



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 1 8 - 0 0 4 1  
FEB 0 8 2018

**REPORT RE:**

**DRAFT ORDINANCES FINDING THAT THE PUBLIC INTEREST AND  
NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN  
OF PROPERTIES IN THE CITY OF LOS ANGELES LOCATED AT  
9606 BELLANCA AVENUE; 5651 WEST 96<sup>TH</sup> STREET;  
9830 BELLANCA AVENUE; AND 5431 WEST 98<sup>TH</sup> STREET  
(SUBJECT PROPERTIES)**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

This Office transmits for your consideration the enclosed four draft ordinances, approved as to form and legality, approving Resolutions of Necessity making statutory findings and authorizing the acquisition by eminent domain of the fee interest of the Subject Properties described in the ordinances. The public use for which the Subject Properties are being considered for acquisition is to implement the projects under the Landside Access Modernization Program (LAMP) at LAX (Project).

The adoption of these ordinances will require a hearing with an opportunity for the property owners to be heard and an affirmative vote of at least two-thirds of the members of the full City Council.

Background

LAWA is proposing to modernize LAX to improve passenger quality-of-service and provide world-class facilities for its customers. Currently LAX is the third busiest airport in the U.S. and the largest in California, and the Central Terminal Area and

parking areas are severely congested during peak periods and conditions are expected only to worsen over time. Through the Project, LAWA will provide new transportation options and facilities to mitigate the congestion and parking issues including: an Automated People Mover (APM) System; a Consolidated Rental Car Facility (ConRAC); and an Intermodal Transportation Facilities (ITF) close to the 405 freeway and Sepulveda Boulevard to allow for pick-up and drop-off of passengers. After considering different project alignments and options, the current alignment was selected to offer the greatest public good and the least private injury, and the Subject Properties sought to be acquired by eminent domain are necessary for the Project because they will be part of the APM; roadway improvements; or the ConRAC.

The property located at 5431 West 98<sup>th</sup> Street (LAUSD Property) is owned by the Los Angeles Unified School District and has been used by Bright Star Schools as a charter school. LAWA and Bright Star Schools previously reached an agreement concerning the relocation of the charter school to a new location. Because the Manchester Square area will be used for the ConRAC, there is no longer a need for a public school at the LAUSD Property. As detailed above, the Project will offer numerous public benefits and address public problems. For these reasons, the Project (i.e., the use for which the LAUSD Property is being acquired) is a more necessary public use than the use to which the LAUSD Property has been devoted. Finally, to the extent any of the Subject Properties have any utilities or other uses that are public uses, the uses for which LAWA will be acquiring the Subject Properties are either compatible public uses and will not unreasonably interfere with or impair the continuance of the public use to which the Subject Properties are already devoted, or the uses for which LAWA will be acquiring the Subject Properties are more necessary public uses than the use to which portions of the Subject Properties have been devoted.

#### Negotiations with Owners

In November 2017, LAWA made written offers to the owners of record of the Subject Properties for not less than the approved appraisals of the fair market value (FMV) for each of the Subject Properties. To date, the owners of record of the Subject Properties have either rejected or not timely accepted LAWA's respective offers. LAWA remains willing to negotiate voluntary purchases of each of the Subject Properties, but LAWA requests authorization to initiate the eminent domain process to acquire the Subject Properties if agreement cannot be reached.

#### Notice and Opportunity to Be Heard

Pursuant to Code of Civil Procedure Section 1245.235, the City Council is required to set a date for the hearing and the notice of the hearing must be sent to the persons whose properties are to be acquired at least 15 days prior to the hearing. That required notice will be sent to the owners.

Summary of Ordinance Provisions

Charter Section 632(c) provides that the Board of Airport Commissioners shall have the power to purchase, lease, acquire, condemn, design, erect, maintain, improve, repair and operate all property, improvements, utilities, equipment, supplies or facilities as it may deem necessary or convenient for departmental purposes. The power of condemnation shall only be exercised with approval of the City Council. The ordinances make the findings required under California Eminent Domain Law and approve LAWA's use of eminent domain to acquire the Subject Properties. The ordinances also authorize the City Attorney to take all actions necessary to commence, prosecute and settle the legal proceedings and to obtain pre-judgment possession of the Subject Properties.

CEQA Findings

The action is within the scope of the project covered by previously adopted EIR ENV-2016-3391-EIR for the Project; and, therefore, the Project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2.i of the Los Angeles City CEQA Guidelines.

Council Rule 38 Referral

Copies of the draft ordinances were presented to the Board of Airport Commissioners, and it concurs with this recommendation.

If you have any questions regarding this matter, please contact Deputy City Attorney Cynthia Alexander at (424) 646-5196. She or another member of this Office will be present when you consider this matter to answer questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

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DM:CA:pj  
Transmittal