

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

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| IN RE: | § | CASE NO. 15-41684-BTR |
| | § | (Complex Chapter 11) |
| FOREST PARK MEDICAL CENTER AT FRISCO, LLC, | § | |
| | § | |
| DEBTOR. | § | HEARING DATE & TIME: January 19, 2016 at 2:30 p.m. |

**MOTION OF DEBTOR AND DEBTOR-IN-POSSESSION TO EXTEND DEADLINE TO
ASSUME AND REJECT EXECUTORY CONTRACTS AND UNEXPIRED
NONRESIDENTIAL LEASES PURSUANT TO 11 U.S.C. § 365**

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-ONE (21) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE BRENDA T. RHOADES,
CHIEF UNITED STATES BANKRUPTCY JUDGE:

Forest Park Medical Center at Frisco, LLC (the “Debtor”), debtor and debtor-in-possession in the above-referenced bankruptcy case, pursuant to 11 U.S.C. § 365(d)(4)(B), files this its *Motion of Debtor and Debtor-in-Possession to Extend Deadline to Assume and Reject Executory Contracts and Unexpired Nonresidential Leases Pursuant to 11 U.S.C. § 365* (the “Motion”). In support of the Motion, the Debtor respectfully represents as follows:

I.
JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334(b). This matter is a core proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicate for the relief requested herein is 11 U.S.C. § 365(d)(4)(B).

II.
BACKGROUND

3. On September 22, 2015, (the “Petition Date”), the Debtor filed for bankruptcy relief under Chapter 11 of the Bankruptcy Code. The Debtor has continued in the possession of its property and is operating and managing its business as debtor and debtor-in-possession pursuant to Sections 1107(a) and 1108 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”).

4. No request for a trustee or examiner has been made. An Official Unsecured Creditors’ Committee was appointed on September 30, 2015.

5. The Debtor is a doctor-owned Texas limited liability company that operates a 54-bed state-of-the-art medical facility, including 30 private rooms, 14 family suites, and 10 intensive care rooms (the “Hospital”) in Frisco, Texas. The Hospital is a luxury medical facility located at 5500 Frisco Square Boulevard in Frisco, Texas. The Debtor offers a range of surgical services, including, but not limited to, pediatric, bariatric, brain, orthopedic, pain management, plastics and reconstructive, spine, and neurosurgery.

6. The Debtor has determined that a disposition of its operating assets is necessary to maximize available value. On or about November 14, 2015, the Debtor filed its *Emergency*

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Motion for Orders (1) Approving Bidding Procedures in Advance of Auction, (2) Authorizing the Assumption, Assignment and Sale of Certain Executory Contracts and Unexpired Leases, (3) Approving Sale of Assets Free and Clear of All Liens, Claims, Encumbrances and Other Interests, (4) Setting Related Deadlines and Hearings and (5) Granting Related Relief (the “Sale Motion”) [Docket No. 260]. As part of the proposed sale transaction, and pursuant to Section 365, the Debtor intends to assign to the buyer (and the buyer shall assume) certain of the Debtor’s contracts, leases and licenses. The cure amounts, if any, necessary to allow such assumption and assignment shall be paid by the buyer at or before closing of the sale transaction.

7. On or about November 20, 2015, the Court entered an *Order Approving (1) Bidding Procedures in Advance of Auction, (2) Approving Form and Manner of Notice of Proposed Cure Amounts, (3) Auction (4) Stalking Horse Hearing and Final Hearing and (5) Granting Related Relief* (the “Bidding Procedures Order”) [Docket No. 283]. The Bidding Procedures Order requires the Debtor to serve, on or before January 27, 2016, on all non-debtor parties to contracts and leases that may be assigned in a sale, notice of the Debtor’s potential intent to assume and assign that party’s contract and the proposed cure amount. The deadline to object to the proposed assumption and assignment or cure amount is February 2, 2016.

8. Pursuant to Section 365(d)(4)(B) and Federal Rule of Bankruptcy Procedure 9006(a), the last day of the period in which to file a motion to assume unexpired nonresidential leases is January 20, 2016.

III. **ARGUMENTS AND AUTHORITIES**

9. Section 365(d)(4)(B) states in pertinent part, “[t]he court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on

the motion of the trustee or lessor for cause.” 11 U.S.C. § 365(d)(4)(B).

10. The Debtor respectfully requests an extension of the 120-day period, which currently expires on January 20, 2016, up to and including April 19, 2016, to assume and reject executory contracts and unexpired nonresidential leases.

11. Cause exists to extend the 120-day period. The deadline for submission of bids under the Bidding Procedures Order is January 27, 2016. Until all the qualified bids are received and a successful bidder has been identified, the Debtor cannot be completely certain which of the contracts and leases the potential buyer will seek to assume. Furthermore, late bids are routinely submitted by potential bidders, further delaying the course of decision-making. The Debtor’s proposed assumption or rejection of executory contracts and unexpired nonresidential leases in this case is inextricably bound by the sale process. Therefore, the Debtor respectfully requests a 90 day extension of the 120-day period, up to and including April 19, 2016 to assume and reject executory contracts and unexpired nonresidential leases.

12. The Debtor submits that the requested extension is not sought for delay and such extension is unlikely to prejudice any party. The notice provisions in the Bidding Procedures Order ensure that non-debtor parties to contracts and leases are given notification of the Debtor’s intent and an opportunity to object. The extensions requested herein do not constitute extensions of any deadlines contained in the Bidding Procedures Order.

IV. **NOTICE**

13. Notice of this Motion has been given via U.S. Mail, First Class to the Master Service List including the following parties or, in lieu thereof, to their counsel, if known: (a) Vibrant Healthcare Frisco, LLC; (b) FPMC Services, LLC; (c) the Office of the United States

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Trustee for the Eastern District of Texas; (d) the Office of the Texas Attorney General; (e) the Office of the United States Attorney General; (f) Texas Department of State Health Services; (g) Texas Capital Bank; (h) Sabra Texas Holdings, L.P.; (i) Healthcare Trust of America, Inc.; (j) counsel for the Unsecured Creditors' Committee; and, to all parties registered to receive notice via the Court's electronic transmission system. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtor respectfully requests an extension, up to and including April 19, 2016, of the deadline to assume and reject executory contracts and unexpired nonresidential leases, and for such other and further relief as the Court deems appropriate.

Dated: December 17, 2015.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that, on December 9, 2015, I conferred with counsel for the Official Unsecured Creditors' Committee and the US Trustee regarding the relief requested herein, who represented that they take no position with respect to the relief requested in this Motion. Further, Vickie Driver with my office conferred with Deirdre Ruckman, counsel for Sabra Texas Holdings, L.P. on or about December 15, 2015, and Ms. Ruckman advised that she had no objection to the relief requested herein, so long as no deadlines under the Bidding Procedures Order were affected.

/s/ William L. Medford
William L. Medford

CERTIFICATE OF SERVICE

I hereby caused a true and correct copy of the foregoing pleading to be served by Donlin, Recano & Company upon the parties listed on the current Master Service List via ECF notification and/or U.S. Mail, First Class on this 17 day of December, 2015.

/s/ William L. Medford
William L. Medford

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

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| IN RE: | § | CASE NO. 15-41684-BTR |
| | § | (Complex Chapter 11) |
| FOREST PARK MEDICAL CENTER AT FRISCO, LLC, | § | |
| | § | |
| DEBTOR. | § | |

**ORDER GRANTING MOTION OF DEBTOR AND DEBTOR-IN-POSSESSION TO
EXTEND DEADLINE TO ASSUME AND REJECT EXECUTORY CONTRACTS AND
UNEXPIRED NONRESIDENTIAL LEASES [DOCKET NO.]**

After reviewing the *Motion of Debtor and Debtor-in-Possession to Extend Deadline to Assume and Reject Executory Contracts and Unexpired Nonresidential Leases Pursuant to 11 U.S.C. § 365* (the “Motion”) filed by Forest Park Medical Center at Frisco, LLC, debtor and debtor in possession in the above referenced bankruptcy case (the “Debtor”) pursuant to 11 U.S.C. § 365(d)(4)(B) seeking an extension, up to and including April 19, 2016 to assume unexpired nonresidential leases. The Court finds that the Motion has merit. It is therefore

ORDERED that the Motion is **GRANTED**. It is further

ORDERED that the Debtor is **GRANTED** an extension of the deadline to assume and reject executory contracts and unexpired nonresidential leases up to and including **April 19, 2016**.

HONORABLE BRENDA T. RHOADES
CHIEF UNITED STATES BANKRUPTCY JUDGE

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**ORDER GRANTING MOTION TO EXTEND DEADLINE TO ASSUME AND
REJECT EXECUTORY CONTRACTS AND UNEXPIRED RESIDENTIAL LEASES – PAGE 2**

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MASTER SERVICE LIST
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