompliance or violation thereof.
10. The Borrower shall provide any additional information or documents the Bank and/or its counsel deem necessary in connection with the closing of the loan, or thereafter to remedy any documentation deficiency.

RIGHT TO ON-GOING REVIEW:

This pre-approval is based upon information which has been made currently available to the Bank concerning the Borrower(s). The Bank reserves the right to review any final commitment from time to time and to modify or amend its terms and conditions as may be required by any material adverse change in circumstances or by newly disclosed information.

ACTD LLC
May 15, 2016

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Thank you for giving the Union Bank the opportunity to assist you with this financial package.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Curtis". The signature is fluid and cursive, with the first name "Michael" and last name "Curtis" clearly distinguishable.

Michael Curtis
Vice President

Form A – Verification Form

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

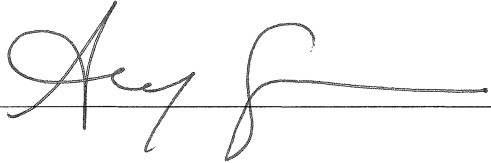
In re: ACTD LLC MULTI-SPECIALTY)	
AMBULATORY SURGERY CENTER)	Docket No. GMCB-010-15con
)	
)	
)	

Verification Under Oath – Responses and Supplemental Exhibits

Amy Cooper, being duly sworn, states on oath as follows:

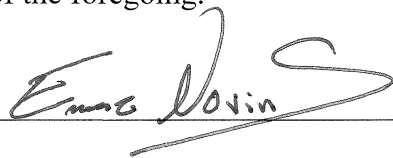
1. My name is Amy Cooper. I am the manager of ACTD LLC. I have reviewed the Responses and Supplemental Exhibits being submitted with this Verification to support the Certificate of Need Application for the Green Mountain Surgery Center (“Responses”).
2. Based on my personal knowledge, after diligent inquiry, the information contained in the Responses is true, accurate and complete, does not contain any untrue statement of a material fact, and does not omit to state a material fact necessary to make the statement made therein not misleading, except as specifically noted in the Responses.
3. My personal knowledge of the truth, accuracy and completeness of the information contained in the Responses is based upon either my actual knowledge of the subject information or, where identified below, upon information reasonably believed by me to be reliable and provided to me by the individuals identified below who have certified that the information they have provided is true, accurate and complete, does not contain any untrue statement of a material fact, and does not omit to state a material fact necessary to make the statement made therein not misleading.
4. I have evaluated, within the 12 months preceding the date of this affidavit, the policies and procedures by which information has been provided by the certifying individuals identified below, and I have determined that such policies and procedures are effective in ensuring that all information submitted or used by ACTD LLC in connection with the Certificate of Need program is true, accurate and complete. I have disclosed to ACTD LLC all significant deficiencies, of which I have personal knowledge after diligent inquiry, in such policies and procedures, and I have disclosed to ACTD LLC any misrepresentation of facts, whether or not material, that involves management or any other employee participating in providing information submitted or used by ACTD LLC in connection with the Certificate of Need program.

5. The following certifying individuals have provided information or documents to me in connection with the Responses, and each such individual has certified, based on his or her actual knowledge of the subject information or, where specifically identified in such certification, based on information reasonably believed by the certifying individual to be reliable, that the information or documents they have provided are true, accurate and complete, do not contain any untrue statement of a material fact, and do not omit to state a material fact necessary to make the statement made therein not misleading:
- a. Jack Amormino, President & CEO – AMB Development Group, LLC; provided the dimension plan in response to Question 1.
 - b. Tom Dowhan, MD – provided the commitment letter in response to Question 3.
6. In the event that the information contained in the Responses becomes untrue, inaccurate or incomplete in any material respect, I acknowledge my obligation to notify the Green Mountain Care Board and to supplement the Responses, as soon as I know, or reasonably should know, that the information or document has become untrue, inaccurate or incomplete in any material respect.



On August 24, 2016, Amy Cooper appeared before me and swore to the truth, accuracy and completeness of the foregoing.

Notary public



My commission expires February 10, 2019