SPECIAL REORGANIZATION OF THE SAN FERNANDO VALLEY

STAFF REPORT
ON
FISCAL MITIGATION, EMPLOYEES, AND
MISCELLANEOUS TERMS AND CONDITIONS

REPORT
TO THE
LOCAL AGENCY FORMATION COMMISSION
FOR LOS ANGELES COUNTY
SUBCOMMITTEE ON FINDINGS, TERMS AND CONDITIONS

February 11, 2002

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INTRODUCTION

Purpose
The objective of this staff report is to provide the Commission with summary and analysis of potential terms and conditions on which they may condition approval of the proposal for special reorganization of the San Fernando Valley area of the City of Los Angeles—a detachment of the San Fernando Valley territory from the City of Los Angeles and incorporation of that area as an independent city (“Valley Special Reorganization”).

Context
This staff report is based on studies, negotiations and proposals that have been conducted this far in the process. This input includes three iterations of the fiscal analysis, comments at public hearings, the “terms and conditions” round of negotiations between the City of Los Angeles and the Valley Special Reorganization applicant (the “Applicant”) held during the last quarter of 2001, and the parties’ written proposals.

This report was preceded by a staff report on fiscal findings, transition period, revenues and standard terms and conditions. A subsequent report will provide staff recommendations on the allocation of assets and liabilities. A fourth report will be prepared following the “revenue neutrality” round of negotiations between the City of Los Angeles and the Applicant in March 2002. The Executive Officer’s report will be issued in April 2002 following completion of revenue neutrality negotiations, Subcommittee on Findings, Terms and Conditions (the “Subcommittee”) hearings, the Environmental Impact Report and, if requested, a Controller review of the Comprehensive Fiscal Analysis (“CFA”).

Caveats
This report includes analysis and recommendations on terms and conditions for the Commission and its Subcommittee to consider as they craft the final terms under which special reorganization will be submitted to the electorate.

This report is not a substitute for the guidance, deliberations and recommendations forthcoming from the Subcommittee on Findings, Terms and Conditions. Likewise, this report is not a substitute for the decisions yet to be made by the Commission on whether the proposed Valley Special Reorganization should be approved and how, if approved, the proposed Valley Special Reorganization should occur.
FISCAL MITIGATION

Background

Government Code section 56845 prohibits the Commission from approving a proposal that includes an incorporation unless it finds that the following are substantially equal:

(a) revenues currently received by the agency transferring the affected territory which would accrue to the local agency receiving the affected territory; and

(b) expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.

If these amounts are not substantially equal, the Commission may only approve a proposal if it finds that: (1) the county and all other subject agencies agree, or (2) the negative fiscal effect of the incorporation is adequately mitigated by tax sharing agreements, lump sum payments, payments over a fixed period of time, or other terms and conditions imposed by the Commission.

The revenue neutrality requirement was intended to protect counties from the revenue drain caused by incorporation, given that counties are required to provide and fund certain county-wide services even after an incorporation occurs. If a negative fiscal effect is anticipated, the incorporating territory must mitigate the negative fiscal effect, usually through a fixed payment over time. Although intended to protect counties, this provision is equally applicable to a proposed special reorganization (because it includes an incorporation). Further, this provision protects the City of Los Angeles, as the transferring agency, from the negative fiscal effect of the special reorganization.

The CFA contains an analysis of the “revenue neutrality” test set forth above, and concludes that the Valley Special Reorganization would not meet the revenue neutrality test because the Valley currently generates more in revenue than the City of Los Angeles currently expends in providing the services that would transfer to the proposed Valley city. As such the Commission can only approve the proposed Valley Special Reorganization with the agreement of the county and the City of Los Angeles, or if it finds that the negative fiscal effect of the proposal has been adequately mitigated.

Seven California incorporations have occurred since this “revenue neutrality” test was added by the legislature in 1992. In the first two cases of Truckee and Citrus Heights, the relevant LAFCO placed related mitigation measures in the terms and conditions, but in neither case were the mitigation measures followed after incorporation. Subsequently, it has become standard practice for the parties to negotiate mitigation terms and for these mutually agreeable terms to be attached to the LAFCO terms and conditions, and imposed as a term and condition of the incorporation.

The City of Los Angeles and the Applicant have indicated that they will negotiate such an agreement. Once the parties have negotiated the agreement, the Commission must make a finding that the agreement adequately mitigates the negative fiscal effect of the proposed Valley Special Reorganization. In the event that the parties do not negotiate such an agreement, the Commission

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1 The Cortese-Knox Local Government Reorganization Act of 1985 (Government Code section 56000, et seq) (the "Cortese-Knox Act") was amended by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Hertzberg Act"), which became effective January 1, 2001. Since the Valley Special Reorganization proposal was pending prior to the effective date of the Hertzberg Act, pursuant to the provisions of the Hertzberg Act, it is being processed under the prior law, and all references herein are to the former Government Code sections of the Cortese-Knox Act.

2 Government Code section 56845
would have to develop terms that adequately mitigate the negative fiscal effect before it could approve the special reorganization.

**Mitigation Payment Proposed in the CFA**

The CFA determined that current revenues accruing to the Valley would exceed current expenditures that would be assumed by the Valley by $65.8 million. Thus, the CFA concluded that the proposed Valley Special Reorganization would not be revenue neutral, and a negative fiscal effect on the City of Los Angeles of $65.8 million would have to be mitigated.

**Effect of Documentary Transfer Tax Reduction**

As we previously reported, it has been determined that the proposed Valley city cannot levy a documentary transfer tax at the same rate as the City of Los Angeles, and $30.9 million in documentary transfer taxes that the CFA assumed would accrue to the proposed Valley city will now have to be deducted from current revenue because the Valley city would not be able to impose the same tax rate. Based on this new information, we concluded that the proposed Valley Special Reorganization would still not be revenue neutral because current revenues would exceed current expenditures by $34.9 million. In addition, the City of Los Angeles would still lose $30.9 million in revenue because it cannot continue to collect its documentary transfer tax in the Valley if the Valley incorporates. Therefore, we recommended that the Commission find that the Valley Special Reorganization would have a negative fiscal effect on the City of Los Angeles of $65.8 million that should be mitigated.

**Effect of Cahuenga Pass Boundary Change**

In our last report we also recommended that the Commission study the removal of the Cahuenga Pass neighborhood from the Valley Special Reorganization area, because it was also included in the Hollywood Special Reorganization proposal and area homeowners requested the change. At the Commission’s January 23, 2002, meeting, it approved staff’s recommendation to have removal of the Cahuenga Pass neighborhood analyzed. We do not believe that this boundary change would have a significant effect on the mitigation payment estimate set forth in the CFA. The fiscal impact of removing the Cahuenga Pass neighborhood will be provided in the next staff report.

**Stranded Costs**

Although the Applicant has indicated agreement with the CFA estimate of the fiscal mitigation payment, the City of Los Angeles has indicated that it believes that the fiscal mitigation payment should be increased to compensate for fixed costs (or “stranded costs”) that the City faces regardless of whether or not the Valley is included in its boundaries.

The City of Los Angeles has asserted that once the new city is no longer relying on the City of Los Angeles for contract services, the City of Los Angeles would have a smaller revenue base to cover its

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3 Government Code section 56845 prohibits the Commission from approving a proposal that includes an incorporation unless it finds that the following are substantially equal:

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(a) expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.
stranded costs like central library book-binding and the 911 emergency communications system. However, the City should be able to maintain service levels in the remaining City of Los Angeles with a reduction in the current costs. For instance, the volume of 911 calls would be expected to decline substantially if the City no longer had to provide that service to the Valley, reducing the staffing needs for 911 operators. On the other hand, the City is correct that maintenance costs for the emergency communications system equipment would not necessarily be reduced. The Commission’s decisions about allocating assets like 911 communications system infrastructure and library books may affect the City’s stranded costs and related mitigation measures.

The City of Los Angeles has argued that the Valley should pay an additional $284 million to compensate the City of Los Angeles for stranded costs once the new city no longer contracts with the City of Los Angeles for services. The City of Los Angeles report, however, does not clearly establish the basis for its claim of $284 million in stranded costs. The report does not acknowledge the extent to which a reduction in the size of the city should affect the City’s workload. For example, the City report argues that the number of job applicants processed by the Personnel Department would not decline if the Valley detaches, and classifies just over half of the Valley share of current Personnel Department costs as fixed. The report does not discuss whether or not the number of open positions and the size of the City’s workforce would decline if the Valley detaches, and does not clearly establish why the remaining City of Los Angeles would need an ongoing subsidy to recruit and hire City of Los Angeles workers at current levels. Another example is the City Attorney’s office, for which the report lists $15.7 million in stranded costs. The report classifies four-fifths of the Valley’s share of current legal costs as fixed, but does not explain why the City of Los Angeles criminal prosecutions workload would fail to decline if the Valley were to provide criminal prosecution staffing directly. By comparison, the City of San Diego serves a population that is one-third the size of the current City of Los Angeles and it has a proportionally smaller City Attorney’s office. While acknowledging that there may be some stranded costs, the City has not shown why there would not generally be a reduction in the service costs incurred by the remaining City reflecting its reduced size.

In lieu of compelling evidence about City of Los Angeles stranded costs, staff continues to recommend that the Commission find that the Valley Special Reorganization would have a negative fiscal effect on the City of Los Angeles of $65.8 million that should be mitigated. If the City of Los Angeles produces compelling evidence about stranded costs, staff recommends that the Commission take those stranded costs into consideration if the parties do not reach their own agreement regarding mitigation.

**Mitigation Term**

Government Code section 56845(c)(2) requires that mitigation take the form of tax sharing agreements, lump sum payments or payments over a fixed period of time. The Applicant has proposed that the mitigation payment be made over a ten-year term. The City of Los Angeles has not proposed a length for the mitigation period, but has indicated that the period should be substantially longer than ten years. In past California incorporations, the mitigation term has been set at a 10 to 25-year length through negotiations between the respective county and cityhood proponents.

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4 City of Los Angeles, City Administrative Officer report, January 4, 2002
For Goleta, Santa Barbara County established two tax-sharing agreements—one for a ten-year mitigation term and another in perpetuity. Orange County has calculated the mitigation liability initially based on a 14-year term, and then compressed the actual payments into the first seven years following incorporation. Sacramento County has required a relatively long mitigation term of 25 years, with rapid phase-out of the payment during the final five years of the term.

With mitigation payments owed over a multi-year period, the issues of inflation and present value must be addressed. In the case of Goleta, Elk Grove and Citrus Heights, the mitigation obligation was calculated as a share of the new city’s revenues. The revenue-sharing approach addresses the problem of inflation eroding the value of the mitigation payment over time. In the case of the Orange County cities, the mitigation obligation was calculated as an annual dollar amount that increases with expected inflation as well as an additional factor representing expected borrowing costs. The Orange County cities were not expected to make a mitigation payment in the initial transition year. There are several approaches presented in this report for calculating the mitigation payment. In all three cases, the mitigation liability for each year has been adjusted for expected inflation of 2.5 percent, including expected inflation occurring between the CFA base year and the effective date. In all three cases, the calculations assume that the Valley would make a pro-rated mitigation payment during the first partial fiscal year, and that mitigation payments would be due to the City of Los Angeles by the last day of the respective fiscal year.

Staff recommends structuring the mitigation payment as a twenty-year payment with a gradual phase-out. This approach is based in part by the Elk Grove mitigation payment which was structured to gradually reduce the County’s reliance on the mitigation payment. Under the recommended approach, the mitigation payment would be discounted by five percent annually beginning in the first full fiscal year following incorporation. This five percent phase-out rate is less than the City of Los Angeles’ staff attrition rate (7 percent), implying that the City of Los Angeles could adjust to the financial effect of the Valley’s departure without laying off City workers. By the year 2022, the Valley would make its final payment, which would be only 5 percent of the inflation-adjusted estimate in the CFA. The present value of the payment stream that would be made under this approach is $563 million.

<table>
<thead>
<tr>
<th>California Incorporation Mitigation Term</th>
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<tbody>
<tr>
<td>City</td>
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<tr>
<td>Goleta</td>
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<tr>
<td>Aliso Viejo</td>
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<tr>
<td>Elk Grove</td>
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<td>Rancho Santa Margarita</td>
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<td>Laguna Woods</td>
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<tr>
<td>Citrus Heights</td>
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6 Elk Grove initially paid Sacramento County 90 percent of its property tax revenues, with the share declining by 5 percent every five years, and in the 19th year being phased out at a rate of 10 percent annually.
7 Present value calculations provide a method of comparing the value of a future stream of payments in today’s dollars. Present value is calculated based on the yield rate for ten-year Treasury notes at constant maturity, as valued on February 4, 2002.
An alternate approach follows the Applicant’s proposal for a ten-year term to the mitigation payment. Under this approach, the Valley would pay annually an amount equivalent to the CFA estimate with adjustments made for expected inflation. The Valley would make a pro-rated half-year payment in its eleventh year. The present value of the payment stream under this approach is $584 million.

Another alternative is to structure the payment to be made in perpetuity. The present value of payments made after the thirteenth year would be less than half of the nominal dollar figure. The present value of payments made in the fiftieth year would be less than ten percent of the nominal dollar figure. The present value of the first fifty years of payments would be $1.9 billion.

Staff recommends that the Commission establish a mitigation payment amount and term in the following fashion:

1) the mitigation payment should be based on the CFA estimate and adjusted for expected inflation of 2.5 percent annually; and

2) the mitigation payment should be discounted by a factor of five percent annually in a cumulative fashion, so as to completely phase out the mitigation payment after June 30, 2022.

Mitigation Payment Mechanism
The Commission has the option of requiring that the new city budget and encumber funds annually for the mitigation payment, or requiring that the new city share a portion of its revenues with the City of Los Angeles. Both the City of Los Angeles and the Applicant have proposed that the mitigation payment be structured as a share of tax revenues.

The most obvious revenue source to which the mitigation should be tied is the utility users tax on power consumption. This revenue source would be collected directly by the City of Los Angeles Department of Water and Power (DWP), assuming that the Commission leaves the DWP intact. The $65.8 million mitigation obligation estimated in the CFA was 80.5 percent of the electric utility users tax revenue stream in the 2000-01 fiscal year. The same goal as recommended by staff for the mitigation term could be accomplished if the City of Los Angeles and the proposed new city adopted a tax sharing agreement whereby the new city shares 80 percent of its electric utility users tax revenues with the City of Los Angeles during the first partial fiscal year, and thereafter shares a revenue share decreasing annually by four percent in a cumulative fashion. Without a tax sharing agreement between the parties, the Commission could accomplish this same effect by requiring that

| Present Value of Mitigation Payment Streams Under Three Alternative Scenarios |
|-----------------------------------|----------------|----------------|----------------|
| Term                | 20-year Phase-Out | 10-year term   | Perpetuity     |
| 20-Year             | $562,876,270     | $583,820,280   | $1,020,303,067|
| 50-Year             | $562,876,270     | $583,820,280   | $1,885,741,565|

Notes:
1) Inflation (2.5%) adjustment based on U.S. Congressional Budget Office forecast.
2) Present value calculation based on ten-year Treasury security (constant maturity) yield rate of 5.05% on February 4, 2002.
the new city impose the utility users tax, while permitting the City of Los Angeles to continue to collect and retain a percentage of the tax in the same manner.

Given that the Subcommittee previously adopted a staff recommendation that all such revenues be remitted to the third party fiscal agent, it would be consistent for the Commission to require that the DWP remit the utility users tax revenues to the fiscal agent for distribution according to the terms and conditions set by the Commission.

**Mitigation Payment Reconciliation**

The Applicant has proposed that the Commission set up a process whereby future disagreements regarding the mitigation period would be resolved. The City of Los Angeles has proposed that any tax sharing agreement be automatically discontinued in the event of litigation, in order to create incentives for the parties to abide by the original mitigation agreement.

The Commission does not have enforcement authority over its terms and conditions once a government reorganization has been approved. To the extent that the parties desire to include provisions regarding reconciliation, arbitration or incentive provisions in any tax sharing agreement, they are free to negotiate those terms, and the Commission will require that the new city council approve the agreement at their first meeting. To the extent that the Commission must impose terms and condition regarding the mitigation payment or any tax allocation to mitigate the negative fiscal effect of the special reorganization, those terms and conditions would be judicially enforceable.

**County of Los Angeles Mitigation Payment**

As we discussed in our previous report, while the Valley city would not be able to collect the same documentary transfer tax as the City of Los Angeles, it is authorized to adopt an ordinance pursuant to Revenue and Taxation Code section 11911 that would entitle it to one-half of the County’s documentary transfer tax. If the new city were to adopt such an ordinance it would have a negative fiscal effect on the County of Los Angeles of $4.3 million. Staff recommends that the Commission find that the Valley Special Reorganization would have a negative fiscal effect on the County of Los Angeles of $4.3 million that should be mitigated if the County so requests.
EMPLOYEES

Government Code section 56844.2 requires that collective bargaining agreements continue to be honored by the City of Los Angeles and a new Valley city for the balance of the term, and that existing retirement benefits be maintained. So long as it honors these restrictions, the Commission may impose conditions involving the employment, transfer, or discharge of employees, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.\(^8\)

Employee Transfer

City of Los Angeles employees should be accorded free will in deciding whether or not they would like to consider and be considered for employment at the new city. City employees will likely make these decisions based on a number of factors, including the commute, current job satisfaction, the competitiveness of the compensation offers, and the perception of promotional opportunities.

Staff recommends that employee transfers be conducted in a voluntary fashion. Both the City of Los Angeles and the Applicant have agreed that mandatory employee transfers should not be imposed.

Collective Bargaining Agreements

Government Code section 56844.2(b) requires that the Valley city honor both the collective bargaining agreement and collective bargaining rights of any transferred employee. Government Code section 56844.2 (c) requires that the Valley city honor any collective bargaining agreements in place on the effective date for the balance of the agreement term and until a subsequent agreement has been established. This effectively prohibits the Valley city from unilaterally changing the terms of existing collective bargaining agreements. The City of Los Angeles typically negotiates three-year employee agreements that govern salary, overtime pay, employee benefits, grievance procedures and other employment conditions.

The civilian employees are covered by twenty-four separate memoranda of understanding ("MOUs"), which are scheduled to expire on June 30, 2004. Coincidentally, the civilian contracts expire on the same day as the transition period ending date adopted by the Subcommittee for recommendation to the Commission. When the transition period ends, the City of Los Angeles will no longer be obligated to provide services to the Valley city. Judging from past practice, the City of Los Angeles is unlikely to finalize new MOUs with its employee unions until well after the MOU expiration date. Thus, it is reasonable to expect that most civilian employees who transfer to the Valley city would be covered by their existing City of Los Angeles MOU until a new collective bargaining agreement is negotiated with the Valley city.

The police officers and firefighters are covered by four separate MOUs, which are scheduled to expire on June 30, 2003. Given the complexity of establishing independent police and fire departments, it is reasonable to expect that the Valley city would most likely rely on the City of Los Angeles for contract police and fire service for several years after incorporation. Thus City of Los Angeles collective bargaining agreements will govern at least until such time as separate Valley city police and fire departments are created.

Staff considers the statutory employee protections to be adequate, and recommends against incorporating language in the resolution that would prevent transferred employees from voluntarily

\(^8\) Government Code section 56844(l)
accepting promotions or reclassifications from the new city. Transferring employees should be able to apply for positions at the Valley city that involve promotions or other suitable changes in job responsibilities. The new city must provide comparable compensation and benefits in order to recruit City of Los Angeles workers. The new city should have the flexibility to adopt its own unique organizational structure and job classification scheme, and not have the City of Los Angeles structure imposed on it.

**Civil Service System**

The City of Los Angeles civil service system is codified in the City’s Charter, civil service rules and policies, and other laws. The civil service system promotes professional management practices and protects employees from being replaced at the whim of elected officials or managers. Employees value the honesty and communication required in the evaluation process, along with the rewards for lengthier service.

Each civil service system is unique with numerous precedents and specific requirements relating to work performance and job qualification standards. Civil service systems may also differ in the degree to which they reward work experience as opposed to productivity and skill, and in the degree to which they tolerate unproductive and unsuitable workers.

The City of Los Angeles has proposed that the Valley city be required to adopt all the civil service charter provisions, administrative rules and policies in existence at the City of Los Angeles.

Staff recommends against rigid imposition of the City of Los Angeles civil service system on the new city. Staff notes that employees will be reluctant to accept work for public agencies without a civil service system or some other merit-based system, and that the laws of labor supply and demand will necessitate that the Valley create its own civil service or merit-based system. The Valley should have the flexibility, however, to develop its own system and not have a system imposed upon it by the Commission.

**Retirement Benefits**

Government Code section 56844.2 requires that existing retiree benefits be maintained in the case of special reorganization.

The City of Los Angeles maintains two pension funds that are relevant for special reorganization. In both cases, the City Charter, understandably, only provides for participation in these plans by employees of the City of Los Angeles. During the transition period following special reorganization, the City employees serving the Valley would remain in the City’s pension funds. If the City were to amend its charter, City employees who transfer to the Valley after the transition period could continue to be covered under the existing pension funds. Otherwise, the Valley city would provide pension benefits through a separate fund, most likely through California Public Employees’ Retirement System (CalPERS).

The Los Angeles City Employees’ Retirement System (LACERS) provides pension benefits to 13,000 retired civilian employees and administers the payments received on behalf of 26,000 active civilian workers. LACERS is fully funded, meaning that it would be able to pay out benefits to

9 Los Angeles City Charter, Art. XI.
existing retirees as well as deferred retirement benefits for active employees who transfer to the Valley city. LACERS has a reciprocity agreement with CalPERS that allows employees to apply years of service at the City of Los Angeles toward pension eligibility with other public sector employers in California. Under this reciprocity agreement, the retirement benefits of current City of Los Angeles employees who choose to transfer over to the new city would be maintained.\textsuperscript{12}

The City of Los Angeles Fire and Police Pension System presents two complications in the event of special reorganization—funding status and lack of reciprocity. The system provides pension benefits to 11,700 retirees, and administers the payments received on behalf of 12,300 active fire fighters and police officers.\textsuperscript{13} Although the pension plan may be fully funded, one-third of the health plan liability is not funded and requires ongoing subsidy.\textsuperscript{14} The health plan subsidy in fiscal year 2000-01 amounted to $26 million.

The Fire and Police Pension System does not have reciprocity agreements in place with other public safety pension funds or CalPERS. Because the officers are not vested in the pension plan until they have served 10 to 20 years, about 40 percent of the officers are not vested.\textsuperscript{15} If they should leave City employment before becoming vested, sworn personnel are entitled to only one-quarter of the payroll contributions made on their behalf along with related interest earnings. For the 5,100 non-vested police and firefighters, the City’s lack of reciprocity limits their incentives to transfer to other jurisdictions, and allows the City to recoup its training investment in the police and firefighters.

In the event of special reorganization and creation of separate Valley city police and fire departments, the less experienced officers would face the prospect of losing their past pension contributions if they transferred to the new Valley departments and would be most likely to be laid off by the City if they did not transfer and the City needed to reduce its force to accommodate its reduced service needs.\textsuperscript{16} The City of Los Angeles could maintain the non-vested officers’ retirement benefits either by a) amending the charter to allow the Valley city to participate in the City’s Fire and Police Pension System,\textsuperscript{17} or b) negotiating a reciprocity agreement with CalPERS.

\section*{Surplus Employees}

Eventually the new city will provide services directly rather than purchase services from the City of Los Angeles. At that time, the new city will likely recruit City of Los Angeles workers and other available workers to fill its staff positions. If the Valley offers competitive salaries, benefits and working conditions, it should succeed in attracting a diverse mix of City of Los Angeles workers.

There are several possible scenarios where the voluntary transfer of employees could leave the City of Los Angeles with a surplus workforce that it could not support without Valley-generated revenues:

\begin{itemize}
\item \textsuperscript{13} City of Los Angeles Fire and Police Pension System. \textit{Financial Statements and Supplemental Schedules, June 30, 2001 and 2000}.
\item \textsuperscript{14} City of Los Angeles Fire and Police Pension System. \textit{Financial Statements and Supplemental Schedules, June 30, 2000 and 1999}.
\item \textsuperscript{15} Police and firefighters hired before 1998 must complete at least ten years of service prior to becoming vested, while those hired in 1998 or later must complete at least twenty years of service prior to becoming vested. Los Angeles City Charter, Art. XI, §§ 1504, 1604.
\item \textsuperscript{16} The City of Los Angeles has seniority based layoff procedures. Los Angeles City Charter, Art. X, § 1015 and Civil Service rule 8.
\item \textsuperscript{17} City Charter amendments require voter approval. Cal. Const., Art. XI, § 3.
\end{itemize}
• if the Valley city fills positions with job candidates who are not City of Los Angeles employees,
• if the Valley city does not offer competitive salaries, benefits and working conditions,
• if the Valley city restructures service provision so that it requires less staff,
• if the City of Los Angeles does not provide retirement benefit portability to non-vested police officers and fire fighters, or
• if the City of Los Angeles fails to terminate unsuitable workers.

In the event that the City of Los Angeles is left with a surplus workforce, it would be faced with the choice of: (1) allowing surplus workers to diminish through natural attrition; (2) achieving other cost-savings or revenue enhancements that would finance the retention of the surplus workforce; or (3) laying off surplus workers through the City’s seniority-based layoff system.

The Applicant has proposed that the Valley city bear the cost of any surplus workers who formerly provided service to the Valley and who have not been laid off by the City of Los Angeles. Although such an arrangement would clearly give the Valley city incentives to attract and hire City of Los Angeles workers, it would give the City of Los Angeles incentives to retain surplus workers subsidized by the Valley city.

Both parties could potentially contribute to the creation of a surplus City of Los Angeles workforce. It is not in the interest of the taxpayers of either jurisdiction to be burdened with the costs of unneeded or unsuitable workers. For these reasons, staff recommends that any arrangement between the parties relating to the compensation of a surplus workforce be temporary in nature, involve careful definition of the surplus workforce, and involve both parties sharing the cost burden for surplus workers.
MISCELLANEOUS PROVISIONS

Redevelopment Areas
The City of Los Angeles has proposed that any transfer of the administration of any redevelopment area located in the detached territory be in accordance with the California Health and Safety Code sections 33214-33217. In addition, the Applicant has proposed that the City of Los Angeles shall not expand the boundaries of any redevelopment project area within the Valley nor shall it establish any new redevelopment project area during the transition period without official consent of the Valley City Council.

Staff recommends that the Commission adopt both of these proposed conditions.

Proposition K Assessment District
The City of Los Angeles has proposed that the territory of the new city be excluded from the boundaries of Landscaping and Street Lighting District number 96-1 (Proposition K), except that property owners in the new city shall continue to be liable for a pro rata share of bonds secured by Proposition K funds. Further, the City proposes that the property assessments shall be levied by the City of Los Angeles based upon the benefit received, and remitted by the County directly to the City.

Staff recommends that the Commission adopt the City’s proposal, with the exception that the funds shall be remitted by the County to the third party fiscal agent rather than being remitted directly to the City of Los Angeles.

Other Assessment Districts
Both parties have agreed that control of assessment districts other than Landscaping and Street Lighting District number 96-1 (Proposition K) located wholly within the Valley city be transferred to the Valley City Council after the effective date of incorporation.

The Valley has proposed that assessment districts that are partially within the Valley city be detached and the portion within the Valley City shall become the responsibility of the Valley city. The City of Los Angeles has indicated that it does not believe any such assessment districts exist.

Staff recommends that the Commission adopt both of these proposals.

Cost of Elections and Redistricting
Pursuant to Government Code section 57150(e), the City of Los Angeles and the Valley are obligated to share the costs of election on the question of special reorganization and selection of Valley city council members in proportion to the assessed value in the respective territories, if the Valley Special Reorganization is approved. If the voters reject special reorganization, the County of Los Angeles is obligated to bear these costs.

Staff recommends that the City of Los Angeles, the Valley and any other cities formed pursuant to these special reorganization proceedings be obligated to pay in proportionate shares the costs of redistricting the City of Los Angeles.
SUMMARY

This staff report provides summary and analysis of potential terms and conditions on which the Commission may condition approval of the proposal for special reorganization of the San Fernando Valley area of the City of Los Angeles. The report includes a number of recommendations for consideration by the Subcommittee and the Commission.

Prior Staff and Subcommittee Recommendations

Staff issued recommendations on the transition period, revenues and standard terms and conditions in its January 23, 2002 report. The Commission approved the staff recommendation to remove the Cahuenga Pass neighborhood from the San Fernando Valley Special Reorganization area. The Subcommittee reviewed all other recommendations, some of which were adopted and some of which were modified. Set forth below are those terms the Subcommittee adopted and Staff recommendations for those terms which were modified:

- The effective date of special reorganization shall be January 1, 2003.
- During the transition period, the City of Los Angeles shall be obligated to provide services to the new city in such a manner as to maintain pre-incorporation service levels. The City of Los Angeles shall be allowed to reduce service levels in the Valley during the transition period only as may be required for management of emergencies or revenue shortfalls in the new city.
- The transition period shall conclude on June 30, 2004, except that the transition period for a particular service shall terminate on the effective date of a service contract between the parties for the provision of that service.
- The new city may request cancellation of transition period services provided by the City of Los Angeles upon six month’s notice.
- If the new city cancels a transition period service with less than six months notice, the new city shall continue to be obligated to pay for transition period costs for that service throughout the six month period.
- The new city is required to reimburse the City of Los Angeles for the cost of transition period services at “net cost.” The net cost shall exclude overhead costs that the City of Los Angeles would incur regardless of whether it services the new city. Prohibited overhead costs shall include the salaries and employee benefits associated with elected officials and department heads, as well as their chiefs of staff and personal secretarial staff.
- The City of Los Angeles shall extend revenue credit toward the transition period service costs for any revenues that are generated in the Valley after the effective date of incorporation, but still collected and retained by the City during the transition period.
- Both the new city and the City of Los Angeles shall remit all revenues collected by or on behalf of the new city to a third party fiscal agent until the transition period services are repaid. The new city shall reimburse the third party fiscal agent for the costs of collecting and remitting tax revenues. The third party fiscal agent shall be acceptable to both the new city and the City of Los Angeles.
• The third party fiscal agent shall serve as the custodian of Valley funds during the transition period, shall make payments to the City of Los Angeles on a monthly basis for transition period service costs, and shall also make payments to the new city’s vendors, workers, and payroll accountant.

• The new city council shall adopt, at its first council meeting, all revenue neutrality agreements and tax sharing agreements negotiated by the Applicant.

• The Commission shall adopt standard provisions relating to city name, council member terms of office, ordinance adoption, tax authorization, appointive positions, sphere of influence, a provisional appropriations limit and development agreements.

**Current Staff Recommendations for Subcommittee Consideration**

The Commission should adopt terms agreeable to both the City of Los Angeles and the Applicant. In lieu of such agreement, staff recommends the following:

• In lieu of compelling evidence regarding City of Los Angeles stranded costs, the Commission should find that the Valley Special Reorganization would have a negative fiscal effect on the City of Los Angeles of $65.8 million that should be mitigated.

• The Commission should establish a mitigation payment amount and term for the City of Los Angeles in the following fashion:
  o the mitigation payment should be based on the CFA estimate and adjusted for expected inflation of 2.5 percent annually; and
  o the mitigation payment should be discounted by a factor of five percent annually in a cumulative fashion, so as to completely phase out the mitigation payment after June 30, 2022.
  o the Commission should require the new city to adopt any tax sharing agreement made by the City of Los Angeles and the Applicant at its first council meeting.
  The parties should consider a tax-sharing agreement whereby the new city shares 80 percent of its electric utility users tax revenues with the City of Los Angeles during the first partial fiscal year, and thereafter, a revenue share discounted by a factor of four percent annually in a cumulative fashion. In the alternative, the Commission could accomplish this same effect by requiring that the new city impose the utility users tax, while permitting the City of Los Angeles to continue to collect and retain a percentage of the tax in the same manner.

• Staff recommends that the Commission find that the Valley Special Reorganization would have a negative fiscal effect on the County of Los Angeles of $4.3 million that should be mitigated if the County so requests.

• With respect to employee transfers, both the City of Los Angeles and the new city are required to comply with the provisions of Government Code section 56844.2.

• The Commission should not impose a term and condition requiring the new city to adopt the City of Los Angeles civil service system.
• Any transfer of the administration of any redevelopment area located in the detached territory shall be in accordance with the California Health and Safety Code, sections 33214-33217. The City of Los Angeles shall not expand the boundaries of any redevelopment project area within the Valley nor shall it establish any new redevelopment project area during the transition period without official consent of the Valley City Council.

• The territory of the new city shall be excluded from the boundaries of Landscaping and Street Lighting District number 96-1 (Proposition K), except that property owners in the new city shall continue to be liable for a pro rata share of bonds secured by Proposition K funds. Property assessments shall be developed and levied by the City of Los Angeles based upon the benefit received, and remitted by the County directly to the third party fiscal agent.

• Assessment districts other than Landscaping and Street Lighting District number 96-1 (Proposition K) located wholly within the Valley city shall be transferred to the Valley City Council after the effective date of incorporation. Such assessment districts that are partially within the Valley city shall be detached and the portion within the Valley city shall become the responsibility of the Valley city.

• The costs of election on the question of special reorganization shall be allocated pursuant to Government Code section 57150(e).

• The City of Los Angeles, the Valley and any other cities formed pursuant to these special reorganization proceedings shall be obligated to pay in equal shares the costs of redistricting the City of Los Angeles.