

# CITY OF PALM DESERT STAFF REPORT

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MEETING DATE: July 11, 2024

PREPARED BY: Anthony J. Mejia, City Clerk

REQUEST: RESOLUTION OPPOSING THE DESERT HEALTHCARE DISTRICT'S PROPOSED NEW HOSPITAL LEASE AGREEMENT "NON-COMPETE" PROVISION, WHICH RESTRICTS TAXPAYER FUNDS AND ELECTED BOARD'S OVER THE NEXT 30 YEARS

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## **RECOMMENDATION:**

1. Consider adoption of a resolution entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, OPPOSING THE DESERT HEALTHCARE DISTRICT'S PROPOSED HOSPITAL LEASE AGREEMENT "NON-COMPETE" PROVISION AND DIRECTING THE MAYOR TO SEND A LETTER TO THE DESERT HEALTHCARE DISTRICT BOARD EXPRESSING THIS OPPOSITION." **OR**
2. Provide alternative direction to staff.

## **BACKGROUND/ANALYSIS:**

On May 28, 2024, the Desert Healthcare District (the "District") Board received a presentation from Tenet Healthcare ("Tenet") regarding a new Hospital Lease Agreement for Desert Regional Medical Center (the "Lease"). The presentation referenced a new 30-year Lease, which would allow Tenet, a Dallas-based entity, to take ownership of the hospital at the end of the 30-year Lease. The new Lease would include a "*non-compete*" provision similar to the current lease. If approved by the District Board, this item would be put on the November 5, 2024, ballot for District voters to decide.

The current lease includes a "*non-compete*" clause, generally outlined in Article XIII (Additional Covenant of Lessor) of the May 30, 1997, Hospital Lease Agreement between the District (Lessor) and Tenet HealthSystem Desert, Inc. (Lessee). This clause restricts the use of taxpayer funds within the District boundaries, requiring Tenet's prior written consent, which Tenet may withhold at its sole and absolute discretion. Due to the District's boundary expansion during the term of the current lease, some potential ambiguity arose regarding the District's ability to engage in potentially competing activities within the expanded territory. The new Lease would restrict such activities within the entirety of the current expanded boundaries of the District.

It is recommended that the City Council consider directing the Mayor to send a letter to the District Board, detailing the City's objections and concerns regarding any "non-compete" provision within the new Lease. Staff drafted a resolution with potential grounds for objecting to the "non-compete" provision as follows:

1. The Lease would restrict the activities of the District within District boundaries.
2. The Lease would restrict the use of taxpayer funds within the District boundaries and require Tenet's prior written consent, which Tenet may withhold at its sole and absolute discretion.
3. The "non-compete" provision harms communities that lack adequate medical services the most.
4. Allowing for-profit Tenet to restrict Desert Healthcare District activities and taxpayer funds for the next 30 years is unacceptable.
5. Future elected District Board Members should determine what is best for taxpayer funds.
6. The Desert Healthcare District should be accountable to residents, not the for-profit shareholders of Tenet.
7. The City questions what the District will do with its funds if it is restricted from using them in such a significant manner.
8. The non-compete provision stifles competition and innovation in healthcare services within the District.
9. The non-compete provision could have negative 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, especially during health crises or emergencies.
11. The non-compete provision raises legal and ethical concerns regarding the fair use of taxpayer funds and the District's mandate to serve the public interest.

**Legal Review:**

This report has been reviewed by the City Attorney's office.

**FINANCIAL IMPACT:**

There is no direct impact to the General Fund associated with this item.

**ATTACHMENTS:**

1. Existing Hospital Lease Agreement Non-Competing Provision
2. Desert Healthcare District Boundaries Map
3. Draft Resolution