



**Date:** March 18, 2024

**To:** Mayor and Members of the City Council  
Dawn McIntosh, City Attorney  
Douglas P. Haubert, City Prosecutor

**CC:** Tom Modica, City Manager  
April Walker, Assistant City Manager  
Bo Martinez, Director of Economic Development

**From:** Laura Doud, City Auditor

**Subject:** City Property Management and Oversight Performance Audit

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Please find attached the City Property Management and Oversight Performance audit, conducted by Harvey M. Rose & Associates (“auditors”), a public sector management consulting firm, on behalf of the City Auditor’s Office. This memo summarizes the key findings of their 50-page report and our further review of the Mental Health America lease. Given the significant value of over \$4.0 billion in City owned land, buildings, and other facilities, the purpose of this audit was to determine whether the City is managing and overseeing City-owned and leased property effectively and efficiently.

City of Long Beach properties include public buildings, parks and open space, beaches and marinas, utilities, and airport and harbor facilities. The Port of Long Beach, the Utilities Department, and Long Beach Airport own and directly manage their land, buildings, and facilities. The remaining property portfolio, valued at \$650 million, is serviced by the Economic Development Department’s Property Services Bureau (Bureau), which serves as the real estate broker for properties under the jurisdiction of City Manager departments (excluding Utilities and Airport) and is responsible for the acquisition, sale, and leasing of City-owned properties. While individual departments are responsible for the day-to-day management of leases of City-owned property, the Bureau monitors leases for scheduled rent increases and expiration dates.

### **Key Finding – Mental Health America (MHA) Lease**

The City does not have documented guidelines for leasing City-owned property to nonprofit and community organizations. The Bureau manages 14 historical leases to nonprofits at zero or \$1 annual lease rates, in exchange for organizations providing public services for the City’s benefit. Recent Bureau practice sets rents at fair market value and provides rent credits for the value of public services provided; however this is not a standardized procedure for all nonprofit leases and there is no documented policy with guidelines. Lacking guidelines and policies on leasing to nonprofit organizations risks an unwarranted subsidy for use of public property. The City must improve oversight and strengthen internal controls when leasing to nonprofit or community organizations to help prevent the risk of revenue loss, fraud, or misuse.

One example of a zero rent lease is with Mental Health America (MHA), who is a provider of services and case management for persons experiencing homelessness. The City leases the property and facility to MHA for zero rent, and at lease end MHA is entitled to purchase the property for \$1 “without encumbrances or recorded restrictions”. The City also spent \$3.45 million in City funds for site and facility improvements.

In exchange, the lease agreement requires MHA to provide the following benefits to the community:

1. Operate (or subcontract) one or more sit-down retail cafes (including at least one kitchen) that must be open to the public;
2. Provide (or subcontract) onsite medical and psychiatric healthcare services for individuals experiencing homelessness; and
3. Make available a 1,250 square foot meeting room for community use.

Our audit found the following:

MHA is not Fully Meeting Lease Terms:

- There is no onsite sit-down retail café in operation, either current or past, and MHA's contracted third party restaurateur does not have an expected opening date. The general partner of the restaurateur is also an MHA board member.
- MHA contracted with The Children's Clinic (TCC) to provide onsite medical care that is only open one or two days a week due to a shortage in healthcare workers.
- While a community room has been built at the facility, MHA stated the volume and frequency of use was very low. MHA cited confidentiality in declining to share logs documenting the community room's use and stated the community room's availability is advertised on their website. Upon review of web archives, the community room was not historically advertised, but it has since been recently added to MHA's website.

MHA is Subleasing and Charging Rent up to \$175,000 annually:

- Despite paying the City zero rent, MHA is subleasing the City-owned property and charging the sublessees monthly rent.
- If and when the retail café is operational, MHA will charge rent up to \$6,300 per month, or \$75,600 annually.
- The healthcare clinic operated by TCC is also subleased, with MHA charging TCC up to \$8,225 per month, or almost \$100,000 annually, for the clinic to only open one or two days a week.
- If TCC did not have to pay monthly rent to MHA, TCC stated they could instead pay their healthcare professionals a more competitive rate, which would lead to more clinic days open.

The City did not Sign Off on or have Copies of Sublease Agreements:

- The Bureau believes that since the lease agreement allows MHA to sublease, the City effectively gave consent.
- The sublease agreements include a section for City approval and acceptance of the sublease. This section is not filled in and is not executed by any City employee or official. Without an executed sublease, it is unclear whether the City knew about and/or agreed to the sublease terms.
- The City did not have copies of the sublease agreements. Sublease agreements had to be requested from MHA.

No City Department is Aware of MHA Lease Term Compliance:

- The Homeless Services Bureau (HSB) thought MHA owned the property and was unaware MHA was leasing from the City.
- HSB was unaware whether MHA's operations at the property were in compliance with lease requirements.
- The Property Services Bureau stated they were relying on HSB regarding MHA operations, but ultimately neither bureau understood who was responsible for enforcing lease terms and obligations.

Our review of the MHA lease can be summarized as follows:

MHA Receives	City Receives
<ul style="list-style-type: none"> <li>• \$3.45M in City-funded site improvements</li> <li>• Free monthly rent for 10 years</li> <li>• Purchase option for \$1 for the facility and property at lease end</li> <li>• Up to \$174,300 in annual sublease revenue</li> </ul>	<ul style="list-style-type: none"> <li>• Non-operational sit-down retail café with no known opening date</li> <li>• Healthcare clinic open only one or two days a week</li> <li>• Unknown use of Community room and not previously advertised to the public</li> </ul>

This audit finding is very concerning, because without documented policies and procedures, the City is on the losing end of a bad deal. Without deed or continued use restrictions, MHA can choose to purchase the City property for \$1 without the City maximizing the intended community and social benefit. Implementing the audit recommendations around leases to nonprofit organizations will help prevent the risk of revenue loss, fraud, or misuse. We recommend that the City either enforce the premise use requirements or revise the MHA lease agreement to ensure that the City receives more than just the bare minimum community benefit.

**Other Key Findings**

1. **Lack of Citywide Property Inventory** – The City does not have a comprehensive inventory of City-owned property. Without a comprehensive Citywide property inventory, the Bureau cannot systematically review City property to identify unused or underutilized properties. The City may be missing opportunities to generate revenue or reduce liability by disposing of unneeded property. It may also be incurring unnecessary costs by acquiring or leasing space when existing properties could meet the relevant space needs.
2. **Documented Policies and Guidelines are a Work in Progress** – While policies and guidelines were not historically documented, the new Bureau Manager has started documenting procedures through a series of flow charts, checklists, and standardized templates. Defining and documenting policies establishing guidelines for options to extend leases, tenant investments, tenant investment improvement allowances, and internal guidelines on lease rent structures will help to ensure that the City is receiving the best value for the lease of public property and that use of public property benefits the public.
3. **Defined Criteria is Needed to Maximize Value Received for Surplus Property**– Of 12 properties determined to be surplus prior to September 2019, four properties were sold to

private entities without a competitive process, including two properties sold for affordable housing development. Additionally, the Bureau has three leases with nonprofit organizations with a tenant option to purchase the property. These options do not always have deed restrictions to ensure that the property on disposition will be used for public purposes.

The City can ensure it receives the best value by defining criteria for disposing of City-owned property, including competitive solicitation requirements, appraisal requirements and reporting of appraisal valuations, the process to evaluate unsolicited offers to purchase City-owned property, and requirements for purchase options in leases of City-owned properties, including covenants or deed restrictions for continuing property use.

4. **No Formal Process for Evaluating and Planning Longer-Term Space Needs** – The Bureau identifies potential properties for acquisition through market listings and uses real estate broker services to submit an offer letter to the property owner. Because acquisitions are not conducted through a competitive process, appraisals are a main tool to determine if the City is paying an appropriate price for the acquisition. The Bureau acquisition checklist references appraisals and environmental assessments, however the City does not have a formal documented policy requiring such appraisals and assessments.

## Conclusion

Thank you to the Economic Development Department and Bureau staff for their assistance and participation in this audit. I am pleased that the Economic Development Department and City Manager's Office agreed to and have begun implementing the audit recommendations, as stated in the enclosed Management Response and Action Plan. The audit identified 17 recommendations to document and improve existing practices, and the Economic Development Department has agreed to implement all 17 recommendations.

We acknowledge that some of the findings pertain to historical leases dating back years, and management began formalizing current practices in documented policies and procedures. We understand that audit recommendations take time to implement, and we request that the Economic Development Department provide an update in six months on the implementation of these recommendations.

ATTACHMENT

Date: March 18, 2024

To: Laura Doud, City Auditor

From: Thomas B. Modica, City Manager 

Subject: **City Property Management and Oversight Audit – Additional Observations and Recommendations**

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Thank you for the opportunity to comment on the additional observations and recommendations related to the audit of City Property Management and Oversight (Additional Audit Findings). We appreciate the time and effort the City Auditor has given regarding the review of the City's lease with Mental Health of America (MHA) for the property and facilities located at 1955 Long Beach Boulevard (Lease). The following Management Response provides some important notes about the Lease and history related to this transaction. The Management Action Plan is attached for further review.

### **Background**

Since 2006, the City of Long Beach (City) pursued ownership of the 4.73-acre former U.S. Army Reserve Center, also known as Schroeder Hall, at the southeast corner of Willow Street and Grand Avenue, through the Base Realignment and Closure Act (BRAC) process to house the Long Beach Police Department's East Division. A Housing and Urban Development prerequisite for transfer was a Reuse and Homeless Assistance Plan (Plan), providing certain services to the homeless community. To effectuate the Plan, the City entered a Legally Binding Agreement (LBA) with Mental Health America (MHA) to implement the Plan through a Homeless Assistance Program (Program). In August 2010, the U.S. Army issued a Finding of Suitability of Transfer and approved a conveyance to the City for Long Beach Police Department's use of the site.

### **Lease Terms**

As part of the abovementioned Plan and Legally Binding Agreement, the City was required to meet certain obligations including finding an alternative location for the Program as well as providing a no cost lease to MHA, the identified Homeless Services Provider. The City worked with MHA to identify and secure a suitable location to provide the Program, the final site being the property located at 1955-1965 Long Beach Boulevard (Premises). To complete the City's obligations to the Program, staff recommended and City Council approved purchasing the Premises, executing a no rent lease, and contributing up to \$3.45 million towards structural renovations and tenant improvements. Additionally, MHA has an option at the end of the Lease to purchase the property and facilities for \$1, without any encumbrance or use provisions. The total cost of renovating the property exceeded the City's contribution, with MHA contributing the balance through grants, donations, and the sale of MHA assets. Further, the City has no further financial obligations related to the Program.

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The terms and conditions summarized by the Harvey Rose audit report also noted the following use provisions including the following:

1. MHA must operate (or can subcontract) one or more sit-down retail cafes (including at least one kitchen) that must be open to the public;
2. MHA must provide onsite medical and psychiatric healthcare services for homeless individuals; and,
3. MHA must provide a 1,250-square-foot meeting room for community use.

Since the issuance of the original Audit, Economic Development, with the support of the Long Beach Health Department's Homeless Services Bureau, has been working with MHA to review current operations and evaluate Lease compliance including Landlord approval of the subleases with Third Wave Market and The Children's Clinic. To accurately address findings related to use and sublease approvals, additional time is needed to review not only compliance but also potential paths forward, including any approvals required while ensuring the City is not out of compliance with any BRAC requirements that would affect the standing of the East Division Police Station. Staff recommends an update be provided once staff has completed its review and due diligence.

### **Sublease Policy and Procedures**

As a result of the original audit, Economic Development is in the process of reviewing policies and procedures and addressing documentation related to subleases. While the development of any policy and procedure related to subleases will include consideration of requirements for City's review or consent, consideration will need to be dependent on the type of transaction and current industry practice. Current practice for any transactions that include a sublease consent provision have and will continue to be vetted appropriately utilizing legal and financial review. Additionally, City's approval of any required subleases will continue to be provided through either a letter of consent to sublease or execution of a document of the same. The City should not be a signatory on a real estate transaction it is not a party to and should continue to utilize industry norms such as letters of consent.

### **Lease Management and Oversight**

Once the Real Estate Development Bureau negotiates any lease, management and oversight is handed off to the operating department through a lease transmittal memo highlighting sections that should receive focused attention. The Lease has been the responsibility of the Economic Development and will continue as such given the complexity of the originating documents/transaction and Economic Development's experience with the transaction and resulting lease terms. Economic Development will continue to collaborate with operating departments on agreements such as the subject Lease to ensure lease compliance when it is out of Real Estate's area of expertise such as homeless services. As shared during the original audit response, the Real Estate Development Bureau experienced several vacancies affecting the Bureau's ability to complete required tasks such as lease compliance, including site visits, in a timely manner. Additionally, the pandemic necessitated a shift in components of lease compliance documentation such as site visits due to shifting tenant operations and the organizational shift to telecommuting. Once deemed appropriate and consistent with organizational directives,

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Economic Development staff reengaged in person visits when appropriate. Further, concerted efforts have been made to fill open positions allowing the Bureau to address the backlog created by the pandemic and vacancies. The Bureau will continue its review of current assignments and schedules to ensure lease compliance reviews, including any outstanding site visits, are addressed, while still delivering completion of current transactions and priority projects in process.

### **Next Steps**

As stated in our Management Response to the original Audit, the Economic Development Department, through the Real Estate Development Bureau, will continue to work diligently to implement consistency to leasing, acquisition, and disposition activities under their purview, including policy and procedures around Subleases. We reaffirm our commitment to evaluating areas of improvement for potential implementation. Further, staff will give priority to the review and analysis of the use provisions of the MHA Lease and consider all potential solutions and/or enforcements options. Staff will also ensure we provide a status update on this evaluation within 180 days from the date of this memo. Please note that while next steps may be identified, it may take time to implement due to approvals required.

We would like to thank the City Auditor and her staff for their diligence. If you have any questions, please contact Mary Torres, Real Estate Development Bureau Manager, at (562) 570-6846.

### **ATTACHMENTS**

CC:      DAWN MCINTOSH, CITY ATTORNEY  
            BO MARTINEZ, DIRECTOR OF ECONOMIC DEVELOPMENT  
            ALISON KING, DIRECTOR OF HEALTH AND HUMAN SERVICES  
            KEVIN RIPER, DIRECTOR OF FINANCIAL MANAGEMENT

# MANAGEMENT RESPONSE AND ACTION PLAN

## Economic Development

### Performance Audit of City Property Management and Oversight

No.	Recommendation	Priority	Page #	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
6.1	Property Services Bureau should ensure that documented policies and procedures regarding subleases to City leased property clearly detail the need for City sublease approval, subleases are executed by the City, and that copies of the executed subleases are retained by the City. Prior to granting approval of subleases, the City should review any potential conflicts of interest between the lessee and the sublessee.	M	Memo pg . 5	Agree	Economic Development	Agree with consideration. As a result of the original audit, the Real Estate Development Bureau is in the process of reviewing policies and procedures and addressing documentation. While, the development of any policy and procedure related to subleases will include consideration of requirements for City's review or consent, consideration will need to be dependent on the type of transaction and current industry practice. Current practice for any transactions that include a sublease consent provision have and will continue to be vetted appropriately utilizing legal and financial review. Additionally City's approval of any required subleases will continue to be provided through either a letter of consent to sublease or execution of a document of the same. The City should not be a signatory on a real estate transaction it is not a party to and should continue to utilize industry norms such as letters of consent.	12/31/24
6.2	Property Services Bureau, in connection with the City Attorney's Office and the Homeless Services Bureau, should either enforce the premise use requirements of the master lease with MHA, or revise the MHA lease agreement to ensure that the City receives more than just the bare minimum community benefit.	H	Memo pg . 5	Agree	Economic Development with Support from Health and City Attorneys Office	Agree with timing consideration. Since the Property Services Audit transmittal and Management Response issued in the Fall of 2023, Economic Development has been working with the tenant, Mental Health America, with the support of the Health Department's Homeless Services Bureau to review the lease, conduct site visits and accurately assess current operations. Additional time is needed to review the specific items in the lease that are in questions as well as the ancillary agreements and BRAC documents related to the transaction to ensure that any path forward does not put any party in violation of originating agreements. Further, any potential solution may require review from the City Council, the tenant's Board and/or the Federal Government. The Real Estate Bureau is committed to completing its review and identification of next steps within six months. However, depending on the next steps determined, additional time may be needed to obtain the required approvals and ultimate completion of the transaction.	180 days or September 15, 2024
6.3	Responsibility for oversight and monitoring of lease term compliance, specifically for nonprofit leases at below market rates, should be coordinated by the Property Services Bureau, and communicated to the responsible department. Periodic site visits and/or review of annual reporting to confirm compliance should be performed and documented.	M	Memo pg . 5	Agree	Economic Development	Agree with consideration. Once the Real Estate Development Bureau negotiates any lease, management and oversight is handed off to the operating department through a lease transmittal memo highlighting sections that should receive focused attention. The subject lease of these additional findings has been the responsibility of the Economic Development and will continue as such given the complexity of the originating documents/transaction. The Real Estate Development Bureau will continue to collaborate with operating departments on agreements to ensure lease compliance when it is out of Real Estate's area of expertise such as homeless services. As shared during the original audit response, the Real Estate Development Bureau experienced several vacancies affecting the Bureau's ability to complete required tasks such as lease compliance, including site visits, in a timely manner. Additionally, the pandemic necessitated a shift in components of lease compliance documentation such as site visits due to shifting tenant operations and the organizations shift to telecommuting. Once deemed appropriate and consistent with organizational directives, Bureau staff have reengaged in person visits when appropriate. Further, concerted efforts have been made to fill open positions allowing the Bureau to address the backlog created by the pandemic and vacancies. The Bureau will continue its review of current assignments and schedules to ensure lease compliance reviews, including any outstanding site visits, are addressed, while still delivering completion of current transactions and priority projects in process.	12/31/24

#### Priority

H – High Priority - The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management

M – Medium Priority - The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by

L – Low Priority - The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

Yellow areas - to be completed by the department





**Date:** February 23, 2024  
**To:** Bo Martinez, Director of Economic Development  
**CC:** Tom Modica, City Manager  
Paul Duncan, Homeless Services Bureau Manager  
**From:** Laura Doud, City Auditor  
**Subject:** City Property Management and Oversight Audit – Additional Observations and Recommendations

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Our office transmitted a draft report for the City Property Management and Oversight Audit, which was conducted by Harvey M. Rose & Associates (Harvey Rose), to your attention on October 4<sup>th</sup>, 2023, and we are in receipt of management's response dated December 13<sup>th</sup>, 2023. Subsequent to the transmittal of the draft audit report, our office conducted an additional review of the City's lease with Mental Health of America (MHA) for the property and facilities located at 1955 Long Beach Boulevard (1955). The purpose of this memo is to document the additional information learned regarding the MHA lease.

### **MHA Lease Terms**

The MHA lease gives MHA the use of the facility and property at 1955 for free as the monthly rent is \$0. The Harvey Rose audit report also noted the free rent is on top of the City spending \$3.45 million for facility improvements, and that MHA has a lease end option to purchase the property and facilities for \$1, without any encumbrances or use provisions. Premise use lease requirements include the following:

1. MHA must operate (or can subcontract) one or more sit-down retail cafes (including at least one kitchen) that must be open to the public;
2. MHA must provide onsite medical and psychiatric healthcare services for homeless individuals; and
3. MHA must provide a 1,250 square foot meeting room for community use.

Our office conducted interviews, requested and reviewed documents, and consulted prior on-site walkthrough notes to learn more about whether MHA was complying with the terms of their lease. The following is a summary of facts learned through this additional process:

***1. MHA must operate one or more sit-down retail cafes (including at least one kitchen) that must be open to the public.***

MHA currently does not operate any sit-down retail cafes at the property. The Village Cookie Shoppe, which is owned and operated by MHA, is operational onsite but does not

have a sit-down retail portion. Rather, cookie orders are taken over the internet and are shipped directly to the customer, or available for local pick up.

MHA subleased space at 1955 to Third Wave Market to operate a “grab and go” style restaurant. Per the CEO of MHA, Third Wave Market’s opening date has been continually pushed back, and as of January 2024, there is no known opening date.

Based on the terms of MHA’s lease with the City, MHA is not in compliance with the contract requirement to operate a sit-down retail café that is open to the public. MHA’s lease term began on March 27, 2020, and nearly four years later, there is still no operational sit-down retail café, let alone an expected opening date.

## ***2. MHA must provide onsite medical and psychiatric healthcare services for homeless individuals.***

The MHA lease states the following:

*Tenant’s proposed Homeless Healthcare Access Program will provide healthcare access and psychiatric case management for homeless individuals with mental illness who lack fixed, regular, and adequate nighttime residences...The proposed program will increase access to critically needed services to address the physical health of homeless clients...Onsite activities will include psychiatric case management, healthcare appointments, and additional homeless services referral.*

With respect to “healthcare access” and onsite “healthcare appointments”, MHA stated they entered into an agreement with The Children’s Clinic (TCC) to provide onsite healthcare services. According to TCC, TCC operates a four-room clinic at 1955 Long Beach Boulevard, but the clinic is only open “one or two days a week”. When asked why the clinic is not open full time, TCC stated that there is an ongoing shortage of healthcare professionals, and they are unable to hire the healthcare professionals necessary to operate the clinic on a full-time basis. In addition to paying the salary for healthcare professionals, TCC subleases the space at 1955 from MHA and pays monthly rent to MHA. According to TCC, if TCC did not have to pay rent to MHA, TCC could put that funding into paying their healthcare professionals a more competitive rate to treat this needy population, which would lead to more days of clinic operations. We requested information from TCC regarding the number of patients served by the clinic in the past year but did not receive a response.

While the MHA is technically meeting the terms of their lease by having an onsite clinic providing healthcare access, the sporadic availability of the clinic means that the facility at 1955 Long Beach Boulevard is not being used to its maximum potential to provide access to critically needed healthcare services.

### ***3. MHA must provide a 1,250 square foot meeting room for community use.***

MHA has constructed a meeting room at 1955 Long Beach Boulevard. When asked whether the community room was indeed being used by the community, MHA stated the volume and frequency of use was very low and cited the downturn in demand for downtown Long Beach commercial space as an explanation. We also inquired on how MHA advertised the availability of the community room, and MHA initially stated the community room was advertised through word of mouth in conversations with their community partners.

When requested, MHA did not provide community room use logs documenting the frequency of use. MHA stated they wanted to protect the privacy of the community groups who were using the room, and releasing such logs would be inappropriate and potentially damaging to such groups. Subsequent to our initial conversation, MHA stated that the availability of the community room availability is advertised on MHA's website. Upon review of web archives, the community room was not historically advertised, but has since been recently added to MHA's website.

While MHA is technically meeting the terms of their lease by having a community room, the lack of public advertisement of the community room's availability (until very recently) and the lack of use by the community is not generating maximum community benefit.

#### ***Subleases to Third Wave Market and The Children's Clinic***

The MHA lease terms allow MHA to sublease the retail space to operate a sit-down café to a subtenant approved by Landlord in its sole and absolute discretion. The terms also allow MHA to sublease a portion of the professional services space to a subtenant providing health care services, also approved by Landlord in its sole and absolute discretion.

Our review identified the following:

- Property Services did not have a copy of the sublease agreements on hand.
  - When copies of the sublease were requested, Property Services did not believe there was a current sublease in effect, and that copies of subleases that the City is not a party to are not retained by the Bureau. Per the lease agreement, subleases are subject to City approval as the City is the landlord on the master lease and is thus a party to any sublease.
  - Property Services also initially stated that they had nothing on file pertaining to a children's clinic sublease.
  - When our office reached out to MHA for the sublease agreements, MHA stated that they had just received the same request from another City department. A copy of the subleases was ultimately provided by Property Services.

- The sublease agreements contained space for City approval and acceptance of the sublease. This section was not executed by any City employee or official. It is unknown whether the City formally approved either of the sublease agreements.
- The sublease for Third Wave Market included monthly rent due to MHA for up to \$6,300 per month, or up to \$75,600 annually.
- The sublease for TCC included monthly rent due to MHA for up to \$8,225 per month, or up to \$98,700 annually.
- The subleases for both Third Wave Market and TCC contain terms whereby MHA can charge both sublessees a pro-rata share of Common Area Operating Expenses, on top of the monthly rent due.
- Charles Lew, listed as a General Partner and signatory on the Third Wave Market sublease, is also a board member for MHA. This relationship raises the question whether there is a conflict of interest impacting the subleasing agreement.

### ***General Oversight of MHA Lease Requirements***

When determining whether MHA was meeting the three lease requirements, there was no clear City department that is responsible for and aware of MHA's operations with respect to the lease requirements. The topic was discussed with Homeless Services Bureau (HSB) on two separate occasions with two different HSB employees. One employee was under the impression that MHA owned the facility and property at 1955 Long Beach Boulevard. Another HSB employee stated that they were previously unaware that the property was being leased from the City and had only been recently made aware of the fact when contacted by the Property Services Bureau. Even after our office had raised concerns regarding MHA's compliance with the lease terms, HSB was still unaware of MHA's operations at the facility and whether they met the lease requirements.

The Property Services Bureau, when informed of our concerns, was unaware of MHA's compliance with the specific lease terms noted earlier. Property Services stated they would coordinate with HSB to possibly visit the site to clarify some of the items that are specifically noted in the lease to be provided. In terms of determining whether MHA was or was not in compliance with the lease terms, the Property Services Bureau believed that HSB would be the most knowledgeable City party, but the City Attorney's Office's involvement was necessary in making any legal contractual determinations.

The Harvey Rose audit report recommends that Property Services Bureau develop Administrative Regulation provisions for evaluating the public benefits of below market rate leases with nonprofit organizations as well as establishing policies and guidelines for leases with nonprofits. The intent of the recommendations is to improve oversight and strengthen internal controls over leasing to nonprofits and to ensure that the community is receiving the intended benefit. The MHA lease demonstrates the confusion over the responsibility for lease agreement oversight. Is compliance with lease terms under HSB's responsibility as HSB has regular interaction with MHA? Or does the responsibility rest

with the Property Services Bureau, who has a stronger understanding of the lease requirements? In this situation, HSB was unaware that the City even owned the property, and Property Services Bureau was unaware of MHA's activities until this audit highlighted that lease agreement.

### **Recommendations:**

Our review of the MHA lease can be summarized as follows:

<b>MHA Receives</b>	<b>City Receives</b>
<ul style="list-style-type: none"> <li>• \$3.45M in City-funded site improvements;</li> <li>• Free monthly rent for 10 years;</li> <li>• Purchase option for \$1 for the facility and property at lease end; and</li> <li>• Up to \$174,300 in annual sublease revenue.</li> </ul>	<ul style="list-style-type: none"> <li>• Non-operational sit-down retail café with no known opening date;</li> <li>• Healthcare clinic open one or two days a week; and</li> <li>• Community room not previously advertised to the public.</li> </ul>

Almost four years after the commencement of the lease, MHA is still not in compliance with all three lease premise use requirements. For those requirements that MHA is technically in compliance with, they are done so at a minimum level without maximizing the intended community benefit.

We recommend the following:

1. Property Services Bureau should ensure that documented policies and procedures regarding subleases to City leased property clearly detail the need for City sublease approval, subleases are executed by the City, and that copies of the executed subleases are retained by the City. Prior to granting approval of subleases, the City should review any potential conflicts of interest between the lessee and the sublessee.
2. Property Services Bureau, in connection with the City Attorney's Office and the Homeless Services Bureau, should either enforce the premise use requirements of the master lease with MHA, or revise the MHA lease agreement to ensure that the City receives more than just the bare minimum community benefit.
3. Responsibility for oversight and monitoring of lease term compliance, specifically for nonprofit leases at below market rates, should be coordinated by the Property Services Bureau, and communicated to the responsible department. Periodic site visits and/or review of annual reporting to confirm compliance should be performed and documented.

We request that Economic Development provide a written response to these additional recommendations no later than March 8<sup>th</sup>, 2024.

# City Property Management and Oversight Performance Audit

December 2023



## Why This Audit Is Important

The Property Services Bureau (Bureau) oversees City-owned property including land, buildings and facilities with a value of \$650 million. Ensuring that the City has strong management and oversight over its property allows the City to make the best use of it and capitalize on revenue opportunities.

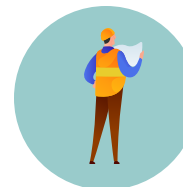
The Bureau is responsible for acquiring, leasing, selling, and transferring properties. Their processes are key to:



**Land Sales  
& Purchases**



**Leases to  
Businesses &  
Nonprofits**



**Space  
Planning for  
Services**

## What We Recommend



### Create Comprehensive Property Inventory

Helps the City identify unused or underutilized property to generate revenue



### Utilize Competitive Solicitations or Independent Appraisals

Ensures that the City receives market value for property sales



### Develop Evaluations

Verifies that the City's below-market leases to nonprofits result in valuable benefits to the community



### Create Guidelines & Restrictions

Sets expectations for tenants regarding property use and restrictions on lease end purchase options to assure community benefit



### Develop Long-Term Planning

Allows the City to identify space needs for services and coordinate planning across different departments

## What Happens Next



The Bureau agreed to implement all 14 recommendations provided.



As stewards of public resources and holders of the public trust, we must ensure that the City's extensive property inventory is managed effectively to generate revenue, reduce risk and liability, and reduce long term capital costs where possible.





# ***City Property Management and Oversight Performance Audit: The City Needs to Improve Guidelines and Processes to Effectively Use Property and Capitalize on Revenue***

**December 2023**

## **Report Summary**

### **Why This Audit is Important**

The Property Services Bureau (Bureau) within the Economic Development Department oversees City-owned property with a value of \$650 million. This property includes land, parks, buildings and facilities, police and fire stations, parking structures and lots, and many other assets that are essential to City services. The Bureau is responsible for acquiring, leasing, selling, and transferring of City-owned property. Managing property effectively ensures that residents and stakeholders benefit from City-owned properties. This includes generating revenue from City-owned properties that can be used to enhance City services.

### **Audit Objective**

Our audit assessed whether the City is managing and overseeing City-owned, including leased, property effectively and efficiently to best utilize the property and ensure that the City is capitalizing on revenue opportunities.

### **Acknowledgement**

We thank management and staff in the Property Services Bureau.

### **What We Found**

We found that the City is following some property management best practices, however improvements can be made to inventory, guidelines, and processes so that the City receives the most value from its property. We found that:

- The Bureau does not maintain an updated inventory of all City-owned property. Without a comprehensive inventory, the City cannot identify unused or underutilized property, so the City may miss opportunities to generate revenue.
- The Bureau does not always follow the same process when selling of property. Guidelines have not been documented to incorporate either competitive solicitations or independent appraisals to ensure market value is received.
- The Bureau has few documented procedures for real estate transactions, so leases of City-owned property are inconsistent across tenants.
- The Bureau manages 12 leases to nonprofit organizations at rates as low as zero dollars or \$1 per year. However, the City does not have guidelines on these leases to ensure appropriate public benefit is received.
- The City does not have a formal process for evaluating and planning longer term space needs for departments.

### **What We Recommend**

First, we recommend that the Bureau use existing data sets to develop a comprehensive inventory of City-owned property. The Bureau should develop guidelines for:

- sale of property, such as how to review unsolicited proposals from private entities;
- developing leases, including lease extensions and tenant investments; and
- leasing City-owned properties to nonprofit organizations, including evaluating the public benefits of below-market-rate leases.

Additionally, longer-term planning for the City's property needs should be a coordinated effort across City departments.



# **Performance Audit of City Property Management and Oversight**



**Harvey M. Rose Associates, LLC**

**<http://www.harveyrose.com>**

**December 2023**



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# Executive Summary

## *Audit Scope and Objectives*

The primary purpose of the *Performance Audit of City Property Management and Oversight* was to determine whether the City is managing and overseeing City-owned and leased property effectively and efficiently. We conducted this audit in conformance to Generally Accepted Government Auditing Standards (GAGAS) issued by the U.S. Government Accountability Office.

## *City of Long Beach Properties and the Property Services Division*

The City of Long Beach owns land, buildings, and other facilities with combined values of \$4.0 billion. The Economic Development Department's Property Services Division serves as the real estate broker for properties under the jurisdiction of the City Manager departments and is responsible for a coordinated program for the acquisition, sale, and leasing of City-owned properties. Administrative Regulation 8-5 defines the role and responsibilities of the Property Services Division.

## *Audit Findings and Recommendations*

This report contains five findings and 14 recommendations. The recommendations are directed to the Property Services Division Manager and include:

- (1) Recommending citywide policies for leasing, acquiring, and disposing of City property in the Administrative Regulations; and
- (2) Formally documenting Property Service Division procedures not currently documented in flow charts or other Division documents.

Defining and documenting City policies in the Administrative Regulations supports consistency and transparency in real estate transactions and ensures conformance of real estate transactions to City policy. Formally documenting Property Services Division procedures aids City staff in complying with City policies.

The Property Services Division Manager, who was hired into this role in Fall 2022, has begun the process of formally documenting Division procedures in flow charts, checklists, and standardized templates. Defining and documenting Citywide policies and Division procedures will require staff resources, and the Property Services Division Manager will need to work with the City Manager on timelines and the resources needed to document policies and procedures.

**Finding 1: The City does not have a comprehensive inventory of City-owned property. Without a comprehensive citywide property inventory, the Division cannot systematically review City property to identify unused or underutilized properties. The City may be missing opportunities to generate revenue or reduce liability by disposing of unneeded property; it may also be incurring unnecessary costs by acquiring or leasing space when existing properties could meet the space needs.**

The Property Services Division created a property database in 2000, but according to the Property Services Division Manager, the Division has not had sufficient staff to consistently maintain the database. The Department of Public Works and the Technology and Innovation Department also maintain three data sets on City property, but aspects of these data sets limit their usefulness in current form as an inventory for real estate portfolio planning. The three data sets contain information about City-owned properties, including location, square footage, legal description, responsible City department, estimated useful life, and acquisition cost. However, none contain attribute fields for real-estate decision-making, such as whether a property is occupied, leased out or vacant.

To create a property inventory, the Division will need to decide on a list of attributes to catalog, attempting to balance detail with feasibility. The attributes selected by the Division will make up the “columns” of a property inventory. The Division will also need to develop a list of properties (i.e., the “rows”) to be included in an inventory, drawing on the entries in the three databases described above.

#### *Recommendations*

The Property Services Division should work with the City Manager on a process and timeline to develop and periodically update an inventory of City-owned properties with attribute fields that help staff identify underutilized parcels and conduct space planning when new City needs emerge.

**Finding 2: The Property Services Division is responsible for a coordinated program for leasing of properties under the jurisdiction of the City Manager. Historically, the Property Services Division has had few documented policies guiding key lease provisions.**

Most Property Services Division leases are long term, with original start dates of more than 10 to 20 years ago. As a result, practices for key lease provisions – length of leases, options to extend leases, required tenant investments – are not consistent across leases. Many older leases did not require tenant investments in the original lease. Several older leases with extension options can be exercised at the request of the tenant rather than at the discretion of the City, and some do not require rent negotiations or tenant investments on exercise of the extension option. Our review of other cities found documented policies for lease extensions, including (i) requiring the tenant to meet specified metrics or (ii) providing for extension options at the city’s discretion in exchange for tenant investments or an investment fee.

Commercial leases of City property have varied property uses, which define the rent structure. According to discussions with Economic Development Department staff, policy direction is to achieve fair market compensation for commercial leases of City property but this policy is not documented. Our review of other cities found documented policies in the administrative regulations, city council policy, or executive orders requiring fair market rents or rents based on appraisals or other pricing methods.

### *Recommendations*

The Property Services Manager should recommend Administrative Regulation provisions, establishing City policy for options to extend leases, tenant investments, and tenant improvement allowances. The Property Services Division Manager should also develop internal guidelines on commercial lease rent structures.

**Finding 3: The City’s Municipal Code and Administrative Regulations do not specify that City-owned property should be disposed of through a competitive process. While most properties reviewed by the audit team were advertised for sale through a competitive process, some City-owned properties were sold following unsolicited offers from potential buyers or through purchase options in leases.**

The Property Services Division Manager drafted a flow chart for disposal of surplus property in accordance with the State Surplus Land Act, which provides for a written notice of availability to housing agencies, parks agencies and other entities outlined in state law. For properties exempt from the Surplus Land Act, the flow chart provides for issuing Requests for Proposals, specifically inviting housing agencies, parks agencies and other types of entities to participate. According to Property Services Division staff, the Division has a process for reviewing unsolicited proposals, including contracting with third party consultants for analysis of the transaction, although this process is not documented. Also, according to staff, the discussion on whether a property is surplus takes place prior to negotiating a purchase option in a lease. Leases with purchase options do not always include deed restrictions to ensure that the property on disposition will be used for public purposes. For example, the purchase option in one lease states that the City will deliver the property to the tenant on exercise of the option “without encumbrances or recorded restrictions”, although the City made significant investments in the property.

The Property Services Division’s checklist for property disposition includes appraisals, but the City does not have a documented policy requiring appraisals. As a comparison, two cities reviewed for this audit provided for appraisals on disposition in city-owned property in the municipal code or city council policy.

### *Recommendations*

The Property Services Division Manager should recommend Administrative Regulation provisions defining criteria for disposing of City-owned property, including competitive solicitation, appraisals, evaluation of unsolicited offers, and purchase options, including deed restrictions and long term ground leases as an alternative to purchase options.

**Finding 4. The City does not have documented policies on nonprofit leases. According to staff, the Property Services Division is reviewing practices for nonprofit leases, including setting rents at fair market value and providing rent credits based on the value of the public services provided. However, this is not standard procedure for all nonprofit leases.**

Not having documented guidelines and policies, as well as public reporting mechanisms, on leasing City-owned properties to nonprofit organizations risks an unwarranted subsidy to these organizations for use of public property. Other jurisdictions, such as the City and County of Denver, the City of San Diego, and

the City of Charlotte, have aimed to minimize these risks by documenting and establishing formalized policies on the leasing and disposition of City property to nonprofit organizations.

#### *Recommendations*

The Property Services Division Manager should work with Economic Development Department finance, City Manager, and Parks, Recreation, and Marine Department staff to recommend Administrative Regulation provisions for leasing City-owned properties to nonprofit organizations and evaluating the public benefits of below market rate leases with nonprofit organizations.

**Finding 5: The City of Long Beach does not have a formal process for evaluating and planning longer term space needs for City Manager departments. The City's Capital Improvement Program focuses on short term needs, including improvements to existing facilities and investments to address community need.**

According to the Economic Development Department staff report to the October 11, 2022 City Council meeting, the City "has made concerted efforts to inventory facility and infrastructure needs to effectively deliver City services. Further, the City consistently reviews City Departments' leases on privately-owned properties to evaluate opportunities to consolidate operations or relocate into a City facility..." Acquisitions can be driven by department needs, such as the purchase of 125 Elm Avenue for locating the Crime Lab, which had been occupying leased space, or by urgent conditions, as in the case of Fire Station 9, in which building conditions made relocating the fire station necessary.

The Property Services Division identifies potential properties for acquisition through market listings and uses real estate broker services to submit an offer letter to the property owner. Because acquisitions are not conducted through a competitive process, appraisals are a main tool to determine if the City is paying an appropriate price for the acquisition. The Property Services Division acquisition checklist references appraisals and environmental assessments, which are standard real estate practice, but the City does not have a documented policy requiring appraisals and environmental assessments for acquisition.

#### *Recommendations*

Longer term planning for space needs for City departments and programs needs to be a coordinated effort of the City Manager, Capital Planning, the Economic Development Department, and the respective City departments. The recommended property inventory in Section 1 of this report would include identifying properties that are underutilized, which could be used in planning the City's space needs. The Property Services Division Manager should also recommend Administrative Regulation provisions, defining appraisal and environmental assessment requirements for property purchases.

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## Introduction

### Scope and Objectives

The primary purpose of the *Performance Audit of City Property Management and Oversight* was to determine whether the City is managing and overseeing City-owned and leased property effectively and efficiently. Specific audit objectives included:

- (1) identification of the availability and options for a comprehensive inventory of City-owned property;
- (2) determination of the extent to which the City has and the benefits of a plan for centralized management of City property;
- (3) evaluation of the Property Services Division's management of City-owned property under its purview;
- (4) assessment of non-profit and community based organization leases of City-owned property;
- (5) assessment of City oversight and maintenance of unused property;
- (6) assessment of Property Services Division procedures for acquiring, disposing, and leasing of City-owned property; and
- (7) determination of opportunities for more efficient use of City-owned property.

### Methodology

We conducted this audit in conformance to Generally Accepted Government Auditing Standards (GAGAS) issued by the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We began this review with an entrance conference on September 29, 2022 with representatives from the City Auditor's Office and Economic Development Department to introduce the project team, discuss the project process, and request initial information. We interviewed representatives from the Property Services Division and Economic Development Department, departments under the jurisdiction of the City Manager, and enterprise departments. We collected lease documents, documented policies, GIS and other data on City-owned properties, and other documents and data to identify the City's processes to manage property. We also collected policies or interviewed real estate representatives from the cities of San Francisco, Denver, Phoenix, and San Diego, to identify real estate practices in comparable cities.

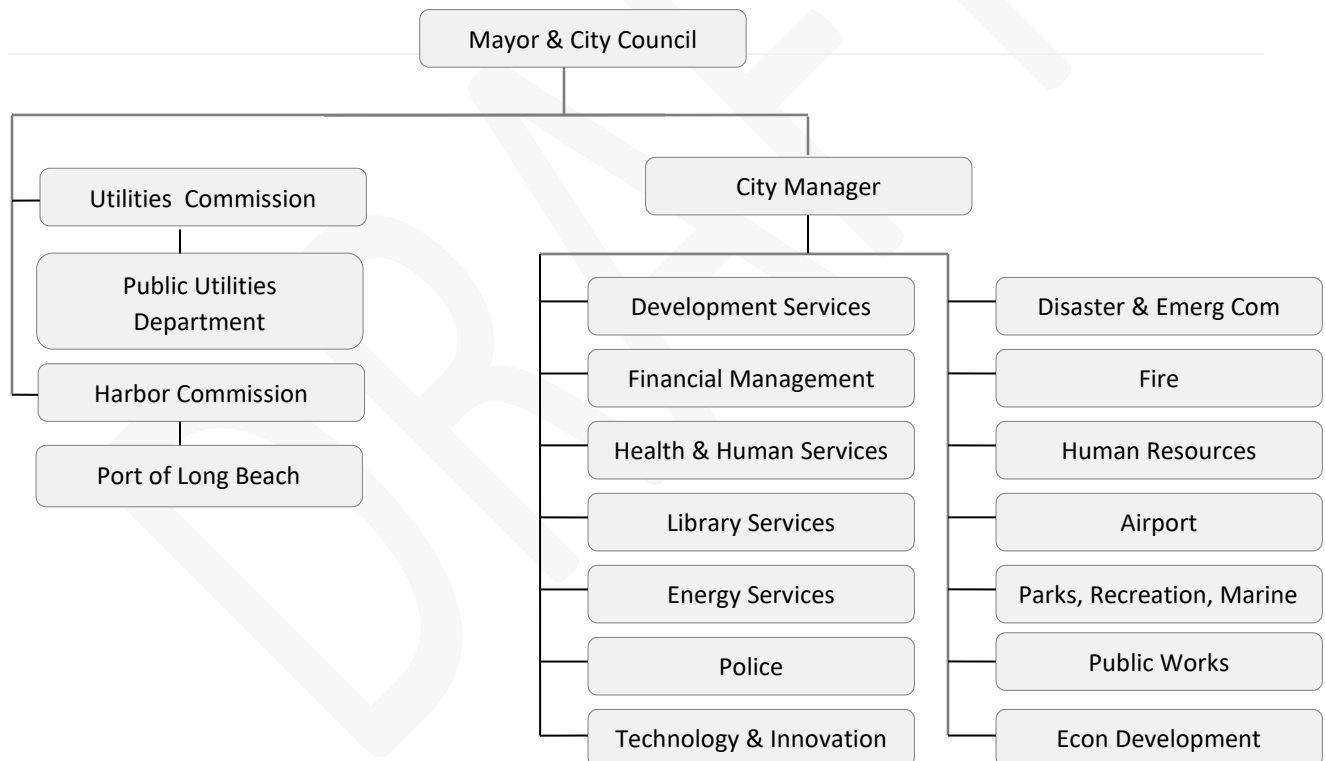
We submitted a confidential draft report to the Property Services Division Manager on August 17, 2023 summarizing our findings and recommendations and met with the Economic Development Department

Director and Property Services Division Manager on September 15, 2023 to discuss the confidential draft report. Based on additional information provided to us, we revised the draft report and submitted the final draft report to the Economic Development Department on October 4, 2023. The final report, which was provided to City Council, City Manager's Office, and the Economic Development Department per the date of the transmittal memo, includes the written response from management attached to the end of this report.

## City of Long Beach Properties

City of Long Beach properties include public buildings; parks and open space; beaches and marinas; utilities; streets, bridges, and other rights or way; and airport and harbor facilities. Management of these properties is under the purview of various City departments. Exhibit 1 below provides an overview of the City's organization.

**Exhibit 1: City of Long Beach Organization**



Source: FY 2023 Budget Book

Note: The City of Long Beach has six commissions not included in the chart above, including the Citizen Police Complaint Commission, Civil Service Commission, Recreation Commission, Planning Commission, Ethics Commission, and Independent Redistricting Commission.

The Public Utilities Department and Port of Long Beach are enterprise departments under the oversight of their respective commissions. The other departments are under the oversight of the City Manager.

## *The City's Capital Assets*

The City owns land, buildings, and other facilities with combined values of \$4.0 billion, according to the City's FY 2021-22 Annual Comprehensive Financial Report. The Port of Long Beach, Long Beach Airport, and Utilities Department own land, buildings, and facilities valued at approximately \$3.35 billion and departments under the purview of the City Manager own land, buildings, and other facilities valued at approximately \$650 million.

### The Port of Long Beach and the Tidelands Trust

The State of California granted tidelands and submerged lands to the City of Long Beach in 1911. These lands are held in trust and use is restricted to commerce, navigation, fishery, and recreation. The State trust consists of the Port of Long Beach and the Tidelands Trust.

The Harbor Commission oversees the Port of Long Beach, and under the City Charter, Port properties are under the exclusive control of Harbor Commission. The Port is 11.9 square miles, including 31 miles of waterfront. The Port has six piers surrounding a deep water channel. Port structures include various administrative buildings, warehouses, maintenance and rail facilities, fire stations, parking, and other structures supporting Port operations.

The City Manager oversees other Tideland Trust area properties. The Tidelands Trust includes the City's beaches, marinas, and Aquarium and Rainbow Harbor, under the jurisdiction of the Parks, Recreation, and Marine Department; the Convention Center and the Queen Mary, under the jurisdiction of the Economic Development Department; and oil extraction administrative operations. The Tidelands Operating Fund accounts for the operations of beaches, marinas, Rainbow Harbor, Queen Mary, and Convention Center. The Tideland Oil Revenue Fund accounts for oil extraction administrative operations.

### The Utilities Department

The Utilities Commission oversees the Utilities Department, which as a public utility is governed by the California Public Utilities Code. Utilities Department properties include administrative offices, treatment and other plant facilities, warehouse and maintenance facilities, and infrastructure for the treatment and distribution of water. The Water Utility Fund accounts for the operations, facility maintenance, and capital improvements of the Utilities Department.

### Long Beach Airport

The City Manager oversees the Airport. The Airport has 1,166 acres of land, and includes the terminal, three runways, parking structure, and related facilities. The Airport has more than 50 lease agreements for use of airport property, which include aviation uses as well as non-aviation uses, including a Marriott Hotel, a business park, a manufacturing facility, and other non-aviation uses. The Airport Fund accounts for Airport operations and facilities maintenance and improvements.

### Former Redevelopment Agency

The City of Long Beach is the Housing Successor Agency and the Successor Agency to the former



Redevelopment Agency, which was dissolved in 2012. The Housing Successor Agency includes three residential properties at 1044 Maine Avenue, 640 East Anaheim Street, and 321 7<sup>th</sup> Street. Other former Redevelopment Agency properties consist of land parcels in three redevelopment project areas and other sites. According to discussions with Economic Development Department staff, disposition of redevelopment properties is dictated by the redevelopment plan; most redevelopment properties have been sold. The Department disposed of 15 redevelopment properties in FY 2020-21 and seven redevelopment properties in FY 2021-22; the Department projects disposition of 26 properties in FY 2022-23. The Successor Agency Capital Projects Fund was established to account for the completion of authorized projects and the disposition of properties owned by the former Redevelopment Agency.

### Other City Owned Properties

The City holds various capital assets, including land and buildings for government purposes. These include office buildings, fire and police stations, parks and recreation facilities, libraries, homeless shelters, and other facilities supporting government purposes. In FY 2020-21, the City purchased land for construction of Fire Station 9 and a residential property for formerly homeless individuals financed by the State's Homekey Program.

## The City's Property Lease and Disposition Policies

The City Charter grants the Utilities Department and Port of Long Beach authority to lease, sell, or dispose of property under their respective jurisdictions, although leases and agreements for drilling and storing of oil and natural gas on Port land are under the jurisdiction of the City Council. The City Charter provides for the Parks and Recreation Commission to recommend to the City Council the purchase of parks and recreational facilities. Park lands cannot be sold without voter approval unless replaced by park lands of comparable value.

### *Port, Airport, and Utilities Department*

The Port, Airport, and Utilities Department manage lease and disposition of their properties. The Airport manages leases under Federal Aviation Administration jurisdiction, including Airport concessions, ground transportation, and aviation services. The Airport also has leases without airfield access, including the Long Beach Business Park and Marriott Hotel. The Port of Long Beach has leases, permits, and other agreements for storage, terminal access, pipelines and utilities, and other uses. The Utilities Department manages leases for some telecommunication sites and use of Department property by other agencies.

### *Property Services Division*

Responsibility for acquiring, leasing and disposing of City-owned properties under the jurisdiction of the City Manager departments are defined in Administrative Regulation 8-5, which establishes a centralized

real estate operation in the Economic Development Department.<sup>1</sup> The Property Services Division serves as the real estate broker for City Manager departments and is responsible for a coordinated program for the acquisition, sale, and leasing of City-owned properties. However, Administrative Regulation 8-5 excludes oil leases and Convention Center and Parks, Recreation, and Marine Department concession leases, permits, and other agreements from this program.<sup>2</sup>

Property Services Division responsibilities as defined in Administrative Regulation 8-5 include:

- Providing preliminary estimates of property value and appraisal reports for acquisition, sale or lease of City properties;
- Negotiating leases for City-owned properties and properties leased by the City from private parties;
- Establishing uniform procedures for all real estate transactions, including negotiation, preparation and administration of permits, leases and purchase and sale agreements;
- Preparing City Council letters regarding real estate transactions;
- Establishing procedures for the acquisition of property which is needed for public purposes including appraisals, title reports, escrows and related acquisition requirements;
- Establishing procedures for the disposition of City property which has been declared surplus to the City's needs and administration of final disposition of same; and
- Maintaining current inventory file of leases, permits and agreements under the Division's purview.

City Manager departments are responsible for leases of City-owned property under the jurisdiction of City Manager departments or for leases by City Manager departments of privately-owned properties. The Property Services Division continues to monitor leases for scheduled rent increases and expiration dates.

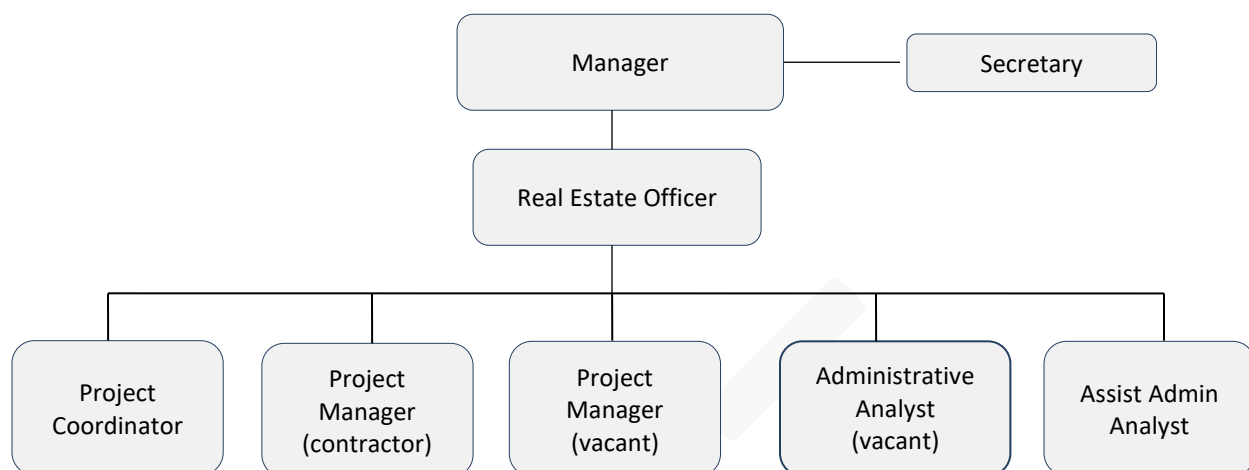
#### Property Services Division Organization

The Property Services Division is one of five divisions in the Economic Development Department. The Division organization is shown in Exhibit 2 below.

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<sup>1</sup> The current version of Administrative Regulation 8-5 references the "Department of Community Development". The Property Services Division provided the audit team with a revised draft of Administrative Regulation 8-5 which references the "Economic Development Department".

<sup>2</sup> A draft update to Administrative Regulation 8-5, provided to the audit team, would codify the Airport's management of its real estate function.

**Exhibit 2: Property Services Division Organization**

Source: Property Services Division

The Property Services Division is budgeted for eight full time equivalent (FTE) positions but during the audit field work was never fully staffed. The Real Estate Officer position became vacant in the Fall of 2022 due to the promotion of the incumbent and was filled in May 2023, and the Assistant Administrative Analyst position was filled in July 2023. As of July 2023, the Division continued to have two vacant positions and one position filled by a contractor, for which the Division was actively hiring.

#### Property Services Division Revenues and Expenditures

Property Services Division expenditures in FY 2021-22 were \$20.6 million, of which more than one-half were Tidelands Operating Fund expenditures, and more than one-third were Queen Mary operating and capital expenditures, shown in Exhibit 3 below.

#### **Exhibit 3: Real Estate Division Revenues and Expenditures by Fund FY 2020-21 and FY 2021-22**

Fund	FY 2020-21			FY 2021-22		
	Revenues	Expenditures	Surplus/ (Deficit)	Revenues	Expenditures	Surplus/ (Deficit)
General Fund	\$26,786,333	\$25,007,069	\$1,779,264	\$5,164,668	\$2,141,971	\$3,022,697
Tidelands Operating	11,275,925	7,024,945	4,250,980	6,482,981	10,714,782	(4,231,802)
Marina Operating	1,083,285	49,359	1,033,925	926,895	39,657	887,238
Queen Mary	3,491,842	5,623,594	(2,131,752)	3,763,991	7,193,428	(3,429,436)
Other Projects	0	3,257,507	(3,257,507)	0	553,353	(553,353)
<b>Total</b>	<b>\$42,637,384</b>	<b>\$40,962,474</b>	<b>\$1,674,910</b>	<b>\$16,338,536</b>	<b>\$20,643,192</b>	<b>(\$4,304,656)</b>

Source: Economic Development Department Finance and Administration

General Fund revenues from the lease of properties in FY 2020-21 were \$4.8 million and in FY 2021-22 were \$4.25 million. The FY 2020-21 General Fund budget included funds from the sale of properties and other transfers of funds, and grant funds for acquisition of properties noted below. The FY 2021-22

General Fund budget included funds from the sale of properties and other transfers of funds.

Tidelands Operating Fund revenues from the lease of properties, including concessions and convention center revenues, in FY 2020-21 were \$8.7 million and in FY 2021-22 were \$6.5 million. The FY 2020-21 Tidelands Operating Fund budget included additional miscellaneous funds.

Marina Operating Fund revenues in FY 2020-21 and FY 2021-22 were from rentals and concessions.

The Queen Mary project consists of three funds: the Operating Project, Capital Project, and Entertainment District Project. Revenues in FY 2020-21 included \$2.3 million in transfers from the Tidelands Operating Fund and \$1.1 million in revenues generated by film permit fees and other property rents. Revenues in FY 2021-22 included \$1.0 million in film and other permit fees and \$2.7 million in other property rents.

In FY 2020-21, the City spend \$23.3 million on property acquisitions. FY 2020-21 expenditures included approximately \$1 million for Property Services Division staff salaries and benefits, funded by the General Fund, Tidelands Operating Fund, and Marina Operating Fund. Other major expenditures included property management, facilities maintenance, and utilities funded by the Tidelands Operating Fund, and Queen Mary debt service and property management.

FY 2021-22 expenditures included approximately \$1 million for Property Services Division staff salaries and benefits, funded by the General Fund, Tidelands Operating Fund, Marina Operating Fund, and Queen Mary Entertainment District funds. In FY 2021-22, Tidelands Operating Fund expenditures of \$10.7 million included \$5.7 million for facilities maintenance, which exceeded the amount budgeted for facilities maintenance by more than \$4.0 million. Queen Mary operating and capital project expenditures of \$7.2 million included \$2.4 million for debt service and \$4.0 million for the caretaker agreement with Evolution Hospitality (noted above).

The adopted FY 2022-23 budget for the Real Estate Division includes \$11.3 million in revenues and \$7.6 million in expenditures.

### *Lease Management and Financial Management Systems*

The City purchased a lease management system, Agiloft, in 2019. Agiloft is an off-the-shelf contract management system, which replaces the excel spreadsheets used previously by the Property Services Division to track leases. The Property Services Division developed a style guide defining standard lease and other agreement provisions entered in Agiloft and hired a full-time contract staff person in January 2022 to standardize entry of lease and other agreement information in Agiloft. Agiloft contains information on approximately 150 leases and agreements managed directly by the Property Services Division or monitored by the Property Services Division and managed by other City Manager departments. Property Services Division staff can run monthly reports on lease expiration dates from Agiloft.

Agiloft contains information on rent adjustment dates but does not contain information on lease or agreement rent history. The City implemented a new financial system, MUNIS, in FY 2020-21. Rent

adjustments in MUNIS are made by Economic Development Department finance staff, based on information provided by Property Services Division staff. MUNIS can set up project accounts by property, allowing for the tracking of property revenues and expenses. Recurring rents are processed in the accounts receivable module in MUNIS and booked against the property's project account. Percentage and variable rents are entered by staff into MUNIS. The City also has an online database tool, SIMPLER, that can download information from MUNIS. Both MUNIS and SIMPLER have security workflows that limit access to information. Finance staff also run account aging reports to identify if rents are underpaid.

According to discussions with Property Services Division staff, Agiloft was initially intended as an interim lease tracking system that would eventually be replaced by the MUNIS contract management module. However, the current understanding of Property Services Division staff is that the contract management module in MUNIS will not be implemented, and the Division will continue to use Agiloft to store lease and agreement information and track agreement expiration and rent adjustment dates. Agiloft is available only to Property Services Division staff; other City Manager department staff responsible for administering leases, including the Parks, Recreation, and Marine Department, do not have access to Agiloft information. The Property Services Division Manager is currently discussing with Technology and Information Department staff options for including Agiloft information on the City's intranet.

### *Convention Center and Queen Mary*

The Economic Development Department entered into management agreements with private operators for the Convention Center and the Queen Mary in 2022. The City did not undergo competitive solicitation for either management agreement, but City staff consider that the new management agreements provide financial terms and oversight that benefit the City.

In October 2022, the City of Long Beach entered into a new seven-year management agreement with ASM Global for the Convention Center. ASM Global had operated the Convention Center under prior agreements since 1991.<sup>3</sup> ASM Global submitted an unsolicited proposal to replace the prior management agreement set to expire in September 2023. The City did not undergo a competitive process to select an operator; rather, the City engaged consultants to evaluate the existing agreement and fee structure and identify deficiencies to be addressed in the new management agreement. According to Economic Development Department staff, the new management agreement includes financial incentives, formal oversight, and improved internal controls not included in the prior management agreement.

The City of Long Beach entered into a management agreement with Evolution Hospitality in July 2022 to operate a hotel for the Queen Mary. Evolution Hospitality had been selected as an emergency caretaker in 2021 following the bankruptcy of the prior operator and return of the Queen Mary to the City. According to discussions with Economic Development Department staff, Evolution Hospitality is a large hotel operator with experience in operating assets such as the Queen Mary, which is a tourist attraction and historic site as well as a hotel. The management agreement does not have the formal oversight structure included in the management agreement for the Convention Center, but according to Economic

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<sup>3</sup> ASM Global was formerly known as the Spectacor Management Group.

Development Department staff, regular meetings and processes to ensure ongoing engagement with the hotel operator are being established.

## Report Findings and Recommendations

This report contains five findings and 14 recommendations. The recommendations are directed to the Property Services Division and include defining and documenting real estate policies and procedures, including making recommendations for Administrative Regulation provisions. Defining and documenting policies will require staff resources and the Property Services Division Manager will need to work with the City Manager on timelines and resources needed to review and document standard policies.

## Acknowledgements

We would like to thank the Property Services Division Manager and her staff for their assistance. We would also like to thank staff from the Economic Development Department; Technology and Innovation Department; Public Works; Parks, Recreation, and Marine; Port; Airport; Utilities Department; Fire Department; Health and Human Services Department; and Police Department for meeting with us and providing information.

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# 1. Developing a Citywide Property Inventory

The City of Long Beach owns over 250 public facilities, including libraries, fire stations, police stations, and health facilities. It also owns over 170 parks, over 3,000 acres of open space. City properties include Port, Airport, Utilities Department properties as well as properties under the jurisdiction of the City Manager.

## **Problem, Cause, and Adverse Effect**

The City does not have a comprehensive inventory of City-owned property. The Property Services Division created a property database in 2000, but Division staff have not been able to maintain the database. The Department of Public Works and Technology and Innovation Department also maintain data sets on City property, but aspects of these data sets limit their usefulness in current form as an inventory for real estate portfolio planning.. Without a comprehensive citywide property inventory, the Division cannot systematically review city property to identify unused or underutilized properties. The City may be missing opportunities to generate revenue or reduce liability by disposing of unneeded property; it may also be incurring unnecessary costs by acquiring or leasing space when existing properties could meet the space needs.

The three existing data sets – one managed by the Department of Public Works and two managed by the Technology and Innovation Department – contain information about City-owned properties, including location, square footage, basic or legal description, responsible City department, estimated useful life, and acquisition cost. However, none contain important attribute fields for real-estate decision-making, such as whether a property is occupied, leased out or vacant.

To create a property inventory, the Division will need to decide on a list of attributes to catalog, attempting to balance detail with feasibility. The attributes selected by the Division will make up the “columns” of a property inventory. The Division will also need to develop a list of properties (i.e., the “rows”) to be included in an inventory, drawing on the entries in the three databases described above.

## **Recommendations**

The Property Services Division should work with the City Manager on a process and timeline develop and periodically update an inventory of City-owned properties with attribute fields that help staff identify underutilized parcels and conduct space planning when new City needs emerge.

## **Savings, Benefits, and Costs**

Completing a property inventory will require significant up-front effort, as the City of Long Beach owns hundreds of properties that it likely makes sense to include in such an inventory. The Property Services Division Manager will need to work with City Manager on the process, timelines, and resources required to develop an inventory. Subsequent updates will not require as extensive an effort. The timeline for implementing and updating a citywide property inventory will need to account for available staff resources and consider priorities for information included in the inventory. Over the long term, such an inventory can help the City generate revenue and reduce liability, by disposing of underutilized property.

It can also improve space planning, helping the City avoid unnecessary property acquisitions.

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## Citywide Property Portfolio

According to the Capital Improvement Program, the City owns over 170 parks, over 3,000 acres of open space, and over 250 public facilities, including libraries, fire stations, police stations, and health facilities. Some of these properties are under the jurisdiction of the enterprise departments, such as city-owned property at the Port of Long Beach and water infrastructure, and the Long Beach Airport. Others are under the jurisdiction of City Manager departments, such as parks, fire stations and police stations. Properties not under the jurisdiction of specific City Manager departments are managed directly by the Property Services division, including surplus land that the City intends to dispose of. The Economic Development Department manages the Queen Mary and the Convention Center. Although the Property Services Division can produce at least partial lists of key property categories requiring active management – such as leased properties, recently acquired properties and properties slated for disposition – information about other categories of properties is maintained by individual City departments.

### *No Citywide Property Inventory*

The City does not have a comprehensive inventory of City-owned property. The Property Services Division created a property database in 2000, but according to discussions with Property Services Division staff, Division staff have not been able to maintain the database. The Department of Public Works and Technology and Innovation Department also maintain data sets on City property, but aspects of these data sets limit their usefulness in current form as an inventory for real estate portfolio planning, as discussed below. Without a citywide property inventory, the Division cannot systematically review city property in order to identify unused or underutilized properties. The City may thus be missing opportunities to generate revenue or reduce liability by disposing of unneeded property; it may also be incurring unnecessary costs by acquiring or leasing space when existing properties could meet the relevant space needs. Cataloguing key characteristics of spaces, such as surface parking lots and remnant parcels, in a property inventory could help the City identify locations for new city needs, such as a temporary vaccination or shelter site in the case of future emergencies.

Three existing data sets – one managed by the Department of Public Works and two managed by the Technology and Innovation Department – contain information about City-owned properties; information about these databases is discussed in Exhibit 1.1 below. However, none contain important attribute fields for real-estate decision-making, such as whether a property is occupied, leased out or vacant. The most comprehensive of these lists (the Capital Asset Inventory) includes assets that are not relevant for the Property Services Division, such as pieces of technology and road infrastructure. Description fields for many entries also provide information that may be insufficient for Property Services Division staff needs; a typical description on the City-Owned Property list reads “P M 319-34-47 LOT 1”.

**Exhibit 1.1: Existing City Property Data Bases**

Capital Asset Inventory	<p>Every year, the Public Works Department publishes a Capital Improvement Program, detailing proposed capital spending during the upcoming fiscal year. The Capital Improvement Program is the result of a capital planning process in which end-user departments, Public Works staff, and other city officials prioritize projects and decide how to allocate available capital funds.</p> <p>To help inform this process, Public Works maintains a database called the Capital Asset Inventory with information about more than 3,400 pieces of city property. Some entries refer to buildings (fire stations, libraries, City Hall, park bathrooms, beach concession stand etc.). Others refer to land parcels (an entry for each plot of land associated with a city building, parks, and various other land parcels). Still others refer to other categories of physical property, such as water wells, storm drains, and fences.</p> <p>The Capital Asset Inventory includes attributes such as an asset number, location, basic description, department responsible, type (land or a building/ structure/ facility), estimated useful life, acquisition cost, and current book value.</p>
City Facility and City-Owned Property Lists	<p>The Technology and Innovation Department maintains <i>MapsLB</i>, a portion of the City's public-facing web site on which users can access a variety of maps and datasets. Users can navigate interactive maps showing information such as crime data, coyote activity, and housing production; they can also download a range of commonly requested data sets. These maps and data sets reflect information retrieved by Department staff from various public sources and configured for public exploration and analysis.</p> <p>In addition to these publicly available data sets, Technology and Innovation Department staff maintain data sets retrieved from public sources that are of use to city staff. One such data set, which the Department titles its "City Facility" list, contains 184 city-owned facilities as tracked by the Los Angeles County Assessor's Office, including fire stations, police stations, libraries, museums and dozens of parks. A larger data set, referred to as the Department's "City-Owned Property" list, includes 1,231 parcels. This list includes each parcel number, address, and additional fields such as square footage and legal description. (These "legal descriptions" vary in usefulness to a lay reader; a typical entry reads "P M 319-34-47 LOT 1".)</p>

Source: Harvey M. Rose Associates LLC Compilation

## Developing a Property Inventory

Maintaining a property inventory with accurate, useful information can help all levels of government effectively manage their real estate portfolios. The U.S. Government Accountability Office (GAO) has

described three functions such an inventory can carry out<sup>4</sup>:

1. Identifying asset and facility location and status,
2. Tracking and reporting asset and facility condition and deferred maintenance needs, and
3. Tracking user satisfaction.

A subsequent GAO report noted that without quality data on the status of government-owned properties, decisionmakers are in a worse position to plan capital spending and recognize surplus properties that should be considered for disposition.<sup>5</sup>

In 2007, the City of San Diego commissioned a report by the real estate services firm Grubb & Ellis on how to restructure its real estate portfolio management. Following a review of private and public sector best practices, the resulting analysis recommended cataloguing all City properties in a property database. To create this database, the consultant recommended conducting an initial review of all City properties. For each property, it recommends recording numerous attributes, which it describes in details and groups into four categories: “Physical Characteristics,” “Purpose/Condition/Status,” “Utilization,” “Fitness for Purpose,” and “Cost/Value.” Based on these attributes, the consultant recommended assigning each property one of three statuses: “Active,” “Interim,” or “Surplus/Investment.”

To create a property inventory, the Division will need to decide on a list of attributes to catalog, attempting to balance detail with feasibility. One possible attribute list, developed by our team after reviewing the report commissioned for the City of San Diego, is shown in Exhibit 1.2 below. It includes a “classification” attribute, in which staff can indicate surplus and potential surplus properties, based on a property’s other characteristics. The attributes selected by the Division will make up the “columns” of a property inventory. The Division will also need to develop a list of properties (i.e., the “rows”) to be included in an inventory, drawing on the entries in the three databases described above. Staff will then need to catalog the selected attributes for each entry.<sup>6</sup>

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<sup>4</sup> *Leading Practices in Capital Decision Making*, US Government Accountability Office, December 1998

<sup>5</sup> *Better Government Data Needed for Strategic Decision Making*, US Government Accountability Office, April 2002

<sup>6</sup> The City Facilities list includes 183 facilities but does not include undeveloped property; the City-Owned Property list includes 1082 entries, although some are separate entries for a single parcel.

**Exhibit 1.2: Example Attribute List for Property Inventory****General Information**

Location  
 Assessor's Identification Number (AIN)  
 City Asset Number  
 Description

**Physical Characteristics**

Size  
 Building Class (A, B or C)  
 Condition (Excellent, Good, Fair, Poor)

**Status**

Category (Developed or undeveloped)  
 Use (Office, Park, Parking, Warehouse, etc.)  
 Status (City-Occupied, Leased, Vacant)  
 Lease expiration (if applicable)  
 Occupant(s)  
 Department Responsible

**Valuation Information**

Most Recent Valuation  
 Year of Most Recent Valuation  
 Current rent (if applicable)  
 Highest and best use

**Staff-Assigned Classification**

Utilization (appropriately utilized, underutilized, unused)

Source: Harvey M. Rose Associates, LLC.

Note: The list is adapted from the more extensive attribute list prepared for the City of San Diego by the real estate services firm Grubb & Ellis.

Completing a property inventory will require a significant up-front effort, as the City of Long Beach owns hundreds of properties that it likely makes sense to include in such an inventory. The Division will likely need to enlist the assistance of other departments that manage property, particularly Parks, Recreation and Marine, which is responsible for numerous open spaces citywide. We also recommend creating a protocol for updating the inventory on a regular basis, such as annually. As noted in the report prepared for the City of San Diego, updating a property inventory does not require as extensive an effort as the initial inventory, as the update process focuses on properties whose characteristics have changed.

**CONCLUSION**

The City of Long Beach has extensive properties but no central inventory. Existing databases administered by Public Works and the Technology and Innovation Department do not include the attributes necessary

to manage the City's Real Estate portfolio. The City may thus be missing opportunities to generate revenue or reduce liability by disposing of unneeded property; it may also be incurring unnecessary costs by acquiring or leasing space when existing properties could meet the relevant space needs.

## **RECOMMENDATIONS**

The Property Services Division Manager:

- 1.1 Work with the City Manager on a process and timeline to develop an inventory of City-owned property that catalogs information including current occupancy status, lease expiration (if applicable) and whether the property is unused or underutilized.
- 1.2 Create a process for updating the property inventory to reflect changes.

## **SAVINGS, BENEFITS, AND COSTS**

Completing a property inventory will require significant up-front effort, as the City of Long Beach owns hundreds of properties that it likely makes sense to include in such an inventory. The Property Services Division Manager will need to work with City Manager on the process, timelines, and resources required to develop an inventory. Subsequent updates will not require as extensive an effort. The timeline for implementing and updating a citywide property inventory will need to account for available staff resources and consider priorities for information included in the inventory. Over the long term, such an inventory can help the City generate revenue and reduce liability, by disposing of underutilized property. It can also improve space planning, helping the City avoid unnecessary property acquisitions.

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## 2. Property Services Division Leasing Policy

The Property Services Division is the centralized real estate operation for City Manager departments with responsibility for preparing and administering policies and procedures for real estate transactions for City Manager departments.

### **Problem, Cause, and Adverse Effect**

Historically, the Property Services Division has had few documented procedures for lease transactions. The new Property Services Division Director, hired to this position in the Fall of 2022, has begun documenting procedures through a series of flow charts, checklists, and standardized templates. The California Civil Code also defines policies for leasing public property, including limiting lease terms to 66 years for Tideland properties and 55 years for other City properties, and allowing extensions to 99 years if rents are periodically reset to market rate. The median term for the 36 Property Services Division leases is 48 years and eight leases have terms of more than 66 years. The Division's practice for requiring tenant investments in exchange for long-term leases varies, largely because most of the Division's current leases have original start dates that began prior to 2012, or more than ten years ago. Also, many commercial leases with extension options can be exercised at the request of the tenant rather than at the discretion of the City and do not always require adjusting rents on lease extension.

An allowance for improvements made by tenants is a standard real estate practice. Between 2013 and 2022, the Property Services Division granted rent credits to three leases with community based organizations. The Property Services Division does not have a documented process for tenant improvement allowances, but according to discussions with Economic Development Department staff, rent credits are provided as a function of the business or entity that will utilize the space, and granting of rent credits depends on community use and priorities for the area.

### **Recommendations**

The Property Services Division Manager should recommend Administrative Regulation provisions, establishing guidelines for options to extend leases, tenant investments, and tenant improvement allowances. The Property Services Division Manager should also develop internal guidelines on lease rent structures in commercial leases.

### **Savings, Benefits, and Costs**

These recommendations are intended to ensure that the City is receiving best value for lease of public property and that use of public property benefits the public. Defining and documenting policies will require staff resources and the Property Services Division Manager will need to work with the City Manager on timelines and resources needed to review and document standard real estate policies.

## Property Services Division Leasing Policy

Property Services Division responsibilities are defined in the City's Administrative Regulations. Administrative Regulation 8-5 establishes centralized real estate operations in the Economic Development Department,<sup>7</sup> which is responsible for preparing and administering policies and procedures for real estate transactions for City Manager departments. Once completed, the Property Services Division hands off day-to-day lease management to the respective City Manager departments. The Property Services Division continues to monitor leases managed by City Manager departments for rent adjustment and expiration dates.

The Property Services Division manages and serves as landlord to 36 leases of City-owned properties for which a specific department is not responsible, shown in Appendix I. In addition, the Division monitors approximately 53 revenue and expenditure leases managed by various City Manager departments, including the Police Department, Fire Department, Health and Human Services Department, and Parks, Recreation and Marine Department.<sup>8</sup> Revenue leases are leases in which private or nonprofit organizations are the tenants and the City serves as landlord and collects revenue. Expenditure leases are leases in which the City is the tenant and pays rent to an outside entity.

## Property Services Division Leases

The Property Services Division manages a variety of property agreements, including (1) leases, which authorize a tenant's exclusive use of public property for a specific period; (2) ground leases, for which the tenant leases the land and develops the property; (3) management agreements, in which the lessee is a manager or management company responsible for operating the property; (4) permits, which are short-term revocable authorization to use public lands for specified purposes; and (5) licenses, which authorize non-exclusive use of public property.

### *Leased Property Uses*

The Property Services Division directly manages 36 ground leases and leases not under the jurisdiction of a City Manager department. These leases have a wide range of uses, shown in Exhibit 2.1 below.

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<sup>7</sup> AR 8-5, which was most recently updated in 1998, provided for the "Department of Community Development" to house real estate operations. This function is currently in the Economic Development Department.

<sup>8</sup> This includes ground leases and leases but not management agreements, licenses, or permits.

**Exhibit 2.1: Property Services Division Leases by Use**

<b>Lease Use</b>	<b>Number of Leases</b>
Culture/ Art/ Museum	8
Commercial/ Multi-use	7
Retail/ Restaurant	5
Public Programs/ Services	4
Storage	3
Yacht Club	3
Parking	3
Hotel	2
Open Space	1
<b>Total</b>	<b>36</b>

Source: Property Services Division Agiloft Property Management System

Note: Property uses categorized by audit team

Culture, art, and museums include leases for the Aquarium of the Pacific, Long Beach Museum of Art, Long Beach Historical Society, and monument and art installations in public spaces. Commercial and multi-use leases include the Long Beach Towne Center and Shoreline Village, Alamitos Bay Landing and AC Catalina Landing, Alamitos Bay Marina Center, and the Long Beach Fireman's Credit Union. Restaurant leases include main restaurant facilities and/or adjacent outdoor patio space for the Reef, the Crab Pot, the Bixby Brewing Company, and other restaurant spaces. Public service programs include mental health services for unhoused individuals, small business programs, youth workforce programs, and other public service programs. The three yacht clubs include Alamitos Bay Yacht Club, Long Beach Yacht Club, and Shoreline Yacht Club. The hotels include the Hotel Maya and the Residence Inn. The open space lease is with Century Villages for development of open space on the Terminal Island Freeway right-of-way.

### *Property Services Division Leasing Policy*

The Property Services Division is responsible for leasing policy for City Manager departments in accordance with Administrative Regulation 8-5. The Utilities Department, Port of Long Beach, and Airport separately manage leases for properties under their jurisdiction. The City Charter grants the Utilities Department and Port of Long Beach authority to lease, sell, or dispose of property under their respective jurisdictions. While the Airport is a City Manager department, the Airport manages most real estate transactions for Airport properties<sup>9</sup>. The Utilities Department, Port, and Airport are also regulated by various state and/or federal statutes. Our review of the cities of Los Angeles, Oakland, and San Francisco, which also incorporate port, airport, and water utilities within the city government, did not find that leasing policies were centralized citywide. For example, the Port of Los Angeles has comprehensive real

<sup>9</sup> A draft update to Administrative Regulation 8-5, provided to the audit team, would codify the Airport's management of its real estate functions.



estate policies specific to the Port and adopted by the Board of Harbor Commissioners. The San Francisco City Charter grants the San Francisco Public Utilities Commission exclusive control of water assets and the Port of all real property under its jurisdiction. The Public Utilities Commission's Water Enterprise's Framework for Land Use and Management defines the policies for leases of Water Enterprise properties.

Administrative Regulation 8-5 provides for the Property Services Division to be the "single department responsible for the preparation and administration of policies and procedures governing all aspects of real estate transactions including appraisals, valuations, and the negotiation and preparation of permits, leases, and purchase sale agreements". The regulation is specific to City Manager departments.

### *Documented Policies and Procedures*

Administrative Regulation 8-5 defines the Property Services Division's responsibility for the various aspects of real estate transactions, but historically the Division has had few documented procedures for these transactions. The Property Services Division has begun drafting flowcharts for several key processes. According to Property Services Division staff, the goal is to develop ten flowcharts, providing guidance on key real estate transaction processes. As of May 2023, the draft flowcharts included:

1. Submission of lease documents to City Council for approval;
2. Renegotiation of lease terms at request of tenant in exchange for tenant investments;
3. Invoicing;
4. Determination of surplus property; and
5. Process for wireless/telecommunication site leases.

In addition, the Property Services Division has developed standard templates for wireless/telecommunication site leases and for purchase and sale agreements.

The Property Services Division does not have documented policies guiding key lease provisions, including lease terms and options to extend leases, rents and rent credits, required tenant investments in new leases, or soliciting tenants for new leases. Nearly 60 percent of Property Services Division leases and ground leases were initiated prior to 2000 and only 18 percent of Property Services Division leases and ground leases were initiated in the ten years between 2012 and 2022.<sup>10</sup> The wide variety of property uses and large number of leases that were initially enacted before 2000 impact the Property Services Division process for standardizing lease terms and processes.

### *Guidelines for Lease Terms and Tenant Investments*

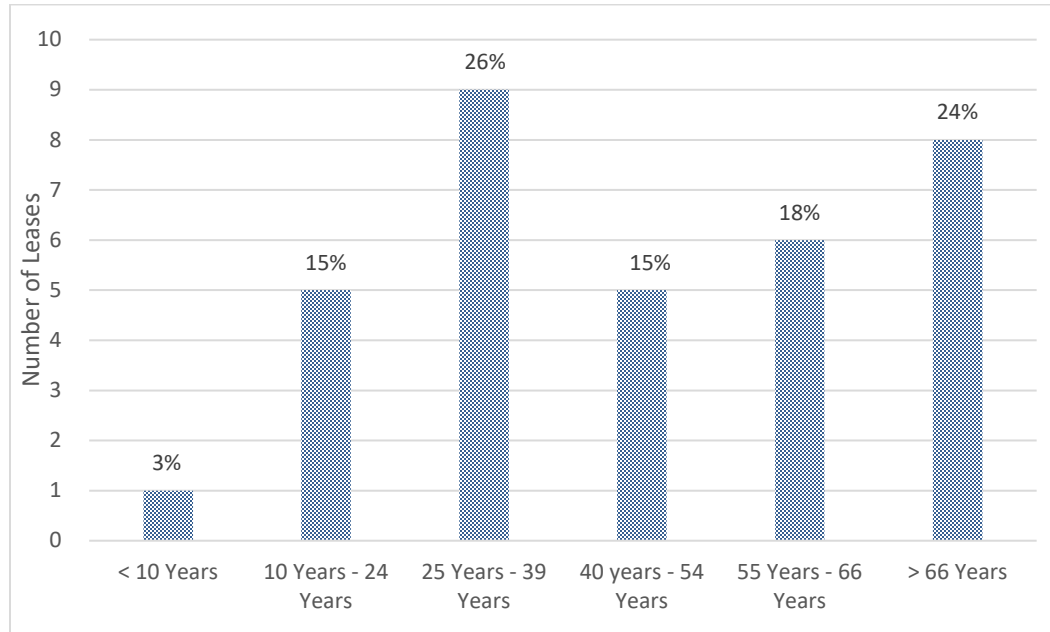
California Civil Code Section 718 limits lease terms to 66 years for Tideland properties and 55 years for

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<sup>10</sup> Percentages calculated by the audit team are based on 34 leases. Of the 36 leases managed by the Property Services Division, two have indeterminate terms, including (1) a month-to-month lease with Long Beach Unified School District for educational and recreational programs, and (2) a lease with the Downtown Long Beach Alliance for art installation and public space, which renews every six months.

other City properties. Leases may be extended to 99 years if rents are periodically reset to market rate. The Property Services Division has six leases with total terms of 55 or 66 years and eight leases with total terms exceeding 66 years, as shown in Exhibit 2.2 below.

**Exhibit 2.2: Total Property Services Division Lease Terms**



Source: Lease Documents from Legistar

Note: Lease terms include initial lease term and options to extend

### Tenant Investments for Long Term Leases

The Property Services Division does not have a documented policy for tenant investments that are required for long term leases, although the Property Services Division has drafted a flow chart defining tenant investment requirements when the tenant requests a lease extension. The Division's practice for requiring tenant investments in exchange for long-term leases varies, largely because most of the Division's current leases have original start dates that began prior to 2012, or more than ten years ago. Examples of long term leases include:

- A mixed-use commercial development with a 99-year total term, including extension options. This lease was associated with a development and disposition agreement. The 99-year term is consistent with California Civil Code Section 718.
- Two yacht club leases that began in the 1960s with original 25-year terms and no extension options. The original leases required construction of a club house on the leased properties. The most recent amendments extending the leases were in 2007 and 2009, extending the total lease terms to 90 years and 85 years, respectively. The lease amendments required tenant investments

of an amount specified in each lease. The amendment to one lease also required payment of extension fees and the amendment to the other lease required public benefits.

- Two amended and restated hotel leases in 2005 and 2006 had 66-year terms and no options to extend. Each of the hotels had original leases for hotel development in the 1980s. The amended and restated hotel leases required tenant investments to \$12 million and \$17 million respectively.

Most leases of City-owned properties have long lease terms. The median term for the 36 Property Services Division leases is 48 years. However, more recent leases have shorter total terms. Of the five leases with original start dates after 2012, none had terms of more than 25 years. Conversely, all but three leases with original start dates in 2012 and earlier had terms of more than 25 years. Many of these older leases with terms of more than 25 years did not require tenant investments in the original lease. Also, many of these older leases did not provide for extension options in the original lease, although extension options were added in later lease amendments. Property Services Division lease terms, extension options, and required tenant investments are summarized in Appendix II.

The Property Services Division executed lease amendments with five tenants in the past five years, for which lease terms extended from 30 years to 84 years, shown in Exhibit 2.3 below.

**Exhibit 2.3: Long Term Lease Extensions Enacted Between 2018 and 2022**

Lease Number	29263	14471	20968	25388	23509
Use	Commercial/ Multi-use	Retail/ Restaurant	Retail/ Restaurant	Retail/ Restaurant	Commercial/ Multi-use
Start Year	2000	1980	1989	1997	1994
Total Term	84	50	45	40	30
Lease Extensions in Original Lease	no	no	no	yes	no
Most Recent Amendment Extending Term	2018	2020	2019	2018	2022
Extension Fee or Investment on Extension	yes	no	no	no	no
Investment Required in Original Agreement	no	yes	yes	no	yes
Original Investment Amount Specified in Agreement	no	yes	no	no	no

Source: Lease Documents from Legistar

Note: Lease terms include initial lease term and options to extend

The City approved amendments extending the lease terms for four tenants shown in Exhibit 2.3 above, although the original leases did not include extension options. Only one amendment extending the lease term required an extension fee or tenant investment. Lease 29263, which did not have an extension option in the original lease, was required to pay an extension fee (in lieu of tenant investments) in

exchange for extending the lease term from 66 years to 84 years.

Lease 25388 was the only lease that provided extension options in the original lease. This lease, which has a total term of 40 years, did not require tenant investments in the original lease or in the extended lease term.

The other three leases did not have extension options in the original lease, although extension options were added to Lease 14471 in later amendments. These three leases required tenant investments in the original lease, but none of the most recent lease amendments extending the lease terms for the three leases required tenant investments in exchange for the extended term.

The Property Services Division draft flow chart does specify if the provisions for tenant investments applies to leases without an extension option in the original lease or applies to all lease extensions. The Property Services Division should further clarify the tenant investment requirements for lease extensions.

The Property Services Division should specify guidelines for tenant investments in exchange for long term leases of City-owned properties. For example, the City of San Diego policy states that “The length of lease term shall be based on the level of capital improvements to be made by the lessee and the economic life expectancy of the development”.

#### Lease Extension Options

The Property Services Division does not have a documented policy on lease extension options. Of 14 leases that provided lease extension options in the original agreement, 12 leases gave the tenant the exclusive option to extend the lease. Six of these 12 leases provided for negotiating rent as part of the lease extension or included annual rent adjustments in the original lease. Only two leases gave the City rather than the tenant the right to extend the lease or required the extension to be by mutual agreement.

The Property Services Division should establish guidelines for lease extension options in the original lease, including specifying that the lease extensions are at the discretion of the City. Guidelines for lease extension options in the original lease should further consider rent adjustments and tenant investments on exercise of the option. Examples of guidelines include the Port of Los Angeles, which states that the “tenant shall satisfy specified metrics and industry standards” and pay an option fee; and the City of San Diego policy states that lease extensions may be considered in exchange for capital investments.

#### Potential Lease Terms Exceeding State Standards

Two Property Services Division leases may have total terms exceeding standards set by California Civil Code Section 718. The City entered into Lease 2958 in 1947, in which the property owner agreed to lease land to the City and provided the City the option to purchase the land. The third amendment to the lease in 1955 gave the owner oil drilling rights to the land should the City exercised the purchase option. Documents after 1955 were not available to the audit team. The lease may exceed the California Civil Code Section 718 limit of 35 years for lease of public land for oil drilling.

Also, Lease 14895, which provides for vehicular access, landscaping, and parking to the adjacent office

building, was enacted in October 1979 for a 75 year term. The lease was assigned to a new tenant and extended to October 2080 for total term of 101 years, exceeding the limit of 99 years set by California Civil Code Section 718. The Property Services Division Manager should review the status of these leases for compliance with California Civil Code Section 718.

### *Guidelines for Rents and Rent Credits*

The Property Services Division does not have documented policies for setting rents in commercial leases. The varied property uses generally define the rent structure in the respective leases. For example, restaurant leases include base rent and rent as a percentage of sales. Other leases may include one-time lump sum payments over the lease term or monthly lease payments. Most leases provided for periodic rent adjustments. According to discussions with Economic Development Department staff, policy direction is to achieve fair market compensation for City leases. Commercial lease rent structures are summarized in Appendix III.

City of San Diego City Council policy provides for the City to receive fair market rents for the lease of City-owned properties based on an appraisal. The City of Denver Executive Order provides for the City to determine the public benefits to the City for the lease of City-owned property. The Port of Los Angeles policy for lease of commercial properties is for the Port to establish market rents based on appraisals or other pricing methods. The Property Services Division should develop commercial rent guidelines for different uses of City property, including (i) setting rents at fair market value and (ii) defining standards for base rent and percentage rent for retail and restaurant uses.

### Rent Credits and Allowances

Seven Property Services Division leases provided rent credits to the tenants for various purposes, shown in Appendix III. Four of these leases were enacted or amended more than ten years ago. In the ten-year period between 2013 and 2022, the Property Services Division granted rent credits to three leases. According to discussions with Economic Development Department staff, rent credits are provided as a function of the business or entity that will utilize the space. Granting of rent credits depends on community use and priorities for the area.

The three leases were with organizations providing public programs or services. Two leases provided an allowance for improvements to be made by the tenant.

- The City enacted Lease 34708 in 2013 with Mental Health America to provide mental health services to homeless individuals. The City provided an allowance of \$1.2 million for the tenant to make improvements to the facility. In addition, the lease provided a purchase option of \$1 (discussed further in Section 3). In 2017, the City amended the lease, increasing the tenant improvement allowance to \$3.45 million. Language was added to the lease, stating "Failure to begin significant operations on the Premises on or before September 1, 2018, unless an extension for additional time to begin significant operations has been approved by Landlord, acting in its sole and absolute discretion." The City amended the lease several times to extend the date by

which the tenant was to begin operations; the tenant finally obtained the Certificate of Occupancy in May 2020, or nearly seven years after the initial enactment of the lease.

- The City enacted Lease 35221 in 2018 with BlankSpaces LLC, which included space to be used for Long Beach Community College District programs. The City provided an allowance of \$250,000 for tenant improvements to accommodate the tenant's use of the property. The lease was amended in 2022, extending the term and adding \$18,694 to the tenant improvement allowance, "after receipt of reasonable documentation evidencing costs incurred by Tenant in connection with economic losses caused by pandemic -related construction delays".

The third lease was with Centro Cha, in which the rent credit was to offset the costs of public programs provided by the tenant. This is discussed further in Section 4.

An allowance for improvements made by tenants is a standard real estate practice. While the Property Services Division has not provided rent credits or tenant improvement allowances in commercial leases in the past ten years, guidelines for tenant improvement allowances in commercial and nonprofit leases should be documented in the Administrative Regulations.

### *Tenant Solicitation*

The City does not have documented requirements for soliciting tenants for City properties. According to discussions with Property Services Division staff, the Property Services Division uses a Request for Proposals (RFP) process for to solicit tenants for use of City property.

Most Property Services Division leases are long term, and the most recent solicitation for a new lease was in 2021, when the Property Services Division supported the Parks, Recreation, and Marine Department in solicitation for beach concession vendors. According to discussions with Property Services Division staff, the Department issued an RFP for the concession agreements, but selected vendors through a broker due to insufficient response to the RFP.

In 2018, the City Council approved contracts with six real estate brokers following an RFP process. The contracts, including extensions, were in effect through June 2023. The scope of work includes tenant representation, site acquisition and disposition, lease renewals and restructuring, negotiations, and document and lease review. The contract scope of work and staff memorandum to the City Council do not specify the broker's role in listing City properties for lease and identifying comparable market rents (although the contracts provide for market survey research), and successor broker agreements should more specifically define the broker's role in these leasing activities.

### **CONCLUSION**

The Property Services Division has few documented policies governing lease transactions, although the new Property Services Division Manager has developed flow charts, templates, and checklists defining lease practices. Leasing practices can also be identified from actual leases. Leasing policies and practices that need to be standardized and documented include tenant responsibility for investing in the leased

property in exchange for longer lease terms, City discretion in approving lease extensions, rent structures, and the use of tenant improvement allowances and rent credits.

## **RECOMMENDATIONS**

The Property Services Division Manager should:

- 2.1 Recommend Administrative Regulation provisions, establishing guidelines for (i) tenant investments in exchange for long term leases of City-owned properties; (ii) lease extension options, including specifying that the lease extensions are at the discretion of the City and include rent adjustments and tenant investments on exercise of the option; and (iii) tenant improvement allowances in commercial and nonprofit leases.
- 2.2 Develop and document Property Services Division protocols (i) clarifying if the draft flow chart for tenant investments applies to leases without an extension option in the original lease or applies to all lease extensions; and (ii) setting commercial rent guidelines for different uses of City property, including setting rents at fair market value and defining standards for base rent and percentage rent for retail and restaurant uses.
- 2.3 Define the real estate broker's responsibilities in listing City properties for lease and identifying comparable market rents in new agreements for real estate broker services.
- 2.4 Review the status of Lease 2958 and Lease 14895 for compliance with California Civil Code Section 718.

## **SAVINGS, BENEFITS, AND COSTS**

The recommendations to define and document City and Property Services Division policies for lease terms, lease extensions, tenant improvement allowances, and rent structure are intended to ensure that the City is receiving best value for lease of public property and that use of public property benefits the public. Defining and documenting policies will require staff resources and the Property Services Division Manager will need to work with the City Manager on timelines and resources needed to review and document standard real estate policies.



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### 3. Disposition of Surplus Properties

The City's Municipal Code allows City properties determined to be surplus to be disposed. The Property Services Division manages the disposition of City-owned property under the City Manager's jurisdiction.

#### **Problem, Cause, and Adverse Effect**

The City's Municipal Code and Administrative Regulations do not specify that property should be disposed through a competitive process. Of 12 properties determined to be surplus prior to September 2019, eight were advertised through a Request for Proposals (RFP) process, and four properties were sold to private entities without a competitive process, including two properties sold for affordable housing development. According to Property Services Division staff, the Division has a process for reviewing unsolicited proposals, including contracting with third party consultants for analysis of the transaction. The Property Services Division drafted a flow chart for disposal of surplus property in accordance with the State Surplus Land Act, which provides for a written notice of availability to housing agencies, parks agencies and other entities outlined in state law for properties not exempt from the Act. For City-owned properties exempt from the Surplus Land Act, the Division protocol is to issue a Request for Proposals, specifically inviting housing agencies, parks agencies and other types of entities to participate.

The Property Services Division has three leases with nonprofit organizations, in which the tenant has the option to purchase the property. Leases with purchase options do not always include deed restrictions to ensure that the property on disposition will be used for public purposes. For example, the purchase option in the lease with Mental Health America states that the City will deliver the property to the tenant on exercise of the option "without encumbrances or recorded restrictions", although the City made significant investments in the property and the purchase option is for \$1. As an alternative to purchase options, the City should consider long term ground leases.

The Property Services Division also does not have a documented policy on conducting appraisals or describing appraisal results to City Council when disposing of City-owned property, although the Division has a checklist for disposition that includes appraisals.

#### **Recommendations**

The Property Services Division Manager should recommend Administrative Regulation provisions defining criteria for disposing of City-owned property, including competitive solicitation requirements, appraisal requirements and reporting of appraisal valuations, the process to evaluate unsolicited offers to purchase City-owned property, requirements for purchase options in leases of City-owned properties, including covenants or deed restrictions for continuing property use, and use of long term ground lease as an alternative to purchase options.

#### **Savings, Benefits, and Costs**

Recommending and documenting policies in the Administrative Regulations will require staff resources, but will ensure best value for use of surplus properties.



## Disposition of Surplus Properties

Publicly owned properties that serve no public purpose are often referred to as surplus properties. Under Long Beach Municipal Code 3.76.010, the City can sell such properties on the private market after the City Council declares them to be surplus property. The Municipal Code provision provides for assembling surplus property into a land bank for sale or lease to private “commercial or manufacturing concerns wishing to locate within the City”.

The Municipal Code provision, which was adopted in 1977, is not consistent with the requirements of California’s Surplus Land Act (“Act”). To support the creation of affordable housing and recreational open space, the Surplus Land Act requires many surplus properties to be offered to a restricted list of potential buyers, primarily housing and parks agencies, prior to being offered on the open market. Some property types are exempt from the Act, including properties declared surplus prior to 2019<sup>11</sup>, not suitable for housing development, or dedicated to other public uses.

The Property Services Division manages the disposition of all City-owned property other than enterprise department and Airport properties, in accordance with Administrative Regulation 8-5. The Property Services Division created a draft flowchart in 2023, describing the City’s process to declare property surplus and dispose of surplus property in conformance with the State Surplus Land Act.

Between FY 2019-20 and FY 2022-23, the Division disposed of 12 City properties and at least eight additional dispositions were in progress or anticipated by the Property Services Division, according to a list provided by Division staff in February of 2023 and shown in Exhibit 3.1 below. Three other properties were determined to be surplus by the City Council, including 854 East 7th Street, 225-227 East 15th Street, and 5870 Atlantic Avenue.<sup>12</sup>

Of the 23 City properties disposed by the City or pending disposition, twelve were former Redevelopment Agency properties. For many of these properties, the process of disposition began prior to the implementation of Assembly Bill (AB) 1486 in 2019, which further defined the requirements of the State’s Surplus Land Act.

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<sup>11</sup> Assembly Bill (AB) 1486, adopted in 2019, revised requirements for use of surplus property, including bringing former Redevelopment Agency properties under the Act. Surplus properties that are exempt from the Act may include land not suitable for housing; land which was declared surplus prior to September 2019 for which disposition was completed by December 2022; land which is advertised publicly for affordable housing development; and land dedicated for other public uses. However, AB 1486 explicitly excludes commercial or other revenue generating uses from the definition of public/agency use of land.

<sup>12</sup> 225-227 East 15<sup>th</sup> Street was under the jurisdiction of the Long Beach Development Department. 854 East 7<sup>th</sup> Street, which was declared surplus in October 2021, and 5870 Atlantic Avenue, which was declared surplus in May 2023, were under the jurisdiction of the Economic Development Department.

**Exhibit 3.1: Properties Sold or Planned for Sale by the City  
FY 2019-20 to FY 2022-23**

<b>Fiscal Year</b>	<b>Property Address</b>	<b>Buyer</b>	<b>Transaction Date</b>
FY 2019-20	1675 Santa Fe Avenue	Santa Fe Pacific LLC	11/1/2019
	127-135 E Broadway	Long Beach Inkwell, LLC	12/16/2019
	3rd and Pacific	3rd and Pacific Holdco, LLC	12/20/2019
	652 Alamitos	The Robert Gumbiner Foundation	1/8/2020
	550 E Vernon	2515 Atlantic Avenue Affordable Housing LLC	5/20/2020
	Broadway LLB	Long Beach Aster, LLC	6/9/2020
FY 2020-21	5100 Long Beach Blvd	City Ventures Homebuilding, LLC	7/1/2021
	1500 E Anaheim	Anaheim Walnut LP/TCC Support Corporation	9/21/2021
FY 2021-22	925 E Pacific Coast Hwy	Mercy Housing California 95 LP	10/21/2021
	5571 Orange Avenue	LBCIC	5/27/2022
	4800 Long Beach Blvd	City Ventures Homebuilding, LLC	6/15/2022
FY 2022-23	1720 Termino Avenue	MWN Community Hospital LLC	10/31/2022
Future or in process	3917 Long Beach Blvd	TBD	TBD
	6845 Atlantic Avenue	Century Affordable Development, Inc.	TBD
	1862 Atlantic Avenue	Centro CHA (In Escrow)	TBD
	100 East Ocean Blvd	American Life, Inc. (In Escrow)	TBD
	1152 Hill Street	TBD	TBD
	1827 Pacific Avenue	TBD	TBD
	2175 Atlantic Avenue	TBD	TBD
	Wrigley Marketplace	TBD	TBD
	854 E. 7 <sup>th</sup> Street (Armory)	TBD	TBD
	225 -227 E. 15 <sup>th</sup> Street	TBD	TBD
	5870 Atlantic Avenue	TBD	TBD

Source: Property Services Division

### *Competitive Process for Disposal of Surplus Property*

Administrative Regulation 8-5, approved in 1998, assigns the Property Services Division responsibility for agreements for the sale of City properties, including developing procedures for declaring City property to be surplus. The City's Municipal Code and Administrative Regulations do not specify that property should be disposed through a competitive process. Two other cities reviewed by the audit team document disposition processes in the municipal code or in city council policy. The City of San Francisco Administrative Code requires disposition of city-owned properties through a competitive process unless the legislative body determines that the competitive process is impractical. Third party appraisals are required for all dispositions with market value of more than \$10,000. The City of San Diego Council Policy allows city-owned properties to be disposed through a variety of mechanisms, but states: "Properties

offered for sale shall receive the widest possible exposure to the open marketplace”.

Prior to implementation of AB 1486 in September 2019, the City generally used a competitive process for disposition of surplus properties. Of 12 properties determined to be surplus prior to September 2019, eight were advertised through a Request for Proposals (RFP) process, and two properties were sold to private entities without a competitive process.<sup>13</sup> These include (1) the sale of 550 E. Vernon/ 2515 Atlantic Avenue by the former Redevelopment Agency to a private buyer for development of senior housing; and (2) the exercise of a purchase option by Centro C.H.A., Inc. (Centro CHA), discussed in more detail below.

The Property Services Division drafted a flow chart in 2023 for the Surplus Land Act process, which provides for a written notice of availability to housing agencies, parks agencies and other entities outlined in state law for properties not exempt from the Act. These entities then have a 60-day window to submit responses, after which the City can enter negotiations with multiple entities. Should no entity submit a proposal, the City can then proceed with a public RFP, although any proposed housing developments of more than 10 units must designate at least 15% of proposed units as affordable units. For City-owned properties exempt from the Surplus Land Act, the Division protocol is to issue a Request for Proposals, specifically inviting housing agencies, parks agencies and other types of entities to participate.

### *Non-Competitive Disposal of Property*

Transactions resulting from unsolicited purchase offers and lease options follow separate processes from those in the flow charts described above. Four properties designated as surplus after September 2019, when AB 1486 went into effect, were sold or are planned for sale to private or non-City entities without a competitive process.<sup>14</sup> In each case, the potential buyer initiated the transaction, either by making an offer to purchase the property or by exercising a lease option. Details about these transactions, as described by Division staff in documents presented to the City Council, are summarized below in Exhibit 3.2 and described in additional detail below.

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<sup>13</sup> The audit team was unable to locate documents for the (1) 3<sup>rd</sup> and Pacific property sold to 3rd and Pacific Holdco, LLC, and (2) Broadway LLB property sold to Long Beach Aster, LLC.

<sup>14</sup> The audit team was unable to locate documents for two properties declared surplus after 2019, including 115 Hill Street and 2175 Atlantic Avenue.

**Exhibit 3.2: Non-Competitive Property Dispositions**

<b>Property</b>	<b>Initiating Event</b>	<b>Valuation</b>	<b>Compensation Received</b>
<b>6845 Atlantic Avenue</b>	An adjacent property owner approached the City with interest in the property.	Based on appraisal process	TBD
<b>Long Beach Armory</b>	Responding to an RFP seeking a long-term tenant, a bidder proposed buying the site	Not reported	\$5.15 million, to be paid over 55 years through residual receipts
<b>Community Hospital</b>	The site's tenant terminated its lease, triggering compensation clauses that resulted in the city transferring ownership to the tenant	\$17,710,000 (Appraisals)	None
<b>5870 Atlantic Avenue, 5895 Lime Avenue and 5885 Lime Avenue</b>	The college expressed interest in acquiring	Based on appraisal process	TBD

Source: Respective Reports to City Council

**Community Hospital:** In October 2019, MWN Community Hospital, LLC entered into a 45-year lease with the City to operate Community Hospital as an acute care facility. According to the lease terms, if the operator determined it was not economically viable to operate the hospital as an acute care facility, it could terminate the lease and receive compensation from the City for net capital costs, up to the value of the property. The staff report to the City Council acknowledged that a likely outcome was for the lease to be terminated before 45 years and the City would be required to pay up to \$25 million to reimburse tenant costs. In September 2021, the hospital terminated the lease, citing economic challenges, and calculated its net capital costs at a value exceeding the value of the hospital. It also requested that the City resolve its obligations to the joint venture by transferring ownership of the property, rather than making a payment equal to the value of the facility, so that the joint venture could operate the site as a behavioral health care facility. The City declared the property surplus and exempt from the Surplus Land Act in October 2022 and transferred the property to the joint venture at no cost. According to the report to the City Council, the facility would continue to provide non-acute healthcare services consistent with the deed restriction.

**5870 Atlantic Avenue, 5895 Lime Avenue and 5885 Lime Avenue:** In May 2023, the Economic Development Department through the City Manager informed the City Council that Long Beach Community College had expressed interest in acquiring this undeveloped lot in order to build a satellite classroom and/or student housing. The City Council declared the property to be surplus and exempt from

the Surplus Land Act, which was approved by the California Department of Housing and Community Development in June 2023.

**6845 Atlantic Avenue:** The owner of an adjacent property approached the City about obtaining the site in order to incorporate it into a homeless services and affordable housing campus, according to an October 2022 memorandum from the Division to the City Council. Although the City had acquired the site in 2019 for \$9.6 million with the intention of developing housing for formerly homeless individuals, it had not indicated in its Council memorandum at the time that it planned a disposition. In order to negotiate with the prospective buyer, the City requested a determination that the property was exempt surplus property, which was granted by the California Department of Housing and Community Development in August 2022. As of May 9, 2023, the parties were still negotiating the transaction.

**854 East Seventh Street (Long Beach Armory):** The City issued an RFP in 2020 for a long term lease to develop the Armory. One firm responded and proposed acquiring the property from the City in order to construct a mixed use development, including 40 units of affordable housing for households with income up to 60% of Area Median Income (AMI). In March 2021, the City Council approved an Exclusive Negotiating Agreement with the proposing firm, and in October 2021, the City Council approved declaring the property as surplus and exempt from the Surplus Land Act. In December 2021, the City Council authorized the City Manager to execute a Purchase and Sale Agreement with the firm for a sales price of \$5.15 million, structured as a 55-year loan agreement to be paid through residual receipts. In April 2023, the City Council approved assignment of the Purchase and Sale Agreement to a limited partnership to facilitate application for federal low-income housing tax credit financing and to change the housing to be affordable to low-income seniors.

### *Unsolicited Offers to Purchase*

According to discussions with Property Services Division staff, the Division has a process for reviewing unsolicited proposals, including contracting with third party consultants for analysis of the transaction, evaluation of financial proformas, and conducting peer review. The City structures dispositions in multiple ways, including accepting residual receipts as payment and paying for building improvements. This variation in transaction format between dispositions increases the difficulty – for Division staff and the City Council alike – of comparing public benefits with the costs of a proposed transaction. It also underscores the value of a competitive bidding mechanism as a means of maximizing the public benefits associated with these transactions.

### *Disposition of Surplus Properties for Affordable Housing*

Two properties approved by the City Council for disposition without a competitive process were for affordable housing development. The Surplus Land Act exempts properties from the Act to streamline the disposition process for affordable housing.

The City Council declared a homeless emergency in January 2023, referencing \$90 million in funds

obtained by the City and allocated in part to purchasing land and buildings and funding housing. The City's policy for funding housing is defined in the Housing Trust Fund provisions of the Municipal Code, which requires a minimum affordability term of 55 years for rental housing funded by the Housing Trust Fund.

Of the 23 properties to be sold or disposed shown in Exhibit 2.1 above, 11 were to be developed as affordable housing, of which eight were former Redevelopment Agency properties. Three were City-owned properties, of which two are noted above. The third City-owned property was under the jurisdiction of the Long Beach Community Investment Corporation and declared exempt from the Surplus Land Act by the City Council in June 2022 with the plan to competitively solicit affordable housing developers to purchase the property.

### *Leases with Purchase Options*

The Property Services Division does not have a documented policy on providing tenants the option to purchase the leased property. According to discussions with Property Services Division staff, the discussion on whether a property is surplus takes place prior to negotiating a purchase option in a lease of City-owned property.

The audit team identified three leases with nonprofit organizations which provided for the tenant to purchase the leased property at the tenant's option, including (1) Killing Fields Memorial, Inc., (2) Mental Health America, and (3) Centro C.H.A. The City does not have a documented policy on requiring covenants or deed restrictions to ensure ongoing public benefits for the use of the property. As noted above, the Community Hospital disposition included deed restrictions requiring continued health services. The purchase option in the lease with Killing Fields Memorial, Inc. provided for the tenant, on exercise of the purchase option to "deliver to Lessor an agreement containing covenants, conditions and restrictions, in recordable form, imposing certain indemnification, insurance, public- access, public park and related restrictions ( as reasonably required by Lessor) upon the Lessee and /or the Premises in perpetuity". In contrast, the purchase option in the lease with Mental Health America states that the City will deliver the property to the tenant on exercise of the option "without encumbrances or recorded restrictions imposed by Landlord". In addition, the purchase option in the lease with Mental Health America states that the City will deliver the property to the tenant on exercise of the option "without encumbrances or recorded restrictions", although the City made significant investments in the property and the purchase option is for \$1.

**1862 Atlantic Avenue:** In April 2020, Centro C.H.A., Inc. informed the City that it planned to exercise an acquisition option in its January 2020 lease for the property. The lease and option to purchase followed an expression of interest from the nonprofit organization in occupying the city-owned space, which had previously been vacant, according to a 2019 memorandum from the Division to the City Council. The purchase option provision in the lease does not include language on covenants or restrictions on the continued use of the property or public services on exercise of the purchase option. The acquisition transaction remained pending (although payment was in escrow) as of February 2023. As of July 2023, the

City Council had not declared the property to be exempt under Surplus Land Act.

Lease options to purchase public property should require covenants or deed restrictions for the property use continue to serve a public purpose. As an alternative to purchase options in leases, the City should consider long-term ground leases, in which the City retains control of the public property.

### *Appraisals and Valuation of Transactions*

The Property Services Division does not have a documented policy on conducting appraisals or describing appraisal results to City Council when disposing of City-owned property, although the Division has a checklist for disposition that includes appraisals. As a comparison, the City of San Diego Council Policy states that “The City shall optimize the sale price or lease rent from City-owned real estate based on relevant factors, including an appraisal reflecting current market value when either a transaction or authorization to sell or lease is presented to the City Council”. The City of San Francisco Administrative Code requires third party appraisals for sale of property.

According to discussions with Property Services Division staff, the Division does not have a budget for appraisals, although the cost of the appraisal may be charged to the City department have jurisdiction over the property. Appraisal valuation of properties to be disposed may be reported to the City Council in closed session prior to disposition.

### **CONCLUSION**

City policies for disposition of City-owned property need to be updated or documented. For example, the Municipal Code provision defining the Commercial and Industrial Landbank is not consistent with the State’s Surplus Land Act. Also, the City’s Municipal Code and Administrative Regulations do not define requirements for competitive solicitation and appraisals for disposition of City-owned property, the process for reviewing unsolicited proposals for purchase of City-owned property, and covenant or deed restrictions for lease purchase options.

### **RECOMMENDATIONS**

The Property Services Division Manager should:

- 3.1 In coordination with the City Manager and City Attorney, recommend to the City Council an amendment to Municipal Code 3.76.010 that is consistent with the California Surplus Land Act.
- 3.2 Recommend Administrative Regulation provisions defining (a) competitive solicitation requirements for disposition of City-owned property; (b) appraisal and appraisal reporting requirements for disposition of City-owned property; (c) the process to evaluate unsolicited

- offers to purchase City-owned property; (d) requirements for purchase options in leases of City-owned properties, including covenants or deed restrictions for continuing property use; and (e) use of long-term ground leases as an alternative to lease purchase options.
- 3.3 Update Property Services Division flow charts to reflect recommended Administrative Regulation provisions as applicable.
- 3.4

#### **SAVINGS, BENEFITS, AND COSTS**

While the process to identify, develop, and recommend policies for disposition of City properties will require staff resources, documenting property disposition policies and guidelines in the Administrative Regulations will ensure best value for use of surplus properties.



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## 4. Leasing of City-Owned Property to Non-Profit Organizations

The Property Services Division leases City-owned properties to nonprofit or community-based organizations. The Division currently manages 12 revenue leases that allow these entities to use facilities owned by the City. In addition, the Division monitors revenue leases to nonprofit or community-based organizations managed by other City Manager departments.

### **Problem, Cause, and Adverse Effect**

The City does not have guidelines, procedures or policies on nonprofit leases. The Urban Institute Center on International Development and Governance Guidebook on Real Property Asset Management for Local Governments notes that the income that the local government forgoes by renting property for below-market rent constitutes an indirect property related subsidy that tenants of such premises obtain from the government. The City's practice has been to lease properties to nonprofit organizations at \$1 per year. According to discussions with Economic Development Department staff, the Division is reviewing practices for nonprofit leases, including setting rents at fair market value and providing rent credits based on the value of the public services provided. However, this is not standardized procedure for all nonprofit leases, and there is no documented policy that outlines specific guidelines or processes. In addition, the Property Services Division and the Parks, Recreation, and Marine Department, which has the largest number of leases with nonprofit organizations, have not yet developed a process to evaluate and report on the public benefits provided by nonprofit organizations leasing City property.

Not having documented guidelines and policies, as well as public reporting mechanisms, on leasing City-owned properties to nonprofit organizations risks an unwarranted subsidy to these organizations for use of public property. Other jurisdictions, such as the City and County of Denver, the City of San Diego, and the City of Charlotte, have aimed to minimize these risks by documenting and establishing formalized policies on the leasing and disposition of City property to nonprofit organizations.

### **Recommendations**

The Property Services Division Manager should work with Economic Development Department finance staff, City Manager staff, and Parks, Recreation, and Marine Administration staff to recommend Administrative Regulation provisions for establishing policies and guidelines for leasing City-owned properties to nonprofit organizations and evaluating the public benefits of below market rate leases with nonprofit organizations.

### **Savings, Benefits, and Costs**

Implementing these recommendations is intended to improve oversight and strengthen internal controls of leasing City-owned properties to nonprofit or community-based organizations. This will help prevent the risk of revenue loss, fraud or misuse. These recommendations can be implemented within existing Property Services Division resources.

## Property Services Division Nonprofit Leases

The Property Services Division leases City-owned properties to nonprofit or community-based organizations. The Division currently manages 12 revenue leases that allow these entities to use facilities owned by the City. In addition, the Division monitors revenue leases to nonprofit or community-based organizations managed by the Health and Human Services Department and Parks, Recreation, and Marine Department. These leases have a range of uses, though most are for arts, recreation and cultural uses, as shown in Exhibit 4.1 below.

**Exhibit 4.1: Property Services Division Nonprofit Revenue Leases by Use**

Tenant	Property Use
Aquarium of the Pacific	Cultural, Recreation, Arts
Historical Society of Long Beach	Cultural, Recreation, Arts
Killing Fields Memorial Center, Inc.	Cultural, Recreation, Arts
Long Beach Fireman's Historical Society	Cultural, Recreation, Arts
Long Beach Unified School District (Carmelitos Head Start Center)	Cultural, Recreation, Arts
Downtown Long Beach Alliance	Cultural, Recreation, Arts
Long Beach Museum of Art Foundation	Cultural, Recreation, Arts
Mental Health America of Los Angeles	Public Service Programs
AbilityFirst	Public Service Programs
Centro Cha, Inc.	Public Service Programs
Long Beach Fireman's Credit Union	Office Space
Bay Shore Congregational Church	Parking

Source: Property Services Division Agiloft Property Management System and Lease Agreements

Note: Property uses categorized by audit team

Arts, recreation and cultural uses include leases for the Boys' and Girls Club of Long Beach, Historical Society of Long Beach, Aquarium of the Pacific, Long Beach Museum of Art Foundation, and community gardens and/or urban farm, monument and art installations in public spaces. Parking uses include stand-alone parking at the Bay Shore Congregational Church parking lot. Public service programs include primary health care medical services for low-income children, families and adults, mental health services for unhoused individuals, and youth workforce development programs. Office uses include office space for the Long Beach Fireman's Credit Union.

### *Nonprofit Leases Managed by the Property Services Division or City Manager Departments*

A review of 19 leases with nonprofit or community-based organizations managed by the Property Services Division or City Manager departments found that 14 leases had no rent or rent was one dollar per year or month, as shown in Exhibit 4.2 below. Most of these leases provided for the tenant to develop the property or make tenant improvements, but the City often offset the costs of tenant improvements through rent credits or direct subsidies. For example, of the 14 leases with no rent or rent was one dollar

## Section 4. Leasing of City-Owned Properties to Nonprofit Organizations

per year or month, the City contributed the following to three leases: (1) \$1.5 million toward the construction of the Aquarium of the Pacific, (2) \$3.45 million toward construction of a health clinic with Mental Health America of Los Angeles, and (3) \$150,000 on design, fundraising, permitting and construction costs associated with the memorial garden/park project of the Killing Fields of Memorial Center, Inc.

**Exhibit 4.2: Nonprofit Leases by Rent Amount**

Department	Tenant	Rent	Rent Frequency	Reporting Mechanism
Parks, Recreation and Marine	Long Beach Organic, Inc.	\$0	N/A	Yes
Economic Development	Mental Health America of Los Angeles	\$0	N/A	No
Economic Development	Aquarium of the Pacific	\$1	Annual	No
Economic Development	Historical Society of Long Beach	\$1	Annual	No
Economic Development	Killing Fields of Memorial Center, Inc.	\$1	Annual	No
Economic Development	Long Beach Fireman's Historical Society	\$1	Annual	No
Economic Development	Long Beach Unified School District <sup>a</sup>	\$1	Annual	No
Economic Development	Downtown Long Beach Alliance	\$1	Monthly	No
Economic Development	Long Beach Fireman's Credit Union	\$1	Annual	No
Parks, Recreation and Marine	Long Beach Local <sup>b</sup>	\$1	Annual	No
Parks, Recreation and Marine	YMCA of Greater Long Beach	\$1	Annual	Yes
Parks, Recreation and Marine	Boys' and Girls' Club of Long Beach, Inc. <sup>c</sup>	\$1	Annual	No
Parks, Recreation and Marine	Boys' and Girls' Club of Long Beach, Inc. <sup>d</sup>	\$1	Annual	No
Parks, Recreation and Marine	Boys' and Girls' Club of Long Beach, Inc. <sup>e</sup>	\$1	Annual	No
Economic Development	Long Beach Museum of Art Foundation	\$100	Annual	No
Economic Development	Bay Shore Congregational Church	\$300	Monthly	No
Economic Development	AbilityFirst	\$2,600	Monthly	No
Economic Development	Centro Cha, Inc.	\$53,932	Annual	No
Health and Human Services	The Children's Clinic	\$1,500	Monthly	No

Source: Property Services Division Agiloft Property Management System and Lease Agreements

<sup>a</sup> Carmelitos Head Start Center

<sup>b</sup> Farm Lot 59 at Willow Springs Part. Rent adjustment includes 1% of the gross revenue generated by Tenant's operations at the premises, including revenue generated by the off-premises sale of any food grown on the premises.

<sup>c</sup> Martin Luther King Jr. Park location

<sup>d</sup> Fairfield location

<sup>e</sup> Admiral Kidd Park location

Two of the 14 leases, shown in Exhibit 4.2 above, included reporting requirements. This includes one lease to a nonprofit (Long Beach Organic, Inc.) managed by the Parks, Recreation, and Marine Department and monitored by the Property Services Division that required the lessee to provide bi-annual reports covering accomplishments of the properties for the six-month period but does not require evaluation of public benefits. Another lease to the YMCA of Greater Long Beach, which is also managed by the Parks, Recreation, and Marine Department, included a clause stipulating that annual rent of \$74,700 may be

offset by in-kind community services and required submission of an annual valuation report. However, according to discussions with the Parks, Recreation and Marine Department, the last report was submitted in 2018.

### *No Documented Policy or Guidelines on Nonprofit Leases*

The City's Municipal Code and Administrative Regulations do not specify any guidelines, procedures or policies on nonprofit leases. The Urban Institute Center on International Development and Governance Guidebook on Real Property Asset Management for Local Governments notes that the income that the local government forgoes by renting property for below-market rent constitutes an indirect property related subsidy that tenants of such premises obtain from the government. However, the City does not have a documented policy on leasing City-owned property to nonprofit organizations at below market rent in exchange for public services or benefits. The City's primary practice has been to lease properties to nonprofit organizations at \$1 per year in the past.

According to discussions with Economic Development Department staff, the Division is reviewing practices for nonprofit leases, including setting rents at fair market value and providing rent credits based on the value of the public services provided. An example is the lease with Centro CHA, which was enacted in 2020, to provide youth workforce development programs and other services. Base rent was set at \$53,932 to be offset by a Community Services Rent Credit. The rent credit was to be calculated based on a formula defined in the lease. However, this is not standardized procedure for all nonprofit leases, and there is no documented policy that outlines specific guidelines or processes.

In addition, the Property Services Division and the Parks, Recreation, and Maine Department, which has the largest number of leases with nonprofit organizations, have not yet developed a process to evaluate and report on the public benefits provided by nonprofit organizations leasing City property.

### *Nonprofit Lease Policies in Other Jurisdictions*

Three jurisdictions reviewed by the audit team document and formalized policies on the leasing and disposition of City property to nonprofit organizations:

- The **City and County of Denver** established Executive Order No. 100, which documents procedures for the evaluation, management, leasing and disposition of real property and facilities by the City. This includes guidelines and annual reporting requirements for the leasing of City-owned property to non-City entities.
- The **City of San Diego** Council Policy 700-12 details guidelines for the disposition of City-owned property to nonprofit organizations.<sup>15</sup> The policy states that "available City property shall be

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<sup>15</sup> According to the policy, the guidelines apply to areas other than Balboa Park and Mission Bay Park and include specific direction for property which is acquired by the City with Community Development Block Grant (CDBG) funds for the purpose of providing services to economically deprived and blighted areas of the City.

leased at fair market value to nonprofit organizations when it is deemed by Council that appropriate public benefit will be derived. However, the City may lease property purchased by Community Development Block Grant (CDBG) funds to organizations that primarily provide services to low-income persons at a nominal fee determined by the City and Agency.”

- The **City of Charlotte** developed a *Policy on Leasing of City-Owned Facilities to Non-Profit Organizations*, which documents guidelines and criteria for leasing City-owned facilities to nonprofits. The policy details qualifying criteria for eligibility requirements of non-profit organizations, statement of interest and application process requirements, and operational guidelines.

## CONCLUSION

The Property Services Division is evaluating the rent structure of leases with nonprofit organizations. While the practice has been to lease City property to nonprofit organization for \$1 per year, the City has not had a documented process to evaluate the public benefits of leases at below market rent.

## RECOMMENDATIONS

The Property Services Division Manager should:

- 4.1 In coordination with Economic Development Department finance staff, City Manager staff, and Parks, Recreation, and Marine Administration staff, recommend Administrative Regulation provisions for evaluating the public benefits of below market rate leases with nonprofit organizations.
- 4.2 In coordination with the City Manager and City Manager departments, recommend Administrative Regulation provisions establishing policies and guidelines for leasing City-owned properties to nonprofit organizations.

## SAVINGS, BENEFITS, AND COSTS

Implementing these recommendations is intended to improve oversight and strengthen internal controls of leasing City-owned properties to nonprofit or community-based organizations. This will help prevent the risk of revenue loss, fraud or misuse. These recommendations can be implemented within existing Property Services Division resources.

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## 5. Acquisitions and Space Planning

The Property Services Division manages the process of acquiring new property for all departments other than enterprise departments. Since 2020, the Division has managed four acquisitions of private property, including one motel and one hotel purchased with State Homekey Program grant funds and two properties for use by City departments.

### **Problem, Cause, and Adverse Effect**

The City of Long Beach does not have a formal process for evaluating and planning longer term space needs for City Manager departments. The City's Capital Improvement Program focuses on short term needs, including improvements to existing facilities and investments to address community need. Acquisitions can be driven by department needs, including replacing long term leased space with City-owned space and providing sufficient space for community programs, such as the purchase of 125 Elm Avenue for locating the Crime Lab which had been occupying leased space. Acquisitions can also be driven by urgent conditions. In the case of Fire Station 9, building conditions at the prior facility made it necessary to relocate the fire station.

The Property Services Division identifies potential properties for acquisition through market listings and uses real estate broker services to submit an offer letter to the property owner. Because acquisitions are not conducted through a competitive process, appraisals are a main tool to determine if the City is paying an appropriate price for the acquisition. The Property Services Division acquisition checklist references appraisals and environmental assessments, which the Property Services Division considers standard real estate practice, but the City does not have a documented policy requiring appraisals and environmental assessments for acquisition.

### **Recommendations**

Longer term planning for space needs for City departments and programs needs to be a coordinated effort of the City Manager, Capital Planning, the Economic Development Department, and the respective City departments. The recommended property inventory in Section 1 of this report would include identifying properties that are underutilized, which could be used in planning the City's space needs.

The Property Services Division should also recommend Administrative Regulation provisions, defining appraisal and environmental assessment requirements for property purchases.

### **Savings, Benefits, and Costs**

The City Manager would need to identify appropriate resources for implementing long-term space planning; this would be in conjunction with developing a citywide property inventory. Existing Property Services Division staff could recommend Administrative Regulation provisions for appraisals and environmental assessment. The benefit would be more formal definition and reporting of the acquisition process.

## Property Acquisition for City Use

Working closely with end-user departments, the Property Services Division manages the process of acquiring new property for all departments other than the enterprise departments and the Airport. This includes site selection, negotiation with sellers, and obtaining City Council approval, as required for all property acquisitions by Long Beach Municipal Code 3.76.010. Since 2020, the Division has managed four acquisitions of private property. Two were acquisitions of lodging facilities (one motel and one hotel) in order to create safe accommodations for unhoused individuals, supported by State grant funds. One was the acquisition of a property that will house the Police Department's Crime Lab, a relocated Long Beach Senior Center, and Energy Resources Department administrative offices. In the remaining acquisition, the City purchased a property on which it will construct a new location for the Long Beach Fire Department's Fire Station 9.

For the four transactions described above, sales prices and other acquisition costs totaled approximately \$61.8 million in state and City funds. Tenant improvements at the site of the new Senior Center and Crime Laboratory are estimated at \$23.3 million; the expected cost of construction of the new Fire Station 9 building and building improvements at the two Project Homekey sites were unknown at the time of City Council approval.

As demonstrated by the two Project Homekey acquisitions, external funding opportunities drive certain acquisitions. Through the Project Homekey program, the state of California made available millions of dollars in grant funding that municipalities could use to convert buildings into emergency shelter for unhoused individuals following the onset of the Covid-19 pandemic. For the City of Long Beach, this represented an opportunity to meet a City need with the help of significant state funding.

### *Identifying Space Needs*

The City of Long Beach does not have a formal process for evaluating and planning longer term space needs for City Manager departments. The City's Capital Improvement Program focuses on short term needs, including improvements to existing facilities and investments to address community needs.

While the City does not have a documented process to plan space needs, according to the Economic Development Department staff report to the October 11, 2022 City Council meeting:

In recent years, the City of Long Beach (City) has made concerted efforts to inventory facility and infrastructure needs to effectively deliver City services. Further, the City consistently reviews City Departments' leases on privately-owned properties to evaluate opportunities to consolidate operations or relocate into a City facility to reduce additional expenditures created by rental payments.

Acquisitions can be driven by department needs, including replacing long term leased space with City-owned space and providing sufficient space for community programs. In 2021, the Economic



Development Department reported to the City Council that the Department was working with the Long Beach Police Department on long term options for the Crime Laboratory. Additionally, according to interviews with Economic Development Department staff, Parks, Recreation, and Marine Department staff requested the Property Services Division to help find an alternative location for the Long Beach Senior Center, which occupied a City-owned building on Fourth Street considered to be outdated. The Southern California Edison Company solicited proposals for purchase of its property at 125 Elm Avenue and agreed to sell the property to the City for \$21 million. In addition to the Police Department Crime Lab and the Long Beach Senior Center, the Energy Resources Department will relocate some of its administrative staff to 125 Elm Avenue in conjunction with the planned replacement of its headquarters.

Acquisitions can also be driven by urgent conditions. In the case of Fire Station 9, building conditions at the prior facility made it necessary to relocate the fire station. Due to active mold issues at the existing fire station, the City temporarily relocated Fire Department staff and apparatus. The Economic Development Department identified specific criteria for a new site for Fire Station 9, including that the site had to be close to the prior Fire Station 9 location, close to a major traffic corridor, and be of sufficient size to house fire apparatus and staff. City staff identified 4101 Long Beach Boulevard as a suitable location and made an offer to the property owner, which was accepted. The City Council approved acquisition of 4101 Long Beach Boulevard for location of Fire Station 9 in August 2020.

### *Property Inventory, Space Planning, and Alternatives to Acquisition*

As discussed in Section 1 of this report, the City does not have a comprehensive inventory of City property, including properties under the jurisdiction of City Manager departments. While the Economic Development Department reported efforts to inventory City property needs, including lease of private properties for City department use, the Property Services Division does not have staff resources or documented protocols for space and facility planning.

City departments determine the need for acquisition, as shown by the acquisition of 125 Elm Boulevard and 4101 Long Beach Boulevard. The Property Services Division is responsible for the transaction, including identifying potential sites, negotiating with the property owner, and conducting due diligence. The City does not have a systematic process for ensuring that alternatives to acquisition are considered, such as repurposing an existing facility.

As illustrated in the planning for 125 Elm Avenue, a single acquisition can meet the space needs of multiple City departments or divisions. However, the Division does not have a comprehensive system for tracking such needs. Although the Division asks departments to complete a request form detailing space needs, it has not consistently ensured completion of all information fields, according to staff. In addition, the Division has not yet created a comprehensive database compiling information submitted through this form, although one is planned. This increases the chances that Division staff will overlook possible efficiencies, such as co-locating multiple departments with compatible needs. It also complicates the work



of tracking and communicating specific division preferences that can inform site selection and renovation planning.

Longer term planning for space needs for City departments and programs needs to be a coordinated effort of the City Manager, Capital Planning, the Economic Development Department, and the respective City departments. The recommended property inventory in Section 1 of this report would include identifying properties that are underutilized, which could be used in planning the City's space needs.

## Property Selection Process

The Property Services Division identifies potential properties for acquisition through market listings and uses real estate broker services to submit an offer letter to the property owner. The federal Office of Management and Budget recommends using competition for property acquisition, and the U.S. General Services Agency recommends advertising for sites and compiling multiple offers. According to the General Services Agency, considering multiple sites for public building acquisitions helps staff determine the optimal location and develop viable alternatives, reducing delays if a government entity cannot reach agreement with the owner of its top-choice property.

The City of Long Beach does not have the same options to identify multiple properties for potential acquisition within the City as the federal government, which can identify potential properties over a larger geographic area. An exception was the use of Homekey grant funds to purchase an existing motel site for housing for homeless individuals. The Property Services Division entered into Exclusive Negotiating Agreements (ENA) with multiple property owners to purchase an existing motel; the participation of multiple property owners was likely due to high motel vacancy rates during the pandemic.

### *Environmental Assessments and Appraisals*

Our review of four other cities' practices for acquiring properties did not find documented policies requiring competitive solicitation of potential properties. Appraisals are a main tool to determine if the City is paying an appropriate price for the acquisition. The city of San Francisco Administrative Code requires an appraisal for property purchases of more than \$10,000 and a third party appraisal review of property purchases of more than \$200,000. Other cities did not provide documented policies requiring appraisals for property acquisition, although the city of Denver provided an acquisition checklist in which appraisals are one component.

The Property Services Division has an acquisition checklist that includes:

- Decision to appraise and date
- Appraisal – full, restricted, letter of value – and date

The use of an appraisal was included in the staff report to the City Council for one of four acquisitions. According to discussions with Property Services Division staff, appraisals are reported to the City Council

in closed session. Because acquisitions are generally not competitive, the City needs a documented policy on appraisal requirements for acquiring properties to ensure best value to the City. The Property Services Division should recommend Administrative Regulation provisions, defining appraisal requirements for property purchases.

### Environmental Assessments

Due diligence in acquiring a property includes assessments of the physical and environmental conditions, potential legal risks, property value, and property operating, maintenance, and capital costs. While due diligence review of property acquisitions is standard in real estate transactions, in our review of four other cities, only the city of Denver documented in an executive order the requirement for environmental assessment of properties prior to acquisition.

The Property Services Division acquisition checklist includes environmental assessment as one component of the acquisition process; however, reports to the City Council did not consistently report on whether an assessment was conducted. Staff reports to the City Council, requesting approval for the purchase of 1725 Long Beach Boulevard and 4101 Long Beach Boulevard, indicated that funds for acquisition costs would be used for environmental investigation. The staff report to the City Council, requesting approval for the purchase of 125 Elm Avenue, stated that "staff from various City departments conducted assessments as to the buildings viability", although whether this refers to the usefulness of the building or the environmental condition is not clear. According to Property Services Division staff, environmental assessments are completed once the property is in escrow.

### **CONCLUSION**

Acquisition for City department use is evaluated on a case-by-case basis. While the acquisition of 4101 Long Beach Boulevard was necessary for the relocation of Fire Station 9 and of 125 Elm Avenue replaced a long term lease and incorporated three City department space needs, the City does not have a formal planning process for long-term space needs, which requires coordination of the City Manager, Capital Planning, the Economic Development Department, and the respective City departments.

The City also needs documented policies for acquiring properties to ensure that the City is obtaining best value. Such documented policies should include requirements for appraisals and environmental assessments.

### **RECOMMENDATIONS**

The Property Services Division should:

- 5.1. In coordination with the Economic Development Department Director, recommend to the City Manager a process for coordinating long term space planning with Capital Planning, including incorporating the proposed citywide property inventory in Recommendation 1.1 into planning for City departments' space needs.

- 5.2. Ensure consistent completion of the request form through which City departments and divisions can report anticipated space needs and create a database compiling this information.
- 5.3. Recommend to the City Manager Administrative Regulation provisions defining appraisals and environmental assessments requirements in the acquisition process.

### **SAVINGS, BENEFITS, AND COSTS**

The City Manager would need to identify appropriate resources for implementing long-term space planning; this would be in conjunction with developing a citywide property inventory. The required resources and timeframe to implement this process would need to be considered by the City Manager, but the benefit would be more cost-efficient use of existing property and acquisition of new property.

Existing Property Services Division staff could recommend Administrative Regulation provisions for appraisals and environmental assessment. The benefit would be more formal definition and reporting of the acquisition process.

APPENDIX I: Summary of Property Services Division Leases

Lease Number	Tenant	Location	Agreement Type	Use	Start Year	Total Term <sup>a</sup>
7013	Long Beach Yacht Club	6201 Appian Way	Lease	Yacht Club	1960	90
7681	Alamitos Bay Yacht Club	7201 Ocean	Lease	Yacht Club	1962	85
11576	Legacy Partners	100 Oceangate	Lease	Storage	1974	80
11661	LB Fireman's Credit Union	2241 Argonne Avenue	Lease	Commercial/ Multi-use	1973	72
14471	Marina Drive, LP	6650 Marina Drive	Lease	Retail/ Restaurant	1980	50
14895	Eleven Golden Shore	400 Oceangate	Lease	Parking	1980	101
20968	Belmont Brewing Company	25 39th Place	Lease	Retail/Restaurant	1989	40
21366	LBUSD (Carmelitos)	5250 Via Passilo	Lease	Public Programs/ Services	1990	Continuous
23509	Alamitos Bay Marina Center	241-245 Marina Drive	Master Lease	Commercial/ Multi-use	1994	30
24352	Aquarium of the Pacific	1 Aquarium Way	Ground Lease	Culture/ Art/ Museum	1995	66
24800	Shoreline Village	429 Shoreline Village Drive	Ground Lease	Commercial/ Multi-use	1981	66
24823	Worthington Ford	Lakewood Blvd & 405 Fwy	Lease	Storage	1996	34
24967	Alamitos Bay Landing	100-110 Marina Drive	Lease	Commercial/ Multi-use	1996	55
25213	Long Beach Towne Center	7575 Carson Street	Ground Lease	Commercial/ Multi-use	1997	99
25214	Long Beach Towne Center	Carson Street & 605 Fwy	Ground Lease	Commercial/ Multi-use	1996	99
25388	Crab Pot	215 N. Marina Drive	Lease	Retail/Restaurant	1997	40
26173	Long Beach Museum of Art	2300 E. Ocean Blvd.	Lease	Culture/ Art/ Museum	1999	35
26229	The Reef	880 S Harbor Drive	Lease	Retail/Restaurant	1997	34
26484	444 W Ocean LLC	Queensway Bridge	Lease	Parking	1999	55
27457	LB Fireman's Historical Society	1445 Peterson Avenue	Lease	Culture/ Art/ Museum	2000	25
27641	Shoreline Yacht Club	386 E. Shoreline Drive	Lease	Yacht Club	2002	35
29263	AC Catalina Landing	310-340 Golden Shore	Lease	Commercial/ Multi-use	2000	84
29872	Residence Inn by Marriott	600 Queensway	Hotel Lease	Hotel	2005	66
29879	Hotel Maya by DoubleTree	700 Queensway	Hotel Lease	Hotel	2006	66
30238	Aquarium of the Pacific	1 Aquarium Way	Lease	Culture/ Art/ Museum	2007	24
30853	Bay Shore Congregational Church	5100 The Toledo	Lease	Parking	2008	15
30946	Wilmington-Lomita Blvd. LLC	Terminal Island Right of Way	Ground Lease	Storage	2008	50

CONFIDENTIAL FINAL DRAFT

Harvey M. Rose Associates, LLC

# APPENDIX I: Summary of Property Services Division Leases

Lease Number	Tenant	Location	Agreement Type	Use	Start Year	Total Term <sup>a</sup>
31284	AP-Atlantic LLC	52nd & Atlantic	Lease	Culture/ Art/ Museum	2009	30
31661	Historical Society of Long Beach	4260 Atlantic Avenue	Lease	Culture/ Art/ Museum	2007	40
32409	Century Villages at Cabrillo	Terminal Island Right of Way	Lease	Open Space	2012	50
34078	Mental Health America	1955 Long Beach Blvd.	Lease	Public Programs/ Services	2013	17
34381	The Edison	Patio Lease	Ground Lease	Retail/Restaurant	2015	20
34552	Killing Fields Memorial Center	1501 E. Anaheim Street	Lease	Culture/ Art/ Museum	2017	7
34894	BlankSpaces, LLC	309 Pine Avenue	Lease	Public Programs/ Services	2022	10
34918	Downtown Long Beach Development Corp.	Ocean Blvd & Pine Avenue	Lease	Culture/ Art/ Museum	2017	Continuous
35521	Centro Cha, Inc.	1858 Atlantic Avenue	Lease	Public Programs/ Services	2020	25

Source: Harvey M. Rose Associates LLC Analysis

<sup>a</sup>Term includes original lease and lease extensions

## APPENDIX II: Summary of Lease Extensions and Tenant Investments

Lease Number	Use	Start Year	Total Term <sup>a</sup>	Lease Extensions in Original Lease	Most Recent Amendment Extending Term	Extension Fee or Investment on Extension	Investment Required in Original Agreement	Original Investment Amount Specified in Agreement
14895	Parking	1980	101	no	2015	no	yes	yes
25213	Commercial/ Multi-use	1997	99	yes	n/a	n/a	yes	no
7013	Yacht Club	1960	90	no	2007	yes	yes	no
7681	Yacht Club	1962	85	no	2009	yes	yes	no
29263	Commercial/ Multi-use	2000	84	no	2018	yes	no	no
11576	Storage	1974	80	no	2014	no	yes	no
11661	Commercial/ Multi-use	1973	70	no	2007	no	yes	no
24352	Culture/Art/Museum	1995	66	no	n/a	n/a	yes	no
24800	Commercial/ Multi-use	1981	66	no	n/a	n/a	no	no
29872	Hotel	2005	66	no	n/a	n/a	yes	yes
29879	Hotel	2006	66	no	n/a	n/a	yes	yes
24967	Commercial/ Multi-use	1996	55	no	n/a	n/a	no	no
26484	Parking	1999	55	no	2007	yes	no	no
14471	Retail/Restaurant	1980	50	no	2020	no	yes	yes
30946	Storage	2008	50	yes	n/a	n/a	yes	no
32409	Open Space	2012	50	yes	n/a	n/a	yes	no
20968	Retail/Restaurant	1989	45	no	2019	no	yes	no
25388	Retail/Restaurant	1997	40	yes	2018	no	no	no
31661	Culture/Art/Museum	2007	40	yes	n/a	n/a	no	no
26173	Culture/Art/Museum	1999	35	yes	n/a	n/a	yes	no
27641	Yacht Club	2002	35	yes	2011	no	yes	no
24823	Storage	1996	34	no	2011	no	yes	no
26229	Retail/Restaurant	1977	34	no	2017	no	yes	yes
23509	Commercial/ Multi-use	1994	30	no	2022	no	yes	yes
31284	Culture/Art/Museum	2009	30	yes	n/a	n/a	yes	no
27457	Culture/Art/Museum	2000	25	yes	2020	no	yes	no
35521	Public Programs/ Services	2020	25	yes	n/a	n/a	yes	no
34381	Retail/Restaurant	2015	20	yes	n/a	n/a	no	no
34078	Public Programs/ Services	2013	17	no	n/a	n/a	no	no
30853	Parking	2008	15	yes	2018	no	yes	yes
34894	Public Programs/ Services	2018	20	yes	n/a	n/a	no	no
34552	Culture/Art/Museum	2017	7	yes	2022	no	yes	no

Source: Harvey M. Rose Associates LLC Analysis

<sup>a</sup>Term includes original lease and lease extensions


APPENDIX III: Rent Structure and Rent Credits

Lease Number	Use	Start Year	Fixed Rent	Base Rent + Percentage Rent	Rent Adjustments Defined in Lease	Rent Credits
24800	Commercial/ Multi-use	1981		x		
23509	Commercial/ Multi-use	1994		x	x	x
24967	Commercial/ Multi-use	1996		x	x	
25214	Commercial/ Multi-use	1996	x		x	
29263	Commercial/ Multi-use	2000		x	x	
26173	Culture/Art/Museum/Memorial	1999	x			
31284	Culture/Art/Museum/Memorial	2009	x			
29872	Hotel	2005		x		
29879	Hotel	2006	x		x	
26484	Parking	1999	x		x	
30853	Parking	2008	x		x	x
32678	Parking	2013	x		x	
35521	Public Programs and Services	2020	x		x	x
34894	Public Programs and Services	2022	x			x
14471	Retail/Restaurant	1980		x	x	
20968	Retail/Restaurant	1989		x	x	
25388	Retail/Restaurant	1997		x		x
26229	Retail/Restaurant	1997		x	x	x
34381	Retail/Restaurant	2015	x		x	
11576	Storage	1974	x		x	
30946	Storage	2008	x		x	
7013	Yacht Club	1960				
7681	Yacht Club	1962	x		x	
27641	Yacht Club	2002	x		x	

Source: Harvey M. Rose Associates LLC Analysis

Date: December 13, 2023

To: Laura Doud, City Auditor

From: Thomas B. Modica, City Manager 

Subject: **Audit of City Property Management and Oversight**

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Thank you for the opportunity to comment on the audit of City Property Management and Oversight (Audit), as well as for the additional time afforded to us to respond. We appreciate the time and effort the City Auditor has given to the detailed review of the City's property portfolio to determine whether the City is managing and overseeing City-owned property and leased property effectively and efficiently.

The following Management Response provides some important notes about the City's Property Management process and actions taken over the last four years to document processes and increase efficiency. Our Action Plan is also attached.

### **Citywide Property Inventory**

The City of Long Beach owns over 1,200 parcels of land across the 52 square miles that make up the city. Administrative Regulation 8-5 identifies the Economic Development Department's Property Services Bureau, now known as the Real Estate Development Bureau (Bureau), as the City's real estate broker for property under the purview of City Manager Departments, with the exception of the Long Beach Airport which maintains its own Properties Division. The Bureau is responsible for policies and procedures related to the acquisition, disposition, and leasing of City-owned properties. The Bureau is also responsible for the maintenance and management of certain properties in transition from purchase to operations or decommissioning to sale.

The audit specifies the need for a central inventory of City-owned property that catalogs certain attributes such as location, size, building class, etc., to assist with managing the City's real estate portfolio and reduce missed opportunities to generate revenue or reduce liability. There are currently several City departments which manage databases that contains attributes specific to their line of service, including:

- Public Works – Capital Asset Inventory
- Financial Management – Fixed Assets/Land Held For Resale
- Technology and Innovation Department – MapsLB and the Los Angeles County Assessor's Office datasets
- Human Resources, Risk Management – Insurance Rolls
- Economic Development – City-Owned Property Database and Agiloft

Historically, each Department has managed databases with the information needed for that Department to effectively manage their operations, without extraneous information that provides little to no value to the Departments needs. However, given some of the overlap between some of the databases, we agree a central inventory is worth investigating. The City would need to either retain a consultant to assist or direct staff to research the current systems in place by similar



size cities, costs to implement and manage the database and the efficiencies, if any, that could be achieved by such an undertaking. The time necessary to complete this research and analysis, along with third-party consultant costs that may be incurred, are a concern due to the potential impacts to multiple departments in either staff time or funding required or both. Further discussion is warranted to determine if investigating applicable databases would be achievable in the near future.

## **Leasing Policy**

The Bureau currently oversees the negotiation and direct management of 36 leases with the responsibility of negotiating and monitoring over 150 additional leases and agreements for various City Manager Departments. The Audit identifies the following areas to be defined and documented as leasing policies through Administrative Regulations:

- Tenant investments in exchange for long term leases of City-owned properties;
- Lease extension options at the discretion of the tenant rather than the City;
- Rent adjustments and tenant investments not included on exercise of options;
- Tenant improvement allowances in commercial and nonprofit leases;
- Setting commercial rent guidelines for different uses of City property;
- Setting rents at fair market value;
- Defining standards for base rent and percentage rent for retail and restaurant uses; and
- Setting provisions for evaluating the public benefits of below market rate leases with nonprofit organizations.

Length of term, use of the property, amount of tenant investments, tenant improvement allowances provided, establishing Fair Market Rent, commercial rent components (base and/or percentage), rent adjustments, evaluation of public benefits and options to extend along with at whose discretion are all tools within generally-accepted real estate practice that are utilized by the City when negotiating a lease to bring about a service or amenity to Long Beach residents. The adjustment of any one or more of these tools will impact the financial viability of a lease or resulting project. Evaluation on a case-by-case basis allows the City flexibility to comprehensively value any transaction within the current market condition, account for the goals and priorities of the City and the community and adjust terms and conditions to maximize benefit from City assets whether that be public benefit or financial considerations.

As noted in the Audit, most of the leases reviewed had original start dates prior to 2012. These leases were evaluated and negotiated under the economic conditions and Council District priorities that existed at that time and resulting terms and conditions were approved by the then-seated City Council. The Bureau and/or City Manager Departments responsible for oversight of the lease operate within its structure until such time that a new lease or extension can be negotiated. The Bureau, as discussed during various interviews, has made a concerted effort over the last four years to institute leasing practices that utilize the real estate tools mentioned above to ensure consistent evaluation of each transaction. For commercial leases and extensions, the length of term, level of investment, project plans and pro formas are reviewed by partner departments and outside financial consultants to confirm any agreed upon terms and

conditions provides the City with maximum value of the City's asset. For non-profit groups, the Audit notes many of the current non-profit leases were negotiated as \$1 per year assuming a certain level of public benefit would occur over the life of the lease. Current practice has been revised to set Fair Market Rent through an appraisal and then deduct the value of the public benefit to be realized, as confirmed on an annual basis. However, because many City leases still have term left on the lease or extension options that were pre-negotiated, the applicability of current leasing practices has been slow to occur and will take time to make the generational shift.

To accommodate the Audit recommendations while maintaining flexibility and consistent application of current leasing practices, we are recommending the Bureau continue with its efforts to document policies and procedures, including those identified in the Audit, but limiting definitions and standards that would hinder the City's ability to adapt to changing market conditions and priorities.

### **Disposition of City Property**

As mentioned in the Audit, the City is required to comply with the provision of the Surplus Land Act when disposing of City-owned property prior to conducting a competitive solicitation process through either a Request for Proposal (RFP) or a broker listing on the open market. Consistent with the leasing explanation above, there are challenges with the Audit recommendations to define provisions of the following through an Administrative Regulation:

- Requirements for purchase options, including covenants or deed restrictions;
- Use of long-term ground leases as an alternative to purchase options;
- Competitive solicitation requirements;
- Appraisal and appraisal reporting requirements; and
- Process for evaluation of unsolicited offers to purchase City-owned property.

Requirements for purchase options, including covenants or deed restrictions and the use of long-term ground leases as an alternative to purchase options are generally accepted real estate industry tools in negotiating the sale of real property. The placement of covenants or deed restrictions or opting for a long-term ground lease as an alternative to a purchase option will affect the financial terms of the agreement and the overall viability of a project and is evaluated as part of negotiations. Defining or setting specific requirements will limit the City's ability to negotiate within the current economic conditions and priorities and could have unintended consequences such as maintaining liability with continued ownership, hindering property tax revenue generation from placing the tax-exempt property back on the tax rolls, and staff monitoring costs.

Further, it is recommended that competitive solicitation requirements and appraisal and appraisal reporting requirements should be defined for dispositions. It should be noted that the City's RFP process is managed by the Financial Management Department and appraisal requirements are set by the Appraisal Foundation through the Uniform Standards of Professional Appraisal Practice which is updated annually. Focusing on any requirements imposed by the City, as property owner, during the sale of City-owned property will change from property to property depending on the timing, needs of the transaction and the market condition. These should remain undefined to allow the City to adapt as needed and evaluate appropriately. An appraisal or broker's opinion of value, both real estate industry-accepted options to set Fair Market Value, is ordered as part of

the disposition process to evaluate the value of City-owned property for sale and ensure City property is not being sold for less than Fair Market Value or the corresponding public benefit. As this has been documented via the Bureau's disposition checklist, it is acknowledged that this could be memorialized as Department policy and procedure set by Economic Development consistent with AR8-5.

### **Acquisition of Property**

Appraisals and environmental assessments are part of the City's acquisition process, as stated in interviews and documented in the acquisition checklist provided. Standard practice is to make an offer, negotiate an agreement, open escrow, and conduct due diligence activities prior to taking title to the property. Appraisals are conducted prior to the City issuing an offer to purchase to confirm the offer is Fair Market Value or within the range should the property be listed on the open market. Environmental assessments are part of due diligence activities conducted once the City has an agreement with the owner and is under contract. Environmental investigations require both parties to complete paperwork as to the history of the property and depending on previous uses, may require testing including drilling and other invasive activities. The property owner will often not grant access to their property until they have agreed to sell their property. Additionally, these activities come at significant expense to the buyer, rendering it fiscally irresponsible for the City to pursue extensive investigations until an agreement to purchase is in place. It should be noted that the example provided from another municipality states the environmental analysis is part of their process but does not define at which point in the process they complete their investigations. The City's Purchase and Sale Agreements provides protections to renegotiate or terminate the agreement should the City uncover significant contamination or any other such issues. The City's practice of conducting appraisals prior to issuing an offer and conducting environmental investigations is generally accepted practice in the real estate industry, including by other public agencies, and there is no cause to change the City's current process outlined in the Bureau's acquisition checklist. Similar to the Disposition recommendation above, the acquisition checklist could be memorialized as Department policy and procedure set by Economic Development consistent with AR8-5.

### **Conclusion**

The primary purpose of the Audit was to determine whether the City is managing and overseeing City-owned property and leased property effectively and efficiently and provide recommendations. The Economic Development Department, through the Real Estate Development Bureau, has worked diligently to implement consistency to leasing, acquisition and disposition activities under their purview. Despite oversight of long-standing leases negotiated under different economic conditions and Council District priorities, efforts have been successful to evaluate and negotiate real estate transactions consistently and effectively. As outlined, establishment of Department policies and procedures is underway to document the efforts and practices already in place. There are areas of improvement which we commit to evaluating for potential implementation. Please note that some of the Audit recommendations may take time to implement due to the potential costs associated with the evaluation and availability of staff resources.

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Audit of City Property Management and Oversight  
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We would like to thank the City Auditor and her staff for working with us in a collaborative and professional manner. We are always open to suggestions for improvement. If you have any questions, please contact me at (562) 570-5091.

ATTACHMENTS

CC:     DAWN MCINTOSH, CITY ATTORNEY  
          BO MARTINEZ, DIRECTOR OF ECONOMIC DEVELOPMENT  
          KEVIN RIPER, DIRECTOR OF FINANCIAL MANAGEMENT

# MANAGEMENT RESPONSE AND ACTION PLAN

## Economic Development

### Performance Audit of City Property Management and Oversight

No.	Recommendation	Priority	Page #	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
1.1	Work with the City Manager on a process and timeline to develop an inventory of City-owned property that catalogs information including current occupancy status, lease expiration (if applicable) and whether the property is unused or underutilized.	H	17	Agree	Economic Development, TID, Public Works, Human Resources, Financial Management	<p>Agree with consideration. Conceptually we are in agreement that a master database compiling information from different City departments in their area of expertise: Public Works (facility condition), Economic Development (property characteristics), Human Resources (insurance coverages), Financial Management (fixed assets) and TID (County Assessor information and database assistance), would be beneficial, there are two major issues to be determined. First, the type of database and its ability to aggregate the recommended information is major system process that will be time and funding intensive. Research and analysis to determine viability and impact of any potential database would require significant human and financial capital. Further, should a database be purchases, aggregating data and any processes for managing and updating the system once in place will have to be established. The cost of the system and staff time (both one time and ongoing) is unknown.</p> <p>In the interim, the Real Estate Bureau has started a review of its internal database to update the established information including, but not limited to, confirmation of City ownership, zoning, current use and contracts maintained on each parcel. Given current staffing in the Real Estate Bureau, updates will be completed as staff time allows.</p>	Real Estate Bureau Database will be by 6/1/24; research into potential Citywide system can be completed in 2024 along with next steps.
1.2	Create a process for updating the property inventory to reflect changes.	M	17	Agree	Economic Development	<p>Agree with consideration. As part of the City's current acquisition and disposition process, the Real Estate Bureau notifies its partner departments to update their respective databases as noted on the Bureau's Acquisition/Disposition checklist: Risk Management (addition or subtraction to insurance rolls), Financial Management (through Fixed Asset addition or retirement Form), Public Works (if acquisition for project) and the operational department that was either using it previously (disposition) or will be using it (if acquisition). Further, Risk Management and Financial Management send out annual requests for review to the insurance rolls and fixed asset lists, respectively, allowing for Economic Development to review and make any corrections necessary. As part of the Real Estate Bureau's current efforts to update its internal database mentioned in 1.1, an annual review similar to that of Risk Management and Financial Management will occur.</p> <p>It should be noted that if a comprehensive City-wide database can be procured and aggregated, and should Economic Development be selected as the Department to oversee the database, a process for reviewing and updating the system would be part of the project.</p>	12/31/24, consistent with 1.1
2.1	Recommend Administrative Regulation provisions, establishing guidelines for (i) tenant investments in exchange for long term leases of City-owned properties; (ii) lease extension options, including specifying that the lease extensions are at the discretion of the City and include rent adjustments and tenant investments on exercise of the option; and (iii) tenant improvement allowances in commercial and nonprofit leases.	M	27	Agree	Economic Development	<p>Agree with consideration.</p> <p>Per the AR8-5, the Department is responsible for setting policy and procedure for real estate transactions which the Department is responsible for (All CM Department transactions). As noted in interviews and documentation provided, the Real Estate Division is in process of documenting various policies and procedures including those included in this recommendation. An Administrative Regulation can be drafted; however these policies and procedures should be limited to outlining the generally-accepted real estate analysis tools available to negotiate real estate transactions. These tools are included in the City of San Diego and Port of Los Angeles examples provided in the audit. The City of San Diego policy that states "the length of lease term shall be based on the level of capital improvements to be made and economic life expectancy of the development" is a standard real estate industry practice already utilized by the Real Estate Division. Further, the examples provided for lease extension options from Port of Los Angeles ("tenant shall satisfy specified metrics and industry standards and pay an option fee") and City of San Diego ("lease extensions may be considered in exchange for capital improvements") are also standard and utilized in the recent lease amendment negotiated with the tenant of Shoreline Village. The Real Estate Division, as stated in interviews and outlined in a draft document provided, utilizes this practice in all negotiations and depending on the project, size of investment, etc., may use one or any combination of tools available. Flexibility to address various components of a particular transaction along with City priorities should be maintained to allow City assets to yield the most in public benefit, whether that be services or financial consideration.</p> <p>This analysis also extends to Guidelines for Rent and Rent Credits, which have been, and should continue to be, evaluated on a case-by-case basis taking into accounts the specifics of the transaction contemplated and in keeping with general real estate industry practice, market condition at the time of the transaction and the goals and objectives of the City Council. The variables relating to standard practice - state of the economy and shifting of priorities - influenced the example leases noted on page 26 and 27, all of which were put forth to City Council and approved. Further, lease extensions at the discretion of the tenant are often terms negotiated at the beginning of the lease that are included in the valuation at that time. Conversely options included in leases where the City is the tenant is often exercised at the option of the City as tenant. Requiring it to always be at the CM discretion will affect the valuation of the transaction and in some cases, result in the tenant terminating negotiations. All lease extensions, rents, rent credits and other terms of a deal should continue to be negotiated appropriate to the use/market/City Council goals and objectives. However, to accommodate this request, Real Estate can finalize a Administrative Regulation identifying the various real estate tools that could be deployed in negotiations.</p>	90-180 days, no later than 6/1/24

## MANAGEMENT RESPONSE AND ACTION PLAN

### Economic Development

#### Performance Audit of City Property Management and Oversight

No.	Recommendation	Priority	Page #	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
2.2	Develop and document Property Services Division protocols (i) clarifying if the draft flow chart for tenant investments applies to leases without an extension option in the original lease or applies to all lease extensions; and (ii) setting commercial rent guidelines for different uses of City property, including setting rents at fair market value and defining standards for base rent and percentage rent for retail and restaurant uses.	M	27	Agree		<p>Agree with consideration. Clarification can be made to the flow chart noted. However, the flow chart should be modified to note that the same real estate principles apply to any lease extension negotiation whether the tenant has an option included in the lease or not. The Real Estate Division utilizes the same tools for every lease extension considered.</p> <p>As to setting the valuation of the fair market rent of commercial properties, this is a function of the real estate appraisal industry, and as such, would not be appropriate for the City to attempt to modify or set those guidelines. Setting specific requirements for the structure of the rent, whether, base, percentage, retail, restaurant, nonprofit, etc., severely limits the City's ability to be responsive in evaluating the various requests for use of City-owned property. Rent and rent structures should continue to be set by generally-accepted real estate industry practice determined by market conditions, real estate industry practice evaluations (appraisals, proforma analysis, etc.) and the goals and objectives of City programs and the City Council.</p> <p>However, as stated above, an Administrative Regulation can be drafted outlining the various real estate principles that could be deployed in real estate valuation and negotiation.</p>	90-180 days, no later than 6/1/24
2.3	Define the real estate broker's responsibilities in listing City properties for lease and identifying comparable market rents in new agreements for real estate broker services.	H	27	Agree	Economic Development	The Department is currently in the process of preparing the RFP to reset the bench for the next 3-5 years. The scope can be revised to include more definition to the broker's responsibilities in listing City properties for lease, including providing comparables.	6/1/24 (deadline for current broker contracts)
2.4	Review the status of Lease 2958 and Lease 14895 for compliance with California Civil Code Section 718.	L	27	Agree	Economic Development, City Attorney's Office	Real Estate Bureau will confer with the City Attorney's Office to review compliance of the stated leases within 90 days from the date of this report.	2/28/2024
3.1	In coordination with the City Manager and City Attorney, recommend to the City Council an amendment to Municipal Code 3.76.010 that is consistent with the California Surplus Land Act.	L	36	Agree	Economic Development, City Attorney's Office	Agree with consideration. The Real Estate Bureau will confer with the City Attorney's Office within 90 days from the date of this report to review whether efforts will be made to address amending the Municipal Code.	2/28/2024
3.2	Recommend Administrative Regulation provisions defining (a) competitive solicitation requirements for disposition of City-owned property; (b) appraisal and appraisal reporting requirements for disposition of City-owned property; (c) the process to evaluate unsolicited offers to purchase City-owned property; (d) requirements for purchase options in leases of City-owned properties, including covenants or deed restrictions for continuing property use; and (e) use of long-term ground leases as an alternative to lease purchase options.	H	36	Agree		<p>Agree with consideration. For the reasons stated in previous comments, the items mentioned in 3.2 (purchase options, long-term ground leases, deed restrictions etc.) are generally accepted real estate negotiation tools that the City should retain for maximum flexibility to evaluate requests appropriately. The use of any one or combination of these options are factored into the negotiation and can affect the value that can be extracted. Requirements for sale, ground lease options, deed restrictions, etc. should remain tools to be deployed depending on the City's needs and priorities in the then-current market conditions.</p> <p>Further, the Competitive Solicitation process is set by Financial Management. Any requirements imposed by the City during the sale of City-owned property through Competitive Solicitation or broker listing will change from property to property depending on the timing, needs of the transaction and the market condition. As stated previously, appraisal and appraisal reporting requirements is set by the real estate appraisal industry and would not be appropriate for the City to modify. The City currently procures an appraisal or broker opinion of value, both accepted options in standard real estate practice, to evaluate the value of City-owned property for sale or rent or the value of the property being purchases. While this has been and will continue to be the City's practice, as stated, these tools can be listed in an Administrative Regulation related to disposition of City-owned property.</p>	90-180 days, no later than 6/1/24
3.3	Update Property Services Division flow charts to reflect recommended Administrative Regulation provisions as applicable.	L	36	Agree		The Real Estate Bureau can update flow charts as appropriate.	2/28/2024
4.1	In coordination with Economic Development Department finance staff, City Manager staff, and Parks, Recreation, and Marine Administration staff, recommend Administrative Regulation provisions for evaluating the public benefits of below market rate leases with nonprofit organizations.	M	42	Agree	Economic Development, various departments.	Agree with consideration. As stated in interviews, over the course of the last 3-5 years, the Real Estate Bureau has applied a standard process of setting Fair Market Rent through an appraisal, and working with operational departments and tenant to review and evaluate public benefit provided. The methodology and proposed terms and conditions of such a transaction is reviewing through a third party economic analysis. However, we agree this can be documented in the abovementioned Administrative Regulation to confirm standard practice.	90-180 days, no later than 6/1/24
4.2	In coordination with the City Manager and City Manager departments, recommend Administrative Regulation provisions establishing policies and guidelines for leasing City-owned properties to nonprofit organizations.	H	42	Agree		See 4.1	90-180 days, no later than 6/1/24
5.1	In coordination with the Economic Development Department Director, recommend to the City Manager a process for coordinating long term space planning with Capital Planning, including incorporating the proposed citywide property inventory in Recommendation 1.1 into planning for City departments' space needs.	M	47	Agree	Economic Development, Public Works	Agree with consideration. Pending the outcome of 1.1, a formal policy would be researched and evaluated to address long-term space planning as well as the roles and responsibilities of Economic Development, Public Works and various operational departments.	12/31/24, consistent with 1.1

## MANAGEMENT RESPONSE AND ACTION PLAN

### Economic Development

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No.	Recommendation	Priority	Page #	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
5.2	Ensure consistent completion of the request form through which City departments and divisions can report anticipated space needs and create a database compiling this information.	M	48	Agree	TBD	Agree with consideration. Pending outcome of 1.1 and 5.1, a policy and procedure could be put into place to allow annual reporting/verification of pending space needs.	12/31/24, consistent with 1.1
5.3	Recommend to the City Manager Administrative Regulation provisions defining appraisals and environmental assessments requirements in the acquisition process.	M	48	Agree		Agree with consideration. Appraisals and environmental assessments have been and will continue to be part of the City's acquisition process, as stated in interviews and documented in the acquisition checklist provided. Standard practice is to make an offer, negotiate an agreement, open escrow and conduct due diligence activities prior to taking title to the property. Appraisals are conducted prior to the City issuing an offer to purchase and environmental Assessments are part of due diligence activities completed once the City has an agreement with the owner and has entered into escrow. Environmental investigations require both owner and buyer to complete paperwork as to the history of the property and depending on previous uses, may require testing which includes drilling and other invasive activities, at significant expense to the buyer. Until the owner has agreed to sell their property to the City, they often will not grant the access to the property that is required and it would fiscally irresponsible for the City to conduct extensive investigations until such time as we have an agreement to purchase in place. The example provided from the City of Denver states the environmental analysis as part of their process but does not define at which point in the process they complete their investigations. Should the City uncover significant contamination or any other such issues, the City retains the right to terminate escrow and decline to purchase. The City's practice of conducting appraisals prior to issuing an offer and conducting environmental investigations is generally accepted practice in the real estate industry, including by other public agencies, and is documented in the Real Estate Bureau's acquisition checklist. However, to accommodate this recommendation, this can be memorialized in an Administrative Regulation related to acquisition.	90-180 days, no later than 6/1/24

#### Priority

H – High Priority - The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

M – Medium Priority - The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. Recommendation should be implemented no later

L – Low Priority - The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

**Yellow areas - to be completed by the department**