

EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY THC-SEATTLE, INC. PROPOSING TO AMEND CERTIFICATE OF NEED #1328A

APPLICANT DESCRIPTION

Kindred Healthcare, Inc. is the parent corporation of THC-Seattle, Inc. THC-Seattle, Inc. is a Washington State, for-profit corporation whose primary business is to own, operate, or manage healthcare facilities throughout the United States. The majority of THC-Seattle's healthcare facilities, including those in Washington State, operate under the dba of "Kindred Healthcare, Inc." [source: Application, pp1-6; Appendices 1 and 2] For Certificate of Need purposes, the department considers THC-Seattle to be the applicant as defined under WAC 246-310-010.

For Washington State, THC-Seattle operates nine healthcare facilities under the dba of Kindred Healthcare, Inc. The nine facilities include one long-term acute care hospital located in King County, and eight nursing homes located in the counties of Clark (1), Cowlitz (1), King (3), Pierce (2), and Whatcom (1). The eight facilities are listed below. [source: Application, Appendices 1 and 2 and DSHS on-line nursing home directory]

King County Hospital

Kindred Hospital/Seattle

Clark County Nursing Homes

Vancouver Health and Rehabilitation Center/Vancouver

Cowlitz County Nursing Home

Northwest Continuum Care Center/Longview

Whatcom County Nursing Home

Bellingham Healthcare & Rehabilitation/Bellingham

Pierce County Nursing Homes

Lakewood Healthcare Center/Lakewood
Rainier Vista/Puyallup

King County Nursing Homes

Arden Rehabilitation & Healthcare/Seattle
First Hill Care Center, Seattle¹
Queen Anne Healthcare/Seattle

PROJECT DESCRIPTION AND BACKGROUND INFORMATION

This project relates to two healthcare facilities located in King County. One is Kindred Hospital, the long-term acute care hospital located in Seattle. The other is First Hill Care Center a nursing home also located in Seattle.

Kindred Hospital is an 80-bed long term acute care hospital located at 10560 Fifth Avenue Northeast in the city of Seattle. Kindred Hospital is licensed by the Department of Health's hospital licensing program as an acute care hospital and reimbursed by both Medicare and Medicaid. The hospital is also fully accredited by the Joint Commission. [source: Initial evaluation, p6]

Long-term acute care hospitals (LTACHs) differ from general acute care hospitals in that they provide extended medical and rehabilitative care to individuals who are clinically complex and have multiple acute or chronic conditions. An LTACH must be certified as an acute care hospital that meets criteria to participate in the Medicare program and has an average inpatient

¹ First Hill Care Center was issued RA #051 approving the renovation of the nursing home. The facility was closed to accommodate the renovation and will reopen once the renovation project is complete.

length of stay greater than 25 days. [source: American Hospital Association Long Term Care Hospital home page]

LTACHs also differ from nursing homes and rehabilitation hospitals in that their patients generally require a higher level of medical attention. The LTACH is designed to provide extended medical and rehabilitative care for patients who are clinically complex and have multiple acute or chronic conditions. Most patients in LTACHs have several diagnosis codes on their Medicare claim, which indicates that they have multiple co-morbidities and are less stable on admission than patients admitted to other post-acute care settings. Approximately one half of the patients in an LTACH have five or more diagnoses noted on their claims. [source: Prospective Payment Assessment Commission, 1996]

Under the current Medicare payment system, LTACH reimbursement is structured to compensate hospitals for the care of patients whose average length of stay exceeds 25 days. The reimbursement model for general acute care hospitals is not designed to compensate hospitals for this population. As a result, the LTACH is a model of care that provides an environment tailored to medically complex patients and is able to serve those patients under a reimbursement model that adequately covers the costs of treatment. LTACHs in a community enable existing hospitals to improve facility utilization by discharging patients to the LTACH who would otherwise be occupying intensive care, critical care, or other acute care beds for long periods of time and place them in a suitable clinical setting. As a result, the existing hospitals are able to free space to more effectively manage their daily caseload, particularly in intensive care unit (ICU) and critical care unit (CCU) settings, which are often subjected to highly fluctuating occupancy rates. Referral of suitable patients to an LTACH improves hospitals' ability to ensure that ICU and CCU beds are available. [source: American Hospital Association Long Term Care Hospital home page]

First Hill Care Center was a 172-bed nursing home located at 1334 Terry Avenue in the city of Seattle. During the review of the initial THC-Seattle project, First Hill Care Center was licensed by the Department of Social and Health Services and accepted both Medicare and Medicaid patients. [source: DSHS nursing home directory & CN historical files]

On August 25, 2005, Replacement Authorization (RA) #050 was issued to Kindred Nursing Centers West approving the replacement of 40 skilled nursing beds from First Hill Care Center to Kindred Hospital located on 5th Avenue in Seattle. Kindred Nursing Center also elected to relinquish the rights to 92 of the remaining 132 licensed beds. At project completion, First Hill Care Center would have 40 licensed beds at its Terry Avenue site and 40 skilled nursing beds at its 5th Avenue site.

On October 13, 2005, Renovation Authorization (RA) #051 was issued to Kindred Nursing Centers West approving the renovation of First Hill Care Center. Once 132 nursing beds—92 relinquished and 40 relocated—were removed from the site, RA #051 allowed the renovation of the empty space at First Hill Care Center to accommodate 40 LTACH beds from Kindred Healthcare. On December 16, 2005, First Hill Care Center closed for renovation of the facility.

On May 10, 2006, CN #1328 was issued to THC-Seattle, Inc approving the relocation of the 40 LTACH beds from Kindred Healthcare on 5th Avenue to the newly-renovated space at First Hill Care Center. At project completion, Kindred Healthcare would operate a 30-bed LTACH and First Hill Care Center would operate a 50-bed LTACH.

In December 2006 after issuance of RAs #050 and #051 and CN #1328, Kindred Nursing Center and THC-Seattle elected to reduce its number of licensed nursing home beds by 10 at each site. The results of the reduction are shown below.

	Kindred HealthCare	First Hill Care Center	# of NH Beds Relinquished
Before 8/25/05	80 LTACH beds	172 NH beds	Zero
RA #050	80 LTACH beds 40 NH beds	40 NH beds	92 nursing home beds
RA #051	No Change	40 NH beds & renovate empty space	
CN #1328	30 LTACH beds 40 NH beds	50 LTACH beds 40 NH beds	
December 2006 PR	30 LTACH beds 30 NH beds	50 LTACH beds 30 NH beds	20 nursing home beds

The issuance of RAs #050 and #051 were considered by THC-Seattle to be phase one of a two-phase project. Under this concept, phase one has commenced, but is not complete. Issuance of CN #1328 was considered phase two.

On November 20, 2008, CN #1328A was issued to THC-Seattle approving an increase in capital expenditure from the approved amount of \$10,683,481 to \$22,052,256. CN #1328A also modified a condition attached to CN #1328 allowing THC-Seattle additional time to complete the project and obtain the appropriate licensure for the LTACH beds.

PROJECT DESCRIPTION

With this application, THC-Seattle proposes to amend CN#1328A for two reasons. The first reason is related to the capital costs of the project. Under CN Program rules, if the capital costs of a project increase the greater amount of \$50,000 or 12% above the approved costs, an amended CN is required. Within its amendment application, THC-Seattle identified an increase in capital expenditure from \$22,052,256 to \$29,355,000, equating to 33.1% increase. [source: Amendment application, p20]

The second reason THC-Seattle submitted this amendment application is related to Condition #2 attached to CN #1328A, which states:

THC-Seattle anticipates providing acute care services in the fifty new acute care beds at the First Hill campus by the end of April 2010. Under this timeline, year 2010 would be the facility's first full fiscal year of operation. If the project is not complete by April 30, 2010, any remaining bed authorization not meeting licensing requirements shall be forfeited.

Given the extensive construction review delays encountered, coupled with requirements by the city of Seattle, the project did not become operational by April 2010 as expected. Documentation in this amendment application projects the facility would be operational by

December 31, 2011. This application requests to amend the above condition by extending the completion date by 20 months to December 2011.

Although the costs of the project have increased beyond the allowable amount, the scope of the project and the location of the hospital have not changed. THC-Seattle continues to proceed with the project as approved. The new 50-bed LTACH is scheduled to begin operations December 2011.

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to review under WAC 246-310-570(1)(e) because the costs of the project have increased beyond the amount allowable in WAC 246-310-570. This project is also subject to review under WAC 246-310-570(1)(d) because the applicant requests to modify a condition attached to Certificate of Need #1328A.

CRITERIA EVALUATION

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. It states:

“Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.

(a) In the use of criteria for making the required determinations, the department shall consider:

- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
- (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.”*

In the event the WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

“The department may consider any of the following in its use of criteria for making the required determinations:

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington state;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
- (vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application.”*

The review for an amendment project is limited to only those criteria that would be affected by the amendment, provided that the amendment does not significantly alter the project. While THC-Seattle’s project was delayed and revised, the project was not significantly altered under CN rules. As a result, this review will focus on financial feasibility (WAC 246-310-220) and cost containment (WAC 246-310-240). Additionally, all terms and conditions of the initial approval that are not requested to be explicitly modified as part of an applicant’s request for an amendment remain in effect.

APPLICATION CHRONOLOGY

October 30, 2009	Letter of Intent submitted ²
November 30, 2009	Application submitted
December 1, 2009 through April 11, 2010	Department’s Pre-Review Activities <ul style="list-style-type: none"> • 1st screening activities and responses • 2nd screening activities and responses
April 12, 2010	Department Begins Review of the Amendment Application <ul style="list-style-type: none"> • public comments accepted throughout review • no public hearing conducted under the expedited review rules
May 3, 2010	End of Public Comment
May 18, 2010	Rebuttal Comments Submitted ³
June 7, 2010	Department's Anticipated Decision Date
August 11, 2010	Department's Actual Decision Date

AFFECTED PERSONS

Washington Administrative Code 246-310-010(2) defines “*affected person*” as:

“...an “*interested person*” who:

- (a) *is located or resides in the applicant's health service area;*
- (b) *testified at a public hearing or submitted written evidence; and*
- (c) *requested in writing to be informed of the department's decision.*”

Throughout the review of this project, no entities sought and received affected person status under WAC 246-310-010(2).

SOURCE INFORMATION REVIEWED

- THC-Seattle, Inc.’s Certificate of Need amendment application submitted October 30, 2010
- THC-Seattle, Inc.’s supplemental information received February 4, 2010, and April 5, 2010
- Quarterly Progress Reports for CNs #1328 and #1328E completed and submitted by Kindred Healthcare [Reports submitted quarterly beginning in June 2006, and each quarter thereafter for years 2007, 2008, and 2009, plus March 2010 quarterly report.]

² THC-Seattle submitted the application without a valid letter of intent as required under WAC 246-310-080. When an application is submitted without a valid letter of intent, the application itself is considered the letter of intent and any action on the application is suspended for 30 days. For this project, the application was considered the letter of intent from October 30 to November 29, 2009. On November 30, 2009, the application was considered submitted.

³ Since no public comments were submitted, no rebuttal comments were submitted.

SOURCE INFORMATION REVIEWED (continued)

- The department's April 28, 2006, evaluation approving THC-Seattle, Inc.'s initial application to relocate 50 of its 80 LTACH beds from the north King planning area into the central King planning area at the First Hill campus
- Certificate of Need #1328 issued on May 10, 2006
- The department's October 24, 2008, evaluation approving THC-Seattle, Inc.'s first amendment related to the increase in capital costs and modification of a condition
- Certificate of Need #1328A issued on November 20, 2008
- Joint Commission website [www.jointcommission.org]

CONCLUSION

In its April 28, 2006, initial evaluation and October 24, 2008, first amendment evaluation the department concluded that THC-Seattle's project was consistent with application criteria of the Certificate of Need Program if the applicant provided written agreement with two specific conditions. One of the conditions related to the amount of charity care to be provided at the new hospital. Approval of this second amendment application would also include a condition related to the amount of charity care to be provided at the new hospital.

The second condition is related to the timelines identified in the initial application. The condition identified in the first amendment evaluation is restated below.

In the amendment application, THC-Seattle, anticipates providing acute care services in the fifty new acute care beds at the First Hill campus by the end of April 2010. Under this timeline, year 2010 would be the facility's first full fiscal year of operation. If the project is not complete by April 31, 2010, any remaining bed authorization not meeting licensing requirements shall be forfeited.

The intent of any condition related to timelines identified in an application is to ensure that a Certificate of Need holder will strive to commence and complete its approved project in accordance with the timelines identified in the application. If a project falls behind schedule for any reason, the condition also ensures that the Certificate holder will not "hold on" to any bed approvals to prevent any future applications for the same type of project.

This amendment project requests modification of the condition as state above. Consistent with the intent of the condition, the department acknowledges that THC-Seattle has begun construction of the projects authorized under RAs #050 and #051. Further, the applicant has begun some construction of the project authorized under CN #1328. As a result, the department's approval of this amendment project will require modifications to condition #2.

For the reasons stated in this evaluation, THC-Seattle's proposal to relocate 50 of its 80 LTACH beds from the north King planning area into the central King planning area at the First Hill campus is consistent with application criteria of the Certificate of Need Program, provided the applicant's agreement to the two conditions stated on the following page.

Conditions

1. Kindred Hospital must provide charity care in compliance with the charity care policies provided in this Certificate of Need application and the requirements of the applicable law. Specifically, Kindred Hospital will use reasonable efforts to provide charity care in an amount comparable to the average amount of charity care provided by all hospitals in the King County Region (less Harborview) during the three most recent years. For historical years 2004-2006, these amounts are 1.33% gross revenue and 2.40% adjusted revenue. Kindred Hospital will maintain records at the facility documenting the amount of charity care it provides and demonstrating compliance with its charity care policies and applicable law.
2. In the amendment application, THC-Seattle, anticipates providing acute care services in the fifty new acute care beds at the First Hill campus by the end of December 2011. If the project is not complete by December 31, 2011, any remaining bed authorization not meeting licensing requirements shall be forfeited. No further extension of the timeline will be granted.

Provided the applicant's agreement with the above conditions, a Certificate of Need should be issued. The approved capital expenditure for this project is \$29,355,000.

A. Financial Feasibility (WAC 246-310-220)

Based on the source information reviewed, the department determines that the applicant has met the financial feasibility criteria in WAC 246-310-220.

(1) The immediate and long-range capital and operating costs of the project can be met.

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

THC-Seattle's Initial and First Amendment Summaries

In its April 28, 2006, evaluation supporting the issuance of CN #1328, the department concluded that this sub-criterion was met based on the following factors:

- 1) a review of THC-Seattle's and Kindred Healthcare's historical audited financial reports; and
- 2) a review of the THC-Seattle's projected patient utilization as a 50-bed LTACH. This review included proposed revenues, expenses, and net profit for the new hospital in years 2008 through 2010.

[source: CN historical files: Initial evaluation, pp25-26]

In its October 24, 2008, first amendment evaluation supporting the issuance of CN #1328A, the department concluded that this sub-criterion was met based on the following factors:

- 1) a review of THC-Seattle's and Kindred Healthcare's historical audited financial reports; and
- 2) a review of the THC-Seattle's projected patient utilization as a 50-bed LTACH. This review included proposed revenues, expenses, and net profit for the new hospital in years 2011 through 2013.

[source: CN historical files: Initial evaluation, pp25-26]

THC-Seattle's Second Amendment Review

Within this second amendment application, THC-Seattle provided updated pro forma revenue and expense summaries and balance sheets used to demonstrate that even with the increase in capital costs, the immediate and long range capital and operating costs of the project could be met.

Table 1 on the following page is a comparison of the new facility's third year of operation shown in the first amendment application (2013) and this second amendment application (2014) using the updated capital costs. [source: THC-Seattle's first amendment application, Appendix 2; second amendment application, Appendix 1]

**Table 1
THC-Seattle Year 3 Only--Comparison**

	First Amendment Year 3 - 2013	Second Amendment Year 3 - 2014
#of Acute Care Beds	50	50
Net Revenue	\$ 23,965,000	\$ 27,063,000
Total Expense	\$ 21,991,000	\$ 24,090,000
Net Profit or (Loss)	\$ 1,974,000	\$ 2,973,000

The 'net revenue' line item in Table 1 is the result of gross revenue minus any deductions for contractual allowances, bad debt, and charity care. The 'total expense' line item includes staff salaries/wages and all direct and indirect expenses of the hospital.

As shown in the comparison table above, the increase in costs does not negatively affect the ability of THC-Seattle to meet its short and long-term financial obligations. THC-Seattle still expects to operate the 50-bed LTACH with a profit margin.

Based on the information above, the department concludes that the immediate and long-range operating costs of the project can be met. This sub-criterion is met.

- (2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and expertise the department compared the proposed project's costs with those previously considered by the department.

THC-Seattle's Initial and First Amendment Summaries

In its April 28, 2006, initial evaluation supporting the issuance of CN #1328, the department concluded that this sub-criterion was met based on the following factors:

- 1) the total construction costs per square foot; and
- 2) the department's Hospital and Patient Data Systems staff analysis concluded that the costs for the project were comparable to past construction costs reviewed by that office.

[source: CN historical files: Initial evaluation, pp27-28]

In its October 24, 2008, first amendment evaluation supporting the issuance of CN #1328A, the department concluded that this sub-criterion was met based on the following factors:

- 1) a comparison of the initial and amended total construction costs per square foot; and
- 2) the department's Hospital and Patient Data Systems staff analysis concluded that the costs for the project were comparable to past construction costs reviewed by that office.

[source: THC-Seattle's first amendment evaluation, pp8-9]

THC-Seattle's Second Amendment Review

To demonstrate that its capital cost increase would not result in an unreasonable impact on the costs and charges for health services, THC-Seattle provided a breakdown of its revised construction costs and total construction costs per gross square foot. Table 2 below shows a comparison of the first and second amendment's construction cost breakdown. [source: source: THC-Seattle's first amendment evaluation, p8; second amendment application, p21]

Table 1
THC-Seattle Initial and Amended Capital Cost Breakdown

	FIRST AMENDED COSTS	SECOND AMENDED COSTS	% OF INCREASE
Total Capital Costs	\$ 22,052,256	\$ 29,355,000	33.1%
Construction Cost (includes tax)	\$ 16,687,132	\$ 23,409,563	40.3%
Gross Square Footage	42,070	42,070	no change
Beds/Stations/Other (Unit)	50	50	no change
Total Const. per Gross Square Foot	\$ 396.65	\$ 556.54	40.3%
Total Cost per Unit	\$ 441,045.12	\$ 587,100.00	33.1%

As shown in Table 1 above, the total costs for the project increased 33%, and the majority of those costs are related to construction. THC-Seattle provided a detailed explanation of the increased construction costs within this second amendment application. Portions of the explanation are restated below. [source: Application, pp7-8]

THC-Seattle has made continuous progress toward completion of [the hospital] as noted in the quarterly progress reports. ...THC-Seattle submitted its initial application for a building permit from the city of Seattle in November 2006. The city of Seattle determined that the renovation plan was a substantial alternation and required the building to meet current seismic codes. The proposed plans underwent Tier 1 and Tier 2 studies to determine the amount of modifications required and, as a result, sheer walls with substantial footings were included in the required building modifications. THC-Seattle did not receive a city building permit until July 2009, 32 months after submission of the initial permit application.

Seattle City Power and Light is requiring an underground transformer vault for three electrical transformers which is a massive undertaking that [THC-Seattle] did not anticipate in its application. Kindred's construction management firm believes that the vault construction will take significantly more time beyond what was projected in the first amendment application.

To implement the extensive modifications to the existing structure required by the city, Seattle Power and Light, and the state, [THC-Seattle] must complete a building information modeling process to develop contractor coordination drawings that will identify the most effective means of renovating the building to meet all applicable codes. This process adds cost and time to the project.

A major factor that influenced the project cost is the presence of minimal clearances between each floor of the existing structure. This requires extensive construction management and labor to ensure all required mechanical, electrical,

plumbing, and fire protection systems are installed in accordance with current codes. This makes the installation and upgrade of the required building systems challenging and more expensive.

The explanation above and the comparison in Table 2 confirm the applicant's assertions that the increase in costs is primarily due to the unanticipated changes required to meet state, city, and county requirements. Even with the increase in costs, the department concludes that costs for the project continue to be comparable to past construction costs reviewed by the department. Based on the information provided above, the department concludes this sub-criterion remains met.

(3) *The project can be appropriately financed.*

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

THC-Seattle's Initial and First Amendment Summaries

The approved capital expenditure associated with CN #1328 was \$10,683,481. The majority of the costs were associated with construction and fixed/moveable equipment. In the initial application, THC-Seattle proposed 100% funding with its parent corporation—Kindred Healthcare—accumulated reserves. Once the project was complete, THC-Seattle would begin repayment of the funding under a 20-year amortization schedule. In the initial evaluation, the department concluded that the funding source was reasonable based on a review of historical financial statements from Kindred Healthcare. [source: Initial evaluation, p29]

In its October 24, 2008, first amendment evaluation supporting the issuance of CN #1328A, the department concluded that this sub-criterion was met based on the following factors:

- 1) Kindred Healthcare's 2005-2007 audited financial reports demonstrating that its financial position continues to be strong; and
- 2) The capital expenditure of \$22,052,256 represented 2.18% of year 2007 current assets and 1.06% of year 2007 total assets for Kindred Healthcare.

THC-Seattle's Second Amendment Review

To show where the increases in costs occurred, THC-Seattle provided a table comparing its first amendment capital expenditure with the second amended capital expenditure. The comparison is shown in Table 3 on the following page. [source: Application, p20]

**Table 3
THC-Seattle First and Second Amendment Capital Cost Comparison**

Item	First Amendment Costs	Second Amendment Costs
Construction Costs, incl land and site prep	\$ 14,584,756	\$ 20,358,934
Fixed & Moveable Equipment	\$ 3,618,260	\$ 4,300,000
Fees, Permits, Supervision, Inspections	\$ 1,065,705	\$ 1,238,821
Capitalized Interest	\$ 1,149,644	\$ 1,202,737
Washington State Sales Tax	\$ 1,633,891	\$ 2,254,508
Total Estimated Capital Costs	\$ 22,052,256	\$ 29,355,000

As shown in Table 3 above, costs increased in all areas of the project, with the majority of the increases in construction related costs. The funding sources for the project have not changed. THC-Seattle still intends to fund the project through a 20-year inter-company loan from Kindred Healthcare at a 4.1% interest rate. [source: Application, p22]

To demonstrate that the funding is available, THC-Seattle provided a copy of its most recent audited financial reports for years 2006 through 2008. [source: Application, Appendix 5] The capital expenditure of \$29,355,000 represents 20.1% of year 2008 cash/cash equivalents and 2.6% of year 2008 total assets for Kindred Healthcare.

After reviewing Kindred Healthcare’s audited financial reports the department concludes that use of accumulated reserves is the most prudent approach to fund the project, and would not negatively affect Kindred Healthcare Inc.’s total assets or general financial health. THC-Seattle provided an amortization schedule to demonstrate that it could repay the loan at the 4.1% interest rate. [source: Application Appendix 6]

Based on the information provided above, the department concludes this sub-criterion remains met.

B. Cost Containment (WAC 246-310-240)

Based on the source information reviewed, the department determines that the applicant has met the cost containment criteria in WAC 246-310-240.

(1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project met WAC 246-310-210 through 230 criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the department determines the proposed project is better or equal to other options the applicant considered before submitting their

application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

Step three of this assessment is to apply any service or facility specific criteria (tie-breaker) contained in WAC 246-310. The tiebreaker criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility criteria as directed by WAC 246-310-200(2)(a)(i), then the department would look to WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

THC-Seattle's Initial and First Amendment Summaries

In its April 28, 2006, initial evaluation, the department concluded that the project was the best option for the community, resulting in the approval of a new LTACH by relocating 50 of THC-Seattle's 80-beds to a new site. At project completion, THC-Seattle would be operating a 30-bed LTACH at its existing site on Fifth Avenue in Seattle and a new 50-bed LTACH within space at First Hill Care Center on Terry Avenue in Seattle. [source: Initial evaluation, pp36-37]

In its October 24, 2008, first amendment evaluation supporting the issuance of CN #1328A, the department concluded that this project continued to be the best alternative for the community met based on the continued support of the community for the project. Further, CN Program rules require an amended CN be issued prior to project completion.⁴ THC-Seattle submitted its first amendment application with enough time to allow an amended CN to be issued before the project was complete.

THC-Seattle's Second Amendment Review

To evaluate THC-Seattle's amendment project, the department begins with the three steps identified above.

Step One

For this project, THC-Seattle has met the applicable review criteria under WAC 246-310-220. Therefore, the department moves to step two below.

Step Two

WAC 246-310-570(1)(e) requires a certificate holder to obtain an amended Certificate of Need if the costs for the project increase beyond 12% or \$50,000 [whichever is greater] of the approved costs. Since THC-Seattle's costs increased 33.1% of the approved costs, no other option was available to the applicant for this project. Additionally, in order to extend the timeline on the condition attached to CN #1328A, THC-Seattle is required to obtain an amended CN. Documentation provided in this amendment application demonstrates that moving forward with this project, even with the increase in capital costs, is ultimately the best option for the residents of the service area.

⁴ WAC 246-310-570(2).

Step Three

This step is used to determine between two or more approvable projects which is the best alternative. While THC-Seattle's initial application did undergo a comparative review with Regional Hospital for Respiratory and Complex Care's LTACH bed addition project, this second amendment application is not undergoing comparative review.

Based on the information above, the department concludes this project continues to be one of the best available alternatives for King County. This sub-criterion is met.

(2) In the case of a project involving construction:

(a) The costs, scope, and methods of construction and energy conservation are reasonable;

and

This project requires significant remodel and construction to accommodate the 50-bed LTACH within space at First Hill Care Center. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

(b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

This sub-criterion is re-evaluated within the financial feasibility criterion under WAC 246-310-220(2) and is met.