

Roate, George

From: Joseph Van Leer [JVanLeer@Polsinelli.com]
Sent: Tuesday, October 02, 2012 4:54 PM
To: Roate, George
Cc: Kara Friedman
Subject: RE: 12-085 Lawndale Dialysis
Attachments: SCAN8450_000.pdf; LAWDALE LOI FULLY EXECUTED 9-27-12 (3).pdf

RECEIVED

OCT 03 2012

HEALTH FACILITIES &
SERVICES REVIEW BOARD

12-085

George,

Thanks for your call. As discussed during our call, I've attached DaVita's charity care commitment letter and the fully executed LOI to be included with the Lawndale CON Application. Please let me know if you have any questions. Thanks,

Joe

From: Roate, George [mailto:George.Roate@Illinois.gov]
Sent: Tuesday, October 02, 2012 4:48 PM
To: Joseph Van Leer
Subject: 12-085 Lawndale Dialysis

Joe:

Sorry I missed your call. Just tried to call you back, and it seems like your answering system is malfunctioning. Call me if you get a chance. Thanks

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

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September 21, 2012

Mr. Dale Galassie
Chair
Illinois Health Facilities and Services Review
Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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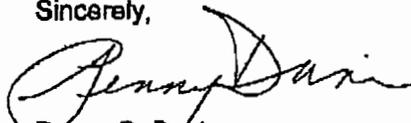
Re: Lawndale Dialysis – Charity Care Commitment

Dear Mr. Galassie:

DaVita is committed to operating Lawndale Dialysis in a manner that will maintain the financial viability of the dialysis facility while at the same time operating for the benefit of the community and in a manner that furthers the charitable purposes of its joint venture partner, Mount Sinai Hospital, by promoting health care access for a broad cross-section of the community. To this end, Lawndale Dialysis will accept all patients who are clinically appropriate for in-center hemodialysis services, regardless of their ability to pay; provided financially needy patients who do not qualify for Medicare, Medicaid, commercial insurance, or American Kidney Fund or National Kidney Foundation grants comply with DaVita's financial policies, which include but are not limited to the Patient Financial Responsibilities and Patient Financial Evaluation policies. This commitment is made in the context of the current reimbursement, regulatory and business environment in which DaVita operates and is subject to the assumption that there will be no material changes in that environment.

DaVita will communicate this policy in writing to each nephrologist who applies for and obtains medical staff privileges at Lawndale Dialysis.

Sincerely,



Penny D. Davis
Divisional Vice President – Skyline
DaVita Inc.



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September 28, 2012

Emmett Purcell
Senior Vice President
USI Real Estate Brokerage Services Inc.
2215 York Road, Suite 110
Oak Brook, IL 60523

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OCT 03 2012

HEALTH FACILITIES &
SERVICES REVIEW BOARD

RE: REQUEST FOR PROPOSAL
NEC 24th Street & Pulaski Road
Chicago, IL

Dear Emmett:

Please allow this letter to serve as our response to enter into a binding lease with Total Renal Care, Inc.

LOCATION: NEC 24th Street & Pulaski Road, Chicago, IL (the "Premises")
3934 West 24th Street, Chicago, Illinois 60623

TENANT: Total Renal Care, Inc. or related entity to be named.

LANDLORD: SDO Development LLC, an Illinois limited liability company,
FEIN: 26-1207687

SPACE REQUIREMENTS: Approximately 6,781.1 contiguous useable square feet. Final SF and building layout to be mutually agreed to by the parties. Tenant shall have the right to measure the space based on the most recent BOMA standards. *Please indicate both rentable and useable square footage for the Premises.*

Landlord agrees to these terms and conditions. The square footage for the Premises is as follows:

Rentable: 6781.1 SF

Useable: 6444.25 SF

PRIMARY TERM: **15 YEAR LEASE**
\$21.83/SF, with annual 3% increases after the Fifth Lease Year



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BASE RENT:

Please indicate the annual rate per rentable square foot.

**15 YEAR TERM
LEASE YEAR**

ANNUAL RENT

1	\$ 148,031.41
2	\$ 148,031.41
3	\$ 148,031.41
4	\$ 148,031.41
5	\$ 148,031.41
6	\$ 152,472.35
7	\$ 157,046.53
8	\$ 161,757.92
9	\$ 166,610.66
10	\$ 171,608.98
11	\$ 176,757.25
12	\$ 182,059.97
13	\$ 187,521.76
14	\$ 193,147.42
15	\$ 198,941.84

Please indicate the lease type. (i.e. FSG, MG, NNN).

NNN

ADDITIONAL EXPENSES:

Please provide an estimated annual cost per square foot for any and all additional operating expenses for which the Tenant will be responsible for paying including Taxes, Insurance and CAM.

Annual Estimated Cost/SF \$7.75 The taxes are being reassessed and we will receive a 2010 Tax statement in October, 2011. See Exhibit D.

Taxes	Insurance	CAM
\$3.98	\$.49 cents	\$3.28

Please provide Tenant's pro rata share percentage of operating expenses.

Tenant's pro rata share % is 44%



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If operating expenses are based on a Base Year, please indicate the Base Year and expense stop.

N/A

Please indicate what, if any, utility costs Tenant will be responsible for paying that are not included in operating expenses or Base Rent.

Tenant shall be responsible for all separately-metered utility charges for the Premises.

Landlord to limit the cumulative operating expense costs to no greater than three percent (3%) increase annually.

Landlord agrees to these terms and conditions.

LANDLORD'S MAINTENANCE:

Landlord, at its sole cost and expense, shall be responsible for the structural and capitalized items (per GAAP standards) for the Property.

Landlord agrees to these terms and conditions.

POSSESSION AND COMMENCEMENT:

Tenant shall take possession of the premises upon the later of completion of Landlord's required work (if any) or mutual lease execution. The rent commencement shall be the earlier of four (4) months from possession or until:

- a. Construction Improvements within the Premises have been completed in accordance with the final construction documents (except for nominal punch list items); and
- b. A Certificate of Occupancy for the Premises has been obtained from the City of Chicago, IL; and
- c. Tenant has obtained all necessary licenses and permits to operate its business.

Landlord will deliver the Premises in approximately four (4) months from the receipt of the Certificate of Need, or sooner, subject to Force Majeure and Governmental delays. Landlord requires Tenant to take possession of the Premises within thirty (30) days of said date and will provide for two (2) months of free base rent and CAM and Taxes upon delivery of possession.



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The Lease Term under shall begin upon Landlord's delivery of the vanilla box to Tenant. Landlord and Tenant shall work together to save time while Landlord is relocating Turner Acceptance Corporation and will consider any and all time saving methods for faster completion of the delivery of the space.

**FAILURE TO DELIVER
PREMISES:**

If Landlord has not delivered the premises to Tenant with all base building items substantially completed by two hundred seventy (270) days from receipt of the Certificate of Need, Tenant may elect to a) terminate the lease by written notice to Landlord or b) elect to receive two days of rent abatement for every day of delay beyond the two hundred seventy (270) day delivery period.

LEASE FORM:

Tenant's standard lease form.

Landlord agrees to these terms and conditions.

USE:

The use is for a Dialysis Clinic, related medical, office and distribution of pharmaceuticals. Tenant will require that the Landlord receive approval of the proposed building and use from the Alderman before a letter of intent can be finalized.

Landlord agrees to these terms and conditions. Please refer to

Exhibit F.

BASE BUILDING:

The following items must be delivered by the Landlord to the premises as part of the base building:

- A 2" dedicated water meter and line
- A 4" sewer line to a municipal sewer system
- Minimum 400 to 800, 120/208 volt 3 phase, 4 wire electrical service
- Gas service, at a minimum, will be rated to have 6" of water column pressure and supply 800,000-BTU's
- HVAC rooftop Units/Systems and all associated cost(s) with unit(s)



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Please refer to the attached Exhibit B regarding additional base building improvements and site development requirements.

Landlord agrees to these terms and conditions.

TENANT IMPROVEMENTS:

Please provide the tenant improvement allowance offered (psf).

None

OPTION TO RENEW:

Tenant shall receive three (3) five (5) year options to renew the lease. Option Rent shall be the lesser of 95% of fair market value.

Landlord agrees to these terms and conditions.

**RIGHT OF FIRST OPPORTUNITY
ON ADJACENT SPACE:**

Tenant shall have the on-going right of first opportunity on any adjacent space that may become available during the initial term of the lease and any extension thereof, under the same terms and conditions of Tenant's existing lease.

Landlord agrees to these terms and conditions.

HOLDING OVER:

Tenant shall be obligated to pay 125% for the then current rate.

PARKING:

Please indicate the number and location of parking spaces. Tenant requests one (1) dedicated stall per 1,000 rsf and (2) dedicated handicap stalls.

The parking ratio at 24th and Pulaski is 4.2 per 1000. Landlord will deliver to Tenant two (2) handicap spots directly in front of its space as well as two (2) other spots adjacent to the handicap for Tenants clients.

CONCESSIONS:

None.



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**COMMON AREA EXPENSES
AND REAL ESTATE TAXES:**

Please provide a detailed itemization and estimates of all common area operating expense components including real estate taxes and special assessments, insurance, landscape maintenance, exterior lighting, property management, maintenance, utilities, janitorial, security, etc., for which the client will be responsible to pay. If the lease provides for a base year for operating expenses, please indicate what the base year will be for a renewal.

Please see Exhibit D attached hereto.

TENANT SIGNAGE:

Tenant shall have the right to install building signage on the building, subject to Landlord's consent, which consent shall not be unreasonably withheld and subject to compliance by Tenant with all applicable laws and regulations. Landlord, at Landlord's expense, will furnish Tenant with any standard building directory signage.

Landlord agrees to these terms and conditions. Landlord will also deliver to Tenant signage rights on the Pylon on 24th in which Tenant will receive the second spot on the Pylon (replacing the Turner Acceptance Corporation sign) in accordance of all City of Chicago applicable laws.

BUILDING HOURS:

Tenant requires building hours of 24 hours a day, 7 days a week. Please indicate building hours for HVAC and utility services.

Landlord agrees to these terms and conditions.

SUBLEASE/ASSIGNMENT:

Tenant will have the right at any time to sublease or assign its interest in this Lease to any majority owned subsidiaries or related entities of DaVita Inc. without the consent of the Landlord or to unrelated entities with Landlord's reasonable approval.

Landlord agrees to these terms and conditions.

**GOVERNMENTAL
COMPLIANCE:**

Landlord shall represent and warrant to Tenant that Landlord, at Landlord's sole expense, will cause Tenant's Premises, the Building and parking facilities to be in full compliance with any governmental laws, ordinances, regulations or orders relating to, but not limited to, compliance with the Americans with Disabilities Act (ADA) and environmental conditions relating to the existence of asbestos and/or other hazardous materials, or



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soil and ground water conditions, and shall indemnify and hold Tenant harmless from any claims, liabilities and cost arising from environmental conditions not caused by Tenant(s).

Landlord agrees to these terms and conditions.

ROOF RIGHTS:

If the building does not have cable television service, then Tenant will need the right to place a satellite dish on the roof at no additional fee.

Landlord agrees to these terms and conditions.

RADIUS RESTRICTION:

Landlord shall not lease space to another dialysis clinic or similar facility at the property or at any of the other properties Landlord controls within two (2) miles of the subject property.

Landlord agrees to these terms and conditions.

HVAC:

Please provide general description of HVAC systems (i.e. ground units, tonnage, age).

The HVAC units are brand new and the tonnage is 5 tons per unit.

DELIVERIES:

Landlord will provide Tenant with a dock door located on Harding Avenue per Tenant's specifications.

**EARLY TERMINATION
OPTION:**

After Tenant has completed Forty-eight (48) months of rent payments, Tenant shall have the one time right to terminate the Lease at any time with Two hundred seventy (270) days prior written notice before the expiration date along with a payment equal to one-quarter (1/4) of Tenant's monthly base rental obligations for the remaining portion of the current lease term and any unamortized transaction costs (brokerage commissions and tenant allowance).

SECURITY DEPOSIT:

None.

Landlord agrees to these terms and conditions.

CORPORATE GUARANTEE:

None.



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Landlord agrees to these terms and conditions.

CONTINGENCIES:

Tenant will need to apply for a Certificate of Need for the final location. If Tenant does not get the Certificate of Need by December 15, 2012 the Lease will be null and void. If they do get the Certificate of Need, then they will go forward with the lease based on satisfying the other contingencies that are in their standard Lease Document.

Tenant CON Obligation: Landlord and Tenant understand and agree that the establishment of any chronic outpatient dialysis facility in the State of Illinois is subject to the requirements of the Illinois Health Facilities Planning Act, 20 ILCS 3960/1 et seq. and, thus, the Tenant cannot establish a dialysis facility on the Premises or execute a binding real estate lease in connection therewith unless Tenant obtains a CON permit from the Illinois Health Facilities Planning Board (the "Planning Board"). Tenant agrees to proceed using its commercially reasonable best efforts to submit an application for a CON permit and to prosecute said application to obtain the CON permit from the Planning Board. Based on the length of the Planning Board review process, Tenant does not expect to receive a CON permit prior to December 15, 2012. In light of the foregoing facts, the parties agree that they shall promptly proceed with due diligence to negotiate the terms of a definitive lease agreement and execute such agreement prior to approval of the CON permit provided, however, the lease shall not be binding on either party prior to the approval of the CON permit and the lease agreement shall contain a contingency clause indicating that the lease agreement is not effective pending CON approval. Assuming CON permit approval is granted, the effective date of the lease agreement shall be the first day of the calendar month following CON permit approval. In the event that the Planning Board does not award Tenant a CON permit to establish a dialysis center on the Premises by December 15, 2012, neither party shall have any further obligation to the other party with regard to the negotiations, lease or Premises contemplated by this Letter of Intent.

BROKERAGE FEE:

Landlord agrees that it recognizes USI Real Estate Brokerage Services Inc. as the client's sole representative and a brokerage fee equal to \$1.00/RSF per year of lease term shall be paid to USI, per separate commission agreement. Commissions to be paid 50% due within 30 days a fully executed lease and receipt



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of the CON and 50% within 30 days of lease commencement. The client shall retain the right to offset rent for failure to pay the Real Estate Commission.

PLANS:

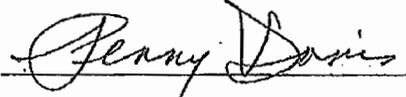
Please provide copies of site and construction plans or drawings.

Please see Exhibit E attached hereto as well Landlord will deliver a CAD file to Tenant.

AGREED TO AND ACCEPTED THIS 1 DAY
OF October, 2012

AGREED TO AND ACCEPTED THIS 28 DAY
OF September, 2012

By: 

By: 

SDO Development LLC, an Illinois limited liability company, ("Landlord")

On behalf of Total Renal Care, Inc. a wholly owned subsidiary of DaVita, Inc. ("Tenant")