



Legislation Text

File #: 22-0178, **Version:** 1

Recommendation to authorize City Manager, or designee, to execute the First Amendment to Amended and Restated Lease No. 35432, and necessary documents, with MWN Community Hospital, LLC (Tenant), for modifications to various provisions of such Lease; and

Adopt resolution finding that the Community Hospital and surrounding campus remains necessary for the City of Long Beach use as a general healthcare campus with related community-serving uses and authorizing the recordation of amended covenants so restricting use of the Subject Property. (District 3)

On October 19, 2019, the City Council authorized Amended and Restated Lease No. 35432 (Lease) with MWN Community Hospital, LLC (Tenant), for the operation of an acute care hospital and other health care services on City of Long Beach (City) owned property located at 1720 Termino Avenue, 1760 Termino Avenue, and 4111 E. Wilton Street (Subject Property) (Exhibit A to the Resolution). The use restriction is memorialized as a Deed Restriction recorded on the Subject Property. As part of the use restriction to operate the Subject Property as an acute care hospital, the Lease also requires the Tenant to pursue seismic-strengthening and building-code related improvements mandated by the State of California Assembly Bill 2190 (AB 2190).

Over the past two years, the Tenant worked with the City, State, and community organizations to reopen the hospital and secure approval for seismic construction plans prior to the January 1, 2022 deadline for groundbreaking as established by State law. Unfortunately, over this time, seismic construction costs increased by 50 percent over initial estimates and demand for acute care services failed to reach levels to sustain acute care hospital operations. On January 14, 2022, the California Department of Public Health (CDPH) confirmed in writing that the Tenant had surrendered its General Acute Care Hospital License effective December 31, 2021.

Notification of Termination

Under Section 28 of the Lease, the Tenant has the right to terminate the Lease if there is no longer economic justification for the Tenant to operate the Subject Property. On September 27, 2021, the Tenant issued a notification of termination to the City indicating economic adversity and requesting to (a) modify the current deed restriction to remove the requirement that the Subject Property be used for a general acute care hospital, and (b) amend the Lease to allow for the Tenant and the City to negotiate a transition plan for the facility to continue to serve Long Beach residents as a general healthcare campus.

As described in Section 3 of the Lease, the Tenant “shall use the Premises for (i) subject to the issuance of the Office of Statewide Hospital Planning Department (OSHPD) approvals, an acute care hospital with emergency care (only such portion of the Premises that are licensed by CDPH as a general acute care hospital ... and other health care services as determined by Tenant or as may be required pursuant to Tenant’s licensure as an acute care hospital, and (ii) medical office buildings.” Given that the Tenant ceased efforts to comply with State seismic construction requirements, the City acknowledges that general acute care services are no longer permitted by OSHPD or licensed by CDPH, effective January 1, 2022, and that the current deed restriction which requires the property to be used for a general acute care hospital must be amended. Additionally, given the ongoing need for community health services, the City Manager was authorized by the City Council to negotiate a transition agreement and/or an amendment to the Lease with the Tenant to provide non-acute health care services at the Subject Property that benefit the community including:

- Behavioral Health

- Recuperative Care

- Social Services

- Education

- Government Offices

- Housing (Healthcare Students)

- Specialized Services

City Council authorization is requested to amend the Lease and the current deed restriction requiring acute care services to allow the Tenant to provide health-related services as described above, effective January 1, 2022. City Council authorization is also requested to amend the Lease as necessary to accommodate ongoing negotiations between the City and the Tenant for potential sale of the Subject Property pursuant to the Lease, including without limitation the extension of certain noticing provisions and deadlines applicable to (i) preparation and review by the City of Net Hospital Capital Costs, and (ii) preparation and review of appraisals establishing the fair market value of the Subject Property. Any proposed agreement for the sale of the Subject Property to the Tenant or another party will be presented to the City Council and the public for final review and approval. This matter was reviewed by Principal Deputy City Attorney Richard F. Anthony on January 27, 2022 and by Finance Director Kevin Riper on February 3, 2022.

City Council action is requested on February 15, 2022, to allow all parties to execute documents in a timely manner.

The recommended action by City Council to modify the deed restriction for the Subject

Property is a requirement of the existing Lease between the City and Tenant. There is no additional fiscal impact as a result of this recommendation and the recommendation does not change any of the financial terms described in the existing Lease. As described in the existing Lease approved by the City Council, City costs associated with the administration of appraisals and the reconciliation of net hospital capital cost reimbursements are expected not to exceed \$150,000. Any recommendation associated with an amended agreement between the City and Tenant that impact the financial obligations of the City would require City Council approval. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

Approve recommendation.

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JOHN KEISLER
DIRECTOR OF ECONOMIC DEVELOPMENT

APPROVED:

THOMAS B. MODICA
CITY MANAGER