



# Metropolitan Nashville and Davidson County, TN

## Legislation Details (With Text)

**File #:** BL2020-505

**Type:** Bill (Ordinance) **Status:** Withdrawn

**File created:** 10/23/2020 **In control:** Metropolitan Council

**On agenda:** 12/15/2020 **Final action:** 12/15/2020

**Title:** An ordinance directing the Metropolitan Purchasing Agent to enter into an emergency contract for the continued operation of the Bordeaux Long Term Care facility for the remainder of Fiscal Year 2021 and affirming the Council's intention that the current appropriation in the Fiscal Year 2021 Operating Budget for the Bordeaux Long Term Care facility management be used to fund the emergency contract.

**Sponsors:** Jonathan Hall

**Indexes:**

**Code sections:**

**Attachments:** 1. BL2020-505

Date	Ver.	Action By	Action	Result
12/15/2020	1	Metropolitan Council	withdrawn	
12/15/2020	1	Health, Hospitals, and Social Services Committee	withdrawn	
12/1/2020	1	Metropolitan Council	deferred	
11/30/2020	1	Budget and Finance Committee	disapproved	
11/17/2020	1	Metropolitan Council	deferred by rule	
11/5/2020	1	Metropolitan Council	passed on first reading	

An ordinance directing the Metropolitan Purchasing Agent to enter into an emergency contract for the continued operation of the Bordeaux Long Term Care facility for the remainder of Fiscal Year 2021 and affirming the Council's intention that the current appropriation in the Fiscal Year 2021 Operating Budget for the Bordeaux Long Term Care facility management be used to fund the emergency contract.

WHEREAS, pursuant to Ordinance No. BL2016-422, Metro agreed to extend the lease of the real property and operations (the "Revised Lease") of the Bordeaux Long Term Care facility ("the Facility") located at 1414 County Hospital Road to LP North Nashville, LLC, which is a subsidiary of Signature Healthcare, LLC ("Signature"); and

WHEREAS, the Facility provides long term care for some of Nashville's most vulnerable residents, including many who do not have the financial means to obtain needed care through a private facility; and

WHEREAS, the Revised Lease provided for a reimbursement of losses incurred by Signature of up to \$3,500,000 per fiscal year; and

WHEREAS, although the Revised Lease was set to expire on June 30, 2020, Metro entered into an emergency six month extension (the "Contract Extension") to allow time for a request for proposals (the "RFP") to be issued for the operation of the Facility, and provided for a reimbursement of Signature's operating losses up to \$400,000 per month during the extension period; and

WHEREAS, the time period for the RFP responses ended and Metro received no responses; and

WHEREAS, Metro notified Signature on September 22, 2020 of its election to have Signature discontinue all operations and start winding down the Facility's resident care operations pursuant to the Contract Extension in compliance with all applicable laws and regulations to be completed by the earlier of January 31, 2021, or the day that is 120 days after Metro's approval of the Wind Down Plan; and

WHEREAS, Substitute Ordinance No. BL2020-286, the budget ordinance for the Metropolitan Government for Fiscal Year 2021, appropriated \$6,000,000 in line item 01101432 for "Subsidy BLTC Mgt. Contract"; and

WHEREAS, as of the date of the filing of this ordinance, Metro has paid Signature approximately \$1,200,000 for Signature's loss reimbursement for the Facility under the Contract Extension, leaving a balance of approximately \$4,800,000; and

WHEREAS, it is in the best interest of the residents at the Facility that the Contract Extension Wind Down Plan be halted and that the facility continue to be operated at least through the end of Fiscal Year 2021 until other more suitable relocation arrangements can be made.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Purchasing Agent is hereby authorized and directed to enter into an emergency contract with a private or governmental entity for the continued operation of the Facility for the remainder of Fiscal Year 2021 to allow time for a new long term operator to be selected through a new request for proposals (RFP) process or for the proper care and relocation of the residents.

Section 2. The Metropolitan Purchasing Agent is further authorized and directed to issue a request for proposals or similar solicitation seeking best offers for the operation of the Facility on a long term basis.

Section 3. The Metropolitan Council hereby affirms that the \$6,000,000 appropriation in line item 01101432 of Substitute Ordinance No. BL2020-286 for "Subsidy BLTC Mgt. Contract" is to be used to fund the emergency contract for the operation of the Facility.

Section 4. The Metropolitan Council hereby expresses its intention that the Wind Down Plan pursuant to the Contract Extension be halted immediately.

Section 5. The Mayor, the Director Finance, and the Purchasing Agent, or their designees, are hereby authorized to execute such documents as are necessary to effectuate the transactions contemplated herein.

Section 6. Amendments to this Ordinance may be approved by resolution of the Metropolitan Council receiving twenty-one affirmative votes.

Section 7. This ordinance shall take effect from and after its enactment, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

### Analysis

Ordinance No. BL2014-688 approved an operating lease between Metro and LP North Nashville, LLC, which is a subsidiary of Signature Healthcare, LLC ("Signature") for the operation of the Bordeaux Long Term Care facility located at 1414 County Hospital Road. Pursuant to that agreement, Signature agreed to lease and operate the BLTC while state legislation was sought to approve a split of the skilled nursing bed licenses into two facilities. However, the required state legislation was never approved. In 2016, pursuant to Ordinance No. BL2016-422, Metro agreed to extend the Signature BLTC operating lease and agreed to provide for a

reimbursement of losses incurred by Signature of up to \$3,500,000 per fiscal year.

Although the revised lease was set to expire on June 30, 2020, Metro entered into an emergency six month extension to allow time for a request for proposals to be issued for the operation of the facility, but no RFP responses were submitted. As a result, Metro notified Signature on September 22, 2020 of its election to have Signature discontinue all operations and start winding down the facility's resident care operations by January 2021.

The Fiscal Year 2021 Metro operating budget ordinance (Substitute Ordinance No. BL2020-286) appropriated \$6,000,000 for the MLTC management contract subsidy. To date this fiscal year, Metro has paid Signature approximately \$1,200,000 for Signature's loss reimbursement for the facility under the contract extension, leaving a balance of approximately \$4,800,000.

This ordinance would authorize various actions pertaining to the continued operation of BLTC. First, the ordinance would authorize and direct the Metro Purchasing Agent to enter into an emergency contract with a private or governmental entity for the continued operation of the BLTC facility for the remainder of Fiscal Year 2021 to allow time for a new long term operator to be selected through a new request for proposals (RFP) process or for the proper care and relocation of the residents. Under Section 4.12.070, the Purchasing Agent may make, or authorize others to make, emergency procurements when there exists a threat to public health, welfare, or safety, provided that such emergency procurements shall be made with such competition as is practical under the circumstances.

Second, the ordinance authorizes and directs the Purchasing Agent to issue an RFP or similar solicitation seeking best offers for the operation of the facility on a long-term basis. Third, the ordinance provides that the existing budgetary appropriation for the BLTC management contract be used to fund the emergency contract for the operation of the facility. Finally, the ordinance states the Council's desire and intention that the wind down plan for the facility be halted immediately.

The Council Office would note that Signature would have to agree to halting the wind down process since it is an obligation under the existing contract. It could not be unilaterally halted by Metro.

Future amendments to this ordinance could be approved by resolution receiving 21 affirmative votes.

*Fiscal Note: The \$6,000,000 appropriation in line item 01101432 of the Substitute Ordinance No. BL2020-286 will be used to fund the emergency contract for the operation of the Bordeaux Long Term Care facility. There is no additional appropriation requested in this ordinance.*