San Fernando Valley
Special Reorganization

Applicant Requests – May 15, 2002

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Applicant Request

Los Angeles Department of Water and Power – Disposition & Rate Protections

Request

Applicant sets forth the following requests with respect to the disposition of the City of Los Angeles Department of Water and Power ("DWP"):

1. **Ownership** - The new city shall have an undivided proportional interest, based on percentage of population in the respective jurisdictions, in ownership and control in the Department of Water and Power of the same type and character as that of the City of Los Angeles. This avoids a physical division of DWP and keeps a DWP that works together.

2. **Governance** - The new city shall have proportional representation on any and all civilian boards or commissions having jurisdiction over the DWP, its rates or services, based on percentage of a) population or b) revenue generated from rate payers in the respective jurisdictions, in perpetuity. No substantive changes shall be made in the levels of rates or services without the approval of both the Los Angeles City Council and the new city council, in perpetuity.

3. **Rate Protections** - Utility customers in the new city shall have rates consistent with those charged to various categories of customers situated in the remaining City of Los Angeles, in perpetuity.

4. **Service Level Protections** - Utility customers in the new city shall have levels of service consistent with those provided to customers situated in the remaining City of Los Angeles, in perpetuity.

5. **Transfers to General Fund** - Any increase in the amount of funds transferred to the City of Los Angeles General Fund that occurs after the base year used in the Executive Officer’s report shall be proportionately split between the two cities. The new city amount will be paid to the new City or credited against the mitigation payment.

Proposed Findings/Discussion

In a Special Reorganization, fairness and equity dictate that the residents and ratepayers of newly formed cities that are derived from existing cities have vested and equal right, title and interest in public-serving utilities and resources owned by the predecessor city. Post-reorganization, they are entitled to rate equality, service parity, proportional representation, and a pro rata ownership interest. They are further entitled to protection of all such interests by having equal right to the approval of substantive changes in rates and services. The new city being found to have paid for a proportional share of these assets for 87 years, should not be subjected to a taking of such valuable, unique and irreplaceable public-serving interests.
Applicant Request

Wastewater Collection and Treatment System - Disposition & Rate Protections

Request

Applicant sets forth the following requests with respect to the disposition of the Los Angeles Wastewater Collection and Treatment System:

a. Ownership - The new city shall have an undivided proportional interest, based on percentage of population in the respective jurisdictions, in ownership and control in the Wastewater Collection and Treatment System of the same type and character as that of the City of Los Angeles.

b. Governance - The new city shall have proportionate representation on any and all civilian boards or commissions having jurisdiction over the Wastewater Collection and Treatment System, its rates or services, based on percentage of a) population or b) revenue generated from rate payers in the respective jurisdictions, in perpetuity. No substantive changes shall be made in the levels of rates or services without the approval of both the Los Angeles City Council and the new city council, in perpetuity.

c. Rate Protection - Utility customers in the new city shall have rates consistent with those charged to various categories of customers situated in the remaining City of Los Angeles, in perpetuity.

d. Service Level Protection - Utility customers in the new city shall have levels of service consistent with those provided to customers situated in the remaining City of Los Angeles, in perpetuity.

Proposed Findings/Discussion

In a Special Reorganization, fairness and equity dictate that the residents and ratepayers of newly formed cities that are derived from existing cities have vested and equal right, title and interest in public-serving utilities and resources owned by the predecessor city. Post-reorganization, they are entitled to rate equality, service parity, proportional representation, and a pro rata ownership interest. They are further entitled to protection of all such interests by having equal right to the approval of substantive changes in rates and services. The new city being found to have paid for a proportional share of these assets for 87 years, should not be subjected to a taking of such valuable, unique and irreplaceable public-serving interests.
Applicant Request

Los Angeles World Airports and the Port of Los Angeles - Disposition

Request

Applicant sets forth the following requests with respect to the disposition of the Los Angeles World Airports and the Port of Los Angeles:

a. Ownership - The new city shall have an undivided proportional interest, based on percentage of population in the respective jurisdictions, in ownership and control in the Los Angeles World Airports and the Port of Los Angeles of the same type and character as that of the City of Los Angeles.

b. Governance - The new city shall have proportionate representation on any and all civilian boards or commissions having jurisdiction over the Los Angeles World Airports and the Port of Los Angeles, based on percentage of population in the respective jurisdictions, in perpetuity.

Proposed Findings/Discussion

In a Special Reorganization, fairness and equity dictate that the residents of newly formed cities that are derived from existing cities have vested and equal right, title and interest in public-serving assets and resources owned by the predecessor city. Post-reorganization, they are entitled to proportional representation, and a pro rata ownership interest. The new cities being found to have paid for a proportional share of these assets for 87 years, should not be subjected to a taking of such valuable, unique and irreplaceable public-serving interests.
**Effective Date – Cityhood**

**Request**

Applicant requests that the effective date of the San Fernando Valley Special Reorganization be January 1, 2003.

**Proposed Findings**

It is in the best interest of all parties for the new city to become a legal entity, with legal standing at the earliest practical date. Such status will resolve a myriad of process issues, and allow the respective jurisdictions to engage in constructive negotiations and to develop formal cooperation. Further, it is anticipated that municipal incorporation within the year 2002 will give the new city the ability to begin to access additional special funds, providing revenues for the start-up of the new entity, without detriment or expense to the City of Los Angeles.

**Discussion**

Without standing at the earliest possible date, there would be no formal leadership or legal entity to promote and protect the interests of the new city. This could create a substantial disadvantage, as well as unnecessary exposure and additional processes for the Third Party Fiscal Agent and for LAFCO.
Applicant Request

Length of Transition Period

Request

Applicant requests that the transition period extend from the Effective Date for a period of not less than eighteen (18) months as recommended by the Subcommittee and thirty (30) months as originally requested by the Applicant.

Proposed Findings/Discussion

A twelve month transition period is insufficient. The process of transitioning the assets, operations and affairs of a city of 1.35 million people is a significant undertaking. A transition period of not less than eighteen (18) months and not to exceed thirty (30) months provides an appropriate interval for the assessment, planning, research, recruitment, negotiation, and transition necessary to responsibly establish the new municipality.

This period of transition services does not place an undue burden or constitute a hardship to the City of Los Angeles.

Without limitation, possible activities include:

a. Organization
b. Outreach Programming
c. Needs Assessment for Community Services
d. Inventory of Assets
e. Exploration of Service Options
f. Identification of any New Facilities
g. Strategic Planning
h. Development of Special Services
i. Setup of Departments to Provide Services
j. Negotiation of Service Contracts with the City of Los Angeles
k. Negotiation of Service Contracts with Other Service Providers
l. Recruitment of Personnel
m. Development and Adoption of a New City Charter
Applicant Request

Commencement of Mitigation Payments and Payment Date

Request

Applicant requests that monthly mitigation payments commence on the first of each month, beginning at least thirty (30) days after the Effective Date.

Proposed Findings

It is in the interest of fairness, continuity and organization, that the new city be given a reasonable interval between the Effective Date and the necessity of making an initial mitigation payment. See Gov.C. Sec.56844(p) and (v).

e.g. if the Effective date for all purposes were January 1, 2003, the first payment would be due on February 1, 2003, and subsequent payments would be due on the first day of each subsequent month.
Request

Applicants are committed to keeping Neighborhood Councils in a new Valley City. If anything, Applicant supports even stronger Neighborhood Councils with greater authority. Therefore, Applicant requests that the words “except those provided by the Department of Neighborhood Empowerment” be deleted from the “Transition Period Services” term and condition. It is further requested that by the City Council of the new city adopting, by ordinance, applicable provisions of the City of Los Angeles City Charter, those sections of the Los Angeles City Charter providing for neighborhood councils will be adopted by the new city.

Proposed Findings/Discussion

The Resolution now provides that during the transition period, all City of Los Angeles services continue to be provided to the new city, with the one exception of the Department of Neighborhood Empowerment (“DONE”).

It is in the best interest of the people of the new city and the City of Los Angeles that all existing services and programs be continued on the Effective Date, including neighborhood councils. Residents within the Special Reorganization Area have spent considerable time and effort organizing and forming neighborhood councils. The councils in the Special Reorganization Area should continue, by ordinance, to receive the staff and funding to be formed and act as a voice in their communities.
Applicant Request

Adoption of Charter Provisions as Ordinance – Community Protections

Request

Applicant requests that the commission adopt a term and condition in the Resolution that

“The new city shall adopt in ordinance the applicable provisions of the City of Los Angeles Charter, except to the extent inconsistent with the laws of the State of California governing general law cities.”

Proposed Findings/Discussion

This provision will continue all applicable provisions of the City of Los Angeles Charter protecting residents and employees at the start of the new city. For example, the neighborhood council system, the civil service system as to transferring employees, the area planning commission structure, campaign finance and ethics provisions shall initially be enacted as part of the new city’s laws.

It is in the best interest of the people of the new city and the City of Los Angeles that all specially enacted existing services and programs be continued on the Effective Date to the extent reasonably possible. The residents of the City of Los Angeles have recently adopted a revised city charter. Pending the adoption of any charter for the new city, the adoption, in ordinance, of the City of Los Angeles charter provisions will provide continuity and stability for the community during the transition process.

Pursuant to Gov.C. Sec. 57376(a), the City Council of the new city, immediately following the Effective Date, and before taking any other official action, is required to adopt all City of Los Angeles ordinances applicable to the Special Reorganization Area. Sections of the City of Los Angeles Charter are also applicable to and benefit the residents of the Special Reorganization Area.
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Applicant Request

Transfer of Employees – Protection of Employee Benefits & Rights; Civil Service

Request

Applicant requests that the Commission adopt the following term and condition in the resolution:

**Employee Protections** - “Employees of the City of Los Angeles who elect to take employment with the new city shall receive the same level of compensation and all benefits per their existing labor agreements, their seniority and bumping rights, placement on certification lists and retirement benefits.”

**Civil Service** - “The civil service provisions of the City of Los Angeles Charter (Section 1000, et. seq.) shall apply to City of Los Angeles employees who elect to take employment with the new city. The City Council of the new city shall, immediately following its organization, adopt an ordinance providing that the civil service provisions of the City of Los Angeles Charter (Section 1000, et. seq.) apply to such employees.”

Proposed Findings/Discussion

Government Code Section 56844 (l) gives the Commission to power to protect the “seniority rights, retirement rights, and other employee benefits and rights” of employee transferees. One of the fundamental objectives of the Cortese-Knox Act is to not financially harm the workers of the City of Los Angeles that will transfer to the new city. The Commission has the legal authority to specify in the Resolution the protections for workers who transfer to the new city.

The staff report concludes that “[t]he new city must provide comparable compensation and benefits in order to recruit City of Los Angeles workers” (Executive Officer’s Report page 50).

Given that the largest single component of a municipal budget is personnel, and that this is an area most ripe for confusion, it is wholly appropriate that the interests of city employees be protected and that applicable statutory provisions be set forth in full in the text of the Resolution. Applicant is not aware of any opposition to adding the above quoted language to the Resolution Terms and Conditions, either from the City of Los Angeles or from any City of Los Angeles bargaining unit representative.
Applicant Request

Police and Fire - Pensions Protection

Request

Applicant requests that the Commission adopt the following Term and Condition:

“There shall be reciprocity between the pension systems of the City of Los Angeles and of the new city for all employees of the City of Los Angeles, including police and fire personnel, who transfer to the new city (“transferring employees”), i.e. the pension benefits (without diminution) of all transferring employees shall transfer with the transferring employees.”

Proposed Findings/Discussion

Government Code Section 56844.2(b), 56844(l) and (v) protect the retirement rights of employee transferees. One of the fundamental objectives of the Cortese-Knox Act is to not financially harm the workers of the City of Los Angeles that will transfer to the new city. The Commission has the legal authority to specify in the Resolution the rights of workers who transfer to the new city—including the disposition of pensions for police and firefighters. See Exhibit A, letter to LAFCO from Atty. Clark Alsop, February 27, 2002, p. 4.

The staff report concludes that “[t]he new city must provide comparable compensation and benefits in order to recruit City of Los Angeles workers” (Executive Officer’s Report page 50), and that except for police and fire personnel, the pension benefits of all City of Los Angeles employees currently transfer with them to another municipality (Executive Officer’s Report page 51).

Given that the largest single component of a municipal budget is personnel, and that this is an area most ripe for confusion, it is wholly appropriate that the interests of city employees be protected and that applicable statutory provisions be set forth in full in the text of the Resolution.
Applicant Request

Assignment of Leases

Request

Applicant requests that the following language be added as a Resolution Term and Condition:

“On and after the effective date and without the payment of compensation to the City of Los Angeles, at the option of the new city and with the consent of the lessor, if any consent is required, the City of Los Angeles shall assign to the new city any and all leases, whether of real or personal property, for property leased by the City of Los Angeles and located within or exclusively serving the Special Reorganization Area.”

Proposed Findings/Discussion

Leases are an interest in real property with value, character and utility similar to that of a fee interest. Presumptively, a city’s leases are a necessary part of their operational infrastructure, and part of their portfolio of assets. Likewise personal property leases may be presumed to be necessary for the functions of the city, and should therefore be a part of any transfer of assets and operations. Leases for all leased property located within or exclusively serving the Special Reorganization Area should be assigned to the new city, at the option of the new city.
Applicant Request

Other Assets (Miscellaneous) – Catch all Language for unknown assets

Request

Applicant requests that the description in the “Miscellaneous Assets” Resolution Term and Condition be expanded by replacing “assets owned” with “interests held, whether as owner, lessee, licensee, easement holder or otherwise, in assets, known or unknown, disclosed or undisclosed.”

Applicant further requests that the following language be added to the Resolution:

“Any and all assets not otherwise specifically accounted for in this Resolution, whether known or unknown, and whether intentionally or mistakenly omitted from discussion or description, including general and special funds, reserves and trusts shall be subject to a proportional division. And, where there are more than one of any such asset, their division shall be done in good faith, in a fair, equitable and proportional manner, both quantitatively and qualitatively. Single assets may be jointly owned and controlled or liquidated with proceeds divided.

All divisions of assets shall be based upon average inventories, quantities and conditions substantially in conformance with their number and status in the fiscal year 2001-2002. Any extraordinary action or disposition of assets inconsistent with the normal course of the functioning of the City of Los Angeles, including repair, replacement, maintenance, development or continuation of projects, bulk transfers, diversions or wasting of assets, shall be corrected and resolved by accounting adjustment credit after the Effective Date.

These assets may, without limitation, include: franchises and fees, as franchisor or franchisee; causes of action and claims; tangible and intangible property; accounts and notes receivable; contingencies; insurance rights, indemnities and policies; surety, completion, performance and other bonds; geographically and topically relevant special funds and accounts; contracts, grants; and awards; external utilities and entitlements; service contracts; rights, titles and interests in real property and chattel; records, books and ledgers; historical documents and files; computer technology, systems, hardware, and software with licenses; to the extent transferable, or subject to any necessary consent of licensors, franchisors and grantors.”

Proposed Findings/Discussion

As set forth in this Resolution, it is the intent of the respective entities, and the Commission, to make a fair and equitable division of properties to the extent it is reasonably possible.

Applicant Requests – May 15, 2002
Request

Applicant requests that the Commission include the following recitation within the lettered portion of the Resolution:

“The Commission has received and considered the legal opinions of the County of Los Angeles Office of the County Counsel (“County Counsel”) dated November 21, 2001 and of the California Legislative Counsel (“Legislative Counsel”) dated January 8, 2002 (Opinion No. 128), along with the legal opinions from the Applicant and the City of Los Angeles, on the issue of whether or not the Commission has the power to transfer proprietary assets of the City of Los Angeles to the new city in this Special Reorganization without just compensation or the consent of the City of Los Angeles. Based upon the record in this matter, the Commission finds that the terms and conditions concerning the transfer of proprietary assets from the City of Los Angeles to the new city set forth in this Resolution are consistent with both the legal opinions of the County Counsel and the Legislative Counsel.

The Subcommittee followed the Legislative Counsel opinion where it differed from the County Counsel opinion. Based upon the Subcommittee’s recommendation, the Commission has provided for the transfer of certain proprietary assets of the City of Los Angeles to the new city in this Resolution.

But this Resolution is also consistent with the County Counsel opinion. The Commission finds that the City of Los Angeles has received just compensation for the transfer of the proprietary assets described in this Resolution to the new city. The just compensation received by the City of Los Angeles consists of: (a) the contribution of the residents of the Special Reorganization Area to the acquisition, improvement and maintenance of all proprietary assets of the City of Los Angeles, whether transferred to the new city or retained by the City of Los Angeles, and/or (b) the debt and liabilities assumed by the new city under this Resolution. Furthermore, the Commission finds that if the Proposal is approved by the voters of the City of Los Angeles, the City of Los Angeles will be consenting to the transfer of the proprietary assets to the new city.”

Discussion

Given the divergent legal opinions of County Counsel and Legislative Counsel concerning whether or not the Commission has the power to transfer propriety assets of the City of Los Angeles to the new city without compensation or the consent of the City of Los Angeles, Applicant believes that the requested language will achieve the dual purpose of discouraging litigation on the issue and bolstering the defense of the Commission’s decision in the event of litigation.

Applicant Requests – May 15, 2002
Applicant Request
Continuation of Grant Funding to Programs and Non-profits

Request

Applicant requests the commission to modify the Resolution language to provide that funding for all annual Federal, State and other grants currently applied for to benefit Valley programs and non-profits continue to be applied for and paid to the those programs and non-profits by the City of Los Angeles during the years 2003 and 2004, and the Valley City at its option will pay the City of Los Angeles to administer the funds or shall set up its own department and administer the funds themselves. This may simply require a specific service related transition period which is within the power of LAFCO to provide protections to these non-profits and programs that benefit so many residents.

All multi year grants whether entitlement or competitive should be continued to be paid to the programs they were applied for, at the very least during the special Transition period for these programs.

Proposed Findings

Funding for non-profits and programs that help the less fortunate and needy should be continued without interruption or risk of loss of their funding sources.

In the negotiation sessions the City of Los Angeles and the Applicant agreed to the following:

The City of Los Angeles already as of April 2002 applied for 2003 grant funding for many programs in the Valley. The City administer the application of these funds to the Valley programs and non-profits during the 2003 calendar year. Additionally, they agreed that since the application for the year 2004 would be due by April 2003, and the new City would not be in a position with the historical data necessary to make the application on their own, the City of Los Angeles would make the application for 2004 as well for the same programs and organizations and again administer the funds. The new Valley City would pay the City of Los Angeles to administer these funds. The new Valley City would apply for annual grants beginning in 2004 for the 2005 year. This agreement ensures that all non-profits and programs receiving Federal and State or other Funds will not be adversely impacted.

All multi year grants already received by the City of Los Angeles should continue as well.