Legislation Text

File #: 22-1164, **Version:** 1

Recommendation to declare the City of Long Beach owned Property located at 1720 Termino Avenue, 1760 Termino Avenue, and 4111 Wilton Street as surplus;

Authorize City Manager, or designee, to execute any and all necessary documents, including a Purchase and Sale Agreement with MWN Community Hospital, LLC, a California limited liability company, for the transfer of the Subject Property in accordance with certain provisions of Lease No. 35432; and

Accept the Categorical Exemption CE-22-149. (District 3)

Since the 2018 closure of Community Hospital of Long Beach, the City Council has pursued diligent efforts towards the re-opening and operation of an acute care hospital and other health services on City of Long Beach (City)-owned property located at 1720 Termino Avenue, 1760 Termino Avenue, and 4111 E. Wilton Street (collectively “Subject Property”) (Attachment A) including the following actions:

· On June 19, 2018, the City Council authorized an Exclusive Negotiating Agreement with Molina, Wu, Network, LLC (Tenant’s predecessor) for the lease and potential development of the Subject Property;

· On March 12, 2019, the City Council authorized (a) a short-term lease (Interim Lease) with MWN Community Hospital, LLC, a California limited liability company (Tenant), for the interim lease of the Subject Property and (b) a Letter of Intent related to the development of a long-term replacement lease between the City and the Tenant for the operation of an acute care facility at the Subject Property;

· On October 15, 2019, the City Council authorized (a) a Lease between the City and the Tenant for the Subject Property for the provision of an acute care hospital for a period of 45 years, with the option of two 10-year extensions by Tenant; (B) amendment to existing deed restrictions to allow a for-profit hospital and (c) reimbursement to the Tenant up to $1M per year on an annual basis for the first five years, and up to $2M per year on an annual basis for years 6-15 of the Lease, to assist with seismic retrofit construction costs of the hospital facility. Funding in an amount not to exceed $25M was committed to this effort through Measure A allocation.

· On February 15, 2022, the City Council authorized (a) the First Amendment to Amended and Restated Lease No. 35432 with the Tenant for modifications to various

provisions of the Lease and (b) adoption of a Resolution finding that the Subject Property remains necessary for City's use as a general healthcare campus with related community-serving uses and authorizing the recordation of amended covenants so restricting the use of the Subject Property.

Acute Care Hospital Reopening

Over the past two years, the Tenant worked to reopen the hospital and secure approval for seismic construction plans prior to the statutory deadline; however, seismic construction costs increased substantially 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. To date, the Tenant has submitted, and received reimbursement, of approximately $2,464,863 in seismic retrofit costs from General Fund one-time and Measure A funding allocations, in the October 2019 City Council action.

Lease Termination

Pursuant to 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 as an acute care hospital and sets forth the process to reimburse the Tenant for all capital costs expended by the Tenant to start up and reopen the hospital less any revenue received from operations (Net Hospital Capital Costs). Net Hospital Capital Costs do not include seismic work costs which have been reimbursed to the Tenant. The reimbursement process requires the Fair Market Value of the Subject Property to be established through the average of the City and Tenant's appraisals and all Net Hospital Capital Costs verified through independent third-party consultants. Should the Tenant's Net Hospital Capital Costs exceed the value of the Subject Property, the Subject Property could be transferred to the Tenant as full and complete payment (Tenant Option Sale), or the Subject Property could be listed on the open market and sold to the highest bidder. In no event will the City be responsible for reimbursement of Net Hospital Capital Costs above the Fair Market Value of the Property.

On September 27, 2021, the Tenant issued a notification of termination to the City indicating economic adversity and requested to modify the current deed restriction to remove the requirement that the Subject Property is used for a general acute care hospital. The modification of the deed restriction allowed the Tenant and the City to continue negotiations with the express purpose of formulating a transition plan for the facility to continue to serve Long Beach residents as a general healthcare campus. On February 15, 2022 the City Council approved this request as noted above and the City and Tenant have continued negotiations for a Tenant Sale Option while the Tenant continues its efforts to determine viability of converting the Subject Property to a general healthcare campus.

In compliance with the Net Hospital Capital Cost reimbursement requirements, the City and

Tenant procured respective appraisals to establish the Fair Market Value of the Subject Property. The City and Tenant's Fair Market Values are $17,820,000 and $17,600,000, respectively, establishing the final Fair Market Value of the Subject Property as $17,710,000. Further, the Net Hospital Capital Costs have been verified by an independent third-party consultant as $26,650,948. As the City's financial obligation is limited to the Fair Market Value of the Subject Property, or $17,710,000, the City Council can either transfer title of the Subject Property to Tenant or direct City staff to list the Subject Property on the open market and sell to the highest bidder. The Tenant has indicated its desire to proceed with the conversion of the Subject Property into a general healthcare campus focusing on behavioral health and services and therefore requests that the City Council proceed with the Tenant Sale Option and receive title to the Subject Property. Completion of the Tenant Option Sale would hasten the provision of much needed healthcare services to Long Beach residents and likely to serve neighborhoods in the surrounding communities.

To effectuate the Tenant Option Sale, a Purchase and Sale Agreement has been negotiated with the following Terms and Conditions:

· Landlord/Seller: City of Long Beach, a municipal corporation.

· Tenant/Buyer: MWN Community Hospital LLC, a California limited liability company.

· Property Address: 1720 Termino Avenue (Hospital), 1760 Termino Avenue, and 4111 E. Wilton Street.

· Use: Non-acute healthcare services that benefit the community including behavioral health, recuperative care, social services, education, government offices, housing (healthcare students), specialized services, and other health and/or wellness-related uses consistent with deed restrictions.

· Voluntary Termination: The tenant has determined that it is no longer economically feasible to operate at the Subject Property and has issued a written termination notice dated September 27, 2021. In such event, the Tenant is entitled to the reimbursement of Net Hospital Capital Costs, limited to the value of the Subject Property or its actual sale price.

· Purchase Price: Fair Market Value has been set at $17,710,000, the average of the City and Tenant's independent third-party appraisals, and Tenant's Net Hospital Capital Costs have been established as $26,650,948, as verified by an independent third-party consultant. For the purposes of this transaction, the Purchase Price shall be zero.

· Escrow Period and Closing Costs: Escrow shall close within fifteen (15) business days. City and Tenant shall share closing fees and costs as is usual and customary for commercial real property transfers in Los Angeles County, estimated to be $50,000.

· Seismic Work Annual Payments: Tenant has submitted, and received, approximately

$2,464,863 in reimbursement of seismic retrofit costs. The remaining balance of roughly $22.5 million in Measure A funding earmarked for Seismic Work through Fiscal Year 2035 will be available for reallocation to other Measure A projects.

· Lease Obligations to Cure: As a condition to close, the Tenant and City have obligations related to the transfer of the Subject Property as of the effective date of the Lease, or October 15, 2019. The Tenant shall be responsible for reimbursing the City for maintenance costs, in the amount of $715,554, incurred from the effective date of the Lease through the full transition to the Tenant's care and operation of the Subject Property. Further, the City shall be responsible for refunding a portion of the cash reserves, in the amount of $75,930, to the Tenant. This amount represents the amount of cash on hand that should have remained with the Tenant as of the effective date of the Lease. Payments will be made in twelve monthly installments.

In compliance with Government Code Section 54220 (Chapter 621, Statutes of 1968), also known as the Surplus Land Act (SLA), City staff notified the State of California (State) of the transaction and requested a review to confirm the transaction would be considered "grandfathered" in under the previous iteration of the SLA. On June 2, 2022, the State concluded that, because the parties entered into an Exclusive Negotiating Agreement before September 30, 2019, and because exclusive negotiations between the parties continued in the context of the Interim Lease and Ground Lease, the Subject Property qualifies for the "grandfathering exemption" under Government Code section 54234, subdivision (a)(1). The disposition of the Property is subject to the SLA as it existed on December 31, 2019, provided the disposition of the property to the Tenant is completed by December 31, 2022. After the City completes the disposition of the Subject Property to the Tenant, the City will provide documentation to the State evidencing the disposition was completed by the deadline. The transfer of the Subject Property is categorically exempt under the California Code of Regulations Title 14 Section 15312 and Categorical Exemption CE-22-149 (Attachment B) was issued for this action.

This matter was reviewed by Principal Deputy City Attorney Richard F. Anthony on September 15, 2022 and by Budget Management Officer Nader Kaamoush on September 19, 2022.

City Council action is requested on October 4, 2022, to ensure the transfer of the Subject Property can proceed expeditiously.

If approved, this action will result in the sale of the Subject Property to the Tenant for a Purchase Price of zero dollars and resolve the City's obligation to reimburse the Tenant's Net Hospital Capital Costs, which are capped at the Fair Market Value of the Subject Property, appraised at $17,710,000.

As a condition to close, the Tenant shall be responsible for reimbursing the City for maintenance costs, in the amount of $715,554, to be made in twelve equal monthly

installments and deposited into the General Fund Group in the Economic Development Department.

The City shall be responsible for refunding a portion of the cash reserves, in the amount of $75,930, to the Tenant. This amount represents the amount of cash on hand that should have remained with the Tenant as of the effective date of the Lease. Further, usual and customary fees and closing costs are estimated to be $50,000. Sufficient funds are currently budgeted in the General Fund Group in the Economic Development Department to cover these expenses.

Staff will return to City Council with recommended uses of Measure A funding no longer needed to be reserve for the seismic payment match in the FY 22 year-end performance report.

This recommendation has a minimal 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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