

Date: June 6, 2022

To: Mayor and Members of the City Council

From: Thomas B. Modica, City Manager 

Subject: **Community Hospital Update: Surplus Land Act Exemption**

City staff are in regular communication with the California Department of Housing and Community Development (HCD) regarding the applicability of the Surplus Land Act to the Long Beach Community Hospital (LBCH) property. In the attached letter, HCD has determined that the disposition of LBCH to MWN Community Hospital, LLC (MWN), by December 31, 2022, is exempt from the Surplus Land Act. Because the City entered into an exclusive negotiating agreement with MWN prior to certain legislative changes made to the Surplus Land Act in 2019, HCD has concluded that the LBCH property qualifies for a “grandfathering exemption,” under State law.

Furthermore, City staff requested that HCD review a broader exemption from the Surplus Land Act. A provision of the Surplus Land Act states that sites may be exempted if there are valid legal restrictions not imposed by a local agency that would prohibit the development of housing. The City has asked HCD to consider whether the LBCH site is exempt from the Surplus Land Act due to the impracticality of building affordable housing on the site according to existing State law, which substantially restricts development in earthquake fault zones. We have yet to receive a determination from HCD regarding this request.

If you have any questions, please contact Tyler Bonanno-Curley, Manager of Government Affairs, at (562) 570-5715 or Tyler.Curley@longbeach.gov.

ATTACHMENT

CC: CHARLES PARKIN, CITY ATTORNEY
DOUGLAS P. HAUBERT, CITY PROSECUTOR
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LINDA F. TATUM, ASSISTANT CITY MANAGER
TERESA CHANDLER, DEPUTY CITY MANAGER
MEREDITH REYNOLDS, SPECIAL DEPUTY CITY MANAGER FOR RECOVERY
APRIL WALKER, ADMINISTRATIVE DEPUTY CITY MANAGER
KEVIN LEE, CHIEF PUBLIC AFFAIRS OFFICER
MONIQUE DE LA GARZA, CITY CLERK
DEPARTMENT HEADS

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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June 2, 2022

Mary F. Torres, SR/WA
Acting Real Estate Development Bureau Manager
Economic Development Department
411 W, Ocean Blvd. 10th Floor,
Long Beach, CA 90802

Dear Mary F. Torres:

RE: HCD's Review of the Documentation relating to the Proposed Disposition of the Real Property associated with the Long Beach Community Hospital.

Thank you for contacting the California Department of Housing and Community Development (HCD) regarding the Long Beach Community Hospital (LBCH) property located at 1720 Termino Avenue, 1760 Termino Avenue and 4111 E. Wilton Street, Long Beach, CA 90804. You requested that HCD provide guidance as to whether the sale of the LBCH property is subject to the Surplus Land Act (SLA).

HCD reviewed the documentation you provided. As explained in more detail below, HCD finds that the proposed sale of the LBCH property is subject to the SLA as it existed on December 31, 2019, because the property qualifies for the "grandfathering exemption" under Government Code section 54234, subdivision (a)(1).

According to Government Code section 54234, subdivision (a)(1), the disposition of real property by a local agency is subject to the SLA as it existed on December 31, 2019, provided the disposition meets the following requirements:

- (i). The local agency entered into an exclusive negotiating agreement (ENA) or legally binding agreement to dispose of the property as of September 30, 2019.
- (ii). The disposition of the property to the party that had entered into the ENA or legally binding agreement (or its successors or assigns) is completed by December 31, 2022.

Based on the documentation provided, HCD finds that the City of Long Beach (City) and MWN Community Hospital, LLC (MWN) (collectively, the "Parties") entered into an ENA on July 3, 2018 (Effective Date). The purpose of the ENA was for the Parties to negotiate the proposed development of the LBCH property, and negotiate the terms and conditions of and prepare a long-term ground lease (Ground Lease) for MWN to operate

an acute care hospital with emergency and urgent care services and related medical uses at the property. The term of the ENA was for 180 days from the Effective Date. The ENA also allowed the City Manager or designee to extend the negotiating period two times for up to ninety days each.

On March 27, 2019, the Parties entered into a short-term lease (Interim Lease). According to the March 12, 2019, staff report-NB-23, the purpose of the Interim Lease was to allow MWN to prepare the facility for inspections that are required to reopen the hospital and maintain the facility while the Parties negotiated and finalized the terms of the Ground Lease. Based on the additional information provided by the City, it appears that the Parties continued to negotiate the terms and conditions of the Ground Lease between March 27, 2019, and October 15, 2019. HCD finds that on October 15, 2019, the Parties entered into the Ground Lease, which includes two options (Tenant Sale Option and Market Sale Option) for the City to sell the LBCH property. Under the Tenant Sale Option, the City is allowed to sell the LBCH property to MWN, provided MWN continues to use the property as a health care facility.

After reviewing the documentation provided, HCD concludes that, because the Parties entered into an ENA before September 30, 2019, and because exclusive negotiations between the Parties continued in the context of the Interim Lease and Ground Lease, the LBCH property qualifies for the “grandfathering exemption” under Government Code section 54234, subdivision (a)(1). Therefore, the disposition of the Property is subject to the SLA as it existed on December 31, 2019, provided the disposition of the property to MWN is completed by December 31, 2022. After the City has completed the disposition of the LBCH property to MWN, the City must provide HCD documentation showing that the disposition was completed by December 31, 2022, for HCD’s records.

If you have any questions or need additional technical assistance, please contact Public Lands at Publiclands@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability