January 7, 2002

LAFCO Commissioners  
C/o Larry Calemine  
Executive Director  
700 N. Central Avenue, Suite 350  
Glendale, CA 91203

Re: PFM Facilitator Report on Negotiations (Dec. 27, 2001)

Dear Commissioners,

We have reviewed the PFM report on the negotiations dated December 27, 2001 and seek to correct and clarify Valley VOTE’s position on a number of items which were not accurately represented or summarized in the PFM Summary of the negotiations. We believe that as the Special Reorganization process continues and LAFCO begins to sort through the issues and questions that still need to be resolved, that the LAFCO staff and commissioners would be better serve to consider the issues with an accurate representation of the Valley’s position. Therefore, we submit for the record the following corrections;

1. To read the report one would get the impression that little or no documentation was
of assets, allocation of liabilities, employee protections and revenue neutrality. Except for a report on Workforce issues, the City of Los Angeles representatives unfortunately throughout the negotiation session did not submit one written proposal or counter proposal to any of the other topics designated by LAFCO to be addressed.

2. Page 3, Transition Period, The Valley has reduced its proposal from a three (3) year transition period to a two and one half (2.5) year transition period in our submission of Terms and Conditions. The statement that “all parties expressed a common interest in minimizing the length of any formal transition period” is not an accurate representation of our position. Instead, it would more appropriate to state that “all parties expressed a common interest in expediting the movement from operating under the services provided under the services provided under the terms and conditions and moving toward either entering contractual arrangements or the new Valley City taking responsibility for their own services”. The movement, however, to contractual arrangements will to a large degree depend upon the cooperation and flexibility of both parties to reach the necessary agreements. Therefore, this acknowledgement that it is desirable to move to permanent arrangements does not alter the Valley’s position that considering the number of services involved, the number of departments involved and employees and employee agreements, that a transition period of up to two and one half years will be necessary.

3. Page 3, Transition Period, contains a statement that “common interests were also expressed regarding such matters as: the City [of Los Angeles’] continued discretion to direct services within the new cities during this period”. This is not an accurate representation of our position. It remains our position that the new Valley City Council and Mayor would have discretion to direct the services as needed within the Valley provided the overall level of services is within the level of services designated to the Valley per the CFA and the amount paid for by the Valley in accordance the terms and conditions set by LAFCO. The Valley would be the client, and as such must maintain its rights in overseeing the City of Los Angeles’ delivery of those services.

4. Page 4, Assets and Liabilities. With regard to Asset allocation the report misstates the basis for our position that the Valley residents are entitled to receive an allocation of the City assets. It is not merely that the residents are shareholders. We continue to maintain our position that Article I, Section 19 of the California Constitution regarding eminent domain is inapplicable to reorganization proceedings pursuant to Government Code section 56000 et seq. and that LAFCO as a quasi legislative body of the State of California is expressly authorized to set the basis and ground rules for the division of public property in cases of reorganizations. Our position is that LAFCO has the full authority to incorporate as part of the proposal that is put to the voters, a proposal to
divide and/or transfer assets, both proprietary and non-proprietary, owned by the City of Los Angeles. Once that is or is not agreed too, the how and in determining what percentage is appropriate is where we suggest that assets be allocated proportionally on the basis that all residents are shareholders.

5. Page 5 the third bullet, states that there was general consensus that assets related to local service-delivery (e.g. police and fire stations and equipment serving the new communities [cities] would transfer to the new cities at no cost upon the new communities’ assumption of responsibility for the associated service delivery”. The timing of the transfer was a matter where the city and the Valley clearly disagreed. The Valley proposed that the assets be turned over to the Valley city on a definitive date some time soon after the effective date not a sometime later left in large part up to the City of Los Angeles decision. The City’s primary concern was that the Valley pay for its obligations and provide the city assurances that it will meets its financial obligations. This is the issue that should be addressed and buildings and equipment necessary to the new city should not be subject to later being held hostage by the City of Los Angeles. All prior matrix tables accurately reflected this difference on the timing of the transfer. The Valley proposes a transfer of ownership upon the effective date or a definitive date soon thereafter and a subsequent delivery of possession when the city of LA no longer provides the services in part, for the following reasons;

a. The City of Los Angeles concern is that they have some means of assurance that the Valley will meet its financial obligations on debt and services. We have endeavored to achieve that through our proposed terms and conditions by providing that a percentage of revenues sufficient to cover the Valley’s obligations goes to the City of LA and monthly payments for the excess. Once the City is provided reasonable protections and security on related debts, and payments for the services, there is no reason not to transfer the assets to the new Valley City at some date soon after the effective date.

b. The City of Los Angeles itself has urged LAFCO to provide greater certainty in the LAFCO proposal so the Voters will know what they are voting for. We believe the transfer of the assets is an issue that falls into this category and that the voters should know with certainty which assets and when they will transfer. Allowing that the City of Los Angeles will transfer assets when they are done providing a service or when they are “made whole”

   A provision calling a transfer at or soon after the effective date provides greater certainty to the voters and avoids the possibility of disputes at a later time between the new Valley City and the City of Los Angeles.

c. To require the transfer of an asset only after the City stops providing a related service to the Valley will effectively create a potential obstacle to the Valley taking responsibility over the services or if it chooses not to contract with the City of LA for further services. Can you imagine the Valley City Council wanting to create their own police department, trying to hire a chief and management personnel, while at the same time having to be at the discretion of the City of Los Angeles which might claim warranted or not, that they are not “whole” and are not going to turn over the buildings or police cars. This would create an untenable predicament for the new City. The new City should own the assets and allow the City of Los Angeles to use the facilities as part of the agreement to provide the services to the Valley. But with the ownership of the assets the new Valley can make the decisions necessary to take over services or consider other options without being held hostage by the City of Los Angeles.

d. Another reason for an earlier transfer, not tied to the end of a service, it addresses concerns over responsibility of liability that may result and the maintenance of buildings and rolling stock. It also
addresses concerns some equipment or vehicles could be moved out of the Valley area, swapped out to other areas for inferior items or not be maintained at an even level with those that remain in the City of Los Angeles.

e. In short, an earlier and definitive transfer date and a designation of assets to be transferred is beneficial to both the new city and the City of Los Angeles and avoid potential disputes and problems over the transfer that might arise at a later time.

6. Page 5, the fifth bullet point, regarding liquid assets, states “however, the parties acknowledged that such balances may not be so large as to be of great concern”. The balance of this particular bullet section correctly represents the Valley’s position that it seeks an allocation of these liquid asset balances, but it should be stated for the record, it is our position that these balances should be allocated regardless of the size of the balances, large or small. It is the position of ValleyVOTE that fund balances would be transferred proportionate to population (see "Liquid Assets" in the PFM table).

7. Page 5, second to last paragraph regarding “enterprise assets” (water and power, wastewater, airports, port), the Valley’s position through the negotiations was that if LAFCO believes that it cannot provide a term and condition for a Municipal Utility District or Joint powers authority, than it should provide the Valley City with an "undivided” ownership interest” in the enterprise assets, which our attorneys believe LAFCO has the full authority to do, and draft a “subject to” term and condition related to the new city and the City of Los Angeles later and voluntarily forming a JPA or MUD. This would give the City greater security in its customer base, in regards to DWP as the Valley will be a part owner and less likely to look elsewhere down the road when the energy situation changes. It will also provide greater certainty for the employees of these proprietary departments and the residents of Los Angeles by keeping these assets together, having them serve both cities and letting both cities share responsibilities and costs associated with these assets. Providing the Valley City with the undivided ownership secures the City’s position to encourage the City of LA to form a mutual ownership entity. Valley VOTE’s consultants and attorneys who have experience with these matters would be willing to help LAFCO draft the necessary subject to language.

This concept is closely related to the concern the city has raised over costs of the IT system, crime lab and other central facilities that might be able to serve both cities. On January 4, 2002, the City of Los Angeles released a report suggesting that central costs of some operations would tally millions of dollars. They suggest the Valley should be responsible. We have not seen their report, however, where warranted the undivided interest proposal by the Valley might be extended to some of these other items. Perhaps the City is starting to realize the benefit of this concept. It could be a tool used by LAFCO on a number of similar issues.

8. The memo does not address the issue of Van Nuys Airport specifically. It is the position of ValleyVOTE that the Van Nuys Airport would transfer entirely, subject to FAA approval.

9. For housekeeping purposes, during the negotiations, Mr. Robert Scott participated in the negotiations in his
capacity as an Executive Board member of Valley VOTE and not in his capacity as a leader of the Valley Industry and Commerce Association as stated at the bottom of page 2 in the footnote.
Additional provisions:

1. The report does not reflect the detailed Terms and Conditions that were submitted to LAFCO on December 21, 2001. These Terms and Conditions provide detailed descriptions and examples of specific terms, and clarify several of the proposals that were discussed. These terms reflect ValleyVOTE’s position, and are consistent with the position that ValleyVOTE has maintained throughout the discussions. The Terms and Conditions cover a broader range of topics than shown in the PFM table, however, the PFM items specifically addressed include (but are not limited to): Transition Period Service Payment Calculation; Contractual Coverage; Escape Clause; Mitigation Payment Amount; Revenue Collection; Liquid Assets; Local Service-related Real Property and Rolling Stock; and Airports.

2. Throughout the LAFCO Reorganization process and the negotiations it has been Valley VOTE’s overarching contention that in all cases the Valley City and Valley residents shall be entitled to: 1) Fair and equitable share of all general and proprietary departments, assets and related liabilities, as well as proportionate share of all general funds and general liabilities, 2) Equal standing with the City of Los Angeles in all matters of reorganization and ongoing operations, 3) Proportionate control of all shared operations and services, and 4) Equal treatment between the City of Los Angeles and Valley residents in all shared operations and services

3. It is further understood that the Applicants reserve all legal rights, interests and causes of action they may have relative to the determination of the LAFCO, or in the ultimate disposition of any ballot proposition. These “negotiations” are intended merely to assist the LAFCO in fashioning language, terms and conditions that would give effect to state statutes, without stipulating to the legality or constitutionality of such state statutes, or of the disposition by the LAFCO.

Thank you for your time and consideration of these important items. Please feel free to contact me if you have any questions regarding these matters.

Very Truly Yours,

Jeff Brain
President