To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Reva Feldman, City Manager

Date prepared: November 25, 2019      Meeting date: December 9, 2019

Subject: First Amendment to Lease Agreement for 23661 Pacific Coast Highway (Malibu Medical Corporation Corporation)

RECOMMENDED ACTION: Approve First Amendment to Lease Agreement for 23661 Pacific Coast Highway with Malibu Medical Corporation.

FISCAL IMPACT: The Lease Agreement provides a rental income stream to the City. In Fiscal Year 2018-2019, the City received $47,000 in revenue from Malibu Medical Corporation. The City uses revenue from Malibu Medical Corporation and the other commercial tenants for debt service payments applicable to the purchase of the Legacy Park site, maintenance of Legacy Park and high priority water quality projects.

DISCUSSION: On May 14, 2012, the Council approved a Lease Agreement for 23661 Pacific Coast Highway with Malibu Medical Corporation.

The Lease Agreement provided for a ten (10) year term with the option for one ten (10) year option with a base rent that increased every year at a rate of 3%. The tenant was required to improve both the interior of the site, is responsible for a pro rata share of the common area maintenance costs, the real property tax assessment, insurance costs and wastewater costs.

The Leased Space consists of 1,145 square feet and the tenant is currently paying $3.40 a square foot. The base rent amount increases at a rate of 3% a year. The tenant has seen a dramatic reduction in business since the Woolsey Fire, and has therefore asked for a reduction in rent in the amount of $1,000 a month for a period of 18 months while the community rebuilds and rebounds from the Woolsey Fire.

The City Council discussed the proposed lease terms in a closed session on November 25, 2019 and directed staff to amend the lease agreement.
The First Amendment to the Lease provides for the following:

- 1,145 square feet
- Term: No change to existing term of a 10-year lease with a 10-year option
- Rental rate: $2.65 a foot
- Increase: No change to existing increases of an annual increase of 3%
- Common Area Maintenance: No change to existing requirements that tenant pays actual cost of common area and exterior maintenance for the Property, including capital costs
- Utilities: No change to existing requirement that tenant shall pay all utilities

The First Amendment to the Lease Agreement will become effective on January 1, 2020.

**ATTACHMENTS**: First Amendment to the Lease Agreement with Malibu Medical Corporation
This First Amendment ("First Amendment") to that certain Lease Agreement dated April 30, 2012 (collectively referred to as the "Lease") is entered into this day of December, 2019, by and between the CITY OF MALIBU ("Landlord") and MALIBU MEDICAL CORPORATION a California corporation ("Tenant") (collectively, the "Parties"), as follows:

**RECITALS**

This First Amendment is entered into on the basis of the following facts, understanding and intentions of the Parties:

A. All sectors of the local economy have been impacted by the Woolsey Fire. Tenant has been especially impacted. To avoid Tenant having to relocate and to spare the City the expense of a vacancy, the Parties desire to amend the Lease to provide a temporary rent reduction of $1,000 a month for a period of 18 months for a total rent reduction of $18,000 to Tenant while the Malibu community recovers and rebuilds after the Woolsey Fire.

B. The Parties agree the Fixed Minimum Rent will be set at $2.65 per square foot for the Leased Premises consisting of 1,145 square feet. The Fixed Minimum Rent will be Three Thousand and Thirty Dollars ($3,037) per month for the calendar year commencing on January 1, 2020.

C. The Fixed Minimum Rent will increase to $3.20 per square foot for the Leased Premises consisting of 1,145 square feet commencing on January 1, 2021.

D. The Fixed Minimum Rent will increase to $3.63 per square foot for the Leased Premises consisting of 1,145 square feet commencing on July 1, 2021 and thereafter continue to increase pursuant to the Original Lease Agreement.

E. All other terms of the Lease, not affected by this First Amendment are to remain in full force and effect.

**NOW, THEREFORE,** for and in consideration of the foregoing recitals and the mutual covenants and agreements herein, the Parties agree that as of January 1, 2020, the Lease shall be amended as follows:

A. Paragraph 4(A) of the Lease is amended to read as follows:

A. "FIXED MINIMUM RENT" payable in equal monthly installments of Three Thousand and Thirty Dollars ($3,037) effective January 1, 2020. Commencing on July 1, 2021, the FIXED MINIMUM RENT shall be Four Thousand One Hundred Fifty Six ($4,156). The FIXED MINIMUM RENT shall increase on an annual basis by three-percent (3%) every year. In no event shall the FIXED MINIMUM RENT be adjusted downward in any period. Should the Rent Commencement Date commence on a day other than the first day of the month, the first monthly installment of FIXED MINIMUM RENT shall be prorated on the basis of a thirty (30) day month.
C. Except as amended by this First Amendment, the Lease and each and every term and provision thereof remains in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment this ___ day of December, 2019.

TENANT:

Malibu Medical Corporation

By: ______________________________

Dr. Lisa Benya
Its CEO and Owner

LANDLORD:

THE CITY OF MALIBU,
a municipal corporation

By: ______________________________

Its: ______________________________

Approved as to Form:

ATTEST:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

Christi Hogin
City Attorney

Heather Glaser
City Clerk