

From: [Hill, Richard W.](#)
To: [Lux, Mackinzey](#)
Subject: RE: CON 6095 HT
Date: Wednesday, April 24, 2024 2:08:58 PM

Mackinzey:

Please see below in **red**. Please let me know if I can provide any other information or explanation. Thanks!

Rich

RICHARD W. HILL
Attorney at Law
DIRECT: 314 436.8317
CELL: 314 749 2396
rhill@lashlybaer.com
Licensed in Missouri

LASHLY & BAER, P.C.

Attorneys at Law

714 Locust Street St. Louis, MO 63101-1699 TEL: 314 621.2939
20 East Main Street Belleville, IL 62220-1602 TEL: 618 233.5587
FAX: 314 621.6844 www.lashlybaer.com

THIS ELECTRONIC COMMUNICATION IS PRIVILEGED, CONFIDENTIAL AND OTHERWISE LEGALLY PROTECTED INFORMATION FROM THE LAW FIRM OF LASHLY & BAER, P.C. The information contained in this communication and any attachments is intended solely for use by the addressee(s). If this was erroneously sent to you, please notify us immediately by reply email or by telephone at 314-621-2939 and permanently delete this communication including any electronic or printed versions and attachments. Electronic communications are not secure. Please advise if you do not wish to receive electronic communications in the future. [Click here](#) for additional disclaimers.

Please consider the environment before printing this email.

From: Lux, Mackinzey <Mackinzey.Lux@health.mo.gov>
Sent: Wednesday, April 17, 2024 3:55 PM
To: Hill, Richard W. <RHill@lashlybaer.com>
Subject: CON 6095 HT
Importance: High

Rich,

After reviewing everything for 6095 HT, I need some additional information.

- Provide a service area for the staff analysis. **St. Louis County, St. Charles County, Franklin County, and Jefferson County.**
- Can you explain the methods and assumptions used for determining if an item should be included in the project budget? The detail states that fire protection, HAVAC, Acoustical ceilings and other similar items should not be included. Please advise. **Costs for Major Medical Equipment ("MME") projects include equipment, software, shielding, and installation, as well as any functionally related devices necessary to operate the equipment. Historically, this has been interpreted as the equipment, software, shielding, installation, and any other item that**

is both: (1) necessary to operate the equipment; and, (2) physically attached to the equipment. This arises from the principle that major medical equipment purchases require CON approval; however, medical office buildings, imaging clinics, ambulatory surgery centers, or other medical premises are permitted to be renovated (or constructed) without CON approval. Under this principle, a chiller that is required to operate a MRI or other piece of MME would be included in the CON project budget, but a new air conditioning unit that generally serves the building or suite would not be included in the CON project budget.

Because fire protection, HVAC, acoustical ceilings, and other items that are marked “No” in column D of Table 2 for the budget detail (and accordingly are not included in the CON budget), they are items that the applicant determined were not part of the major medical equipment CON project. In other words, those items are not both: (1) necessary to operate the equipment; and, (2) physically attached to the equipment. Rather, these items are simply suite improvements that any landowner may undertake without CON approval. On the other hand, electrical improvements to the suite are necessary to operate the LINAC, will be attached to the equipment, and have been included in the budget.

- Provide the name and model of the existing unit. The existing unit is a Varian Clinac iX Linear Accelerator.
- The Varian quote states valid until 12/16/22. Provide an updated quote. St. Luke’s entered into a purchase order on December 13, 2022 to preserve the pricing in the Varian Quote. The pricing in the Varian Quote is valid. Despite entering into the purchase order, St. Luke’s has not yet expended any sums on the replacement LINAC, in accordance with CON requirements.
- It appears the trade in value was deducted from the total project cost. If this is correct, please provide a revised project budget sheet with the amount included and an additional fee. Columns D and E, lines 5 and 6 of the Budget Detail, Table 1 show that the combined -\$350,000 was not deducted from the CON project budget. If that deduction were applied, Column E, lines 5 and 6 would each read -\$175,000. Instead, they read \$0, denoting that the deduction was not applied to the CON project budget.
- The Paric quote states valid until 2/14/24. Is this still valid? St. Luke’s has confirmed this is still valid.
- The Heidman quote states valid until 2/26/24. Is this still valid? St. Luke’s has confirmed this is still valid.

This information is needed by Tuesday, April 30, 2024.

Mackinze Lux

Assistant Program Coordinator, Certificate of Need
Department of Health and Senior Services
920 Wildwood Drive, P.O. Box 570