

Jenean Lindbeck

From: Jenean Lindbeck
Sent: Friday, August 21, 2015 3:11 PM
To: Jenean Lindbeck
Subject: FW: Cedar Sinai Debt Financing

This email is regarding the request for approval to sign the construction contract.

From: Bill Pomeranz <bpomeranz@cainbrothers.com>
Subject: Cedar Sinai Debt Financing
Date: August 21, 2015 at 10:07:12 AM PDT
To: "David Fuks (David.Fuks@cedarsinaipark.org)" <David.Fuks@cedarsinaipark.org>

David:

While we have not fully vetted your Organization's entire expansion business plans as we are still collecting some remaining expense and future patient mix related operational data, we have reason to be optimistic that this is a financeable deal with either bank or public tax-exempt fixed rate debt. The reasons supporting this optimistic point of view are as follows:

Strong Loan Security

- a. A performing existing Assisted Living facility with a low existing debt level
- b. A successful fund-raising campaign that has collected a high percentage of pledges by closing, with pending additional donors still to commit
- c. The reputational quality of the lead donors and their families
- d. The lack of competitive "up-scale" SNF facilities in the Greater Portland Area with a majority of private patient rooms
- e. The Organization's existing balance sheet is relatively strong for a nonprofit SNF/ALF oriented organization
- f. Historic Jewish Community support in the form of annual operational fund-raising (both locally and nationally)
- g. A low "loan to value" ratio when existing properties, cash and projected future operations are combined
- h. Finally, the fact that Cedar Sinai has become a diversified provider of both in-home and facility based care delivery

The only potential area of lending concern is the acceptance of the operational patient mix leap being built into the Organization's future cash-flows, as regarding Roberson's ability to transition from serving a primarily convalescent patient population to a patient mix that has a much higher level of short-stay Medicare and Medicare Advantage reimbursed patients. Management and Cain Brothers are still working on the assumptions supporting the likelihood of that successful transition, which is the only reason I am bringing attention to that issue. There will be ongoing lender questions going forward regarding this issue, but I feel comfortable that the Organization's historic reputation, management strength, local industry referral contacts and its planned modern physical plant should provide convincing evidence that a higher volume of Medicare/MA patients can be attracted. Please understand that our financing and underwriting obligations are on a "best efforts" contingency basis, but we are optimistic that we can attract the necessary loan proceeds to construction the planned development and remodeling.

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Jenean Lindbeck

From: Jenean Lindbeck
Sent: Friday, August 21, 2015 3:12 PM
To: Jenean Lindbeck
Subject: FW: CSP/R&H Contract Clarification

This email is regarding the request for approval to sign the construction contract.

From: "Christensen, D. Gary" <Gary.Christensen@millernash.com>
Subject: CSP/R&H Contract Clarification
Date: August 20, 2015 at 3:48:02 PM PDT
To: "David Fuks (david.fuks@cedarsinainpark.org)" <david.fuks@cedarsinainpark.org>, "David Fuks (cindy.rapp@cedarsinainpark.org)" <cindy.rapp@cedarsinainpark.org>
Cc: "Manne, William S." <Bill.Manne@millernash.com>, "Gold, Ivan (Perkins Coie) (IGold@perkinscoie.com)" <IGold@perkinscoie.com>

Hello, David,

Bill Manne and I discussed your question this week about the construction contract with R&H Construction for the expansion project. I hope that this information will answer your questions, but please call or reply if I can be of any further assistance.

Your voicemail to Bill asked about the ability of CSP to terminate the construction contract before the entire project is built if, for example, there were a lack of adequate funding for some portion of the project. Under the current version of the construction contract (which contains our requested revisions), CSP may suspend or terminate the contract with R&H if it is unwilling or unable to complete the entire project. Suspension or termination is contemplated to occur at the conclusion of a discrete portion of the project, with payment being due to R&H for its work through the date of suspension or termination.

R&H's original construction contract bound CSP to pay up to the \$24 million guaranteed maximum price (GMP) for construction of the entire project, although there is a provision for CSP to suspend or terminate the contract for its convenience and without cause. However, the original contract also required CSP to demonstrate to R&H, before construction commenced and at any time during the project, that CSP has in place adequate funding to pay the entire GMP for the project. Of course, the parties understand that CSP does not currently have sufficient funding for construction of the entire project, but will proceed in "portions" and expects to have funding in place as the project progresses.

Given the difference between reality and the contract terms, we asked (and R&H agreed) to include the following provision in Section 4.3 of the A102 construction contract (note particularly the last two sentences):

"The Contractor shall achieve Substantial Completion of the Work in agreed-upon discrete portions, and the Owner may occupy and use each portion as provided in Section 9.9 of the General Conditions. The date for Substantial Completion of each portion of the Work shall be established in the construction schedule to be issued by the Contractor under Section 3.10.1 of the General Conditions and accepted by the Owner. The construction schedule shall contemplate and provide for delays or suspension of the Project between the conclusion of each portion of the work and commencement of the next portion to allow for relocation of residents, care of residents, the Owner's financing requirements for subsequent portions of the Project, and other consequences of completion and commencement of each portion of the Work with respect to the Owner's ongoing operations. The construction schedule shall be issued for each portion of the Work within 15 days after commencement of that portion of the

Work. The Owner may opt to conclude the Project upon Substantial Completion of any portion of the Work and the Contractor shall have no contractual expectancy for commencement or completion of subsequent portions of the Work. The Owner retains the right to suspend Work or suspend or terminate the Project for the Owner's convenience and without cause." (Emphasis added.)

With respect to the original R&H contract's requirement that CSP to demonstrate, before the work began and at any time during the project, that it has the financial capacity to fund the entire GMP amount, we modified that language as follows:

Before commencement of each discrete portion of the Work to be occupied by the Owner, the Contractor may request in writing from the Owner reasonable evidence that the Owner has made financial arrangement to fulfill the Owner's obligations for the next portion of the Work to be performed. The Owner will provide the Contractor with reasonable notice if the financial arrangement for a current or upcoming portion of the Work are materially changed. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor. If the Owner fails to furnish the evidence required in a manner satisfactory to Contractor in its reasonable discretion, Contractor may suspend the work until such evidence is provided. (A201 General Conditions, Sec. 2.2.1.)

I hope that these assist in addressing your questions.

Thanks
Gary

D. Gary Christensen, P.C.

Partner, Construction Team Leader

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Jenean Lindbeck

From: Jenean Lindbeck
Sent: Friday, August 21, 2015 3:15 PM
To: Jenean Lindbeck
Subject: FW: CSP/R&H Contract Clarification

This email is regarding the request for approval to sign the construction contract.

From: Gold, Ivan (Perkins Coie) [<mailto:IGold@perkinscoie.com>]
Sent: Friday, August 21, 2015 10:40 AM
To: David Fuks; Jenean Lindbeck
Cc: Lance Steinberg; Sandra Simon; William S. Manne (bill.manne@millernash.com)
Subject: RE: CSP/R&H Contract Clarification

Other changes in favor of CSP as requested by Miller Nash and agreed by RH, plus no more 'waiver of subrogation.' We got all issues but they will not be responsible for any CSP lost profits if, for example, project is delayed for their fault. This is not unusual for this industry particularly in a project without hard schedules.. Even if RH had been willing to accept liability on this point (they were not) , RH undoubtedly would have charged much more for a contract with such a liability clause. Katherine Lipari DeSau is reviewing the availability of "business interruption insurance" for this risk. In the past, CSP has used such insurance.

Ivan Gold | Perkins Coie LLP

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