

RESOLUTION NO. 2024 - 44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, FORMALLY EXPRESSING OPPOSITION TO THE DESERT HEALTHCARE DISTRICT'S PROPOSED HOSPITAL LEASE AGREEMENT'S "NON-COMPETE" PROVISION AND DIRECTING THE MAYOR TO SEND A LETTER TO THE DESERT HEALTHCARE DISTRICT BOARD EXPRESSING THIS OPPOSITION

WHEREAS, on May 28, 2024, the Desert Healthcare District (the "District") Board of Directors received a presentation from Tenet Healthcare ("Tenet") regarding a new Hospital Lease Agreement for Desert Regional Medical Center (the "Lease"); and

WHEREAS, this presentation referenced a new 30-year lease, which would allow Tenet, a Dallas based corporation, to take ownership of Desert Regional Medical Center at the end of the Lease; and

WHEREAS, the new Lease would include a "non-compete" provision similar to one in the current lease. If approved by the District Board of Directors, this item would be put on the November 5, 2024 ballot for District voters to weigh in on; and

WHEREAS, the current lease includes a "non-compete" clause, which is generally outlined in Article XIII of the May 30, 1997, Hospital Lease Agreement between the District ("Lessor") and Tenet Health System Desert, Inc. ("Lessee"); and

WHEREAS, this "non-compete" clause currently restricts the use of taxpayer funds within the District's boundaries, requiring Tenet's prior written consent prior to doing so, which Tenet may withhold in its sole and absolute discretion; and

WHEREAS, due to the expansion of the District's boundaries during the term of the current lease, certain ambiguity has arisen pertaining to the District's ability to engage in potentially competing activities within the District's expanded boundaries;

WHEREAS, April 9, 2018, the Desert Healthcare District passed Amendment No. 5 to the Hospital Lease Agreement which states in Article XIII – Additional Covenant of Lessor that the restrictions on the Lessor shall not apply to the activities that solely relate to the Expanded Boundaries, which include the City of Coachella; and

WHEREAS, the new Lease would restrict such activities within the entirety of the District's boundaries.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Coachella as follows:

SECTION 1. Incorporation of Recitals. That the Recitals set forth above are true and correct and are incorporated into this Resolution.

SECTION 2. Direction to Mayor to send a Letter to the District Board. That the City Council hereby directs the Mayor, on behalf of the City and with the assistance of the City Manager, to send a letter to the District Board of Directors detailing the City's objections and concerns to any "non-compete" provision within the new Lease with Tenet.

SECTION 3. Objection to any "Non-Compete" Provision in the new Lease. That the City objects to any "non-compete" provision of the Lease, based on the following grounds:

- 1.) The Lease would restrict the activities of the District within its own boundaries;
- 2.) The Lease would restrict the use of taxpayer funds within District boundaries and would require Tenet's prior written consent, which Tenet may withhold in its sole and absolute discretion;
- 3.) The "non-compete" provision harms communities that lack adequate medical services the most;
- 4.) Allowing Tenet, a for profit corporation, to restrict both District activities and the use of taxpayer funds for the next thirty (30) years is unacceptable;
- 5.) Future District Board members should be allowed to determine how to best use taxpayer funds;
- 6.) The District should be accountable to desert residents, not Tenant's shareholders;
- 7.) Any "non-compete" provision in the Lease would raise necessary questions pertaining to what the District will do with taxpayer funds if it is restricted from using them pursuant to the Lease;
- 8.) The "non-compete" provision stifles both competition and innovation in healthcare services within the District;
- 9.) The "non-compete" provision may result in adverse economic impacts on the community by limiting potential new healthcare facilities and related businesses;
- 10.) Restricting the District's ability to develop and support additional healthcare facilities and services could adversely affect public health and safety; and
- 11.) The "non-compete" provision of the Lease raises both legal and ethical concerns pertaining to the use of taxpayer funds and the District's obligation to serve the public interest.

SECTION 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or

applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 5. Effective Date. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 24th day of July, 2024.

STEVEN HERNANDEZ, Mayor

ATTEST:

ANGELA M. ZEPEDA, City Clerk

I, Angela M. Zepeda, City Clerk of the City of Coachella, California, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Coachella on the 24th day of July, 2024, by the following vote:

AYES: Council Members:
NOES: Council Member:
ABSENT: Council Member:
ABSTAIN: Council Member:

ANGELA M. ZEPEDA, City Clerk