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Local Agency Formation Commission
for the **County of Los Angeles**

EXECUTIVE OFFICER'S REPORT

PROPOSED INCORPORATION OF EAST LOS ANGELES

JANUARY 25, 2012

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EXECUTIVE SUMMARY

This report provides a summary review of the proposed incorporation of the City of East Los Angeles and the findings necessary for the Commission to make a determination regarding the incorporation request. This report was prepared pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (commencing with Government Code section 56000, *et seq.*).

The Comprehensive Fiscal Analysis (CFA) is the primary resource LAFCO uses to determine whether a city will be financially viable. The Final Public Hearing CFA, prepared by Economic & Planning Systems, Inc., concluded that the new city would not generate sufficient revenues to cover projected operating costs.

Until recently, a significant revenue source available to newly incorporated cities was motor vehicle license fees (VLF) revenues. SB 89, signed by Governor Brown on June 30, 2011, eliminates VLF revenues to any new city that incorporates; new cities that incorporated after 2004 previously benefitted from the VLF “bump” available to them during the first five years of incorporation. SB 89 was introduced after completion of the CFA draft. It eliminates roughly \$6 million- \$9 million East LA would have received during the first five years of incorporation, severely impacting the fiscal viability of the East LA proposal.

State law allows for the proponents to dispute key findings of the CFA by requesting State Controller review of the CFA. The proponents for incorporation, the East Los Angeles Residents Association (ELARA) requested State Controller review. The State Controller upheld the findings of the CFA on all but two issues; that the CFA underestimated the law enforcement contract expenditures by \$10.1 million, and under-counted Utility Users’ Tax revenues. In total the State Controller findings make the proposed new city even less viable than as set forth in the CFA.

State law requires that the Commission not approve an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three years of incorporation. East Los Angeles does not generate enough revenue to sustain a healthy and financially sound city. The Executive Officer recommends that the Commission disapprove the incorporation request.

LAFCO recognizes that the incorporation process is an arduous undertaking by community residents, involving long hours, dedication, and commitment, for which the proponents are to be commended. The conclusions reached in the CFA do not, in any way, minimize the tremendous efforts by ELARA.

INTRODUCTION

BACKGROUND AND HISTORY

The last city incorporation in Los Angeles County was the City of Malibu in 1991. In 1992 incorporations became subject to the provisions of Government Code Section 56815, otherwise known as the “revenue neutrality” law. Since then, it has been difficult for cities to incorporate without major revenue sources other than property taxes.

East Los Angeles is one of the earliest established communities of Los Angeles County. There have been four attempts to incorporate the East Los Angeles area since 1959, including this effort. On May 9, 1960, the Citizens Committee for Incorporation of East Los Angeles initiated a petition drive for incorporation. It was defeated by the voters on April 25, 1961. On September 1963, the Mexican American Political Association (MAPA) filed for incorporation of East Los Angeles; they did not meet the required number of petition signatures. The most recent incorporation effort was in 1971. The Commission approved the proposal but it was defeated at the election polls on November 5, 1975.

Since the establishment of the Local Agency Formation Commission in October of 1963, there have been two annexations in the East Los Angeles area. The first proposal, known as Belvedere Annexation No. 2, was approved by the Commission on May 2, 1967, and was annexed to the City of Los Angeles. It was less than one acre of territory. The second annexation proposal, known as Southwesterly Annexation No. 4, was approved by the Commission on November 26, 1975. That proposal annexed the northeast portion of East Los Angeles, including East Los Angeles College, to the City of Monterey Park. The annexed territory was two hundred and fifty six acres.

PROPOSED GOVERNMENT STRUCTURE

The proposed City of East Los Angeles would be a general law city with a City Council-City Manager form of government with a five-member city council and mayor elected at-large from residents of the area. The majority of cities in California operate under this form of municipal government. The elected council provides leadership and establishes policy. The city manager directs city departments in fulfilling those policies.

PROPOSED EFFECTIVE DATE OF INCORPORATION

The proposed effective date of incorporation is July 1, 2013. The transition year would be the first year of incorporation from July 1, 2013 to June 30, 2014.

ALTERNATIVES TO INCORPORATION- GOVERNANCE OPTIONS

RETENTION OF THE STATUS QUO

Under this option the Board of Supervisors continues to maintain local government

responsibility of the area; this option however, does not achieve the goals of incorporation as stated by the proponents in the petition.

ANNEXATION TO AN ADJACENT CITY

The residents of East Los Angeles have a very strong community identity. Annexation of the area by any one of the adjacent cities would probably be faced with strong community opposition. Many of the residents that attended the community workshops voiced their concerns over what they see as the historical cannibalization of valued areas of their community by previous annexations into adjoining cities.

FORMATION OF AN AREA PLANNING COMMISSION AND/OR MUNICIPAL ADVISORY COUNCIL

Los Angeles County does not have area planning commissions (APCs) such as those established in the City of Los Angeles, nor does it have municipal advisory councils (MACs). An APC or MAC would give residents a more localized influence over land use decisions. Presently, the County of Los Angeles planning structure does not allow for land use decisions to be made at a local level, within a community. Land use decisions are centralized and hearings are held in one location – downtown Los Angeles.

Under state law counties are authorized to form MACs, which are governed either by an elected advisory council of local citizens or a council appointed by the Board of Supervisors. MACs provide for a broader range of influence in community issues including land use.

The community could explore whether the County would be open to creating a MAC for the East LA area or establishing APCs in the near future.

FORMATION OF A MULTI-PURPOSE SPECIAL DISTRICT

One option that would be available to area residents would be the formation of a County Service Area (CSA) or a Community Service District (CSD). Formation of a CSA or CSD is initiated by application to LAFCO either by petition of 25% of the registered voters and or landowners, or resolution of the County or a city.

A CSA is an alternate means of providing services within the County governance structure. Government Code Section 25210.1 et seq. (CSA law) was initially established for residents of unincorporated areas seeking to expand their services. This option allows residents to obtain types or levels of services above that which is normally provided by the County. It requires payment for those expanded services either through service charges or a tax levy within the service area.

CSA law allows for the provision of extended law enforcement and police protection, fire protection and emergency response and medical services, park and recreation facilities and services, library, water, sewer, vector control, street and highway lighting and maintenance, solid waste collection, ambulance service, road maintenance,

transportation services, animal control, funding for planning within the CSA area including an area planning commission, and funding for services provided by a municipal advisory committee, and other miscellaneous municipal services. Under this option, the CSA as a dependent special district would have limited power and still be governed by the County Board of Supervisors.

A CSD would essentially allow for the provision of the same types of municipal service; however, as an independent special district, the governing body would be an elected board of area residents that would oversee the district and be an independent form of government. However, LAFCO cannot approve a proposal including the formation of the CSD unless it determines that the proposed district will have sufficient revenues to carry out its purposes, unless LAFCO conditions its approval on the concurrent approval of special taxes or benefit assessments that would generate sufficient revenues. If those taxes or benefits are not approved by the voters, the CSD would not be formed. Approval of special taxes would require a two-thirds majority approval by the voters.

Either option would allow area residents to have greater input in land use and community issues, but funding resources could potentially be limited unless increased taxes were approved by the voters. The County would still be responsible for land use planning and decisions.

Formation of a CSA or CSD could involve reorganization of existing special districts.

STATUTORY PROCEDURES AND REQUIREMENTS FOR INCORPORATION

GENERAL PROCEDURES

INITIATION BY PETITION

A request for incorporation can be initiated by resolution of application of an affected agency or by petition signed by at least 25 percent of the registered voters residing in the proposed incorporation area or 25 percent of the land owners owning 25 percent of the assessed land value within the incorporation area (Government Code Section 56764). If a request is initiated by petition, the petition must have the requisite number of valid signatures for a Certificate of Sufficiency issued by the Executive Officer (Government Code Section 56706).

APPLICATION TO LAFCO

A complete application for an incorporation request includes the following LAFCO requirements:

1. Resolution of application or petition (Government Code Section 56650)
2. Completed form application questionnaire
3. Map of proposed boundaries

4. Plan for Services
5. Processing fees and any other fees the applicant is responsible for
6. Compliance with the California Environmental Quality Act (CEQA).
7. A Comprehensive Fiscal Analysis (Government Code Section 56800)

LAFCO STAFF REVIEW OF APPLICATION AND SUPPORTING DOCUMENTS

LAFCO staff reviews the application and supporting documents and prepares a report pursuant to Government Code Section 56668, which identifies several factors to be considered by the Commission in reviewing a proposal. In addition, LAFCO staff directs the preparation of the environmental document and the Comprehensive Fiscal Analysis (CFA), which are included in this report.

STATE CONTROLLER REVIEW

Any interested party may request State Controller review of the Comprehensive Fiscal Analysis no less than 30 days after notice of publication of the CFA. Pursuant to Government Code Section 56801, the Controller must issue a report within 45 days of the request. The Commission has adopted a formal policy regarding request for reconsideration by the Controller. In addition, the party requesting Controller Review is responsible for reimbursement of all costs and fees incurred.

STAFF ANALYSIS AND PREPARATION OF EXECUTIVE OFFICER REPORT

LAFCO staff reviews all documents and prepares the Executive Officer's report with recommendations pursuant to Government Code Section 56665.

COMMISSION HEARING

A public hearing is scheduled within 90 days of the Executive Officer's issuing a Certificate of Filing (Government Code Section 56658).

At the public hearing the Commission reviews the Executive Officer's report, along with supporting documents, hears public testimony, and decides whether to continue the matter to a future date, deny the proposal, or approve the incorporation with adopted terms and conditions.

RECONSIDERATION

Any person or affected agency may file a written request with the Executive Officer, within 30 days of the adoption of the resolution making determinations, for amendment or reconsideration of the resolution adopted by the Commission (Government Code Section 56895). The Commission has adopted a formal policy regarding requests for reconsideration.

The Executive Officer must place the request on the agenda of the next LAFCO meeting, for which notice can be given. The hearing may be continued no more than 35 days from the date specified on the hearing notice. At the conclusion of the hearing for the reconsideration request, the Commission may approve or disapprove with or

without amendment, wholly, partially, or conditionally, a resolution of determinations that supersedes the original.

ELECTION

If the Commission approves the proposal, the Executive Officer mails a copy of the resolution to the proponents and to the affected agencies whose boundary would be changed (Government Code Section 56882). The Commission orders the incorporation subject to an election of voters residing within the incorporation area and initial city council elections are held at the same time (Government Code Section 57116).

If the incorporation is disapproved by the Commission, no similar proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of the resolution terminating proceedings, unless the Commission waives the requirement by finding it to be detrimental to the public interest (Government Code Section 56884).

RECORDATION AND COMPLETION

If the voters approve the incorporation, LAFCO staff issues a Certificate of Completion (COC), no later than 90 days after the election, and records all necessary documents with the Registrar-Recorder/County Clerk and the State Board of Equalization (Government Code Section 57203). The COC must state the name of the new city, declare the elected officials of the new city, and declare the system for electing council members (Government Code Section 57178).

If the majority of voters disapprove the incorporation, the Commission shall issue a Certificate of Termination of Proceedings (Government Code Section 57179).

PROPOSAL FOR INCORPORATION OF EAST LOS ANGELES

GENERAL INFORMATION

PETITION AND APPLICATION

Pursuant to Government Code Section 56700.4, on March 10, 2008, Benjamin Cardenas, representing the proponents, the East Los Angeles Residents Association (ELARA), filed a *Notice of Intent to Circulate a Petition* with the Executive Officer for the proposed incorporation of East Los Angeles. The petition was submitted on December 12, 2008, with 16,427 signatures, well above the required number. There were 39,217 registered voters in the incorporation area of which 25% (9,804) of voter signatures was needed for the petition to be sufficient. On March, 24, 2009, the County of Los Angeles Registrar-Recorder/County Clerk determined that the petition signatures were sufficient. LAFCO issued a Certificate of Sufficiency, pursuant to Government Code Section 56706.

LAFCO received the application on April 29, 2009. The three Chief Petitioners are Benjamin Cardenas, Diana Tarango, and Alberto Palacios. On September 29, 2011, the

Executive Officer issued a Certificate of Filing to the applicants, signifying that the application was complete and accepted for filing.

REASONS FOR INCORPORATION

When an application is filed by petition, both the petition and Notice of Intent to circulate a petition must state the reasons for incorporation. The petitioners state the following reasons for the proposal request:

1. *To place upon the residents of the area, the responsibility for self-government and the subsequent provisions of a range of municipal services as defined and provided for by the Constitution of the State of California.*
2. *To provide the residents with localized control over planning policy and zoning, including land use, open space, growth and revitalization areas.*
3. *To influence revitalization of blighted commercial and residential districts and promote homeownership and maintenance.*
4. *To foster economic revitalization, employment growth and beautification in key commercial districts.*
5. *To increase public safety by fostering and promoting a citywide neighborhood watch program that will work closely with law enforcement services provided to the community.*
6. *To foster civic engagement by promoting community service and involvement by local residents who will have an opportunity to serve in their municipal government in various capacities.*
7. *To create local environmental programs that will increase recycling, create incentives for cleaner burning vehicles or vehicles that use renewable sources of energy, mitigate noise pollution, and improve air quality.*
8. *To exercise greater localized control over local transportation planning, including roadway maintenance, alleviation of congestion, synchronization or signal lights, and future infrastructure growth.*
9. *To create grant opportunities that will generate increased funding for localized education, social and community programs for senior citizens, parents, children, and high risk youth.*
10. *To create a local, politically accountable governing body that will be available and responsive to the unique needs of East Los Angeles.*

STATE LOAN

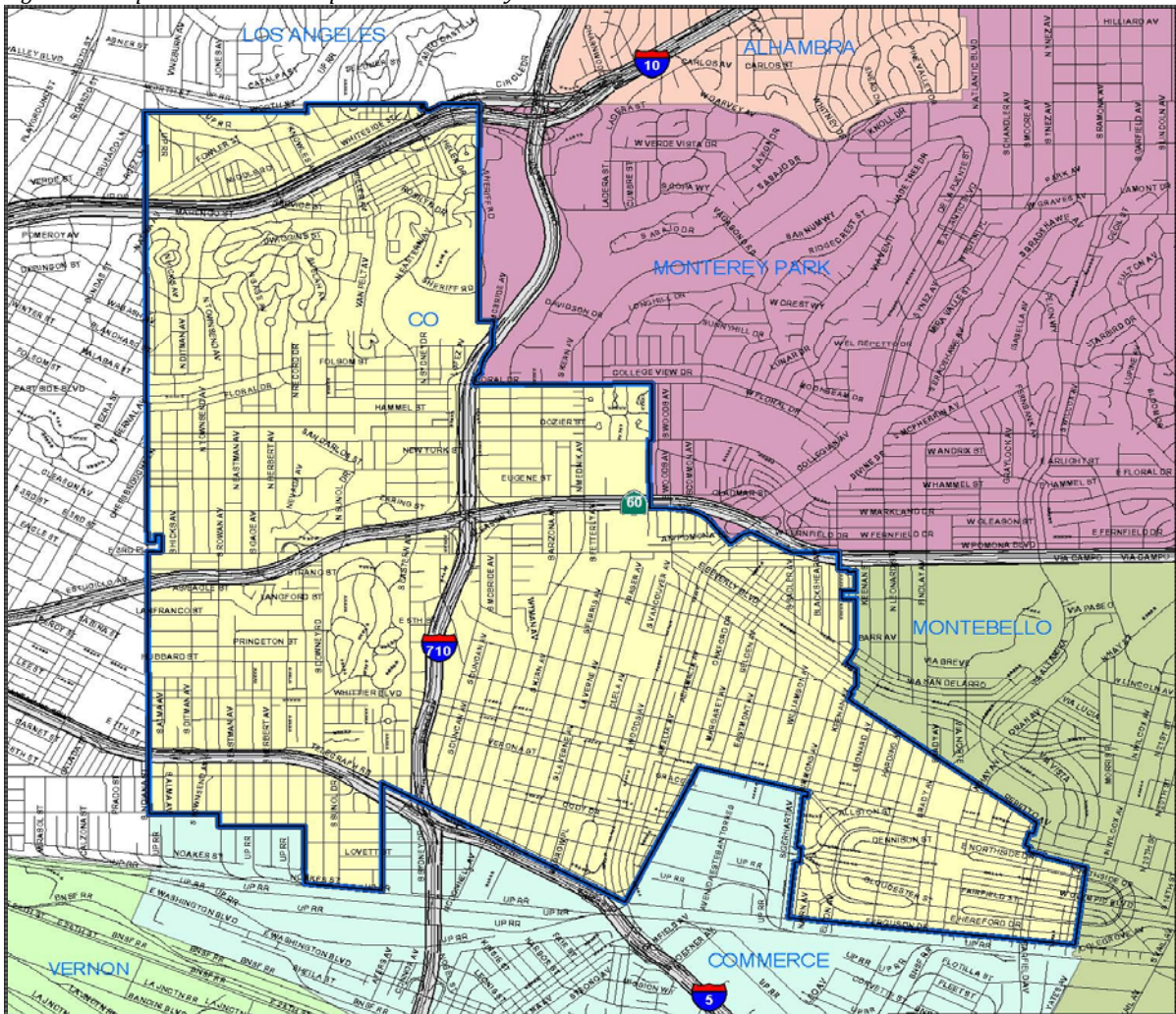
Government Code Section 56383(g) allows for proponents to request a loan from the State General Fund if they are unable to raise sufficient funds. The Proponents requested and received \$45,000 from the General Fund to assist in paying for the incorporation. If the incorporation is successful, repayment of the loan must be made within two years of the effective date of incorporation. If the proposal is denied, the loan is forgiven.

RECOMMENDED BOUNDARIES

PROPOSED CITY BOUNDARY

The proposed area of incorporation consists of all the contiguous unincorporated area collectively and fully circumscribed by the Cities of Los Angeles, Monterey Park, Montebello, and Commerce. The proposed incorporation area is 7.4 square miles (4,783 acres). Below is the map of the proposed city boundary.

Figure 1: Proposed East LA Incorporation Boundary



BOUNDARY ALTERNATIVES

No alternative boundaries were considered. The proposed boundary for the City of East Los Angeles includes all the unincorporated territory that borders the cities of Commerce, Monterey Park, Montebello, and Los Angeles.

The area north of Interstate 10 has been within the City of Los Angeles' sphere of influence for many years. The City has not expressed an interest in annexing the area until recently. Exclusion of any territory from the proposed boundary, including that portion within the City of Los Angeles SOI, would result in an unincorporated island that would be difficult to serve. Staff therefore recommends that the Commission consider the city boundary as proposed.

SPHERE OF INFLUENCE

As stated previously, a small portion of the proposed city, north of Interstate 10, is within the City of Los Angeles' sphere of influence. The City of Los Angeles, Northeast Los Angeles Community Plan does not identify the area as being in their sphere of influence and there is no reference to any future plans for the City to annex the area.

The proposed incorporation, would require the adoption of a sphere of influence for the City of East Los Angeles that is coterminous to the City's boundary as proposed and the concurrent reduction of the City of Los Angeles' SOI to exclude that portion of the SOI that is within the proposed new city boundary.

EFFECTS OF THE PROPOSAL ON SPECIAL DISTRICTS

SPECIAL DISTRICTS

The proposed incorporation would have no effect on the majority of special districts within the affected territory with the exception of the Belvedere Garbage Disposal District (BGDD), a dependent special district managed by the County. Should the incorporation be approved, and the new city decides to provide solid waste services, the District could be dissolved by LAFCO after the effective date of incorporation and the new city could contract with a service provider for those services.

Table 1 gives a summary of special districts operating within the proposed incorporation area and any jurisdictional changes that may occur with incorporation.

SPECIAL DISTRICT	SERVICES PROVIDED	JURISDICTIONAL CHANGES PROPOSED
Belvedere Garbage Disposal District	Refuse collection and recycling services	Possible Dissolution
Central Basin Municipal Water District	Wholesale Water	No Change
Consolidated Fire Protection District of Los Angeles County	Fire protection and emergency medical services	No Change
County Sanitation District #2	Wastewater and solid waste management	No Change
Greater Los Angeles County Vector Control District	Vector control and prevention	No Change

Table 1: Affected Special Districts

SPECIAL ASSESSMENT DISTRICTS

Special assessment districts fall under the jurisdiction of the public agency under which they are formed, for the purpose of collecting a special assessment for a specific service. The County of Los Angeles manages and provides service for the special assessment districts identified in Table 2 below. The proposed incorporation area includes either the entire area or a portion of the special assessment districts' service area. Upon incorporation, the County would withdraw or detach the areas from the following special assessment districts, and management of services in those areas would be transferred from the County to the new city, unless it were otherwise agreed that the County would continue to administer the service. Table 2, below, summarizes the special assessment districts within the proposed area and the jurisdictional changes contemplated in the incorporation proposal.

SPECIAL ASSESSMENT DISTRICT	SERVICES PROVIDED	JURISDICTIONAL CHANGES PROPOSED
County Lighting Maintenance District 1687	Street lighting maintenance	County to withdraw territory from the district
Lighting District LLA-1	Street lighting	County to detach territory from the district
Road Maintenance District #1	Road maintenance	County to detach territory from the district

Table 2: Affected Special Assessment Districts

SERVICES

PLAN FOR SERVICES

Cities in California are only required to provide a limited number of municipal services such as general legislative functions, land use planning and control over land use and development, law enforcement, animal control, and maintenance of public roads and

other city owned property. All of these services, with the exception of general legislative functions, may be provided through contract with another local agency or private firm.

The majority of cities in Los Angeles County operate as “contract cities,” as would East Los Angeles. Contracting for services provides for economies of scale, cost savings, and potentially increased service levels. The CFA analyzes the fiscal impact of proposed services changes and provides a detailed description of those services assumed by the new city and the estimated costs of providing those services.

The following Table 3: Plan for Services chart provides an overview of changes in municipal service provider, service levels, and assumed service responsibilities submitted by the proponents. It assumes that the new City of East Los Angeles would maintain or increase service levels. It also assumes that all existing services would continue to be provided.

SERVICE	CURRENT PROVIDER	CHANGE IN SERVICE PROVIDER	CHANGE IN SERVICE LEVEL	FUNDING SOURCE
Administrative	County	New City	Increase Likely	General Fund
Animal Control	County	No Change	No Change	User Fees General Fund
Building Inspection	County	New City	Increase Likely	User Fees General Fund
Drainage/Flood Control	County	New City (Local) County (Regional)	No Change	Property Tax
Fire Protection & Emergency Medical Response	Consolidated Fire Protection District	No Change	No Change	Property Tax User Fees
Land Use Regulation	County	New City	No Change	User Fees General Fund
Libraries	County	No Change	No Change	Property Tax General Fund Grants
Parks and Recreation	County	New City	Increase Likely	General Fund User Fees Grants
Police Protection	County	County (Contract with County)	Unknown	General Fund Grants
Public Transit	LA Metro	No Change	No Change	User Fees
Paratransit, Dial-a-Ride	County	New City	Unknown	Grants
Solid Waste Disposal	Belvedere Garbage Disposal District	New City	Dissolution	Property Tax User Fees
Street and Road Maintenance	County	New City	Unknown	Gas Tax Subventions Grants
Street Lighting	County	New City	No Change	Property Tax User Fees
Wastewater	County Sanitation District No. 2	No Change	No Change	Property Tax
Water	Central Basin MWD (wholesale), Cal. Water Service Co. (retail)	No Change	No Change	User Fees

Table 3: Plan for Services

TRANSFER OF SERVICES AND SERVICE LEVELS

Government Code Section 57384 provides that, the County Board of Supervisors is obligated to continue to furnish all services that were provided to the area prior to incorporation, for the remainder of the fiscal year during which the incorporation becomes effective. The new city is obligated to reimburse the County within five years of the effective date, or longer if the Board of Supervisors agrees to a longer period.

ANIMAL CONTROL

Upon incorporation, the new city has the option of contracting with the County to continue to provide animal control services. It is assumed that the County would continue to provide the service at the existing service level.

FIRE PROTECTION AND EMERGENCY MEDICAL

Incorporation would have no impact on fire service. The new city would remain in the Consolidated Fire Protection District (CFPD) of Los Angeles County, which is administered by the Los Angeles County Fire Department. The CFPD would continue to maintain fire protection and emergency services at the level of service that is currently being provided by the CFPD for the area.

LAW ENFORCEMENT AND TRAFFIC CONTROL

Policing services are currently provided by the Sheriff's Department. The new city would contract with the Sheriff's Department. It is assumed that the new city would maintain the existing level of service. The CFA proposes an annual contract cost of \$21,157,215. This cost estimate was based on a range of other contract cities. The CFA established that the proposed contract staff personnel and costs recommended by the Sheriff's Department were higher than those other cities.

The Sheriff's Department has stated that the annual contract cost of for policing East LA is \$31,235,691. The Sheriff contends that the proposed contract amount recommended in the CFA (\$21.1 million) would result in 72 fewer positions and a 32.14% reduction in service levels and the increased responsibility of providing park patrol and traffic enforcement.¹ The Department also stated that the costs of providing services for subsequent years should be based on an inflation rate of 4.55 % annually. The State Controller endorsed the contract costs submitted by the Sheriff's Department. The State Controller findings are discussed further in this report on Pages 23-24.

Traffic enforcement is provided by the California Highway Patrol (CHP) in unincorporated areas. The new city would also be responsible for traffic enforcement

¹ Correspondence letter dated July 28, 201, from Sheriff Leroy Baca to Chief Executive Office, Unincorporated Area Services.

upon incorporation and contracting with the Sheriff Department for the additional service. The increase in personnel was factored into the CFA contract cost. The impact to service levels is uncertain at this point, as it would require further negotiations between the proponents and the Sheriff to determine the actual cost and service.

LIBRARY

The City would continue to receive Library services from the County of Los Angeles. It is assumed that the County would retain the current level of service.

PARKS AND RECREATION

There are seven parks within the proposed incorporation area - Atlantic, Belvedere, Obregon, Parque de Los Suenos, Salazaar, Saybrook, and the Eddie Heredia Boxing Club. The Chief Petitioners have requested that the County retain Belvedere Park as a regional facility, similar to large regional parks that the County operates within other cities, such as Crescenta Valley Park (surrounded by the City of Glendale) and William S. Hart County Park (surrounded by the City of Santa Clarita).

Given potential funding constraints, it is not certain that the new city would be able to sustain the same level of service currently being provided or provide additional services, even if the County retained Belvedere Park.

ROAD MAINTENANCE

Upon incorporation, the new city would have the responsibility of maintaining roads and the option of directly providing the service or contracting with the County or another public or private agency to continue to provide these same services. Although it is assumed that the same level of service would be maintained, financing is dependent on available city resources and grant funding

SOLID WASTE AND DISPOSAL

Solid waste collection and disposal is through the Belvedere Garbage Disposal District. The District could continue, or be dissolved upon incorporation with the new city directly providing the service. It is assumed that solid waste services would be provided at the current level of service.

STREET LIGHTING

The County provides street lighting and maintenance in the area through County Lighting Maintenance District 1687 and Lighting District LLA-1. Upon incorporation the new city would be responsible for providing street lighting services. Any territory within the incorporation area would be withdrawn from County Lighting Maintenance

District 1687 and detached from Lighting District LLA-1. It is assumed that the current level of service would be maintained.

WASTEWATER

Collection and treatment of wastewater is through County Sanitation District No. 2. Incorporation would have no impact on wastewater service. The District would continue to provide service at the existing level.

WATER

California Water Service Company, a private purveyor, provides retail water service in the area. The Central Basin Municipal Water District provides wholesale water. There would be no change in services to residents of the new city. The incorporation proposal would have no impacts on water service.

COMPREHENSIVE FISCAL ANALYSIS

The CFA is a resource that gives the Commission a general idea of how the proposed new city would operate. It provides a projection of revenues, over a ten-year period, that the city would receive as well as estimated expenditures. Assumptions are made as to the services the city would provide and are based on those services that the community currently receives, although the city may elect to modify them afterwards.

On May 27, 2009, LAFCO awarded a contract to Economic & Planning Systems, Inc. (EPS) for the preparation of the CFA for the proposed incorporation of East Los Angeles. Preparation of the report was delayed until April 29, 2010, due to several requests for time extensions from the Chief Petitioners to allow them to acquire the necessary funds.

Pursuant to Government Code Section 56800, the CFA must include the following information:

- *The costs of providing public services and facilities to the proposed city during the three fiscal years following incorporation.*
- *The CFA must include all direct and indirect costs of existing services and public services to be assumed by the new city. These costs must reflect the actual or estimated costs at which the existing level of service could be contracted by the proposed city.*
- *The revenues of the proposed city during the three fiscal years following incorporation.*

- *The effects on the costs and revenues of any affected local agency during the three fiscal years following incorporation.*
- *Any other information and analysis needed to make the findings required by Government Code Section 56720.*

Although State Law and the Office of Planning & Research *OPR Incorporation Guidelines for Incorporation* require budget projections for three years, LAFCO has chosen to project budgets for a ten-year period. This approach is consistent with previous incorporation efforts (such as Hacienda Heights) and provides a more complete analysis of the potential economic viability of a proposed incorporation.

Data used for the analysis must be from the most recent fiscal year for which data is available, preceding the issuance of the certificate of filing. The most recent fiscal year in which County data was available is for fiscal year (FY) 2009-10.

The CFA base year data is based on the data provided by the County for Fiscal Year 2009-10. As previously stated, data and law enforcement contract costs for other comparable contract cities in LA County were utilized in determining a proposed alternative cost of policing the new city because the consultant determined that the proposed Los Angeles County Sheriff Department contract cost and staff are higher than what other cities currently pay.

In calculating base year costs, the *OPR Incorporation Guidelines for Incorporation* explicitly excludes revenues that are not realized, received or collected during the base year, project specific revenues, special revenues such as federal grants or CDBG funds, and revenues for development projects currently under construction.

State law prohibits the Commission from approving an incorporation unless it finds that the city would have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three years following incorporation. The CFA concluded that the proposed new City of East LA does not generate sufficient revenues to cover the projected operating costs unless augmented by other revenues such as an increase in the Utility User Tax. The CFA also concluded that the City would not be able to provide reasonable reserves for all transition years. A cumulative General Fund projection of the proposed City's revenues and expenditures for the 10-year projection is summarized in Table 5.

The finding of fiscal feasibility is the core basis for the Commission making a determination on whether the proposed city would be viable. In cases where financial feasibility is marginal, proponents often depend upon negotiations with the County, or such as in this case, increasing the UUT to "bridge" the gap in revenues to achieve the goal of feasibility.

If voters approved the increase in UUT, as proposed in the CFA, the estimated additional revenues would be \$9.6 million.

PRELIMINARY PUBLIC REVIEW CFA

The Public Review CFA was released on July 14, 2011. A copy was provided to the Commission, the Chief Petitioners, and Los Angeles County staff for review. A copy of the Public Review CFA was made available on LAFCO's website, and hard copies were made available in four libraries in East Los Angeles.

In addition, LAFCO staff conducted two community workshops (in Spanish and English) in East Los Angeles on July 29, 2011 and July 30, 2011, to allow the residents and other affected stakeholders the opportunity to comment on the report. LAFCO staff hand-delivered copies of the notice of these community meetings (in English and Spanish) to ten parks and libraries in East Los Angeles and posted the notice on LAFCO's website. The deadline for receiving comments was August 29, 2011.

FINAL PUBLIC HEARING CFA

The Public Hearing CFA was released on September 8, 2011 and presented to the Commission at its meeting on September 14, 2011. A copy of the *Public Hearing CFA Comprehensive Fiscal Analysis of the Proposed Incorporation of East Los Angeles* (attached in this report as Exhibit A) was made available on LAFCO's website, and hard copies were made available in four libraries in East Los Angeles. Pursuant to Government Code Section 56801, a Notice of Release of the CFA was issued. The deadline for requests for the State Controller to review the CFA was October 17, 2011.

CFA FINDINGS

The CFA determined that the proposed new City of East Los Angeles would not generate enough revenues to cover operating costs. Table 1 of the *Public Hearing CFA* projects revenues that are based on the new city receiving VLF; however, in light of the passage of SB 89, shortly after the Public Review CFA was issued, the new city would not be entitled to these revenues. *Table 1a* of the *Public Hearing CFA* projects general fund revenues the city would receive without the VLF "bump".

The County provides services during the first transition year (Year 1), which the new city is required to repay to the County over the next five years. The CFA projected general fund shortfall is initially \$19 million starting in Year 2; thereafter, general fund revenues continue to decline with a projected ongoing shortfall of \$12 million by Year 10.

The CFA identifies additional revenue sources that the new city could potentially capture for additional revenue, such as increasing the UUT from 4.5 percent to 10 percent, and also assessing a 10 percent UUT on water and cable (which are not currently assessed under the existing County UUT ordinance). Both UUT increases would have to be approved by a majority of voters. It is the opinion of LAFCO staff that

it is highly unlikely that the voters would approve such a measure. At any rate, the projected increase in revenues would only generate \$9.6 million, which falls far short of alleviating the \$19 million general fund deficit.

The State Controller Review report concluded that the CFA understated UUT revenues because it failed to include non-residential land-line telephones due to the inability to obtain accurate and reliable data from the utility company. The State Controller findings are discussed further in this report on Pages 23-24.

Another possible revenue source identified was the \$850,000 garbage collection franchise fee revenues from the prospective dissolution of the Belvedere Garbage Disposal District. Savings of \$750,000 could also be realized if the County continued operation and maintenance of Belvedere Park and another \$4.5 million if the County continues to provide the same level of Library services under the county library system.

There are assumptions in the CFA that should also be considered by the Commission, the most important being the cost of providing police service to East LA. The CFA proposes an annual law enforcement contract of \$21.1 million. This contract amount was based on other cities that contract with the Sheriff Department. Although it seems a reasonable amount for providing annual law enforcement services, the Sheriff has stated that it would not provide service for any less than \$31.2 million. Staff contacted the adjacent City of Los Angeles to see if there was any interest from the City to provide law enforcement to East LA, but they declined. The new city could consider forming its own police department but that would probably cost more than having the Sheriff provide service. Because there is no alternative service provider, the actual cost of policing East LA could be \$31.2 million annually, \$10.1 million more than projected.

The CFA assumes transfer of a portion of Redevelopment Agency (RDA) revenues to a city-controlled RDA. The State is eliminating redevelopment agencies to capture additional revenue in order to alleviate its budget shortfall. A lawsuit filed by the League of California Cities and the California Redevelopment Association challenged the State's authority to dissolve the agencies. On December 29, 2011, the State Supreme Court ruled in favor of the State's dissolution of RDAs. Under current law, RDAs will cease to exist on February 1, 2012. The proposed new city will not have an RDA that would be entitled to property tax increment generated in the redevelopment areas of the proposed new city.

Repayment of the \$45,000 State loan to the proponents was not included in the CFA.

LAFCO staff developed a 3-year scenario (Table 4), which provides a "best case" scenario for incorporation of East Los Angeles. This scenario takes into consideration the additional garbage franchise collection fee revenue, underestimated UUT revenues as indicated by the proponents and the State Controller,² and additional savings gained

² State Controller, *East Los Angeles Comprehensive Fiscal Analysis Review Report, December 2011.*

by requiring the County retain Belvedere Park and the libraries. Revenues from the proposed 10 percent increase in UUT were not included because they are contingent upon voter approval and, as previously stated, it is the opinion of staff that residents would not likely approve it. Redevelopment tax increment is also excluded because it has been eliminated by the State. Some budget items were adjusted for increases above inflation.

Based on this scenario, the initial general fund shortfall would be \$11.5 million starting in Year 2, with reserves dwindling to \$389,547 in Year 3. The City of East LA would not be able to sustain itself past the first three years of incorporation. Again, this is a “best case” scenario for the proposed incorporation, and the on-going revenue shortfall is significant.

3-Year Projected Budget Scenario - Including Other Possible Revenue Sources

Fiscal Year	(Transition) Year 1	Year 2	Year 3
	2013-14	2014-15	2015-16
Projected Revenues ³	\$28,275,314	\$30,443,287	\$30,526,661
Underestimated UUT Revenue – Non-Residential Land Lines	\$1,700,000	\$1,708,500	\$1,717,042
Garbage Franchise Revenue	\$850,000	\$854,250	\$858,521
Excluded Redevelopment Revenues	\$0	(\$713,526)	(\$717,094)
Total Revenues	\$30,825,314	\$32,292,511	\$32,385,130
Projected Expenditures	\$12,516,516	\$49,447,076	\$49,298,490
Repayment of State Loan	\$22,500	\$22,500	\$0
Excluding Library	(\$4,500,000)	(\$4,522,500)	(\$4,545,112)
Excluding Belvedere Park	(\$750,000)	(\$753,750)	(\$757,519)
Total Projected Expenditures	\$7,289,016	\$44,193,326	\$43,995,859
Net General Fund	\$23,536,298	(\$11,900,815)	(\$11,610,729)
Other Funds and Transfers	\$0	\$348,703	\$16,314
Total	\$23,536,298	(\$11,552,112)	(\$11,594,415)
Cumulative Reserves	\$23,536,298	\$11,984,186	\$389,771

Table 4: 3-Year Projected Budget Scenario-Including Other Possible Revenue Sources

³ Data based on East Los Angeles Public Hearing CFA, Comprehensive Fiscal Analysis of the Proposed Incorporation of East Los Angeles, Economic & Planning Systems, Inc., September 2011, Table 1a.

Table 5: Projected General Fund Revenues, Expenditures, and Cumulative General Fund Deficits

Projected General Fund Revenues and Expenditures⁴										
Year	1 (Transition Year)	2	3	4	5	6	7	8	9	10
Fiscal Year	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Projected Revenues	\$28,275,314	\$30,443,287	\$30,526,661	\$30,610,351	\$30,694,363	\$30,78,698	\$30,958,548	\$31,049,046	\$31,049,046	\$31,139,931
Projected Expenditures	\$12,516,516	\$49,447,076	\$49,298,490	\$49,221,396	449,204,409	\$49,479,137	\$42,795,954	\$43,181,726	\$43,168,427	\$43,556,061
Net General Fund	\$15,758,798	(\$19,003,789)	(\$18,771,830)	(\$18,611,044)	(\$18,510,046)	(\$18,700,439)	(\$11,927,521)	(\$12,223,178)	(\$12,119,381)	(\$12,416,131)
Cumulative Reserves	\$25,605,471	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative General Fund Deficits										
Annual Surplus (Deficit):	\$15,758,798	(\$19,003,789)	(\$18,771,830)	(\$18,611,044)	(\$18,510,046)	(\$18,700,439)	(\$11,927,521)	(\$12,223,178)	(\$12,119,381)	(\$12,416,131)
Cumulative Surplus (Deficit):	\$15,758,798	(\$3,244,991)	(\$22,016,821)	(\$40,627,865)	(\$59,137,911)	(\$77,838,350)	(\$89,765,871)	(\$101,989,049)	(\$114,108,430)	(\$126,524,561)

⁴Summary Table based on East Los Angeles Public Hearing CFA, Comprehensive Fiscal Analysis of the Proposed Incorporation of East Los Angeles, Economic & Planning Systems, Inc., September 2011, Table 1a.

CONTINGENCY/RESERVE FUNDS

OPR recommends a contingency fund of 10% of the estimated expenditures and a 10% operating reserve fund be allocated in the budget. The CFA utilizes a 5% contingency fund. Based on Table 1a of the CFA, contingency reserves and operating reserves are exhausted by Year 2.

STATE CONTROLLER REVIEW

On October 17, 2011, the proponents requested State Controller Review of the CFA and subsequently revised their request on October 27, 2011. ELARA asked that the Controller review:

1. The CFA's proposed city's law enforcement costs;
2. The CFA's franchise fee estimates;
3. The CFA's assumptions regarding exclusion of formula grants from the new city's revenue sources for conformity with Government Code Section 56800(a)(1); and
4. The CFA's assumptions regarding the exclusion of non-residential land lines from the estimates of utility user tax revenue.

STATE CONTROLLER REVIEW FINDINGS

On December 15, 2011 the State Controller issued its review of the East Los Angeles CFA, *East Los Angeles Comprehensive Fiscal Analysis Review Report*. The full report is available online on LAFCO's website. A summary of the State Controller's findings is as follows:

1. Regarding ELARA's request for review of the CFA's estimated Sheriff contract costs for law enforcement services (Issue 1), the State Controller's Office (SCO) concluded that, "the CFA estimated law enforcement costs for the proposed city is unreliable." The SCO stated that the methodology that the CFA and the proponents utilized was not appropriate in determining estimated law enforcement costs. The cost estimate of the CFA was understated by \$10 million plus the \$6.8 million in first year start-up costs.

The East Los Angeles law enforcement contract amount proposed by the Sheriff's Department is \$31.2 million; the State Controller endorsed this number in its review. The recommended law enforcement contract amount in the CFA is \$21.1 million. The key distinction between the CFA and the Sheriff/SCO law enforcement budget is the extent of on-going structural, multi-million dollar deficits for the new city. Under either scenario (Sheriff or CFA), the proposed City of East Los Angeles is not economically viable. LAFCO staff, the author of the CFA (EPS), and the Sheriff are not comfortable with the \$17 million figure

suggested by the proponents, an amount equal to half of the amount the County spent on law enforcement services in East Los Angeles in the Base Year (\$34.2 million). The CFA rightly concedes that spending less than \$34.2 million would impact the level of service, a point strongly argued by the Sheriff and endorsed by the State Controller.

LAFCO staff does not agree with the SCO's inclusion of the \$6.8 million in start-up costs. Staff is unaware of any other incorporation proposal in which Sheriff start-up costs were considered, particularly in an area where adequate services and facilities were already being provided. Law enforcement start-up costs would be considered by LAFCO only in the event that the proposed new city was to provide direct service or in the event that existing services and facilities were found to be inadequate.

2. Regarding ELARA's request for review of the CFA franchise fee estimates (Issue2), the SCO concluded that, "the CFA's methodology of excluding the solid waste franchise fee from the CFA is reasonable because the County does not currently collect such fees and there is uncertainty as to the amount."

LAFCO staff concurs with the SCO findings. The CFA does identify solid waste franchise fees as another possible revenue source; however, potential revenues were excluded because the Belvedere Garbage Disposal District is not a County enterprise, it is a county-dependent special district as stated previously in this report. Consideration of the new city receiving these revenues would be contingent upon LAFCO taking action to dissolve the District. In any event, those revenues were estimated in the CFA to be \$850,000, not \$2.3 million as stated by the proponents.

3. Regarding ELARA's request for review of the CFA assumptions regarding exclusion of formula grants from the new city's revenue sources (Issue3), the SCO concluded, "that the CFA properly excluded grant revenues in accordance with "A Guide to the LAFCO Process for Incorporation" published by the Governor's Office of Planning and Research(OPR)."

LAFCO staff concurs with the SCO finding.

4. Regarding ELARA's request for review of the CFA assumptions regarding the exclusion of non-residential land lines from the estimates of utility user tax revenue (Issue 4), the SCO concluded that, "the CFA underestimated UUT tax revenue by failing to include non-residential land-line telephones. The omission is due to the inability to obtain accurate and reliable data from the utility company."

LAFCO staff concurs with the SCO finding.

REVENUE NEUTRALITY

In 1992, the State enacted legislation (AB 3027) designed to lessen the negative fiscal impacts incorporations can have on counties and other affected agencies. Prior to 1992, new cities did not have to be revenue neutral. The counties had long argued that incorporations provided new cities with a revenue windfall while causing counties fiscal harm; while various tax revenues and a portion of property tax revenues were transferred to new cities, the county was still required to provide regional services such as courts, corrections, elections, and health and welfare services to these cities.

To provide a more equitable sharing of shrinking local government revenues, the counties supported the revenue neutrality act to ensure that incorporations resulted in a roughly equal exchange of revenue and service responsibility between the county and a new city.

Revenue neutrality has generally removed the financial incentive for communities to incorporate.

Government Code Section 56815 states that incorporations should result in a similar exchange of both revenue and responsibility for service delivery but also that it should not occur primarily for financial reasons. In order to approve an incorporation proposal, the Commission must make the following findings regarding Revenue Neutrality:

Government Code Section 56815(b): The Commission shall not approve a proposal for incorporation unless it finds that the following are substantially equal:

- 1) Revenues currently received by the local agency transferring the affected territory, which but for the operation of this section, would accrue to the local agency receiving the affected territory.*
- 2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.*

The Commission is prohibited from approving a proposal unless, in comparing current revenues generated within the affected territory and current expenditures for services made by the transferring agency (the County) it finds these quantities are **“substantially equal.”** However, the Commission is given discretionary latitude in that it may still be able to approve the proposal if either of the following findings can be substantiated.

Government Code Section 56815(c): Notwithstanding subdivision (b), the Commission may approve a proposal for incorporation if it finds either of the following:

- 1) *The County and all of the subject agencies agree to the proposed transfer.*
- 2) *The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.*

If the County and all subject agencies agree to the proposed transfer, or any negative fiscal effects can be mitigated by the Commission's ability to impose terms and conditions, the Commission, by exercising its discretionary authority, may still approve a proposal.

ELARA's response to comments regarding the conclusion of the CFA that the city would be infeasible was that there should be consideration for "reverse revenue neutrality", because of the fact that the County would realize a net gain of over \$27 million if East LA incorporates.⁵ The proponents argue that the County could continue to provide services at no cost to the City, even if the value of the services was for the entire projected shortfall (\$20 million annually) the County would still have a net gain of \$7 million.

The legislative intent of the "Revenue Neutrality" statute was to protect counties from the negative fiscal effects of incorporation. There is no basis for "reverse revenue neutrality," and the mitigation options available under Government Code Section 56815(c) would not be applicable to a proposal that does not cause a negative fiscal impact to the County.

The proponents and the County met on September 22, 2011 for the purpose of discussing the proposed incorporation (LAFCO staff was not asked to attend). Independent reports from both the proponents and County staff indicate the parties came to an impasse.

⁵ Letter dated August 29, 2011, from Julie Hayward Biggs, Burke, Williams & Sorensen, LLP to Paul Novak, Executive Officer LAFCO.

PROPOSITION 172

Proposition 172 authorizes a half-cent sales tax earmarked for local public safety programs. As such, it is a restricted revenue source pursuant to Government Code Section 56810. Legal Counsel has opined that the cost of any services that are funded by restricted revenues, such as Proposition 172, must be deducted from the total cost of services to determine the “total net cost” for the purposes of calculating the base property tax transfer. In the CFA, Proposition 172 revenue was deducted from Sheriff’s costs in the property tax calculation.

The CFA estimates that the Sheriff utilizes approximately \$16.6 million in Proposition 172 revenues for the provision of local law enforcement in the East LA area, which is roughly half of the Sheriff’s budget. The savings in Proposition 172 revenue retained by the County, and not transferred to the City (either directly or indirectly through increased property tax transfer), is shown separately from other impacts on Table 4 of the CFA.

COMPLIANCE WITH CEQA

The Commission awarded a contract to Bonterra Consulting for preparation of the Initial Study (IS) for the incorporation proposal (attached in this Report as Exhibit F). Pursuant to the provisions of the California Environmental Quality Act (CEQA), the IS determined that the proposal would have no significant environmental impact and recommended that a Negative Declaration (ND) be prepared and adopted by the Commission.

The Draft IS/ND was released for public review on July 14, 2011 and was subject to a 30-day public comment period from July 14, 2011 to August 15, 2011. Copies of the IS/ND were made available for public review at the four public Libraries within the East Los Angeles Community (El Camino Real Library, East Los Angeles Library, City Terrace Library, and Anthony Quinn Library). One comment was received from California Water Company and is incorporated in the Final IS/ND. Furthermore, a Notice of Intent to Adopt an ND was published in two newspapers, the *Eastside Sun* and *La Opinion*.

LAFCO received a letter, dated August 16, 2011, from the Governor’s Office of Planning and Research (OPR), State Clearinghouse and Planning Unit documenting compliance with CEQA review requirements and acknowledging that no comment letters were received through the State Clearinghouse.

Acting as Lead Agency, the Commission is required to adopt the Negative Declaration for the proposed incorporation if it elects to approve the proposed incorporation and place the matter before the voters.

FACTORS TO BE CONSIDERED

GOVERNMENT CODE SECTION 56668

POPULATION, POPULATION DENSITY, AND GROWTH

The following chart, based on the 2010 U.S. Census, shows the ethnic composition of the East Los Angeles unincorporated area. The total population is estimated at 126,496 residents. The area has a predominant Latino population. The population density of the area is approximately 16,983 persons per square mile.⁶

<i>Ethnicity/Race - 2010 U.S. Census</i>	<i>Percentage of Population</i>
<i>White Alone</i>	<i>1.5%</i>
<i>Black or African American Alone</i>	<i>0.3%</i>
<i>American Indian and Alaska Native Alone</i>	<i>0.1%</i>
<i>Asian Alone</i>	<i>0.8%</i>
<i>Native Hawaiian and Other Pacific Islander Alone</i>	<i>0.0%</i>
<i>Some Other Race</i>	<i>0.1%</i>
<i>Two or More Races</i>	<i>0.1%</i>
<i>Hispanic or Latino (of any race)</i>	<i>97.1%</i>

Table 6: Ethnic Population Percentage

POPULATION GROWTH

The population of East Los Angeles grew steadily from 1960 to 1990.⁷ Its highest growth rate was from 1980 to 1990 where the population grew by 10%, a net gain of approximately 16,362 residents. After 1990, the population of the area decreased by 1.7% from 1990 to 2000, a loss of 2,096 residents. From Census 2000 to Census 2010 the population of East Los Angeles grew by 1.8%, an increase of 2,213 residents.

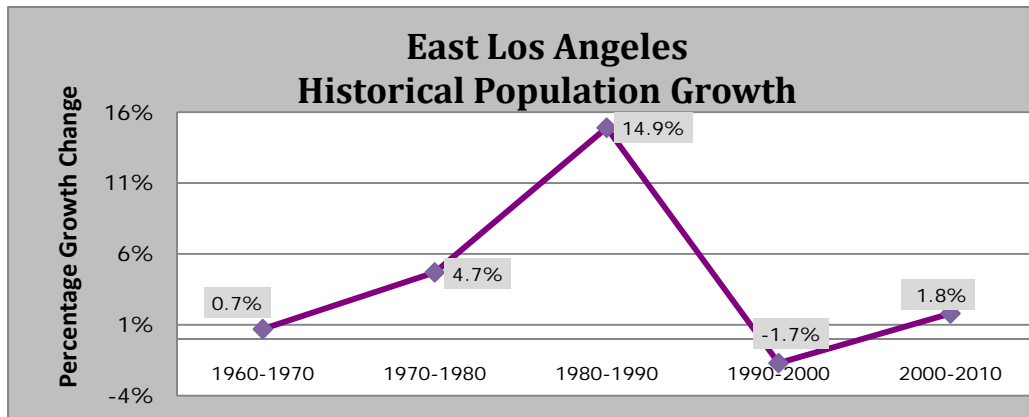


Table 7: East Los Angeles Historical Population Growth

⁶ State of California, Department of Finance, Demographic Research Unit: Census 2010, Demographic Profiles, Table 2-Total population, land area, population density.

http://www.dof.ca.gov/research/demographic/state_census_data_center/census_2010/view.php#DP

⁷ Los Angeles Almanac: Population of Unincorporated Communities in L.A. County, <http://www.laalmanac.com/population/po28.htm>

REGISTERED VOTERS/LANDOWNERS

As of December 7, 2011, there were 40,844 registered voters and 19,313 landowners within the proposal area.

ASSESSED VALUE, TAX RATES, AND INDEBTEDNESS

The total secured assessed valuation for the 2009-2010 tax roll is \$3,732,071,561. The per capita assessed valuation is \$30,250, based on estimated population of East Los Angeles of 123,375⁸ for 2009 and the secured valuation.

AREA TOPOGRAPHY & SIGNIFICANT NATURAL FEATURES

The majority of East Los Angeles has relatively flat terrain with the exception of the City Terrace area, which has rolling hills. There are no other significant natural features in the area.

LIKELIHOOD OF SIGNIFICANT GROWTH IN THE AREA AND IN ADJACENT AREAS

The unincorporated community of East Los Angeles and all adjacent areas are built-out; there is no likelihood of significant growth in the area. Growth is limited to in-fill development.

THE NEED FOR ORGANIZED COMMUNITY SERVICES

No significant future development or growth is anticipated, therefore, there is no need for future services and controls in the area.

EFFECTS OF THE PROPOSED ACTION ON ADJACENT AREA AND LOCAL GOVERNMENT

The proposed incorporation would not have an adverse impact to the County; however, the proposal could potentially have a negative impact on surrounding communities if general law enforcement services were contracted at a lesser level than what is currently being provided.

As previously discussed on Pages 5-7, there are no alternative courses of action other than having the territory remain unincorporated, with the County continuing to provide municipal services.

CONFORMITY OF PROPOSAL WITH COMMISSION POLICIES

The proposal is in conformance with all adopted Commission policies.

EFFECTS ON AGRICULTURAL AND OPEN-SPACED LAND

The area is highly urbanized. There are no agricultural lands within the subject territory. Open-space lands are limited to public parks and utility right-of-ways. Growth in the area is limited to in-fill development; hence, there is no potential for development and encroachment into agricultural or open-space land. Pursuant to Government Code Section 56377, and the policies and priorities of the Commission

⁸ U.S. Census Bureau: American Community Survey, 2005-2009 American Community Survey 5-Year Estimates.

with regards to the development of open-space lands, staff has determined that there will be no adverse effect to agricultural or open-space lands as a result of approval of this annexation request.

BOUNDARIES AND LINES OF ASSESSMENT

The proposed boundaries are logical and conform to lines of assessment or ownership. As stated previously in this report, exclusion of any territory from the proposed boundary would create an island of unincorporated territory, which LAFCO is prohibited by law from doing.

REGIONAL TRANSPORTATION PLAN AND GENERAL PLAN CONSISTENCY

The new city would be required to adopt a transportation plan that is consistent with the requirements of Government Code Section 65080. The proposal is consistent with the general and specific plans of the County of Los Angeles.

SPHERE OF INFLUENCE OF AFFECTED AGENCIES

The proposal is not consistent with the Sphere of Influence (SOI) of the City of Los Angeles. Should approval of the incorporation be considered, the Commission would need to reduce the SOI of the City of Los Angeles to exclude that portion of territory within the proposed new city and approve an SOI for the proposed new city that is conterminous to the proposed city boundary.

ABILITY OF NEW CITY TO PROVIDE SERVICE

The CFA concludes that the proposed city would have limited resources and would not be able to adequately sustain the current level of services being provided.

TIMELY AVAILABILITY OF WATER

There is no change in water service or availability. The area is built-out and no future growth demand is anticipated that would have an effect on availability.

REGIONAL HOUSING NEEDS

The Regional Housing Needs Assessment (RHNA) allocation is a tool utilized by the Southern California Association of Governments (SCAG) to determine existing and projected housing needs for the region based on income levels and other factors. SCAG allocates a specific number of housing units to each city within its jurisdiction. If incorporated, the proposed new city would also be assigned a RHNA allocation.

In addition, State Housing Element law requires that local agencies plan and address residential housing needs and affordability in consideration of the RHNA allocation through the Housing Element of the city's General Plan.

If incorporated, according to Government Code Section 57376, the proposed new city would be required to immediately adopt all existing county ordinances previously

applicable for 120 days, after which the new city would have to adopt a General Plan and Housing Element that would be in compliance with RHNA.

With regards to the RHNA allocation, Government Code Section 65584.07(c)(1) states that if an incorporation occurs after the council of governments has made its final allocation, a portion of the County’s allocation shall be transferred to the new city. The city and County may reach a mutually acceptable agreement for the transfer of a portion of the County’s allocation. If the parties cannot reach a mutually acceptable agreement, then either party may submit a written request to SCAG to determine the number of units that would transfer to the new city.

The current RHNA planning period is January 1, 2006 to June 30, 2014. The process is conducted every eight years.

The County has established the RHNA allocation for the new city as 3,187 units.

COMMENTS FROM AFFECTED AGENCIES, LANDOWNERS, AND REGISTERED VOTERS

LAFCO staff has received and considered comments from the affected agencies, landowners, and registered voters. The process allows for public comments for the CFA and CEQA document, and at all LAFCO public meetings. Comments received on the Public Review CFA are provided as an attachment to the Public Hearing CFA.

LAND-USE, PLANNING AND ZONING

The following table, provided by the County, identifies the present zoning designations and acreage within the proposed East LA incorporation area. No change in land use has been proposed. The new city would be required to initially adopt the existing County General Plan and zoning designations (Government Code Section 57376). State law requires new cities to adopt a General Plan within 30 months of incorporation. The incorporation has no direct impact on land uses within the proposed area, nor does it impact land uses in the surrounding areas of the adjacent cities.

	ZONING	ACREAGE
R-1	SINGLE-FAMILY RESIDENCE	269
R-2	TWO FAMILY RESIDENCE	1016
R-3	LIMITED MULTIPLE RESIDENCE	941
R-4	UNLIMITED RESIDENCE	14.4
RPD	RESIDENTIAL PLANNED DEVELOPMENT	2.3
C-1	RESIDENTIAL BUSINESS	4.3
C-2	NEIGHBORHOOD COMMERCIAL	73.1
C-3	UNLIMITED COMMERCIAL	246.8
C-M	COMMERCIAL MANUFACTURING	52.2
CPD	COMMERCIAL PLANNED DEVELOPMENT	2.3
M-1	LIGHT MANUFACTURING	65.7
IT	INSTITUTIONAL	317.1
M-2	HEAVY MANUFACTURING	127.2
M-3	UNCLASSIFIED	11
P-R	RESTRICTED PARKING	0.1
O-S	OPEN SPACE	248.3
	TOTAL ACREAGE	3390.6

Table 8: East Los Angeles Zoning Designation and Acreage

ENVIRONMENTAL JUSTICE

Pursuant to Government Code Section 56668(o), “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The Commission shall take into consideration the extent to which a proposal will promote environmental justice. In determining whether a proposal will have a negative impact on a disadvantaged community, a general standard of comparing the median household income to the county household median was applied. The State Department of Housing and Community Development define “low income” as 51 to 80 percent of the Los Angeles County Area Median Income (AMI).

The following chart is based on 2005-2009 U.S. Census data.⁹ The Los Angeles County AMI is \$54,828. According to the Census Bureau, 23.1 percent of the families in East Los Angeles fall below the poverty level. The proposed incorporation would not have a negative impact upon a disadvantaged community within the affected territory or adjacent to the affected territory in the sense that the proposal excludes a disadvantaged community or promotes unfair treatment of people of certain races.

CENSUS AREA	MEDIAN HOUSEHOLD INCOME	PERCENT OF AREA MEDIAN INCOME (AMI)
EAST LOS ANGELES, CDP	\$35,645	65%
COMMERCE, CITY	\$49,500	90%
MONTEBELLO, CITY	\$51,449	94%
MONTEREY PARK, CITY	\$52,209	95%
LOS ANGELES, CITY	\$48,570	88%
LOS ANGELES, COUNTY	\$54,828	100%
VERNON, CITY	\$76,563	140%

Table 9: East Los Angeles Area Median Income

⁹ U.S. Census Bureau: American Community Survey, 2005-2009 American Community Survey 5-Year Estimates. Custom Table: B19013 – Median Household Income.

REQUIRED LAFCO FINDINGS FOR INCORPORATION APPROVAL

FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 56720

The Commission must make the following findings pursuant to Government Code Section 56720 before approving a proposal for incorporation.

Government Code Section 56720: The Commission shall not approve or conditionally approve any proposal that includes an incorporation, unless the Commission finds, based on the entire record, that:

- a) *The proposed incorporation is consistent with the intent of this division, including but not limited to, the policies of Sections 56001, 56300, 56301, and 56377.*

§56001 – Declares that it is the policy of the State to encourage orderly growth and development and determination of local agency boundaries in promoting orderly development, that urban population densities necessitate a broad spectrum and high level of community services and controls, and that a single multipurpose governmental agency may be more accountable for community service needs and financial resources.

§56300 – Affirms the intent of the State that each LAFCO establish policies and exercise its powers in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands.

§56301 – States that LAFCO’s purposes include discouraging urban sprawl and encouraging preservation of open-space and prime agricultural land, and the orderly formation and development of local agencies based on local conditions and circumstances.

§56377 – Asserts that LAFCO must consider the policy and priority of guiding development away from existing prime agricultural lands in open-space to use towards areas containing non-prime agricultural lands, unless that would not promote the planned, orderly, efficient development of the area; and encourage development of existing vacant or non-prime agricultural lands for urban uses within a local agency’s jurisdiction.

- b) *The Commission has reviewed the Spheres of Influence of the affected local agencies and the incorporation is consistent with those spheres of influence.*
- c) *The Commission has reviewed the CFA prepared pursuant to Section 56800 and the State Controller’s Report prepared pursuant to Section 56801.*

- d) *The Commission has reviewed the Executive Officer's Report and recommendation prepared pursuant to Section 56665, and the testimony presented at its public hearing.*
- e) *The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.*

Pursuant to the CFA, the proposed city is not expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation. As the CFA has determined that the proposed incorporation is not fiscally viable and it is the recommendation of the Executive Officer to disapprove the incorporation proposal, the Commission, should it accept the Executive Officer's recommendation, is not required to make the findings required by Government Code Section 56720.

REVENUE NEUTRALITY FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 56815

The Commission must make the following finding pursuant to Government Code Section 56815 before approving a proposal for incorporation. *Government Code Section 56815(b): The Commission shall not approve a proposal for incorporation unless it finds that the following are substantially equal:*

- 1) *Revenues currently received by the local agency transferring the affected territory, which but for the operation of this section, would accrue to the local agency receiving the affected territory.*
- 2) *Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.*

As the CFA has determined that the proposed incorporation is not fiscally viable and it is the recommendation of the Executive Officer to disapprove the incorporation proposal, the Commission, should it accept the Executive Officer's recommendation, is not required to make this finding.

TERMS AND CONDITIONS

The Commission must adopt a resolution making determinations, stating whether the Commission approves or disapproves the proposal and listing any terms and conditions for approval pursuant to Government Code Section 56886 and other special considerations. The terms and conditions may include but are not limited to the following:

- 1) Continuation of services following incorporation
- 2) Payments and taxes required by changes in service responsibilities
- 3) Payment for reimbursement of loan from the State General Fund
- 4) Disposition of money, property and rights of use such as, utility capacity rights
- 5) Disposition of special district responsibilities, district governing boards and employees
- 6) Jurisdictional changes of special districts as provided in Government Code Section 56375
- 7) The effective date of incorporation.

Staff has not provided the Commission with detailed terms and conditions for the East LA proposal based on the findings of infeasibility of the CFA and the Executive Officer's recommendation to deny the proposal. Should the Commission decide to approve the incorporation subject to an election, the Commission would need to direct staff to proceed with recommending terms and conditions.

ACTIONS REQUIRED FOR APPROVAL

If the Commission approves the proposal subject to an election, it must make findings pursuant to Government Code Section 56803 which present the basis for rejecting staff recommendations. In addition, the Commission must make the findings and determination in support of approval outlined in this section of the report.

ALTERNATIVES FOR COMMISSION ACTION

After reviewing the Executive Officer's report, the CFA, and the Negative Declaration, the Commission may take the following actions:

- 1) ***Disapprove*** the proposed incorporation and receive this report; or
- 2) Adopt the Negative Declaration, and direct staff to return with recommendations on the required findings and determinations necessary for approval of the proposed incorporation; or
- 3) ***Continue*** the hearing for additional information or further action.

CONCLUSION

Based on consideration of all factors outlined in this report, staff recommends that the Commission disapprove the proposal for incorporation of East Los Angeles.

STAFF RECOMMENDATION

- 1) Open the public hearing and receive testimony on the proposed incorporation of East Los Angeles.
- 2) There being no further testimony, close the public hearing.
- 3) *Adopt this report and the attached Resolution Making Determinations and Disapproving East Los Angeles Incorporation No. 2009-08.*