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**REPORT TO THE
BOARD OF AIRPORT COMMISSIONERS**

Marisa Katnich
Approved by: Marisa Katnich, Property Manager IV

Debbie Bowers
Reviewed by: Debbie Bowers, Deputy Executive Director

J. Timothy J.
City Attorney

Deborah Flint
Deborah Flint – Chief Executive Officer

Meeting Date:

1/18/2018

CAO Review:

- Completed
 Pending
 N/A

| Reviewed for | Date | Approval Status | By |
|--------------------|------------|--|-----|
| Finance | 1/5/2018 | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA | RW |
| CEQA | 1/3/2018 | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | JH |
| Procurement | 12/29/2017 | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Cond | CRW |
| Guest Experience | 12/28/2017 | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | BY |
| Strategic Planning | 12/28/2017 | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA | KV |

SUBJECT: Public Hearing and Possible Adoption of Resolutions of Necessity Requesting the City Council to Authorize Commencement of Eminent Domain Proceedings

Conduct the public hearing and determine whether to request the City Council to adopt Resolutions of Necessity to authorize commencement of eminent domain proceedings to acquire the four properties located at 1) 9606 Bellanca Avenue, Los Angeles; 2) 5651 West 96th Street, Los Angeles; 3) 9830 Bellanca Avenue, Los Angeles; and 4) 5431 West 98th Street, Los Angeles (collectively referred to as the "Subject Properties").

RECOMMENDATIONS:

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. CONDUCT a public hearing on the proposed Resolutions of Necessity.
3. DETERMINE that:

- (a) Any activity (approval of bids, execution of contracts, allocation of funds, etc.) for which the underlying project has previously been evaluated for environmental significance and processed according to the requirements of the California Environmental Quality Act (CEQA) is exempt from further review pursuant to Article II, Section 2.i of the Los Angeles City CEQA Guidelines. Land Access Modernization Program Environmental Impact Report (EIR) [ENV-2016-3391-EIR] was certified by Board of Airport Commissioners for this Project on March 2, 2017 (Resolution 26185), and certified and adopted by the Los Angeles City Council on September 19, 2017.
- (b) The taking of the Subject Properties is authorized by, *inter alia*, Section 19, Article I of the California Constitution, Sections 37350.5 and 40404(f) of the California Government Code, Public Utilities Code Section 21661.6, the Los Angeles City Charter Section 632(c), Section 1230.010 et seq., of the California Code of Civil Procedure, and all other applicable law as set forth herein.
4. ADOPT the Resolutions of Necessity making all necessary findings and requesting the City Council to authorize commencement of eminent domain proceedings to acquire four properties located at: 1) 9606 Bellanca Avenue, Los Angeles; 2) 5651 West 96th Street, Los Angeles; 3) 9830 Bellanca Avenue, Los Angeles; and 4) 5431 West 98th Street, Los Angeles, for the LAX Landside Access Modernization Program.
5. APPROPRIATE an amount not to exceed \$29,643,650 from the LAX Revenue Fund.
6. AUTHORIZE the Chief Financial Officer, upon proper certification and instruction from the Chief Executive Officer and City Attorney, to draw demands in the amount necessary to make deposits of just compensation with the California State Treasurer's Office in connection with the eminent domain proceedings and/or pay the purchase price for the acquisition of each of the Subject Properties through negotiated settlement or court judgment.
7. REQUEST that the City Council adopt an ordinance approving the Resolution of Necessity, upon approval as to form and legality by the City Attorney.

DISCUSSION:

1. Purpose

Acquire property rights necessary and required to implement the projects under the Landside Access Modernization Program (LAMP) at Los Angeles International Airport (LAX).

2. Prior Related Actions

- March 2, 2017 – Resolution No. 26185
The Board of Airport Commissioners certified the Final EIR (ENV-2016-3391-EIR, State Clearing House No. 2015021014) for the LAX LAMP Project, in compliance with State and City CEQA Guidelines, and was adopted by the Los Angeles City Council on September 19, 2017.

- June 13, 2017 - City Council held a public hearing in compliance with the Public Utilities Code Section 21661.6 and, following the hearing, approved the plan for the proposed LAMP property acquisition activities.

3. Current Action

LAWA must acquire certain interests in the Subject Properties located at: 1) 9606 Bellanca Avenue, Los Angeles; 2) 5651 West 96th Street, Los Angeles; 3) 9830 Bellanca Avenue, Los Angeles; and 4) 5431 West 98th Street, Los Angeles to implement LAMP (also referred to herein as the, "Project").

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. The public hearing and adoption of the attached Resolutions of Necessity will authorize LAWA to acquire each of the Subject Properties by eminent domain upon approval by the City Council.

The cost to acquire the Subject Properties is estimated to total \$29,643,650 as further itemized in the table below.

| Address | Property Interest | Offer Amount | Date of Offer | Project Need |
|-----------------------|-------------------|--------------|---------------|--------------|
| 9606 Bellanca Avenue | Full Fee | \$7,722,575 | 11/20/2017 | APM |
| 5651 W 96th Street | Easements | \$1,060,500 | 11/15/2017 | APM |
| 9830 Bellanca Avenue | Full Fee | \$6,620,575 | 11/15/2017 | Roadways |
| 5431 West 98th Street | Full Fee | \$14,240,000 | 12/7/2017 | APM/ConRAC |

Eminent Domain Process

In accordance with California Government Code Section 37350.5, Public Utilities Code Section 21661.6 and the Los Angeles City Charter Section 632(c), the City of Los Angeles, acting by and through LAWA, may acquire property by eminent domain for airport and related public uses and purposes necessary to carry out its powers or functions. One of LAWA's powers and functions is to acquire land for the Project and to build the Project.

As required by Government Code Section 7267.2, written offers based upon approved appraisals were presented to each of the owners of record of the Subject Properties. While LAWA is willing to continue negotiating with each of the owners to reach voluntary purchases, to date, LAWA has not been able to reach negotiated agreements with any of the owners of the Subject Properties. Thus, the exercise of eminent domain is necessary to acquire the Subject Properties which are needed for the Project.

In accordance with California eminent domain law, LAWA mailed a notice of this hearing to the owner of each of the Subject Properties informing each owner of the right to appear and to be heard on whether the following factors exist:

1. That the public interest and necessity require the proposed Project;
2. That the proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
3. That each of the Subject Properties sought to be acquired by eminent domain and described in the Resolutions of Necessity is necessary for the proposed Project;
4. That the offer required by Government Code section 7267.2, together with the accompanying statement and summary of the basis for the amount established as just compensation, was actually made to each of the owners of the Subject Properties (unless the owner could not be located with reasonable diligence) and that the respective offer and statement/summary were in a form and contained all of the factual information required by Government Code section 7267.2; and
5. That the requisite environmental review of the proposed use has been completed in compliance with CEQA.
6. Pursuant to Code of Civil Procedure sections 1240.610 and 1240.510, to the extent that the Subject Properties are already devoted to a public use, the use to which the Subject Properties are to be acquired under the Resolutions of Necessity is a more necessary public use than the use to which the Subject Properties are already devoted or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Subject Properties are already devoted.
7. That as to the property located at 9830 Bellanca Avenue, Los Angeles, a small portion of the property is not part of the Project, but would be rendered an uneconomic remnant under Code of Civil Procedure section 1240.410 were it not acquired as part of the Subject Property.

After the Board has held the public meeting, the Board must decide whether to adopt the proposed Resolutions of Necessity to acquire the Subject Properties by eminent domain, subject to approval by the City Council. In order to adopt the Resolutions of Necessity, the Board must consider the factual presentations and evidence (including the information in this report), and by vote of two-thirds of its governing body, find and determine that the factors listed in items 1 through 6 above exist as to the Subject Properties and that item 7 also exists as to the property located at 9830 Bellanca Avenue, Los Angeles. Adoption of the Resolutions of Necessity by the Board and approval by City Council will authorize LAWA's legal counsel to pursue legal action to acquire the Subject Properties by eminent domain, including seeking prejudgment possession of the Subject Properties through a court order.

Provided below is information substantiating the factors in items 1 through 7 above:

With respect to items 1 through 3, 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 continue 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 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 concluded 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.

With respect to item 4, an offer was made to the owner of record of each of the Subject Properties in accordance with Section 7267.2 of the Government Code. LAWA staff has taken the following required actions for each of the Subject Properties:

- Obtained appraisals from a California Licensed General Real Estate Appraiser to determine the FMV of each of the Subject Properties.
- Reviewed and approved the appraisals to establish the just compensation (purchase) offer amount for each of the Subject Properties.
- Determined the owners of the Subject Properties and the owners' interest therein by examining the title reports for each of the Subject Properties.
- Sent a written offer via priority mail to each of the owners of record of the Subject Properties for the full amount of just compensation, which was not less than the approved appraised value. Each of the written offers was accompanied by an appraisal summary statement, an informational pamphlet detailing the process of eminent domain, the owner's rights under the California Eminent Domain Law, and the summary statement.

With respect to item 5, the environmental impacts of the Project were evaluated in the previously adopted LAMP EIR, ENV-2016-3391-EIR. The EIR was adopted by BOAC on March 2, 2017 (Resolution No. 26185) and certified and adopted by the Los Angeles City Council on September 19, 2017, and pursuant to CEQA Guidelines Sections 15162 and 15164 for the Project. The Project is exempt from the requirements of the California Environmental Quality Act pursuant to Article II, Section 2.i of the Los Angeles City CEQA Guidelines.

With respect to item 6, the property located at 5431 West 98th Street, Los Angeles (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 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.

With respect to item 7, a small portion of the property located at 9830 Bellanca Avenue, Los Angeles (Khorasani Property) is not part of the Project. However, LAWA's acquisition of the portions of the Khorasani Property that are required for the Project would render the

portion that is not part of the Project landlocked and of such a small size as to eliminate any meaningful use. The owner of the Khorasani Property asked that LAWA appraise the small portion and include it with LAWA's offer of just compensation. For these reasons, the small portion of the Khorasani that is not part of the Project would be rendered an uneconomic remnant were it not acquired by LAWA.

How this action advances a specific strategic plan goal and objective

This action advances this strategic goal and objective:

- Strategic Objective 3C: Develop, Maintain, and Operate First Class Facilities
 - Deliver LAMP on time and on schedule

Procurement Process

Property rights to be acquired by court action through eminent domain proceedings.

Action Requested

Staff requests the Board conduct the public hearing and adopt the Resolutions of Necessity making findings and authorizing the commencement of eminent domain proceedings, upon approval by the City Council, to acquire the Subject Properties.

Fiscal Impact

The acquisition will be funded through the LAX Revenue Fund and will be reimbursed with Passenger Facility Charges subject to eligibility.

4. Alternatives Considered

• ***Voluntary Acquisition***

LAWA has made a written offer to the owners of record of the Subject Properties in an amount not less than the approved appraisals of each of the Subject Property's fair market value. To date however, the owners have either rejected or not accepted LAWA's offers.

• ***Take No Action***

Taking no action on this item will render it impossible to construct and operate the Project as planned.

APPROPRIATIONS:

Staff requests funds in the amount not to exceed \$29,643,650 be appropriated and allocated from the LAX Revenue Fund to WBS Element No. 1.18.25A-700 (LAMP Phase 1 Eminent Domain (Land Acquisition)) to be reimbursed with Passenger Facility Charges, subject to eligibility.

STANDARD PROVISIONS:

1. The underlying Project was previously evaluated for environmental significance by LAMP EIR, ENV-2016-3391-EIR, adopted by BOAC on March 2, 2017 (Resolution No. 26185), and

certified and adopted by City Council on September 19, 2017, and is exempt from the requirements of CEQA pursuant to Article II, Section 2.i of the Los Angeles City CEQA Guidelines.

2. The City Attorney will approve as to form and legality a proposed ordinance for the City Council to approve the Resolutions of Necessity.
3. Actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 632(c).
4. This action is not subject to the provisions of the Service Contractor Worker Retention and Living Wage Ordinances.
5. This action is not subject to the Small Business Enterprise, Local Business Enterprise/Small Local Business Enterprise and Disabled Veteran Business Enterprise Programs.
6. This action is not subject to the provisions of the Affirmative Action Program.
7. This action does not require a Business Tax Registration Certificate number.
8. This action is not subject to the provisions of the Child Support Obligations Ordinance.
9. This action is not subject to the insurance requirements of the Los Angeles World Airports.
10. This action is not subject to the provisions of Charter Section 1022 (Use of Independent Contractor).
11. This action is not subject to the provisions of the Contractor Responsibility Program.
12. This action is not subject to the provisions of the Equal Benefits Ordinance.
13. This action is not subject to the provisions of the First Source Hiring Program.
14. This action is not subject to the provisions of Bidder Contributions CEC Form 55.

Attachments:

1. Resolutions of Necessity
2. Draft Ordinances