



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Department of  
Health and Social Services

Certificate of Need Program

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July 30, 2015

Mr. Harold Gear  
ASC North, LLC  
11284 Business Boulevard  
Eagle River, AK 99577

RE: Revised Decision for Request for Determination dated June 26, 2015

Dear Mr. Gear,

On July 16, 2015, the Certificate of Need (CON) program issued its determination concerning ASC North, LLC's proposed project. The determination concluded that a CON is required for the project because the estimated expenditures exceed the \$1.5 million statutory threshold under AS 18.07.031.

ASC North, LLC's request for determination estimated project expenditures at \$1,192,703. The CON program's determination found that project expenditures should be estimated at \$1,757,303. The difference between the estimates comes from a disagreement concerning the net present value (NPV) of the project's leased space.

ASC North, LLC calculated the NPV for the leased space to be \$0. The CON program disagreed with this calculation and explained why a NPV of \$0 is neither accurate nor acceptable for estimating CON-related expenditures. The CON program then applied the NPV analysis used in recent determinations and concluded that the correct NPV is \$564,600.

In a meeting on July 23, 2015, you pointed out that the CON program applied its NPV analysis in a manner that is inconsistent with recent determinations. Specifically, you disagreed with the CON program's position that all three of the recent determinations in which it used its NPV analysis involved lease terms of five years. This is important because the CON program made the following statement in ASC North, LLC's determination:

[A]n analysis to capture the funds expended to lease the space cannot be limited to a one-year lease term . . . . To be consistent with the precedent used for NPV issues in the determinations discussed above, and because it is more realistically aligned with the investment that ASC North, LLC would make on the space, the CON program finds that the NPV should use a 5-year lease term for determining expenditures associated with the lease of space.

After reviewing the prior determinations that were cited by the CON program as precedent in ASC North, LLC's determination, the CON program agrees with you that the three relevant NPV analyses did not all involve lease terms of five years. Rather, only two of the determinations involved lease terms of five years.<sup>1</sup> The other determination, "Dr. Jeffery Zuckerman, M.D., Determination made 04/14/2014," involved a lease term of two years.

Even though the CON program believes its use of a 5-year lease term for ASC North, LLC's NPV was correct because it is more realistically aligned with the entity's investment in the space, the CON program agrees that in order to be consistent with the precedent discussed above, absent a longer lease, the CON program can only use a 2-year lease term for determining expenditures associated with the leased space.

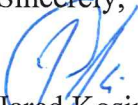
Using the minimum 2-year lease term, the NPV analysis now results in lease expenditures of \$225,840 (\$9,410.00 rent per month \* 12 months \* 2 years). The revised expenditures are now:

DESCRIPTION	EXPENDITURE
• Building and Land	\$225,840
• Tenant Improvements	\$994,874
• Consulting Fees	\$750
• Equipment	\$182,079
• Shipping Costs	<u>\$15,000</u>
• TOTAL	\$1,418,543

Since the revised expenditures are below the \$1.5 million statutory threshold under AS 18.07.031, this determination finds that the proposed project, as presented, does not require a certificate of need.

If you are dissatisfied with this determination, you may request reconsideration under 7 AAC 07.033. A request for reconsideration must be postmarked no later than 30 days after the date of this determination.

Sincerely,



Jared Kosin, Executive Director  
Office of Rate Review  
Certificate of Need Program

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<sup>1</sup> See <http://hss.state.ak.us/Apps/CertNeed/>.

(1) Cable & McCormick, Determination made 04/14/2014

(2) Arctic Surgery Center, LLC, Determination made 06/04/2015, See CON Letter dated 05/01/2015 for NPV analysis