


# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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October 20, 2011

TO: Honorable Members of the Budget and Finance Committee

FROM: Gerry F. Miller   
Chief Legislative Analyst

Council File No.: 11-1524  
Assignment No.: 11-09-0790

## **Ordinance to Release a Pledge to Dedicate a Portion of the Lancer Property (41<sup>st</sup> and Alameda) in Exchange for Cash and Creating a Trust Fund for Retention and Disbursement of the Funds**

### SUMMARY

The Harbor Department requests that Council: (1) amend a previous Pledge Agreement (Agreement) entered into by the Harbor Department and Libaw-Horowitz Investment Company concerning the Property located at 41<sup>st</sup> and Alameda Streets in the Alameda Corridor (Property) in Council District Nine, and (2) adopt an Ordinance to establish a Trust Fund for the cash pledge. There is no impact the General Fund as a result of these actions.

As part of a litigation settlement between Libaw-Horowitz Investment Company and the Harbor Department, approved by Council on August 13, 2003 (C.F. 03-1642), a 2.6 acre portion of the Property was dedicated to the Department of Recreation and Parks (RAP) or a non-profit designated by Council District Nine for recreation and park purposes. On July 12, 2011, Council District Nine requested that the Harbor Board of Commissioners allow Libaw-Horowitz to rescind its pledge to dedicate the 2.6 acres and instead provide a cash pledge in the amount of \$3,573,365 to improve and provide recreational facilities and programs within the vicinity of the Property (C.F. 11-1524).

According to the Council Office, since 2003 research has revealed the negative health impacts of air pollution on sensitive receptors. The Council Office believes that the Property would be better utilized as a garment design and manufacturing center to facilitate economic development in the area and make available up to 600 jobs for area residents (Attachment 1). The City Attorney reports that there is a buyer currently in escrow to purchase the entire Property from Libaw-Horowitz to construct this facility.

On August 4, 2011, the Board of Harbor Commissioners considered this request. According to the Harbor Department staff report released August 29, 2011, the Commission deferred this matter to the Council due to the following factors: (1) the Harbor Department is not the beneficiary of the Property and would not control the funds pursuant to the Cash Pledge; (2) the interests of this matter are wholly outside of the Harbor Department's jurisdiction, and (3) amendment of the Council-approved settlement would require Council approval and eventual adoption of an Ordinance to provide for administration of the funds (C.F. 11-1524).

On August 24, 2011 (C.F. 11-1524), the City Attorney submitted a draft Ordinance to (1) rescind the original Pledge Agreement; (2) amend the Pledge Agreement to provide for a cash pledge, and (3) create the Lancer Property Recreational Trust Fund to be administered by the Chief Legislative

Analyst. In addition to approval of the Ordinance, it is necessary that Council also authorize and direct the Board of Harbor Commissioners to rescind the previous Pledge Agreement and adopt the new Cash Pledge Agreement to allow the Harbor Department to take action on this matter.

With the assistance of RAP and the Housing Authority of the City of Los Angeles (HACLA), the Council Office has developed a list of park improvements at Pueblo Del Rio (a public housing development owned by HACLA), Fred Roberts Park and Ross Snyder Park that would receive funding from the Lancer Property Recreational Trust Fund. The Council Office has conducted community meetings at Pueblo Del Rio and Fred Roberts Park to gather input and feedback regarding the proposed improvements. It is anticipated that Ross Snyder park will receive a smaller portion of the funds to support programming only. Therefore, no community meetings were conducted. RAP has prepared a scope of work for all three locations which is included as Attachments 3,4, and 5 of this report.

To provide for implementation of the Lancer Property Recreational Trust Fund, we recommend that Council instruct this Office to work with Council District Nine and other appropriate City departments to establish a process for the implementation and payment of funds associated with the Cash Pledge Agreement as described in the draft Ordinance.

## RECOMMENDATIONS

That the City Council:

1. Approve the Termination and Release of Pledge Agreement and Associated Cash Pledge of \$3,573,365 between Libaw-Horowitz Investment Company and the Harbor Department (attached to the Harbor Commission report dated August 4, 2011, C.F. 11-1524).
2. Upon approval by the City Council, authorize and direct the Executive Director of the Board of Harbor Commissioners to execute, and the Board Secretary to attest, to:
  - a. Termination and Release of Pledge Agreement between Libaw Horowitz Investment Co. and the Harbor Department; and,
  - b. The associated Cash Pledge Agreement between Libaw Horowitz Investment Company and the Harbor Department.
3. Approve the draft Ordinance attached to the City Attorney report dated August 24, 2011 to (1) amend the previous Agreement entered into by the Harbor Department and Libaw-Horowitz Investment Company concerning the Lancer/21st and Alameda Property in Council District Nine to convert from land to cash, (2) adopt an Ordinance to establish the Lancer Property Recreational Trust Fund for the cash pledge (\$3,573,365) to be used for park purposes in Council District Nine.
4. Instruct the Chief Legislative Analyst, with the assistance of Council District Nine, the Housing Authority of the City of Los Angeles, the Department of Recreation and Parks, and other departments as appropriate to establish a process for the implementation and payment of funds associated with the Cash Pledge Agreement.

## ENVIRONMENTAL REVIEW

The City Attorney reports that the establishment of the Trust Fund is considered an administrative activity and is exempt from the California Environmental Quality Act in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

## FISCAL IMPACT

There is no impact to the General Fund as a result of these actions. The City will receive \$3,573,365 to be placed in the Lancer Site Recreational Improvements Trust Fund upon adoption of the proposed Ordinance.



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Brian Randol  
Analyst

- Attachments:
1. Letter from Council District Nine Concerning Pledge Amendment
  2. Background on Lancer Litigation
  3. Estimated Cost for Pueblo Del Rio Improvements
  4. Estimated Cost for Fred Roberts Park Improvements
  5. Estimated Cost for Ross Snyder Park Improvements



JAN PERRY  
COUNCILWOMAN  
NINTH DISTRICT  
PRESIDENT PRO TEMPORE

City Council  
of the  
City of Los Angeles  
City Hall

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CHAIR

INFORMATION TECHNOLOGY &  
GOVERNMENT AFFAIRS  
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HOUSING, COMMUNITY &  
ECONOMIC DEVELOPMENT  
MEMBER

PUBLIC SAFETY  
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July 12, 2011

Los Angeles Board of Harbor Commissioners  
President Cindy Miscikowski  
Vice President David Arian  
Commissioner Robin Kramer  
Commissioner Douglas P. Krause  
Commissioner Kaylynn L. Kim  
425 S. Palos Verdes Street  
San Pedro, CA 90731

Re: Amendment to Settlement of Libaw-Horowitz Investment Co. v. City of Los Angeles, Council File  
03-1642

Dear Commissioners:

In 2003, the Harbor Department settled an action brought by Libaw-Horowitz Investment Company involving the Lancer Property, a roughly 14 acre parcel located at 41<sup>st</sup> and Alameda Streets in Council District Nine. The settlement was authorized by the City Council on August 13, 2003. Pursuant to the settlement agreement, the Harbor Department sold the Lancer property to Libaw-Horowitz subject to, and in conjunction with, Libaw-Horowitz' pledge to dedicate approximately 2.6 acres of the property back to the City of Los Angeles Department of Parks and Recreation (RAP), or alternatively, to a non-profit community organization that would use and maintain the property for recreation and park purposes. The Harbor Department's settlement and sale was challenged in a court action by community gardeners that were occupying the property at the time. That action finally concluded in January 2009 when the California Supreme Court declined to review the case.

Since the pledge agreement was authorized in 2003, there has been an emerging field of research regarding air pollutants and the harmful impacts they can have on sensitive receptors. Considering the health risk posed by diesel emissions, the propriety of establishing an active use park in the middle of this heavily industrialized corridor should be questioned and is the primary reason why I am requesting the Harbor Commission to consider amending the pledge agreement.

Currently, Libaw-Horowitz is in escrow with a buyer that proposes to build a design center on the Lancer property that will encompass garment design, manufacturing and warehousing and could potentially create up to 600 new jobs. The buyer's plans, however, require the entire Lancer property including the pledged 2.6 acres.

Considering the City's immediate need for jobs and tax revenues and the location of the site on the Alameda Corridor, I ask that the pledge agreement be amended, such that Libaw-Horowitz shall be relieved of its pledge to dedicate the 2.6 acres in exchange for a cash pledge.

The cash value of the release shall be equal to a pro-rata share based on acreage of the sale price that Libaw-Horowitz has agreed to with the current prospective buyer. The cash proceeds of the release shall be dedicated to a trust fund established by an ordinance and limited to use for recreation and parks purposes. The fund will be used to improve existing recreation facilities with capital improvements and programming and to create new recreation opportunities in the area adjacent to the Lancer site. Execution of the release and payment of the settlement funds shall not be contingent upon Libaw-Horowitz closing the pending sale or any future sale of the property.

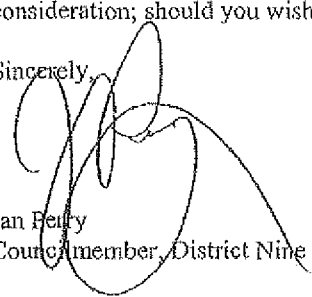
Specifically, the first installment of funds in the approximate amount of \$2.7 million will go towards recreation and parks capital improvements. There are multiple opportunities for investment in the local community parks where over 40% of area residents are under the age of 17 and live in high density conditions. There is public housing for more than 2,000 residents at Pueblo Del Rio in the immediate area of the Lancer site and the recreation and parks improvements could be implemented quickly there to improve access to much-needed recreational opportunities for families and children. Currently, I am working with RAP and the Housing Authority of the City of Los Angeles (HACLA) to develop a menu of recreation and park improvement options with associated costs to present to the Resident Advisory Committee (RAC). Pueblo Del Rio has an active RAC and that body will help the City ultimately decide what recreation and parks improvements will be made.

The second installment of funds in the approximate amount of \$900,000 will be used to support programming activities at existing recreation and parks facilities in the vicinity of the Lancer site. These recreation facilities include but are not limited to Fred Roberts Park and Ross Snyder Park. These funds may also be used to support organizations who manage recreation activities.

Additionally, it should be noted that in partnership with my office and the Department of Water and Power the Los Angeles Community Garden Council has successfully established a new seven-acre garden with 190 plots at 110<sup>th</sup> Street and Avalon Boulevard. In fact, many of the community gardeners who gardened at the Lancer site have been able to locate here.

The Lancer property has a long history yet it remains one of the few large assembled, undeveloped properties in the City of Los Angeles. Amending the pledge agreement will allow the property to be fully utilized for job creation and provide support to existing recreation facilities. I will continue conversations with HACLA, RAP and community-based organizations; I know these funds can be used to improve and create recreation opportunities for the community in the vicinity of the Lancer site. I appreciate your consideration; should you wish to discuss this matter further, please contact me directly.

Sincerely,



Jan Fein  
Councilmember, District Nine

cc: Deputy Mayor Larry Frank, Office of Mayor Villaraigosa  
Gerry Miller, Chief Legislative Analyst  
Kenneth Mattfeld, Deputy City Attorney  
Tim Ison, Libaw-Horowitz Investment Co.

## Background

According to the City Attorney, in 1986 the City acquired the Property through condemnation to construct a trash incinerator known as the Los Angeles City Energy Recovery (Lancer). The predecessor to Libaw-Horowitz Investment Company, Alameda-Barbara Investment Co., owned 11 of the 14 acres. Negotiations regarding the fair price to be paid for the parcel continued until 1990, when the LANCER project was abandoned.

In 1994, the City transferred the Parcel to the Harbor Department which reimbursed the City \$13.3 million. The property was occupied by as many as 400 community gardeners who would later become the association known as South Central Farmers Feeding Families. By October 1996, a purchase and sale agreement was reached with Libaw-Horowitz (the new name for Alameda-Barbara Co.) and Harbor staff. According to the City Attorney, Libaw-Horowitz signed the agreement and Harbor staff indicated the agreement would be forwarded to the Harbor Commission and Council for approval. However, the Harbor Department did not process the agreement due to pending litigation brought by the State of California regarding use of Harbor Department trust funds. In 2001, the Harbor Department informed Mr. Horowitz that it decided not to sell the property but would instead offer it publicly for development under a long-term lease.

In 2002, Libaw-Horowitz filed suit against the City for breach of oral agreement and other associated causes of action. In July 2003, a settlement was reached that had the following provisions: (1) sale of the Parcel to Libaw-Horowitz for \$5,050,000, (2) dedication of roughly 2.6 acres for recreation and parks purposes, (3) a sanitary sewer easement in favor of the City, and (4) dismissal of the claims. On August 13, 2003, the Council concurred with the Harbor Commission's actions of June 23, 2003 to approve the settlement (C.F. 03-1642).

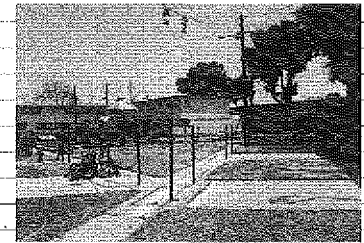
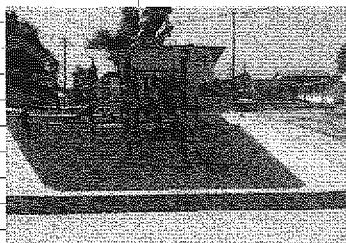
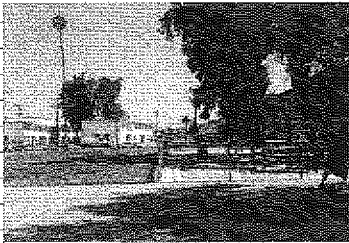
After the sale closed in December 2003, Libaw Horowitz gave notice to the Regional Food Bank that its month to month lease for gardening would be terminated. In February 2004, the South Central Farmers Feeding Families, along with individual plaintiffs, filed suit against Libaw-Horowitz and the City asserting various causes of action (including violation of due process). The City Attorney report states that these legal challenges were resolved in 2009 in favor of the City and Libaw-Horowitz when the California Supreme Court declined to hear the case.

Before the Budget and Finance Committee today is a request to: (1) amend the previous Agreement entered into by the Harbor Department and Libaw-Horowitz Investment Company concerning the Property in Council District Nine to convert from land to cash, and (2) adopt an Ordinance to establish the Lancer Property Recreational Trust Fund for the cash pledge (\$3,573,365) to be used for park purposes.



## Pueblo Del Rio Housing - Parks Estimate

Description	Total
<b>Project Related Costs</b>	
Environmental (CEQA)	\$ 25,000
Survey	\$ 25,000
Design	\$ 175,000
Permits	\$ 20,000
Administration (project and construction oversight)	\$ 50,000
<b>Subtotal</b>	<b>\$ 295,000</b>
<b>Direct Construction</b>	
Playground (near bldg #47)	\$ 175,000
Exercise Equipment (near bldg #33)	\$ 125,000
Playground (near bldg #42)	\$ 250,000
Playground (near bldg #11)	\$ 175,000
Basketball Court Renovations	\$ 20,000
Universal Access Playground (near Community Center)	\$ 800,000
Building Renovations ( paint, restroom ada upgrades, kitchen upgrades, storefront windows at rollup doors, new roof, new interior lighting, new doors, repair roof termite damage)	\$ 400,000
<b>Subtotal</b>	<b>\$ 1,945,000</b>
<b>Project Contingency</b>	<b>\$ 194,500</b>
<b>TOTAL PROJECT COST</b>	<b>\$ 2,434,500</b>





**Fred Roberts - Synthetic Turf Soccer Field,  
Jogging Path, & Fitness Equipment**

10/8/2011

Description	Total		
<b>Project Related Costs</b>			
Environmental (CEQA)	\$ 9,000		
Survey	\$ 9,000		
Design	\$ 58,000		
Permits	\$ 7,000		
Administration (project and construction oversight)	\$ 20,000		
<b>Subtotal</b>	<b>\$ 103,000</b>		
<b>Direct Construction</b>			
New outdoor fitness equipment	\$ 50,000		
Synthetic turf soccer field, including drainage	\$ 330,000		
Shade structures (2) over bleachers	\$ 85,000		
Aluminum bleachers (2)	\$ 10,000		
Concrete jogging/walking path	\$ 48,000		
Fencing and gates	\$ 37,000		
Irrigation (new and modifications)	\$ 35,000		
<b>Subtotal</b>	<b>\$ 595,000</b>		
<b>Project Contingency</b>	<b>\$ 72,000</b>		
<b>TOTAL PROJECT COST</b>	<b>\$ 770,000</b>		



**Ross Synder Additional Funding Needs  
Proposal**

<b>Program</b>	<b>Amount Proposed</b>	<b>Contibution Use discription</b>
Part Time Recreation Assistant	\$20,000.00 Annual Contibution	Part time salaries for rec. assistant
Afterschool Club Program	\$2000 Annual Contribution	Supplies ie. Arts and Crafts,Balls, Board Games
Summer Day Camp	\$1500 Annual Contibution	Camper Subsidy /Schlorships
Sports Program	\$5000 Annual Contribution	Trophies and Uniforms/Supplies
Teen Program (Class)	\$5000 Annual Contibution	Field Trip Admissions
	\$47,0000 Total Annual Contibution	