LOCAL AGENCY FORMATION COMMISSION

JUNE 1, 2005

EL DORADO LAFCO
LOCAL AGENCY FORMATION COMMISSION

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AGENDA
June 1, 2005 - 5:30 P.M.

El Dorado County Hearing Rm. 2850 Fairlane Court, Bldg. C., Placerville, California
Time limits are three minutes for speakers
Speakers are allowed to speak once on any agenda item

1. **CALL TO ORDER AND ROLL CALL**

2. **CONSENT CALENDAR**
   A. **ADOPTION OF AGENDA**

3. **PUBLIC FORUM/PUBLIC COMMENT**

   Members of the public may address the Commission concerning matters within the jurisdiction of LAFCO which are not listed on the agenda. No action may be taken on these matters.

4. **APPROVAL OF PROPOSED INCORPORATION OF THE CITY OF EL DORADO HILLS; LAFCO PROJECT NO. 03-10**

   A. RESOLUTION CERTIFYING THE FINAL ENVIIRONMENTAL IMPACT REPORT (Continued from May 25, 2005)
   B. RESOLUTION ADOPTING FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS (Continued from May 25, 2005)
   C. RESOLUTION ADOPTING A MITIGATION MONITORING AND REPORT PROGRAM (Continued from May 25, 2005)
   D. ADOPTION OF RELATED CHANGES OF ORGANIZATION (Continued from May 25, 2005)

5. **ADJOURNMENT**

   The next regularly scheduled LAFCO Commission meeting will be June 22, 2005. A Special Meeting will be held June 8, 2005.

Respectfully submitted,
May 23, 2005

RChamberlain

Roseanne Chamberlain
Executive Officer

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AGENDA ADDENDUM

June 1, 2005 - 5:30 P.M.

El Dorado County Hearing Rm. 2850 Fairlane Court, Bldg. C., Placerville, California
Time limits are three minutes for speakers
Speakers are allowed to speak once on any agenda item

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to (b) of Section 54956.9
Potential Number of Cases: 1 or More

Respectfully submitted,
May 27, 2005

RGChamberlain
Roseanne Chamberlain
Executive Officer

All persons are invited to testify and submit written comments to the Commission. If you challenge a LAFCO action in court you may be limited to issues raised at the public hearing or submitted as written comments prior to the close of the public hearing. All written materials received by staff 24 hours before the hearing will be distributed to the Commission. If you wish to submit written material at the hearing, please supply 15 copies.

NOTE: State law requires that a participant in a LAFCO proceeding who has a financial interest in the decision and who has made a campaign contribution of more than $250 to any Commissioner in the past year must disclose the contribution. If you are affected, please notify commission staff before the hearing.

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AGENDA ITEM NO. 4

APPROVAL OF THE PROPOSED INCORPORATION OF THE CITY OF EL DORADO HILLS LAFCO PROJECT NO. 03-10

Local Agency Formation Commission
EXECUTIVE OFFICER'S REPORT
Agenda of June 1, 2005
(Continued from Meeting of May 25, 2005)

AGENDA ITEM 5: **Proposed incorporation of El Dorado Hills; LAFCO PROJECT NO. Project #03-10**

PROPONENT(S): El Dorado County Board of Supervisors, on behalf of the El Dorado Incorporation Committee, Norm Rowett and John Hidahl

INTRODUCTION

This document should be treated as a continuation and expansion of the Executive Officer's Report for the Proposed Incorporation of El Dorado Hills, presented to the Commission at the May 25, 2005 hearing. This document begins with a section entitled "Old Business" which serves only to document the decisions and determinations made by the Commission at the May 25, 2005 hearing. The changes are noted using ~~strikeout~~ to reflect deletions and <u>underscore</u> to reflect replacement wording.

The "New Business" consists of Sections V and VI that were not included in the May 25, 2005 Executive Officer's Report, as well as the balance of Section VII not previously addressed.

OLD BUSINESS

Final Boundary Determinations

Boundary Determinations included in the May 25, 2005 Executive Officer's Report are modified as follows:

1. Marble Valley

   LAFCO Determination: Development anticipated in the Marble Valley area will require a type and level of municipal services equal to most other areas included within the City boundaries. However, no development of Marble Valley has occurred and it is not known when such development might occur. The property is currently unimproved and there are no inhabitants and no need for public services. The property owner has asked LAFCO to remove the property from the incorporation boundary. Because there is currently no need for municipal services, and in light of the property owner's request, the entire Marble Valley property is excluded from the City boundary.

2. Marble Mountain Homeowners CSD

LAFCO Determination: In light of the determination by the Commission to exclude the Marble Valley property from the City boundary, and in light of the express desire of the Marble Mountain Homeowners CSD, the Marble Mountain Homeowners CSD should remain outside the boundary of the City.

3. Agricultural Areas South of the El Dorado Hills Business Park

   a) The Mehrten and Dunlap Properties.

LAFCO Determination: The agriculturally designated parcels south of the El Dorado Hills (108-050-01 and 108-050-15) are not appropriate to include within the incorporation area. This determination is based on the following reasons:

a) These parcels are in current agricultural land use.
b) One parcel is under an active Williamson Act contract.
c) There are no indications of need for urban services to these parcels.

   b) All other properties.

LAFCO Determination: The industrial zoned parcels and the El Dorado Union High School parcel south of the El Dorado Hills Business Park are appropriate to include within the incorporation area. This determination is based on the following reasons:

i. The industrially zoned parcels indicate an anticipation of future development and need for urban services.
ii. The parcels that are within the EID and currently receive municipal water service from EID for existing industrial operations and uses demonstrate a need for urban services.
iii. Parcels that are owned by one owner should not be divided by the city boundary.
iv. The "flag" situation that would result from excluding the High School parcel from the city boundary would create an undesirable boundary configuration.
v. It is anticipated that the High School parcel will require municipal services in connection with a future high school at that location.

The ***SUMMARY OF BOUNDARY DETERMINATIONS*** is revised as follows:

a) All territory within El Dorado Hills Community Services District and its Sphere of Influence included within the incorporation boundary including the Promontory, ~~Marble Valley,~~ Lakehills Drive Area and Green Springs Ranch.

b) All territory within the Springfield Meadows CSD is included within the proposed incorporation boundary.

~~c) All territory within the Marble Mountain Homeowners CSD is included within the proposed incorporation boundary.~~

d) The Hickok Road and Arroyo Vista areas and the Cameron Park CSD Sphere of Influence are excluded.

e) The Carson Creek project area is included.

f) The El Dorado Hills Business Park is located within the proposed incorporation boundary.

g) The incorporation area also includes ~~five~~ seven properties south of the El Dorado Hills Business Park that are in the EDHCWD but not in the EDHCSD or its Sphere of Influence (A.P.N. 108-050-05, 108-050-06, 108-050-07, 108-050-08, 108-050-14, 108-050-17 and 108-050-42).

h) The recommended incorporation boundary includes portions of the territories of the El Dorado Hills County Water District~~,~~ and the Rescue Fire Protection District ~~and the El Dorado County Fire Protection District~~.

i) The Mehrten Parcel is excluded from the boundary.

j) The Dunlop Ranch is excluded from the boundary.

Final Terms and Conditions related to Governmental Reorganizations and service Responsibilities

1. The City is authorized to provide and shall provide the following public services:

   a) General Government, including City Manager, City Attorney, City Clerk.

   b) Law Enforcement (including traffic control and accident investigation currently supplied by the California Highway Patrol);

   c) Planning and Land Use Regulation;

   d) Building Inspection;

   e) Maintenance, Engineering and Construction of streets and highways currently maintained by the County of El Dorado;

   f) Animal Care and Regulation;

g) Park and Recreation;

h) Flood Control;

i) Solid Waste;

j) Landscape Maintenance;

k) Street lighting.

l) Refuse Collection, through franchise agreements with private waste collection providers;

m) Cable Television, through franchise agreements with Comcast and/or other private CATV service providers; and,

n) Administration of architectural review and enforcement of Covenants, Conditions and Restrictions (CC&Rs) (see Section 17 (f), below.

2. The City is not authorized to provide the following services and these services shall <u>not</u> be provided by the City. These services shall continue after incorporation and shall be exclusively provided by the agency or agencies identified below, consistent with spheres of influence as determined by LAFCO until and unless service responsibilities are modified by LAFCO pursuant to Government Code §56425, et. seq.:

   a) Domestic Water Supply and Irrigation: El Dorado Irrigation District;

   b) Wastewater Collection, Treatment, and Disposal: El Dorado Irrigation District;

   c) Fire Protection and Emergency Services: El Dorado Hills County Water District, Rescue Fire Protection District, El Dorado County Fire Protection District (hereinafter, the "Fire Agencies");

   d) Resource Conservation: El Dorado County Resource Conservation District;

   e) Schools: Buckeye Union School District, Rescue Union School District, Latrobe Union School District, and El Dorado Union High School District;

   f) Library: El Dorado County Library (County Service Area 10);

   g) Transit: El Dorado County Transit Authority;

   h) Electric Service: Pacific Gas & Electric Company;

   i) Natural Gas: Pacific Gas & Electric Company;

   j) Telephone/Communications: SBC and other private providers;

k) Cemetery: El Dorado County, and others.

l) ~~Mosquito Abatement: El Dorado County~~

m) Air Pollution Control: El Dorado Air Quality Management District [City is expected to join the District and to participate as a new member];

3. The new City shall continue in effect the park development standards and related development impact fees for park and recreation services of the El Dorado Hills CSD in effect as of the Effective Date.

4. Wildland Fire Protection.

The new City shall provide funding to insure that wildland fire protection services are provided within the area of the City for the portions of the new City that, by state law, are reclassified from State Responsibility Area to Local Responsibility Area, as a result of incorporation. This obligation shall be satisfied by the new City as follows:

~~a) For the first year after the effective date of incorporation and until such time as the City and affected fire agencies complete an agreement, the City shall fund continuation of CDF Wildland fire coverage by paying such amount as CDF requires to the affected Fire Agencies who shall contract with CDF for continuation of coverage.~~

~~b) During that year, the City, working with the Fire Districts shall provide for continuation of coverage. The City shall contract with each of the affected Fire Agencies. In such case the City shall transfer to the respective Fire Agency an amount that the City and each Fire Agency mutually agree provides an adequate level of wildland fire protection services that are at least equal to the level provided by the CDF. Such amount may be transferred via a tax exchange agreement pursuant to R&T Code Section 99.01;~~

a) Pursuant to its authority under Government Code Section 56815 and in accordance with Revenue and Taxation Code Section 99 et seq., LAFCO shall require the City to enter into a tax sharing agreement with the three affected Fire Districts providing for the transfer of property tax sufficient to cover the costs to be incurred by the respective districts in providing wildland fire protection. Said tax sharing agreement shall provide for an initial transfer of property tax sufficient to fund each District's projected annual cost of providing such protection as detailed in the Comprehensive Fiscal Analysis. The Tax Sharing Agreement shall further provide that every three years thereafter, the County Auditor, in consultation with the City and the three Fire Districts, shall adjust the tax sharing arrangement to an amount sufficient to cover the then projected annual cost of providing such protection, taking into account increases or decreases in the total acreage subject to such wildland fire protection due to annexation, detachment or reclassification and the Districts' projected costs.

The Fire Districts shall perform a wildland reclassification assessment every three years, prior to the start of the subsequent three year "agreement period." This reclassification shall result in a direct adjustment (upwards or downwards) to the wildland coverage cost to be borne by the City. The Tax Sharing Agreement shall further provide that the annual amount of property taxes transferred pursuant to this Tax Sharing Agreement shall not exceed the projected cost of providing such service through a Cooperative Contract with the California Department of Forestry, so long as such Cooperative Contracts are an option available to the Districts.

b) In all cases, the level of wildland fire protection services shall be not less than the same level as provided by the CDF prior to incorporation.

c) Nothing herein is intended as a grant of authority to the City to provide fire and emergency services. The City's sole authority is to fund the continuation of such service by the fire agencies or CDF.

d) Should the City or an Affected Fire Agency fail to perform any of its obligations as set forth herein, any citizen may obtain a court order to compel the City or Fire Agency to perform their obligations hereunder, or to enforce the terms of any agreement between the City and the Fire Agencies then or most recently in effect.

5. Pursuant to Government Code Section 57376, the new City shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all county ordinances previously applicable shall remain in full force and effect as city ordinances for a period of 120 days after incorporation or until the city council has enacted ordinances superseding the county ordinances, whichever occurs first..

Specifically included among the County ordinances to be adopted by the new City, and not by way of limitation, are the following:

a) The Fire District Improvement Fee, as set forth in Chapter 13.20 of the County Ordinance Code. In accordance with the provisions of Chapter 13.20, the new City shall transfer to any affected Fire Agency an amount equal to the present Fire District Improvement Fee in effect as of the Effective Date on new development projects to which is applies.
b) The El Dorado Hills –Salmon Falls Roadway Improvement Fee (RIF)
c) The El Dorado County Transportation Impact Mitigation (TIM) Fee;
d) County Buildings and Construction Code (Chapter 15)
e) County Subdivision Ordinance (Chapter 16)
f) County Grading, Erosion and Sediment Control Ordinance
g) County Zoning Ordinance (Chapter 17), including specifically, and not by way of limitation,
    i) The County's Right-to-Farm ordinance (Chapter 17.13)
    ii) The Ecological Preserve and Fee In-Lieu of Mitigation (Chapter 17.71)

6. The City shall adopt the El Dorado County General Plan as the interim City General Plan for the incorporated area. The El Dorado County General Plan shall remain in effect for 30 months or until the new City has adopted a new City General Plan pursuant to Government Code Section 65360.

7. In accordance with Government Code Section 65865.3 (a) and (b), any and all development agreements entered into between El Dorado County and any development project applicant or sponsor and any conditions of approval imposed by the Board of Supervisors on discretionary projects prior to the Effective Date shall remain valid and enforceable between the applicant and the City . Upon the Effective Date, the City shall administer such development agreements, including any and all conditions of approval, and mitigation measures adopted pursuant to CEQA for such projects, as the same were imposed by the Board of Supervisors at the time of project approval.

8. To continue the present level of service related to the review of grading plans, and to assure that grading activities proposed for sites within the incorporation area conform with the requirements of the County's Grading and Erosion Control Ordinances, the City shall enter into an agreement with the El Dorado County Resource Conservation District (RCD) for such services. The agreement shall provide for planning and technical assistance to the City and to property owners within the incorporation area in return for the payment of fees for such services which shall be at the same level as fees charged for comparable services within the City of Placerville.

9. The City shall maintain at least the same level of transit service provided by the El Dorado County Transit Authority in the incorporation area.

   The new City shall either (a) join the El Dorado County Transit Authority as a new member and in that capacity, transfer to the Authority all funding to which the City may be eligible to receive under applicable federal and state transit funding sources so as to provide transit services within City boundaries at a level at least equal to services provided prior to incorporation; or (b) in the event the new City fails to join the EDCTA, or withdraws from the JPA, the new City shall annually provide to EDCTA funds or revenue equal to the loss in revenue by the EDCTA as a result of either the new City failing to join the EDCTA or withdrawing from the EDCTA. The funds or revenue shall be provided either through development fees, sales tax revenues, Transportation Development Act funds, property taxes, , or other revenue sources or funds, to insure no loss of funding to the EDCTA. Whether or not the new City joins the EDCTA, the EDCTA shall retain the right to use the commuter bus stops in the new City and to provide commuter bus service within the new City.

   In joining the EDCTA as specified in (a) above, the new City shall agree to the provisions set forth in the Joint Exercise of Powers Agreement, including the amendment dated May 22, 2001. The EDCTA shall be designated as the transit operator for El Dorado Hills and shall be authorized to file the claim for apportionment under Public Utilities Code Section 99260 on behalf of the new City as provided in Section 15 of the JPA Agreement.

10. The boundary of the City shall include the fill width of all roadway parcels that lie along the perimeter of the City with the exception of two segments of Green Valley Road which will remain outside the City boundary and the County shall continue road maintenance responsibility along Green Valley Road in those road segments described as follows: (1) Green Valley Road contiguous and running along APN 11505107 and (2) contiguous to parcels numbered 11505111 and 11505112. The City shall be responsible for roadway maintenance on the full width of roads that lie along its exterior boundary.

11. Responsibility for all roads, obligations for roads, and road maintenance for all roads, excluding private roads, within the jurisdiction of all districts that are being dissolved in connection with this incorporation shall transfer to the new City upon the Effective Date.

12. All roads included within the El Dorado County Road System as of the Effective Date shall transfer to the City upon the Effective Date in accordance with Government Code Section 58385.

13. The City shall initiate sphere of influence proceedings in a timely manner with LAFCO so as to allow LAFCO to adopt a sphere if influence for the new City no later than one (1) year following the Effective Date.

14. Pursuant to Government Code Section 57384, the County shall continue to provide to the incorporation area all services furnished to the area prior to incorporation, at the same level and in accordance with the budget for the County adopted prior to the Effective Date, for the remainder of the fiscal year during which the incorporation becomes effective, or for a shorter period if the City of El Dorado Hills, acting through its City Council, requests discontinuation of a service or services.

15. The territory included within the new city boundary shall detach from County Service Area 9 (CSA 9). The City shall continue to provide the same level of services previously provided by CSA 9 through continuation of the service zones within the City. All funds held by the County for the service zones being detached shall be transferred to the new City. The parcel charges currently in effect in the affected service zones shall continue in effect within the City. The City shall utilize the funds to continue the services within the service zones.

16. With respect to all agency dissolutions and governmental reorganizations ordered in connection with this incorporation, no agency being dissolved shall take any actions described in Government Code Section 56885.5 except in compliance with the requirements thereof.

17. The dissolution and reorganization of the El Dorado Hills Community Services District and the Springfield Meadows CSD~~, and the Marble Mountain Homeowners CSD~~ is conditioned pursuant to the following provisions:

a) All real and personal property, including land, vehicles and structures, interests in property, rights of use, all monies, including cash on hand and moneys due, but uncollected, of any dissolving district shall transfer to the City as successor agency to the dissolving districts, in accordance with Government Code §57452 and 57457. A list of assets currently owned by the EDHCSD is set forth in **Exhibit A**, attached hereto and incorporated herein by reference. The list of assets attached is not intended to be exhaustive of all assets to be transferred.

b) All transfers of real property and property interests shall be transferred to the City subject to any and all liens or other financial obligations and encumbrances lawfully entered into by the dissolving District prior to the Effective Date.

c) Property held in trust by any dissolving district shall be conveyed to the new City and shall be used for the purposes for which it was collected, in accordance with Government Code Sections 57382 and 57462.

d) The services provided by the dissolving districts shall continue at a level not less than that provided by the districts prior to the Effective Date of dissolution.

e) The City shall continue the parks and recreation services, landscaping and lighting maintenance, solid waste collection and disposal, and Cable TV services at a level not less than that provided by the El Dorado Hills CSD prior to the Effective Date.

f) With respect to architectural review and enforcement of Conditions, Covenants and Restrictions (CC&Rs) for subdivisions within the EDHCSD, the City shall continue to provide such services at a level not less than that provided by the EDHCSD for not less than one (1) year following the Effective Date.

g) Pursuant to Government Code §56886(t), any authorized charges, fees, assessments or taxes being collected by the dissolving districts shall to be transferred to the City of El Dorado Hills as the successor agency, including the EDHCSD development impact fee.

i) Any employee of a dissolving district as of the date of dissolution and reorganization of the district shall continue as an employee of the City of El Dorado Hills on an interim basis. If the City determines to continue any such employee as a permanent city employee, the City shall continue all employment rights, seniority, retirement, accrued leave and related benefits of such employee to the maximum extent feasible consistent with the City's employment rules.

j) The Effective Date of Dissolution and Reorganization of all dissolving districts shall be the Effective Date.

k) Each dissolving district shall transfer all records, archives and related materials to the City of El Dorado Hills, to be retained by the city for a minimum of five years following the Effective Date of Dissolution and Reorganization.

18. Any and all costs incurred by or on behalf of the El Dorado Local Agency Formation Commission in connection with LAFCO Project 03-10, Proposed Incorporation of El Dorado Hills, that remain unpaid and outstanding as of the Effective Date shall be paid by the Incorporation Committee prior to the recordation by the Executive Officer of the Certificate of Completion.

NEW BUSINESS

V. FISCAL AND REVENUE NEUTRALITY ISSUES AND DETERMINATIONS

A principal responsibility for LAFCO in considering the proposed incorporation of El Dorado Hills is to make findings and determinations consistent with state law and LAFCO's own policies that will assure that adverse fiscal impacts on the County, resulting from incorporation, are adequately mitigated.

The specific legislative intent, as set forth in Government Code Section 56815, states:

> *...any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies.*
>
> *It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.*

The Legislature further requires:

> *(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:*
> *(1) Revenues currently received by the local agency transferring the affected territory that, 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.*

Section 56815 of the Cortese-Knox-Hertzberg Act also requires that in approving any incorporation

> *"...the Commission may approve a proposal that includes an 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 [on the County) 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".*

Other Policy Factors to be Considered

- *The Commission shall consider existing government services and facilities, cost and adequacy of such services and facilities (§56668(b), Policy 3.3). If service capacity and/or infrastructure will be expanded, the applicant will submit cost and financing plans (Policy 3.3.2.2).*

- *The Commission shall consider existing and proposed government services and facilities, the cost and adequacy of such services and facilities and probable effects of the proposal on the area and adjacent areas (§56668(b) and Policy 3.3). LAFCO will discourage projects that shift the cost of service and/or service benefits to others or other service areas (Policy 6.1.8).*

- *The Commission shall consider the cost and adequacy of alternative services and facilities (§56668).*

❒ *The Commission shall consider the sufficiency of revenues and per capita assessed valuation. (§56668(j))*

El Dorado LAFCo has adopted local policies to implement this requirement on incorporations. Specifically El Dorado LAFCo Policy 6.7.20 calls for LAFCo to convene a Revenue Neutrality Committee composed of representatives of the incorporation committee and the County in an attempt to reach agreement on terms to achieve revenue neutrality. The Committee will have "up to 90 days" to negotiate an agreement. The policy goes on to provide "At the conclusion of the meetings of the Revenue Neutrality Committee or at the end of the 90 day negotiating period, the LAFCo Executive Officer will certify that agreement with respect to the revenue neutrality terms and conditions has been reached or has not been reached."

Following these policies, the LAFCo Staff formally convened preliminary Revenue Neutrality Committee meetings as early as November 2004. Additional preliminary meetings were held on January 17, 2005 and March 3, 2005, in which introductions were made, ground rules established and discussion of the draft Revenue Neutrality Agreement from 2001 was discussed.

However substantive discussions were delayed due to the delays in completion of the Comprehensive Fiscal Analysis (CF A). The CF A was originally scheduled for completion in December of 2004 but was delayed due to difficulties in obtaining necessary information from County departments. All of the data was finally received in February and the CFA completed on March 11,2005. Only then could substantive discussions begin.

The first meeting was held on March 14, 2005. Since then the Committee has met ten times. The incorporation committee's initial proposal was to accept the Revenue Neutrality terms as set forth in the draft CFA. The County responded to this and offered its first counter proposal on April 11. The Incorporation Committee rejected this counter proposal and made a new modified proposal on April 14. The County rejected the incorporation committee's proposal on April18. At the meeting on April 21, the County submitted its second proposal and during the meeting, the Incorporation Committee rejected it. The Incorporation Committee submitted a further revised proposal on April 25. The County rejected that in a letter issued on Friday, April 29, in which they also set forth revised terms of their previous proposal. Since that time the County has issued two subsequent proposals, and the Incorporation Committee one. The most recent proposals were dated May 26, 2005 and were discussed at a meeting on May 27, 2005..

The County and incorporation proponents have negotiated seriously and in good faith in an attempt to reach a final Revenue Neutrality Agreement, but no agreement has been reached within the time limits established by LAFCO. In the event that an agreement between the parties might not be reached, LAFCO staff requested that the professional firm who had prepared the CFA, Economic & Planning Systems, Inc., to recommend revenue neutrality terms for the consideration of the Commission.

Comprehensive Fiscal Analysis

In accordance with the Act, a Comprehensive Fiscal Analysis (CFA)[7] was prepared for the proposed incorporation. The CFA has found that as an incorporated city, El Dorado Hills is expected to

[7] Final CFA, Table A-2.

experience increased municipal revenues from property taxes, sales taxes, real property transfer taxes and other sources. This long-term improving fiscal condition of the City will enable it to provide improved levels of service to its citizens, even as the population of the City grows, over time, and needs increase. As reflected in the Comprehensive Fiscal Analysis (CFA), incorporation is expected to provide an increasing General Fund Balance, over time, which will permit the City maintain and improve its ability to provide municipal services for current and future residents.

The CFA demonstrates that the new City will have sufficient revenues to fund the essential public services for which it will be responsible, in accordance with the Terms and Conditions related to Services and Governmental Reorganizations as approved by LAFCO.

Negative fiscal effects on the affected local fire agencies, as a result of loss of wildland fire protection services by the CDF, will be mitigated through Condition 4 of the Terms and Conditions related to Services and Governmental Reorganizations and in accordance with the mitigation requirements set forth in the EIR for Impact 2-8.

The CFA has identified that there is a net surplus of revenues generated in El Dorado Hills that exceeds the cost or providing services.

Decision Points:

1. To what extent should growth in El Dorado Hills continue to assist the County with the cost of services incurred outside of El Dorado Hills?

2. Over what length of time should such assistance extend? Specifically, should it continue for the duration of the 10-year time frame embodied in LAFCO Policy 6.7.23, or for a longer term? Do unique local circumstances in EDH justify a mitigation period longer than the 10-years that is embodied in 6.7.23 of LAFCO policy?

3. How should the amount of any assistance from El Dorado Hills to the County increase over time, given the time value of money, the effects of inflation, and changes in underlying assessed value of property?

4. Should the amount be adjusted in some proportion to the cost increase for services in the rest of the County, or, alternatively, should the amount of the assistance, if any, be adjusted based on the proportionate increase in the cost of such services elsewhere, or should it remain at a flat dollar amount or a constant percentage?

5. Should the level of assistance be adjusted based on changes in the assessed value of land within the incorporation area, or based on changes in inflation, using the (CPI) or other index?

6. Should the fiscal impact mitigation include the General Fund, the Road Fund, both, or some combination thereof over the same or differing time periods?

Proposed Fiscal Mitigation Terms prepared by EPS.

The attached Memorandum from EPS sets forth the proposed terms for fiscal mitigation, prepared in the absence of an agreement between the parties. The main points of the proposal are:

1. General Fund Mitigation Payments: $309,000 per year, adjusted annually by CPI.
2. Road Fund Mitigation Payments: $751,300, adjusted annually by CPI.
3. Term of Payments: 10 Years
4. Other Fiscal Mitigation: None

Factors to Consider in Evaluating the Proposed Terms.

Under our system of local government in the State of California, Counties are responsible for provisions of certain public services. Principal among these services are health and welfare services and criminal justice services. These two groups of services typically take up a majority of a county budget. In El Dorado County, health and welfare services and criminal justice services made up $102,000,000 of the County $161,000,000 budget for the 2004-2005 fiscal year, or over 65% of the total budget. While the county receives substantial state and federal support for many of these programs, nevertheless the County expends a significant portion of its resources in these areas.

The provision of service by the County necessarily varies from one area of the County to another based largely upon need. Certain areas of a county will have a high need for county social services and criminal justice while other, typically more affluent areas, have a lower need. At the same time, it is often the case that the areas with the most need for county services generate lower levels of revenue to the County while areas of low need generate much higher revenue to the County. The County relies on the surplus revenue from the higher revenue-low need areas to support the excess cost of providing services in the lower revenue-high need areas. Without that support, the County could not maintain the level of service in the areas where it is most needed.

Upon incorporation of a new city with the county, certain county revenues are transferred by operation of law to the new city to support its operations. County property tax is transferred to the new city in proportion to the cost of services transferred from the County to the new city. Sales tax generated within the area of the new city is entirely transferred to the new city. Half of the property transfer tax is also transferred to the new city.

When the area of the new city is one of the high revenue-low need areas of the County, as is typically the case, the County loses some of the excess revenue that it counted on to service the high need areas. El Dorado Hills is such a community. According to the Comprehensive Fiscal Analysis, the County of El Dorado would lose approximately $300,000 more in revenue than it saves from transferring services to the new city. This surplus revenue is then not available to offset the excess cost in other areas of the County.

The Legislature recognized the problem and attempted to fix it in adopting in 1992 what is now Section 56815 of the Cortese-Knox-Hertzberg Act. Section 56815 requires that an incorporation be "revenue neutral" to other affected agencies. Specifically, it requires that the revenue transferred from the county to the new city be substantially equal to the cost of services transferred. If it is not, the negative fiscal effect must be "adequately mitigated by tax sharing agreements, lumpsum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886". The statute further directs that

> *(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).*

The Legislature was very general in specifying the methods by which revenue neutrality was to be achieved. It did, however, direct the Governor's Office of Planning and Research (OPR) in the Cortese-Knox-Hertzberg Act Section 56815.2 to develop incorporation guidelines to guide incorporations, including the revenue neutrality determination. The Guidelines are permissive rather than mandatory.

The Guidelines provide for revenue neutrality negotiations between the incorporation proponents and the County and other affect agencies to reach a revenue neutrality agreement. The guidelines further specify (in pertinent part):

> The calculation of revenue neutrality should be based on the following standards ....and agreements should be negotiated pursuant to the following policies:
>
> *--Revenue neutrality agreements should be based on county costs and revenues for the most recent prior year for which data are available.*
> *--Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Generally, anticipated or projected revenue growth should not be included.*
>
> The term of mitigation payments may be either ongoing or limited to a specific number of years. Revenue neutrality agreements that provide for ongoing payments may provide for the permanent sharing of revenues between the new city and affected agencies if agreed to by the parties involved and if a means of adjustment after incorporation is included. Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains incorporation shall be included in the LAFCO resolution.

El Dorado LAFCo has also adopted policies to implement revenue neutrality. Among those policies is one that limits the duration of mitigation as follows:

> Duration of Fiscal Impact Mitigation: The duration of mitigation payments should extend no more than 10 years, based on the county's ability to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city.

Section 56815(d) and the state and local policies implementing revenue neutrality all suggest that greater flexibility may be available if the proponents and county agree. However, when LAFCo imposes revenue neutrality, its scope is more limited. In particular, the policies would direct that the mitigation be limited to a 10 year period and that it not reflect "the growth in revenues" that might occur within El Dorado Hills during that period.

The problem with these limitations is that they ignore the reality that the loss of revenue to the County is a permanent, ongoing loss that grows over time. While the loss is approximately $300,000 in 2005, the amount would grow over time as the assessed valuation and property tax revenue in El Dorado Hills grows. The CFA estimates that the assessed valuation within the proposed city will grow by substantially over the 10 years. Presumably the loss to the County would grow by a similar amount

Further, given the recent update of the County General Plan and the controversy that surrounded that measure, the County has little likelihood of being able "to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city." Therefore, the Commission may determine that the limitation of the duration of mitigation to 10 years is inappropriate given the circumstances that exist.

LAFCo's exist in each of the 58 counties in order to implement Cortese-Knox-Hertzberg in accordance with "local circumstances." Commission may determine that the specific local circumstance such as those surrounding the General Plan, the effect of the State Fiscal crisis on the County of El Dorado, and other factors may justify variation from the policies. The Commission may then impose a tax sharing agreement as opposed to a flat mitigation dollar amount and set a duration of that agreement to exceed the 10 years of its policy.

Should the Commission choose a length of mitigation payments longer than 10 years, staff suggests the following determination:

> ***Staff Suggested Determination***: Constraints related to topography, road access, and system-wide limits on water resources and wastewater treatment services present significant impediments to the County's ability to implement GP amendments or to take other measures that could potentially adjust or compensate for the loss of revenues over an extended period of time due to the incorporation of El Dorado Hills.

Other Statutory Fiscal Determinations and Findings.

1. A Comprehensive Fiscal Analysis (CFA), required pursuant to Government Code 56800, has been prepared, circulated for public review and comment and presented at public hearings.

2. The incorporation of El Dorado Hills will receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation and the City is found to be fiscally viable; this finding is required pursuant to Government Code Section 56720.

3. The incorporation will result in a similar exchange of both revenue and responsibility for service delivery. The incorporation is not occurring primarily for financial reasons.

4. The negative fiscal effects of incorporation have been adequately mitigated by terms and conditions approved by LAFCO pursuant to Government Code Section 56886.

5. The Commission finds and determines that the proposed incorporation is consistent with the legislative direction set forth in Government Code Section 56301 and will discourage urban sprawl, preserve open space and prime agricultural lands, efficiently provide government services, and encourage the orderly formation and development of local agencies based upon local conditions and circumstances.

MEMORANDUM

To: Nat Taylor; *Lamphier Gregory*

From: Walter Kieser, Jamie Gomes, and Amy Lapin

Subject: Proposed LAFCO Fiscal Mitigation Terms—Proposed El Dorado Hills Incorporation; EPS #14472

Date: May 27, 2005

This memorandum presents proposed fiscal mitigation terms to include in the El Dorado Hills incorporation terms and conditions, which are being prepared by the LAFCO Executive Officer for commission consideration. As you are aware, LAFCO must be prepared to include such mitigation terms in the incorporation terms and conditions in the event that El Dorado County (County) and the incorporation proponents do not reach a mutually acceptable revenue neutrality agreement that is acceptable also to LAFCO.

The proposed fiscal mitigation terms are intended to mitigate potential fiscal impacts on the County resulting from incorporation. These fiscal mitigation terms do not address separate negotiations between cityhood proponents and one or more of the independent fire protection districts. The proposed fiscal mitigation terms are based on the Alternative Boundary, as described in the Environmental Impact Report (EIR) and Comprehensive Fiscal Analysis (CFA) for the proposed El Dorado Hills Incorporation.

The proposed fiscal mitigation terms are based on the following information:

- Guiding Principles approved by the LAFCO commission on May 18, 2005; and
- Quantitative analysis in the CFA and conducted by EPS.

The Guiding Principles for fiscal mitigation terms were established using the following three basic criteria:

1. Meets statutory requirements and considers LAFCO's Incorporation Guidelines;
2. Addresses County concerns regarding the short- and long-term ability to provide regional services to County residents; and
3. Addresses City feasibility including fiscal mitigation-revenue sharing payments.

Economic & Planning Systems, Inc., (EPS) has drafted the following fiscal mitigation terms on behalf of LAFCO staff using the Guiding Principles, quantitative analysis, and EPS's professional judgment regarding the quantitative analysis. The fiscal mitigation terms may need to be refined after further review and direction by LAFCO staff.

The following fiscal mitigation terms are intended for direct inclusion in the incorporation terms and conditions, subject to language changes by LAFCO counsel to comply with legal requirements. Please note the italicized text, which is provided as a basis for the fiscal mitigation terms, would not be included in the actual incorporation terms and conditions. The fiscal mitigation terms are summarized in **Table A**.

FISCAL MITIGATION TERMS

1. Transition Year Cost Repayment

On the effective date of incorporation and through the entire first fiscal year of the City (unless terminated earlier by City written request), the County will continue to provide public services to the City and its residents. The CFA estimated the amount of these costs to be approximately $4.3 million (in 2004 dollars).

This transition year cost will be offset by the first quarter's worth of City sales tax that will be retained by the County, that otherwise would have accrued to the City. The City will repay the remaining transition year cost over a five-year period with interest at the County Treasury pooled rate. Transition year cost repayment will occur annually (as described under Form of Payment below), commencing in Fiscal Year 2007–08 and ending in Fiscal Year 2011–12. The City may choose to pay off all or a portion of the principal amount owed to the County at any time during the transition year cost repayment period.

2. Fiscal Mitigation

A. General Fund Fiscal Mitigation Payments

Beginning in Fiscal Year 2006–07 and annually through Fiscal Year 2015–16 (ten fiscal years), the City will pay the County the difference in base year (Fiscal Year 2003–04) general fund revenues and expenditures transferred from the County to the City, as adjusted by the method described below.

In Fiscal Year 2006-07, the Fiscal Year 2003–04 amount of $309,000 will be adjusted by the total percentage increase in the City's gross locally secured tax roll from Fiscal Year 2003-04 to 2006-07. As LAFCO staff has instructed, each year thereafter, the annual general fund mitigation payment will be adjusted by increasing the prior year's payment by the percentage increase in the City's gross locally secured tax roll from the prior fiscal year.

B. Road Fund Fiscal Mitigation Payments

Beginning in Fiscal Year 2006–07 and annually through Fiscal Year 2015–16 (ten fiscal years), the City will pay the County the difference in base year (Fiscal Year 2003–04) road fund revenues and expenditures transferred from the County to the City, as adjusted by the method described below.

Road Fund Fiscal Mitigation Payments will be calculated in the same manner as described for General Fund Fiscal Mitigation Payments. The Fiscal Year 2003-04 amount equals $751,300.

Basis of Fiscal Mitigation Term

Short-term fiscal mitigation payments are based on calculations from the CFA. Specifically, the CFA separately calculated the difference between current general fund and road fund revenues that would be transferred to the proposed city and the cost of current general fund and road fund services that would be assumed by the proposed city. The comparison of revenues and costs transferred for the general fund and for the road fund were based on base Fiscal Year 2003–04 data. As you are aware, EPS has recommended the annual adjustment index could be replaced by a simple consumer price index while still having fiscal mitigation payments tied to property tax sharing.

3. Form of Payment

All payments the City owes the County will be withheld from the property tax revenues received by the County (for the area in the City) that would be distributed to the City.

4. Additional Terms

A. Revision Clause

The payment obligations described herein are subject to modification if there is either a statewide structural change in the services which are required by the State to be provided by the County or the City, or a statewide structural change in the manner in which the above mandated services are funded. Either the City or the County may request LAFCO review the fiscal mitigation terms if one of the above triggering events occurs. Such a request for review must be made no later than six months after the occurrence of the triggering event.

B. Interagency Cooperation

The County and the City may mutually consider pooling resources or sharing certain revenues to achieve common goals (e.g., sharing transient occupancy tax revenues to promote regional tourism). LAFCO encourages such or other efforts at interagency cooperation but has no opinion on this issue regarding fiscal mitigation for incorporation.

LONG-TERM COUNTYWIDE REGIONAL SERVICES COSTS

The Guiding Principles stated that fiscal mitigation terms would consider the County's long-term ability to provide Countywide regional services (non-municipal services) to its residents. On-going countywide regional services costs are costs that will be incurred by the County to provide services to County residents and employees, whether they reside or work in incorporated cities or the unincorporated County. Using the CFA information and the El Dorado County budget, EPS examined the County's long-term financial ability to provide countywide regional services.

Based on the quantitative analysis, mitigation for countywide regional services costs is not included in the recommended fiscal mitigation terms based on the following findings:

- Incorporation would not create long-term annual deficits for the County in providing countywide regional services to El Dorado Hills residents;

- Following the ten year LAFCO fiscal mitigation term identified in the El Dorado LAFCO policies on incorporation, estimated County revenues in El Dorado Hills will exceed the estimated countywide regional service costs in El Dorado Hills; and,
- Estimated long-term revenues exceed estimated costs because County revenue growth outpaces expenditure growth within El Dorado Hills. The County has the discretion to use revenues that exceed costs in any area of the County.

Based on these findings, it is not necessary to include a fiscal mitigation term to address the long-term fiscal impact on countywide regional services costs.

DRAFT

Table A
El Dorado Hills Incorporation
Summary of Fiscal Mitigation Terms

Fiscal Mitigation Term	Period Start	Period End	Period Length	Annual Amount	Annual Adjustment
				(2004 $)	
1 Transition Year Cost Repayment	FY 2007-08	FY 2011-12	5 years	tbd [1]	N/A
2 Fiscal Mitigation - General Fund	FY 2006-07	FY 2015-16	10 years	$309,000	Annual Percent Growth of City's Assessed Value
3 Fiscal Mitigation - Road Fund	FY 2006-07	FY 2015-16	10 years	$751,300	Annual Percent Growth of City's Assessed Value

[1] Annual loan repayment amount will depend upon actual principal amount borrowed and County treasury pooled interest rate.

AGENDA ITEMS 3, 4 & 5

<u>CONTINUED FROM</u>

<u>MAY 18, 2005</u>

Local Agency Formation Commission
STAFF REPORT

Continued from Agenda of May 18, 2005

Agenda Item 3: **RESOLUTION L-05-06 CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE INCORPORATION OF THE CITY OF EL DORADO HILLS**

Attached for your consideration is Resolution L-05-06, Certifying the Final EIR as adequate and complete and that the EIR has been prepared in compliance with the California Environmental Quality Act (CEQA). The recitals to the Resolution provide the background leading up to the completion of the environmental review process.

<u>Final EIR Errata</u>

There are eight corrections that need to be incorporated into the Final EIR. These are set forth in the document identified, "ERRATA, Final Environmental Impact Report for the El Dorado Hills Incorporation Project, May 12, 2005, Revised May 19, 2005." The items included as ERRATA make corrections for clerical and consistency errors that were discovered in the Final EIR subsequent to its publication. These ERRATA result in no substantive changes to the EIR or its conclusions of environmental impacts. The ERRATA document is attached to Resolution L-05-06 and if approved by the Commission, would be incorporated by that action as part of the Final EIR.

RECOMMENDATION

Approve Resolution No.L-05-06 - CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE INCORPORATION OF THE CITY OF EL DORADO HILLS, LAFCO Project 03-10, as modified by the items identified in the ERRATA document, attached to the Resolution.

EL DORADO LOCAL AGENCY FORMATION COMMISSION

550 MAIN STREET SUITE E *TELEPHONE: (530) 295-2707*
PLACERVILLE, CA 95667 *FAX: (530) 295-1208*

RESOLUTION NUMBER L-05-06
CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED INCORPORATION OF THE CITY OF EL DORADO HILLS (LAFCO Project No. 03-10)

WHEREAS, the El Dorado Local Agency Formation Commission (LAFCO) is the Lead Agency for the Incorporation of the Proposed City of El Dorado Hills (LAFCO Project No. 03-10) initiated by Resolution 322-2003 of the Board of Supervisors of El Dorado County; and

WHEREAS, a Notice of Preparation for a Draft Environmental Impact Report ("Draft EIR") was prepared, properly circulated and released for public comment on August 24, 2004; and

WHEREAS, the Draft EIR was prepared and released for public review and comment between February 14 and April 15, 2005, and was considered at noticed public hearings on February 23, 2005 and March 23, 2005; and

WHEREAS, a Final Environmental Impact Report ("Final EIR") was prepared, released on May 6, 2005 for public review, and was provided to all agencies that had submitted comments on the Draft EIR, and was considered at a noticed public hearing on May 18, 2005; and

WHEREAS, the Final EIR for the proposed Incorporation of the City of El Dorado Hills has been properly completed and has identified all significant environmental effects of the project and constitutes the complete environmental documentation and review of the El Dorado Hills Incorporation Project, pursuant to the requirements of the California Environmental Quality Act. Written responses were provided in the Final EIR to all comments that were received on the Draft EIR at least ten (10) days before certification of the Final EIR, pursuant to the provisions of CEQA; and

WHEREAS, the Final EIR was presented to the Commission and the Commission reviewed and considered the information contained in the Final EIR prior to project approval, as required by CEQA Guidelines Section 15090(a)(2); and

WHEREAS, Public hearings, which were properly noticed, were conducted by the El Dorado Local Agency Formation Commission in compliance with the provisions of CEQA, including public meetings and public hearings, at which written and oral comments were received from the public, community groups, businesses and other interested parties; and

WHEREAS, various agencies of state and local government have reviewed and commented upon the project; and

WHEREAS, all comments received during the period of public review have been duly considered and incorporated into the Final EIR and, where necessary, responded to, in accordance with the provisions of CEQA; and

WHEREAS, the El Dorado Local Agency Formation Commission has utilized its own independent judgment in adopting this Resolution and in certifying the Final EIR.

NOW, THEREFORE BE IT RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

A. The environmental impacts of the incorporation and all related changes have been adequately disclosed and addressed in the environmental review documents prepared for the project and there are no known potential environmental effects that are not addressed in the Final EIR.

B. The Final EIR, consisting of all environmental documents described in this Resolution, is found to be adequate and complete and in compliance with the requirements of the California Environmental Quality Act as is hereby certified.

C. Mitigation Measures have been considered and will be adopted as part of Incorporation of the Proposed City of El Dorado Hills (LAFCO Project #03-10).

D. The attached Errata is incorporated into the Final EIR.

E. The Executive Officer is directed to file a Notice of Determination in compliance with the requirements of the California Environmental Quality Act and local implementing ordinances.

PASSED AND ADOPTED by the El Dorado County Local Agency Formation Commission at a regular meeting of said Commission, held May 25, 2005 by the following vote of said Commission.

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:______________________ ______________________

Clerk to the Commission Chairperson

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ERRATA

Final Environmental Impact Report for the EL DORADO HILLS INCORPORATION PROJECT
May 12, 2005
Revised May 19, 2005

1. On FINAL EIR page R-1, the text of the MITIGATION beginning on Draft EIR page ES-5 has been modified as follows:

> "1. LAFCO ~~should~~ shall require the new City to maintain seamless compliance with those County Transportation Impact Fee programs that include an El Dorado Hills area component through the collection of the appropriate fee at the time of building permit issuance. The County and City should enter into an equitable agreement to both assign project construction responsibility and the funding of those projects. It is anticipated that the current El Dorado Hills/Salmon Falls Area RIF program or any updated iteration of that fee program would be transferred to the new City for administration. ~~do each of the following:~~
>
> ~~1. Maintain seamless compliance with each of the existing Transportation Impact Fee programs through the collection of the appropriate funds at the time of building permit issuance for all development within the new City. The Impact Fee Programs are:~~
>
> ~~a) El Dorado Hills/Salmon Falls Area Road Impact Fee (RIF)~~
>
> ~~b) West Slope Traffic Impact Mitigation Fee (County TIM)~~
>
> ~~c) State Traffic Impact Mitigation Fee (State TIM)~~
>
> ~~d) Interim Highway 50 Corridor Variable Traffic Impact Fee (Interim 50 Variable TIM)~~
>
> ~~2. Transfer to the County an amount equal to all revenues derived from the foregoing fees, with the exception of the El Dorado/Salmon Falls Area RIF, since it would be administered by the new City, itself.~~
>
> ~~3~~2. Maintain the current level of financial support to the EDCTA transit programs, so as to maintain a consistent level of funding from development fees, sales tax revenues, and all other applicable sources, as exists prior to incorporation.
>
> ~~LAFCO should require the new City to maintain funding levels and encourage it to join theJPA that oversees the operation of the EDCTA. This would assure continued funding and coordination with the County regarding transit programs.~~

~~LAFCO should incorporate these mitigation measures as conditions of its approval of incorporation and thereby ensure continued financial support to the transportation improvement projects and the service level of the EDCTA, with the result that there would be no diminution of funding as a result of incorporation.~~"

2. On FINAL EIR page R-2, the text of the MITIGATION for **Impact 2-8** has been modified as follows:

1. LAFCO should require the retention of CDF for wildland fire protection through contractual agreements between the new City, <u>all affected local fire protection agencies</u> ~~the El Dorado Hills Fire Department (EDHCWD)~~, and the CDF.

2. LAFCO should require the new City to transfer to <u>all affected local fire protection agencies</u> ~~EDHCWD~~ an amount sufficient to fund the cost of continued CDF wildland fire protection for all affected areas within the new City boundary.

3. The arrangements to retain the services of the CDF should remain in effect until and unless the city and <u>all affected local fire protection agencies</u> ~~the Fire District~~ <u>mutually</u> agree to alternative arrangements that provide an adequate level of wildland fire protection services that are at least equal to the level provided by the CDF."

3. On FINAL EIR page R-2, the text of the Mitigation for **Impact 2-9** has been modified to delete the following text:

~~3. The new City should consider adoption of the El Dorado Hills CSD Park and Recreation Master Plan, which includes all areas within the El Dorado Hills CSD and its SOI.~~

~~4. Encourage the new City to adopt the Park Development Standards of the El Dorado Hills CSD and the CSD's development fee impact program for use in mitigating the impacts of new development on the new City's parks and recreation resources.~~

4. On FINAL EIR page R-5, following the discussion of the text change for Mitigation 3-35 and prior to the discussion of the text change for Mitigation 3-37 (1), the following text has been added:

"On Draft EIR page ES-16, the text of Mitigation 3-36 has modified to delete part 3 of the mitigation measure:

~~3. Apply IBC Overlay to Lands Identified as having High Wildlife Habitat Values.~~

5. On FINAL EIR page R-5, following the discussion of the text change for Mitigation 3-35 and prior to the discussion of the text change for Mitigation 3-37 (1), the following text has been added:

"The following text on Draft EIR page 3-71 has been deleted:

~~3. Apply IBC Overlay to Lands Identified as Having High Wildlife Habitat Values.~~"

6. On FINAL EIR page R-11, the text of the MITIGATION has been modified as follows:

"<u>1.</u> LAFCO ~~should~~ <u>shall</u> require the new City to <u>maintain seamless compliance with those County Transportation Impact Fee programs that include an El Dorado Hills area component through the collection of the appropriate fee at the time of building permit issuance. The County and City should enter into an equitable agreement to both assign project construction responsibility and the funding of those projects. It is anticipated that the current El Dorado Hills/Salmon Falls Area RIF program or any updated iteration of that fee program would be transferred to the new City for administration.</u> ~~do each of the following:~~

~~1. Maintain seamless compliance with each of the existing Transportation Impact Fee programs through the collection of the appropriate funds at the time of building permit issuance for all development within the new City. The Impact Fee Programs are:~~

~~a) El Dorado Hills/Salmon Falls Area Road Impact Fee (RIF)~~

~~b) West Slope Traffic Impact Mitigation Fee (County TIM)~~

~~c) State Traffic Impact Mitigation Fee (State TIM)~~

~~d) Interim Highway 50 Corridor Variable Traffic Impact Fee (Interim 50 Variable TIM)~~

~~2. Transfer to the County an amount equal to all revenues derived from the foregoing fees, with the exception of the El Dorado/Salmon Falls Area RIF, since it would be administered by the new City, itself.~~

~~3~~<u>2</u>. Maintain the current level of financial support to the EDCTA transit programs, so as to maintain a consistent level of funding from development fees, sales tax revenues, and all other applicable sources, as exists prior to incorporation.

~~LAFCO should require the new City to maintain funding levels and encourage it to join theJPA that oversees the operation of the EDCTA. This would assure continued funding and coordination with the County regarding transit programs.~~

~~LAFCO should incorporate these mitigation measures as conditions of its approval of incorporation and thereby ensure continued financial support to the transportation improvement projects and the service level of the EDCTA, with the result that there would be no diminution of funding as a result of incorporation.~~"

7. On FINAL EIR page R-17, between the discussion of the text change in Mitigation 3-35 and the discussion of the text change in Mitigation 3-37 (1), the following text has been added:

"The following text on Draft EIR page 3-71 has been deleted:

~~3. Apply IBC Overlay to Lands Identified as Having High Wildlife Habitat Values.~~

~~The IBC overlay should apply to lands identified as having high wildlife habitat values because of extent, habitat function, connectivity, and other factors. Lands located within the overlay district should be subject to the following provisions:~~

~~Increased minimum parcel size;~~

~~Higher canopy retention standards and/or different mitigation standards/thresholds for oak woodlands;~~

~~Lower thresholds for grading permits;~~

~~Higher wetlands/riparian retention standards and/or more stringent mitigation requirements for wetland/riparian habitat loss;~~

~~Increased riparian corridor and wetland setbacks;~~

~~Greater protection for rare plants (e.g., no disturbance at all or disturbance only as recommended by USFWS/CDFG);~~

~~Standards for retention of contiguous areas/large expanses of other (non-oak or non-sensitive) plant communities;~~

~~Building permits discretionary or some other sort of "site review" to ensure that canopy is retained;~~

~~More stringent standards for lot coverage, FAR, and building height; and~~

~~No hindrances to wildlife movement (e.g., no fences that would restrict wildlife movement.~~

~~The standards listed above should be included in the Zoning Ordinance of the new City.~~"

8. On FINAL EIR p. C&R91-92, the Response to Comment O-9 has been modified as follows:

RESPONSE O-9: Comment noted. <u>While adoption of the CSD park development standards would be a desirable thing, LAFCO can only encourage the new city to do so, and will do so in the Terms and Conditions attached to the incorporation, if approved. Since LAFCO can not require the new city to adopt these standards, modifying the wording of the Mitigation Measure for Impact 2-9 would not achieve the desired effect</u>. ~~In response to this Comment, the EIR has been modified to expand the scope of the mitigation requirements for **Impact 2-9** on Draft EIR pages ES-6 and 2-46:~~

~~**MITIGATION**~~

1. ~~Include all lands currently inside the EDHCSD boundary into the boundary of the new City.~~
2. ~~Include all lands currently inside the Springfield Meadows CSD within the new City.~~
3. ~~The new City should consider adoption of the El Dorado Hills CSD Park and Recreation Master Plan, which includes all areas within the El Dorado Hills CSD and its SOI.~~
4. ~~Encourage the new City to adopt the Park Development Standards of the El Dorado Hills CSD and the CSD's development fee impact program for use in mitigating the impacts of new development on the new City's parks and recreation resources.~~

Local Agency Formation Commission
STAFF REPORT

Continued from Agenda of May 18, 2005

Agenda Item 4: **RESOLUTION L-05-07 ADOPTING FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE PROPOSED INCORPORATION OF THE CITY OF EL DORADO HILLS; LAFCO PROJECT NO. 03-10**

Attached for your consideration is Resolution L-05-07, Adopting Findings of Fact and Statement of Overriding Considerations for the Incorporation of El Dorado Hills, LAFCO Project No. 03-10). This action is required by CEQA Guidelines Section 15091 which states that before a public agency can approve a project for which an EIR has identified significant environmental effects, the agency must first adopt "one or more findings for each [such] ... significant effect." The Final EIR for the El Dorado Hills Incorporation Project has identified significant environmental effects with respect to the numerous "indirect" impacts associated with incorporation, as described and delineated in the EIR.

Accordingly, the attached Findings of Fact and Statement of Overriding Considerations has been prepared and is made a part of the Resolution by reference.

RECOMMENDATION

Approve Resolution No.L-05-07 - Adopting Findings of Fact and Statement of Overriding Considerations for the Incorporation of El Dorado Hills, LAFCO Project No. 03-10).

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RESOLUTION NUMBER L - 05-07
ADOPTING FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE PROPOSED INCORPORATION OF THE CITY OF EL DORADO HILLS (LAFCO PROJECT NO. 03-10)

WHEREAS, the Local Agency Formation Commission of the County of El Dorado is the entity authorized to approve incorporations pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Act"); and,

WHEREAS, the Board of Supervisors of the County of El Dorado passed a Resolution of Application, Resolution 322-2003, in accordance with Section 56654 of the Act, thereby initiating the Proposed Incorporation of El Dorado Hills as LAFCO Project No. 03-10; and,

WHEREAS, fiscal, environmental and other appropriate analyses were initiated; and,

WHEREAS, local jurisdictions, community residents, business and other interested parties have provided input into the evaluation process; and,

WHEREAS, public agencies have reviewed and commented upon the project; and,

WHEREAS, sufficient public notice has been provided in accordance with the Act for all hearings on the matter of the Proposed Incorporation of El Dorado Hills; and,

WHEREAS, the El Dorado Local Agency Formation Commission has all the necessary background materials upon which it may judge the merits of the Project; and,

WHEREAS, a Final Environmental Impact Report has been considered and certified as adequate and complete (LAFCO L-05-06) at the meeting of the El Dorado Local Agency Formation Commission on May 25, 2005.

NOW, THEREFORE BE IT RESOLVED that the attached document entitled "FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS" (Attachment A) is hereby approved, adopted and incorporated by reference as though wholly set forth herein.

PASSED AND ADOPTED by the El Dorado County Local Agency Formation Commission at a regular meeting of said Commission, held May 25, 2005 by the following vote of said Commission.

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Clerk to the Commission	Chairperson

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DRAFT

ATTACHMENT A TO RESOLUTION L – 05-07
FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE INCORPORATION OF EL DORADO HILLS, CALIFORNIA
LAFCO PROJECT NO 03-10

I. PROJECT DESCRIPTION AND GENERAL INFORMATION

Project Description.

The Project consists of the incorporation of the City of El Dorado Hills, California, subject to all the terms and conditions to be placed on the ballot. The new city, if approved by the voters, would be administered by an elected five member city council, city manager, city attorney, and other administrative personnel to be determined by the city council..

The Project is located in the western portion of El Dorado County. The Project area is bounded on the west by the El Dorado County/Sacramento County line, by Folsom Lake and Green Valley Road on the north, the community of Cameron Park on the east, and to a boundary in the south that is approximately three miles from U.S. Highway 50 and follows the southerly property line of properties immediately south of the El Dorado Hills Business Park.

The new city would be formed in accordance with state law and as described on the election ballot. The question of incorporation, including all terms and conditions, will be one question on the ballot. The terms and conditions that are part of the Project have been listed in the El Dorado LAFCO Resolution No. L-05-09, which was adopted ____, 2005.

General Information.

An Initial Study and Notice of Preparation of the Draft Environmental Impact Report ("Draft EIR") was prepared and issued to the State Clearinghouse, to potentially affected agencies and organizations and to other interested parties on August 25, 2004. The Notice of Preparation review period ended on September 24, 2004. Comments received were addressed and incorporated into the CEQA review.

On February 14, 2005, the Draft EIR for the proposed incorporation of El Dorado Hills, California was distributed to interested and potentially affected local, state and federal agencies, posted on the website of the El Dorado LAFCO, and provided to the State Clearinghouse. A notice of the availability of the Draft EIR was published in accordance with the law. The public review period ended on April 15, 2005.

Public hearings on the Draft EIR were held on February 23 and March 23, 2005 by the El Dorado LAFCO. Testimony was received at both hearings, and fifteen (15) written comment letters were received prior to the end of the public comment period. A Final EIR was prepared which provides written responses to each of the comment letters and the testimony summarized from the public hearings, in accordance with CEQA.

The Final EIR was distributed on Friday, May 6, 2005. The Final EIR was distributed to all interested parties who had requested copies and to all agencies that had provided comments on the Draft EIR. It was posted on the website of the El Dorado LAFCO. The Final EIR was considered at noticed public hearings on May 18, 2005 and May 25, 2005. The Final EIR was certified at a noticed public hearing held on _____, 2005. The public notices of the public hearings to consider and certify the Final EIR were published in accordance with law.

II. FINDINGS REQUIRED UNDER CEQA

Under Public Resources Code Section 21002, public agencies "should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" CEQA is intended to assist public agencies in identifying feasible mitigation measures and alternatives that will "avoid or substantially lessen" significant environmental effects.

Under Public Resources Code Section 21061.1, "feasible" is defined to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." However, a public agency may determine that mitigation measures or environmentally superior alternatives are infeasible if they fail to meet the objectives of the project.

Under CEQA Guidelines Section 15091, before a public agency can approve a project for which an EIR has identified significant environmental effects, the agency must first adopt "one or more findings for each [such] ... significant effect." In its findings, the public agency may reach one or more of three permissible conclusions:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the EIR.

III. MITIGATION MEASURES /MITIGATION MONITORING

As noted above, CEQA requires that where a project would cause significant environmental effects, a lead agency is required to adopt feasible mitigation measures that can substantially lessen or avoid those effects. The Commission finds that a Mitigation Monitoring Program has been prepared in accordance with Section 15097 of CEQA Guidelines, and outlines procedures for implementing all mitigation measures identified in the Final EIR.

IV. POTENTIALLY SIGNIFICANT DIRECT ENVIRONMENTAL EFFECTS AND MITIGATION MEASURES

This section presents the Commission's specific findings with respect to the direct significant and potentially significant environmental effects that would occur, absent mitigation, with incorporation. As indicated in the EIR, incorporation would result in several conflicts with LAFCO policies that are considered significant impacts and that would require mitigation. These are identified as direct impacts associated with incorporation, all of which can be reduced to a level of less than significant through the implementation of the mitigation measures identified in the EIR. Incorporation, in and of itself, would not result in any future development within the incorporation area. However, there would be physical changes in the environment resulting from future development within the incorporation area, either with or without incorporation. The Board of Supervisors of El Dorado County has given its approval to several large-scale developments in the El Dorado Hills area. Since the land use entitlements granted with these projects are protected under long-term Development Agreements, they will not be affected by whether the area incorporates as a new city or not. In the EIR, the potential environmental effects associated with future development within the area proposed for incorporation were identified as indirect effects, and are addressed in **Section V.**

The Final EIR identified a number of direct significant impacts and potentially significant impacts from project implementation that could be reduced to a less than significant level with the implementation of feasible mitigation measures. These mitigation measures have been included in the terms and conditions to be placed before the voters, as identified in LAFCO Resolution L-05-09, which was adopted simultaneously with this Resolution on ______, 2005. These Mitigation Measures set forth below are found to be feasible and will reduce these impacts to a less than significant level and are hereby adopted by the Commission. A Mitigation Monitoring and Reporting Program will also be adopted as required under CEQA.

DIRECT IMPACT 2-1: Potential Loss of County Funding for Acquisition of Permanent Rare Plant Habitat. If any part of the incorporation area is determined to be within the County Ecological Preserve, the new City would be expected to administer and enforce the provisions of Chapter 17.71 of the County Ordinance Code. Arrangements between the new City and the County would need to be made to assure the continued flow of in-lieu fee revenue to the County in order to maintain the established mitigation program. Any loss or disruption of such fee revenue would adversely affect the County's ability to maintain the required level of habitat acquisition which is necessary to assure permanent preservation of the habitat. This would be a potentially significant direct impact of incorporation.

MITIGATION: *Require continued collection by the new City of the Habitat Conservation Mitigation Fee and Require the New City to Transfer to the County an Amount Equal to the Proceeds Thereof, Following Incorporation, in Accordance with Chapter 17.71.*

Explanation: These steps will assure the continued applicability of impact fees on development projects that are deemed to adversely impact the habitat of rare plant species. This measure would be consistent with Policy 3.2.16 of the LAFCO Policies and guidelines.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with a possible loss of County funding for acquisition of permanent rare plant habitat to a level of less than significant.

DIRECT IMPACT 2-2: Creation of Islands of Unincorporated Territory. The Proposal boundary excludes areas that should be included, and includes areas that should be excluded. Each of these aspects of the Proposal boundary is inconsistent with policies of the El Dorado LAFCO and Cortese-Knox-Hertzberg:

- It should include two large development projects located at the western edge of the area, adjacent to the Sacramento County line (The Promontory and Carson Creek), and should include the entire Marble Valley property. These properties have received land use entitlements for residential development. All of these development sites will need urban services, and excluding them would be inconsistent with LAFCO Policies 3.9.4 and 4.5.5. Bifurcating Marble Valley would be inconsistent with LAFCO Policy 3.9.2;
- The boundary should include the former Williamson Act parcels and thereby eliminate islands of unincorporated territory. Leaving these as unincorporated islands would be in conflict with LAFCO Policy 3.9.4;
- The Proposal boundary includes several unentitled vacant parcels at the southern end of the area that have agricultural land use designations and are designated Rural Region in the 2004 El Dorado County General Plan. Inclusion of these parcels would be in conflict with LAFCO Policy 3.2.16 (potential adverse impacts on agricultural and open space resources) and would be inconsistent with LAFCO Policy 3.4.1 (requiring a finding of consistency with the 2004 General Plan).

The foregoing policy conflicts are considered Significant Impacts under the applicable significance criteria stated in the EIR.

MITIGATION: *The mitigation measure for these significant impacts is a boundary modification by LAFCO.*

- *Modify the Boundary to Include the Entitled Urban Development Projects Within the Incorporation Area (e.g., The Promontory, Carson Creek, Marble Valley);*
- *Modify the boundary to eliminate "islands" from the incorporation area (this would apply to the former Williamson Act parcels located in the central portion of the incorporation area);*
- *Modify the boundary to exclude the 536-acre property (the "Dunlap Property," A.P.N. 108-050-15) located at the southern end of the proposed incorporation area that is currently used for cattle grazing.*

Explanation: The foregoing boundary modifications would eliminate the direct impacts caused by policy conflicts with adopted LAFCO boundary policies and, therefore, reduce the potential impact to a level of less than significant.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with a possible creation of islands of unincorporated territory to a level of less than significant.

DIRECT IMPACT 2-3: Disruption of Established Rural Residential Communities and the Hickok Road Community Services District. The conflicts with LAFCO policies and the 2004 GP are considered Significant Impacts under the applicable significance criteria stated above.

MITIGATION: *The mitigation measure for these conflicts would be to modify the boundary to exclude the HRCSD and conform the boundary more closely to the policies of El Dorado LAFCO and Cortese-Know-Hertzberg.*

- *Modify the Boundary to Exclude all of the Hickok Road CSD.*
- *Modify the Boundary to Exclude Arroyo Vista CSD and Surrounding Rural Parcels.*

Explanation: This boundary modification would eliminate impacts and conflicts with the Hickok Road and Arroyo Vista CSDs and avoid potential incompatibility between El Dorado Hills and the large-lot rural character of that area. This exclusion would further strengthen this community of interest as a "Rural Region."

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with a possible disruption of established rural residential communities and the Hickok Road Community Services District to a level of less than significant.

DIRECT IMPACT 2-4: Potential Inclusion of a Williamson Act Parcel. Adoption of the No Unincorporated Islands boundary alternative would include lands designated as Agricultural Preserve Number 135 (Mehrten), a 286-acre parcel located adjacent to the Sacramento County line on the west and the Carson Creek Specific Plan on the north. Inclusion of this parcel under either boundary alternative would be a direct conflict with LAFCO policies 6.7.8.2 and 6.7.8.3 and would therefore represent a potentially significant impact.

MITIGATION: *This potentially significant impact can be lessened to a less than significant level by the following feasible mitigation measure:*

- *Exclude Agricultural Preserve 135 (the Mehrten Parcel, A.P.N. 108-050-01) from the incorporation boundary.*

Explanation: Exclusion of Agricultural Preserve 135 from all boundary alternatives would reduce this potential impact to less than significant.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with the potential inclusion of a Williamson Act Parcel to a level of less than significant.

DIRECT IMPACT 2-5: Potential Reduction in Funding For Transportation Improvements and Transit Operations. The Measure Y policies and all other transportation mitigation measures embodied in the 2004 El Dorado County General Plan and General Plan EIR are expected to become applicable in the new city when it adopts the 2004 General Plan as its "interim" General Plan. Thus, there would be no inconsistency in policy regarding transportation Levels of Service standards or other standards resulting from the fact of incorporation and no direct adverse impacts. However, any loss of (or reduction in) the revenue from the various traffic impact mitigation and roadway improvement fees currently charged and collected by the County for local and regional circulation improvements, improvements to U.S. 50, and to support EDCTA transit programs, could result in potentially significant direct impacts on LOS conditions, access and circulation, and availability of transit services. The potential disruption or reduction of this revenue stream is considered a significant impact.

MITIGATION: *This potentially significant impact can be lessened to a less than significant level by the following feasible mitigation measure:*

- *LAFCO shall require the new City to maintain seamless compliance with those County Transportation Impact Fee programs that include an El Dorado Hills area component through the collection of the appropriate fee at the time of building permit issuance. The County and City should enter into an equitable agreement to both assign project construction responsibility and the funding of those projects. It is anticipated that the current El Dorado Hills/Salmon Falls Area RIF program or any updated iteration of that fee program would be transferred to the new City for administration.*

Explanation: If applied as outlined above, this Mitigation Measure would reduce the potential impact to a level of less than significant.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with the potential reduction in funding for transportation improvements and transit operations to a level of less than significant.

DIRECT IMPACT 2- 6: Loss of Traffic Enforcement Services by the California Highway Patrol.

MITIGATION: *This potentially significant impact can be lessened to a less than significant level by the following feasible mitigation measure:*

- *LAFCO should require the new City to provide traffic control services within the incorporation area at levels no lower than those currently provided by the CHP.*

Explanation: Implementation of this mitigation measure would reduce the potential impact resulting from the loss of traffic enforcement services to a level of less than significant.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with the potential loss of traffic enforcement services by the California Highway patrol to a level of less than significant.

DIRECT IMPACT 2-7: Potential Service Reduction From Loss of Revenues from the Fire District Improvement Fee. It is expected that upon incorporation, and in accordance with state law, the new City will adopt all existing County ordinances, including Chapter 13.20 that establishes the Fire District Improvement Fee. In the event the new City were to opt out of this fee program, it would result in a loss of funding to the local fire protection agency and a likely reduction in service level. This possibility is considered a potentially significant impact.

***MITIGATION:** This potentially significant impact can be lessened to a less than significant level by the following feasible mitigation measure:*

- *LAFCO should require the new City to adopt and continue indefinitely the Fire District Improvement Fee, as set forth in Chapter 13.20 of the County Ordinance Code*
- *LAFCO should require the new City to transfer to EDHCWD an amount equal to the Fire District Improvement Fee.*

Explanation: This potentially significant impact would be reduced to a level of less than significant if it is adopted by the new City and administered indefinitely in a manner consistent with current County practice.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with the potential service reduction from loss of revenues from the Fire District Improvement Fee to a level of less than significant.

DIRECT IMPACT 2-8: Loss of Wildland Fire Protection Services by the CDF. The loss of CDF services for wildland fire protection would be considered a significant impact under the LAFCO significance criteria. Without mitigating the effect of this shift in responsibility through the payment of the applicable fees to the CDF, fire protection services for wildland fires would be reduced significantly.

MITIGATION: This potentially significant impact can be lessened to a less than significant level by the following feasible mitigation measure:

- *LAFCO should require the retention of CDF for wildland fire protection through contractual agreements between the new City, the El Dorado Hills Fire Department (EDHCWD), and the CDF.*
- *LAFCO should require the new City to transfer to EDHCWD an amount sufficient to fund the cost of continued CDF wildland fire protection for all affected areas within the new City boundary.*
- *The arrangements to retain the services of the CDF should remain in effect until and unless the City and the Fire District agree to alternative arrangements that provide an adequate level of wildland fire protection services that are at least equal to the level provided by the CDF.*

Explanation: These agreements would assure a continuity of wildland fire protection service in the area and would prevent the cost of such services from adversely affecting the level of service provided by the local fire protection agencies. This potentially significant impact would be reduced to a level of less than significant if the new City pays the annual cost for retaining CDF services for wildland fire protection at a level equal to the condition prior to incorporation.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with the potential loss of wildland fire protection services by CDF to a level of less than significant.

DIRECT IMPACT 2-9: Potential Loss of Parks and Recreation Services. At full buildout, The Promontory is expected to generate approximately 1,100 new households, some percentage of which could be adversely affected by not having the same access to park and recreation services that would have been available through the EDHCSD. This situation could result in an increase in traffic and air quality impacts resulting from these residents having to make trips at greater distance to recreation facilities beyond the boundaries of the new city that are operated by the County. The loss of service would be considered a potentially significant environmental effect.

MITIGATION: *This potentially significant impact can be lessened to a less than significant level by the following feasible mitigation measure:*

- *Include all lands currently inside the EDHCSD boundary into the boundary of the new City.*
- *Include all lands currently inside the Springfield Meadows CSD within the new City.*
- *The new City should consider adoption of the El Dorado Hills CSD Park and Recreation Master Plan, which includes all areas within the El Dorado Hills CSD and its SOI.*
- *Encourage the new City to adopt the Park Development Standards of the El Dorado Hills CSD and its development fee impact program for use in mitigating the impacts of new development on the new City's parks and recreation resources.*

Explanation: Implementation of these mitigation measures would reduce this potential impact of incorporation on parks and recreation services to a less than significant level.

FINDING: Changes or alterations have been required in, or incorporated into, the Incorporation Proposal, including conditions of approval and mitigation measures specified in the Final EIR that would reduce the potentially significant impact associated with the potential loss of parks and recreation services to a level of less than significant.

V. SIGNIFICANT ADVERSE INDIRECT IMPACTS THAT CANNOT BE AVOIDED.

As indicated above, incorporation, in and of itself, would not result in any future development within the incorporation area. However, there would be physical changes in the environment resulting from future development within the incorporation area, either with or without incorporation. The Board of Supervisors of El Dorado County has given its approval to several large-scale developments in the El Dorado Hills area. Since the land use entitlements granted with these projects are protected under long-term Development Agreements, they will not be affected by whether the area incorporates as a new city or not for at least eight years. The following indirect impacts that may be associated with future development within the incorporation area have been identified as significant and unavoidable, since project-specific environmental review for each future development project will be necessary to determine the extent to which the mitigation measures identified in the EIR may effectively reduce the potential impacts identified to a level of less than significant. The impacts that are associated with this potential future development are the same impacts that were identified in the El Dorado County 2004 General Plan EIR. The following significant and unavoidable indirect environmental impacts were identified in the EIR:

INDIRECT IMPACT 3-1: Substantial Alteration or Degradation of Land Use Character.

INDIRECT IMPACT 3-2: Creation of Substantial Land Use Incompatibility.

INDIRECT IMPACT 3-3: Increased Potential for Conversion of Important Farmland, Grazing Land, Land Currently in Agricultural Production.

INDIRECT IMPACT 3-4: Degradation of the Quality of Scenic Vistas and Scenic Resources.

INDIRECT IMPACT 3-5: Degradation of Existing Visual Character or Quality of the Area.

INDIRECT IMPACT 3-6: Creation of New Sources of Substantial Light or Glare that Could Adversely Affect Daytime or Nighttime Views.

INDIRECT IMPACT 3-7: Potential to Opt Out of Measure Y Land Use Policies.

INDIRECT IMPACT 3-8: Increase in Daily and Peak Hour Traffic on Roadways Already Congested.

INDIRECT IMPACT 3-9: Unacceptable LOS Conditions Related to Generation of New Traffic in Advance of Transportation Improvements.

INDIRECT IMPACT 3-10: Insufficient Transit Capacity.

INDIRECT IMPACT 3-11: Increase in Surface Water Pollutants from Additional Wastewater Treatment Plant Discharges.

INDIRECT IMPACT 3-12: Increase in Groundwater Pollutants from Onsite Wastewater Treatment Systems (OWTS) (Septic Systems).

INDIRECT IMPACT 3-14. Potential for Land Use Incompatibility and Other Impacts of New and Expanded Energy Supply Infrastructure.

INDIRECT IMPACT 3-15: Potential Land Use Incompatibility Associated with Development and Expansion of Law Enforcement Facilities.

INDIRECT IMPACT 3-16: Potential School Incompatibility with Adjacent Land Uses.

INDIRECT IMPACT 3-17: Potential Library Incompatibility with Adjacent Land Uses.

INDIRECT IMPACT 3-18: Deterioration of Existing Parks and Recreation Facilities and Need for New Facilities.

INDIRECT IMPACT 3-19: Increased Incidents of Illegal Disposal of Household Hazardous Wastes.

INDIRECT IMPACT 3-20: Increased Risk of Accidental Release of Hazardous Materials.

INDIRECT IMPACT 3-21: Increased Risk of Exposure to Hazardous Waste Resulting from New Development on Known, Suspected and Unknown Contaminated Sites.

INDIRECT IMPACT 3-22: Exposure to Electromagnetic Fields Generated by New Electric Energy Facilities at School Locations.

INDIRECT IMPACT 3-23: Public Exposure to Asbestos.

INDIRECT IMPACT 3-24: Increased Potential for Fire Incidents and Fire Hazards.

INDIRECT IMPACT 3-25: Increased Development in Areas Susceptible to Landslide Hazards.

INDIRECT IMPACT 3-26: Additional Development Could Affect the Rate or Extent of Erosion.

INDIRECT IMPACT 3-27: Exposure of Noise-Sensitive Land Uses to Short-Term (Construction) Noise.

INDIRECT IMPACT 3-28: Exposure to Ground Transportation Noise Sources.

INDIRECT IMPACT 3-29: Exposure of Noise-Sensitive Land Uses to Fixed or Nontransportation Noise Sources.

INDIRECT IMPACT 3-30: Exposure to Aircraft Noise.

INDIRECT IMPACT 3-31: Construction Emissions of ROG, NO_x, and PM_{10}.

INDIRECT IMPACT 3-32: Long-Term Operational (Regional) Emissions of ROG, NO_x, CO and PM_{10}.

INDIRECT IMPACT 3-33: Toxic Air Emissions.

INDIRECT IMPACT 3-34: Local Mobile-Source Emissions of Carbon Monoxide (CO).

INDIRECT IMPACT 3-35: Odorous Emissions.

INDIRECT IMPACT 3-36: Loss and Fragmentation of Wildlife Habitat, Impacts on Special Status Species, and Impacts on Wildlife Movement.

INDIRECT IMPACT 3-37: Destruction or Alteration of Known and Unknown Prehistoric and Historic Sites, Features, Artifacts and Human Remains.

INDIRECT CUMULATIVE IMPACTS identified in the EIR are addressed by category as follows:

Land Use. Loss of community identity, as development within the U.S. 50 corridor in western El Dorado County merges with development in the City of Folsom. An example of this is the Promontory, located adjacent to the Sacramento County line and adjacent to the Russell Ranch development in the City of Folsom. Both projects include a mix of housing product type, and it is likely that once developed, the separation between Folsom and El Dorado County, or El Dorado Hills, will be difficult to distinguish. Both projects are fully entitled and therefore, this impact is considered potentially significant and unavoidable.

Agriculture and Open Space. The 2004 General Plan EIR notes the loss of agricultural lands as being a statewide issue and cites a net loss of 2,273 acres of important farmland between 1998 and 2000 in the four-county region of El Dorado, Placer, Amador and Sacramento Counties. Future development of the remaining grazing lands that would be within the incorporation area, particularly at the southern end of the area, would contribute to the cumulative loss of agricultural lands. This is considered a significant cumulative impact for the County as a whole and a portion of this cumulative loss will occur within the incorporation area, but would occur whether incorporation is approved or not.

Visual Resources. Conversion of the rural landscape in western El Dorado County to a suburban appearance would result in the reduction of the natural aesthetic qualities of the U.S. 50 corridor. This is considered a significant and unavoidable cumulative impact.

Traffic and Circulation. Residential and employment growth in the new City are expected to result in significant local and regional traffic impacts, representing a considerable contribution to significant regional traffic impacts, particularly along the U.S. 50 corridor. Mitigation measures presented in the General Plan EIR, and incorporated in this EIR, would minimize the incorporation area's contribution to cumulative traffic impacts, but would not reduce them to less-than-significant levels. Consequently, cumulative regional traffic impacts are considered significant and unavoidable.

Water Resources. The analysis of water resources in the EIR indicates that EID is expected to meet long-term water supply needs for the incorporation area. However, EID's ability to fully meet water demands from other parts of its service area, as noted in the 2004 General Plan EIR, is less certain. It notes that long-term water demand of the 2004 General Plan (which selected the 1996 General Plan Alternative as the basis for calculating environmental impacts) is likely to exceed available surface water supplies, even if EID succeeds in obtaining rights to additional water. In this context, therefore, the increase in demand for surface water, resulting from projected future development in the incorporation area, would contribute to significant regional and statewide pressures on limited water resources. This is considered a cumulatively significant and unavoidable impact.

Other Utilities. Projected growth in the incorporation area, and in El Dorado County as a whole, are expected to result in a considerable contribution to regional cumulative demands for electricity and natural gas. Therefore, the potential for significant cumulative environmental effects of providing additional supplies would result. Because approval of new electricity and natural gas supplies are the responsibility of agencies outside of El Dorado County, LAFCO can only conclude that the resulting impacts are potentially significant and unavoidable cumulative impacts.

Public Services. Public services are a local and not generally a cumulative concern. Indirect impacts of growth within the incorporation area would not result in cumulative impacts on services. While incorporation would result in a financial impact on the new City (in order to retain the services of the CDF for wildland fire protection), this financial burden will diminish over time as the land within the new City becomes increasingly urbanized, thereby reducing the number of acres of wildland fire zone on which the costs are calculated. In light of the mitigation measures included in this EIR that would avoid the loss of wildland fire protection services by the CDF, and avoid financial impacts on the local fire districts, the contribution of the incorporation project to cumulative impacts on public services, would be less than significant.

Noise. Anticipated growth within the incorporation area would result in cumulatively considerable increases in noise levels, primarily from increased local and regional traffic. Measures in the 2004 El Dorado County General Plan intended to mitigate noise increases associated with new transportation projects (e.g., sound walls) are expected to reduce the level of cumulative noise impacts, but not to a level of less than significant. Thus, transportation-related noise impacts generated by future growth and development within the incorporation area would be a significant and unavoidable indirect cumulative impact that would occur with or without incorporation. Cumulative noise impacts are also anticipated from an increase in local resident population (e.g., in the Carson Creek development, south of U.S. 50) who would be exposed to aircraft noise because this development is within the overflight range of air traffic using Mather Field. Similar impacts would be expected from development of other properties in the southern end of the incorporation area.

Air Quality. Air quality is a regional environmental issue, with the majority of air pollutant emissions being created by motor vehicle use within the regional air basins. The Mountain Counties Air Basin, in which the incorporation area is located, is designated as nonattainment for the state and national ozone standards and the state particulate (PM10) standard. Ozone pollution is the primary air quality impact of cumulative concern, because precursor emissions of ozone occur throughout the region and combine to exacerbate attainment of air quality standards in the County. Significant air quality impacts resulting from increases in motor vehicle travel, use of wood stoves and fireplaces, and from other sources would contribute to cumulatively significant and unavoidable air quality impacts in the region. Although all feasible policies and mitigation measures are included, this cumulative impact is considered significant and unavoidable.

Biological Resources. Projected future development would contribute to the cumulatively significant loss and fragmentation of woodland and chaparral habitats, riparian corridors, and other important biological resources and impacts on special-status species. The impact of habitat loss and fragmentation is considered significant and unavoidable. Some portion of the considerably cumulative impacts identified above would originate from growth and development located within the area proposed for incorporation. These impacts would occur whether incorporation is approved for El Dorado Hills or not.

MITIGATION: *The mitigation measures identified in the El Dorado County 2004 General Plan EIR that may be feasible and applicable to the potential indirect impacts identified in the EIR are summarized in the EIR wherever the impacts would be relevant within the incorporation area. However, many of the mitigation measures involve the enforcement and/or implementation of land use policies or regulations – both of which require the exercise of legal authority which LAFCO does not have. Therefore, the actual mitigation for these indirect impacts would fall to the new City to carry out. Most of the mitigation measures identified in the EIR are recommendations for the new City to incorporate into its policies and ordinances when it prepares its own general plan and land use ordinances. Since LAFCO cannot be certain that the new City will actually do all of these things (nor can it force the new City to do them), the resulting level of impact significance is significant and unavoidable in all cases where LAFCO cannot ensure or enforce implementation of the recommended mitigation measure.*

Explanation: As indicated above, LAFCO does not have the legal authority to require implementation of the mitigation measures identified in the EIR that have the potential to reduce significant indirect impacts that may be associated with future development within the area proposed for incorporation, whether incorporation takes place or not. For this reason, all indirect environmental effects identified in the EIR have been characterized as significant and unavoidable, although following incorporation, the new City may choose to implement the mitigation measures identified in the EIR (as well as additional mitigation measures) to reduce significant environmental impacts identified during the necessary site-specific environmental review which must take place as individual development projects are brought forward for consideration in the future under the jurisdiction of the new City.

FINDING: For the indirect environmental effects associated with future development within the incorporation area, specific legal considerations make it infeasible for LAFCO to implement the mitigation measures in the EIR.

VI. ALTERNATIVES

The California Environmental Quality Act requires that public agencies consider alternatives to a proposed project in order to seek ways to minimize or eliminate project related environmental impacts. The two principal alternatives addressed in the EIR were the No Project Alternative, and the No Unincorporated Islands Boundary Alternative. A third alternative, the No Business Park Alternative, was also considered.

No Project Alternative. Under the No Project alternative, there would be no change to the existing structure of local government agencies and service providers. Everything within the area proposed for incorporation would remain exactly as it is today. El Dorado Hills would remain an unincorporated part of the larger El Dorado County administrative structure and would continue to be subject to County jurisdiction.

No Unincorporated Islands Alternative. Under the "No Unincorporated Islands" alternative, LAFCO would modify the incorporation boundary to eliminate the "islands" in the original proposal boundary and make other changes, thereby adjusting the boundary to conform more closely to the applicable LAFCO policies and Cortese-Knox-Hertzberg. The boundary modifications in the No Unincorporated Islands Alternative would add certain properties that should be included, and would delete certain other properties that the EIR determined should be excluded. The No Unincorporated Islands Alternative would include all territory located within the current boundary of the El Dorado Hills CSD and its Sphere of Influence, as it exists following the SOI amendments made by LAFCO in 1998 and September 2004. It would also include the El Dorado Hills Business Park, and the Mehrten Parcel.

No Business Park Alternative. Under this alternative, El Dorado Hills Business Park would remain outside the city and remain unincorporated County territory. This alternative was evaluated in response to suggestions made during the process that relate primarily to fiscal and economic concerns rather than environmental. The EIR pointed out that decision to include or exclude the Business Park would not affect the environmental consequences of either the original Proposal boundary or the No Unincorporated Islands Alternative boundary.

The EIR identified the No Unincorporated Islands alternative as the environmentally superior alternative, as it would result in the formation of a new city government that would be expected to provide improved and more responsive public services to its residents, consistent with the objectives as articulated by the incorporation proponents and whose boundary would conform most closely to LAFCO policies and Cortese-Knox-Hertzberg by avoiding islands, including all of the major approved development projects, and avoiding disruption to adjacent, incompatible rural areas. Based on the EIR analysis, and in response to comments received on the Draft EIR, the boundaries of the No Unincorporated Islands alternative were modified to exclude the Mehrten Parcel.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, indirect impacts that may be associated with future development within the incorporation area have been identified as significant and unavoidable, since project-specific environmental review for each future development project will be necessary to determine the extent to which the mitigation measures identified in the EIR may effectively reduce the potential impacts identified to a level of less than significant. Where significant and unavoidable environmental impacts have been identified in an EIR, a written statement of overriding considerations must be made identifying the specific reasons to support approval of the proposed incorporation based on the Final EIR and/or other information in the record.

The following statement identifies the reasons why, in LAFCO's judgment, the benefits of the proposed incorporation outweigh it significant and unavoidable indirect effects:

LAFCO finds that the proposed incorporation would have the following social, environmental and economic benefits:

- Incorporation may enhance the character and identify of El Dorado Hills by establishing the community as a city;
- Incorporation will increase local control over and accountability for decisions affecting El Dorado Hills by having an elected city council made up of El Dorado Hills residents serve as the community's primary local government representatives;
- Incorporation will ensure that the comprehensive planning, zoning and other regulatory land use decisions affective El Dorado Hills and its quality of life are made in El Dorado Hills;
- Incorporation will increase local responsibility for determining services, service levels and capital improvements in El Dorado Hills;
- Incorporation may improve and enhance, where possible, the level of services available to El Dorado Hills; and
- Incorporation may promote more citizen participation in local civic affairs of El Dorado Hills.

For the foregoing reasons, LAFCO finds that the benefits of incorporation outweigh, and therefore, override, the significant and unavoidable indirect environmental effects identified in the EIR, as these effects are associated with future development within the incorporation area, either with or without incorporation, and are not associated directly with the act of incorporation itself.

Local Agency Formation Commission
STAFF REPORT

Continued from Agenda of May 25, 2005

Agenda Item 5: **RESOLUTION L-05-08 ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE INCORPORATION OF THE CITY OF EL DORADO HILLS, CALIFORNIA (LAFCO Project 03-10).**

Attached for your consideration is Resolution L-05-08, Adopting a Mitigation Monitoring Program for the Incorporation of El Dorado Hills, California (LAFCO Project No. 03-10).

This action is required by the California Public Resources Code Section 21081.6 which requires "...the preparation and adoption of a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment."

NOTE: THE MITIGATION MONITORING PROGRAM HAS BEEN REVISED SUBSEQUENT TO THE DRAFT PRESENTED TO YOU AT YOUR MAY 18, 2005 HEARING TO INCORPORATE CLERICAL CORRECTIONS AND TO CONFORM THIS DOCUMENT TO ALL FINAL REVISIONS TO THE EIR AS REFLECTED IN THE FINAL EIR ERRATA DOCUMENT.

Accordingly, the attached document, "El Dorado Hills Incorporation – Mitigation Monitoring Program" has been prepared and is made a part of the Resolution by reference.

RECOMMENDATION

Approve Resolution No.L-05-08 – Adopting a Mitigation Monitoring and Reporting Program for the Incorporation of El Dorado Hills, California (LAFCO Project No. 03-10).

EL DORADO LAFCO
LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NUMBER L 05-08
ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROPOSED INCORPORATION OF THE CITY OF EL DORADO HILLS (LAFCO Project Number 03-10)

WHEREAS, the El Dorado Local Agency Formation Commission is the entity authorized to approve incorporations pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Act"); and,

WHEREAS, the Board of Supervisors of the County of El Dorado passed a Resolution of Application, Resolution 322-2003, in accordance with Section 56654 of the Act, thereby initiating the Proposed Incorporation of El Dorado Hills as LAFCO Project No. 03-10; and,

WHEREAS, the El Dorado Local Agency Formation Commission considered the proposal to create a new city of El Dorado Hills, California; and,

WHEREAS, a Draft Environmental Impact Report for the El Dorado Hills Incorporation Project was prepared to evaluate the potential environmental impacts of the proposed incorporation; and,

WHEREAS, a Final Environmental Impact Report ("Final EIR") was certified as adequate and complete for the Proposed Incorporation of the City of El Dorado Hills prepared by Resolution L-05-06; and,

WHEREAS, the Final EIR identified mitigation measures for impacts identified therein; and,

WHEREAS, certain of those mitigation measures are made conditions of approval of the proposed incorporation, under Resolution L-05-09; and,

WHEREAS, pursuant to Section 21081.6 of the Public Resources Code, a Mitigation Monitoring and Reporting Program is required.

NOW, THEREFORE BE IT RESOLVED by the Local Agency Formation Commission of the County of El Dorado that the attached document entitled EL DORADO HILLS INCORPORATION – MITIGATION MONITORING PROGRAM (Attachment A) is hereby adopted and incorporated by reference as though wholly set forth herein.

PASSED AND ADOPTED by the El Dorado County Local Agency Formation Commission at a regular meeting of said Commission, held May 25, 2005 by the following vote of said Commission.

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Clerk to the Commission

Chair

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Impact	Mitigation Measures	Responsibility	Implementation	Schedule
DIRECT IMPACTS				
Potential loss of County funding for acquisition of permanent rare plant habitat.	Require continued collection by the new City of the habitat conservation mitigation fee and require the transfer to the County of an amount equal to the proceeds thereof, following Incorporation, in accordance with Chapter 17.71 of the County ordinance Code.	LAFCO/New City	Procedures to ensure collection of fees and transfer of fees to the County established as a Condition of Incorporation. City to adopt County ordinance at first meeting of new City Council.	Adoption of County ordinance to occur at first meeting of the new City Council. Implementation and administration of the fee program would be on-going thereafter.
Creation of Islands of Unincorporated Territory.	Include the Large Adjacent Development Projects (Promontory, Carson Creek and the eastern half of Marble Valley Include the former Williamson Act Parcels to Eliminate "Islands"; Exclude from the Boundary Agricultural Lands Located at the Southern End of the Proposal Area. This would reduce the impact to a level of less than significant.	LAFCO	Boundary changes embodied in LAFCO Resolution approving incorporation.	Boundary changes formalized prior to Incorporation Approval by LAFCO.
Disruption of established Rural Residential communities and the Hickok Road Community Services District.	Modify the boundary to exclude all of Hickok Road CSD. Modify the boundary to exclude the Arroyo Vista CSD and surrounding Rural parcels. These measures would reduce the impact to a level of less than significant.	LAFCO	Boundary changes embodied in LAFCO Resolution approving incorporation.	Boundary changes formalized prior to Incorporation Approval by LAFCO.
Potential inclusion of a Williamson Act parcel.	Exclude Agricultural Preserve 135 (the Mehrten Parcel) from the Incorporation boundary. This would reduce the impact to a level of less than significant.	LAFCO	Boundary changes embodied in LAFCO Resolution approving incorporation.	Boundary changes formalized prior to Incorporation Approval by LAFCO.
Potential reduction in funding for transportation improvements and transit operations.	LAFCO shall require the new City to maintain seamless compliance with existing County Transportation Impact Fee programs that include the El Dorado Hills area component through the collection of the appropriate funds at building permit issuance. The County and city should enter into an equitable agreement to both assign project construction responsibility and the funding of those projects. It is anticipated that the current El	LAFCO/New City	Procedures to ensure collection of fees and transfer of fees to the County, including fees that support EDCTA operations, to be established as a Condition of Incorporation. City to adopt County ordinance at first meeting of new City Council.	Adoption of County ordinance to occur at first meeting of the new City Council. Implementation and administration of the fee program would be on-going thereafter.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	Dorado Hills/Salmon Falls Area RIF program or any updated iteration of that fee program would be transferred to the new city for administration. Maintain the current level of financial support to the EDCTA transit programs, so as to maintain a consistent level of funding from development fees, sales tax revenues, and all other applicable sources, as exists prior to incorporation. This measure would reduce the impact to a level of less than significant.			
Loss of traffic enforcement services by the California Highway Patrol.	Require the new City to provide traffic control services within the Incorporation Area at levels no lower than those currently provided by the CHP. This would reduce the impact to a level of less than significant.	LAFCO/New City	Specific details related to traffic enforcement within the new City to be required as a Condition of Incorporation and to be incorporated in contractual agreement with County Sheriff or other law enforcement agency selected by the new City to provide law enforcement service to the new City.	As of the Effective Date of Incorporation, all issues related to traffic enforcement within the Incorporation area will be formally resolved.
Potential service reduction from loss of revenues from the Fire District Improvement Fee.	Require the new City to adopt and continue indefinitely the Fire District Improvement Fee, as set forth in Chapter 13.20 of the County Ordinance Code. *Require the new City to transfer to* EDHCWD an amount equal to the Fire District Improvement Fee. These measures would reduce the impact to a level of less than significant.	LAFCO/New City	Formalized requirements related to the new City's payment and transfer of Fire District Improvement Fees will be established as a Condition of Incorporation.	Adoption of County ordinance to occur at first meeting of the new City Council. Implementation and administration of the fee program would be on-goir thereafter.
Loss of wildland protection service by the CDF.	Require the retention of CDF for wildland fire protection through contractual agreements between the new City and all affected local fire protection agencies and the CDF. Require the new City to transfer to all affected local fire protection agencies an amount sufficient to fund the cost of continued CDF	LAFCO/New City	LAFCO to include these requirements as Conditions of Incorporation.	Not later than the Effective Date of Incorporation, the new City shall have entered into contractual arrangements with the affected fire districts and the CDF to assure wildland fire protection services by the CDF.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	wildland fire protection for all affected areas within the new City boundary. The arrangements to retain the services of the CDF should remain in effect until and unless the city and all affected local fire agencies mutually agree to alternative arrangements that provide an adequate level of wildland fire protection services that are at least equal to the level provided by the CDF. These measures would reduce the impact to a level of less than significant.			
Potential loss of parks and recreation services.	Include all lands currently inside the EDHCSD boundary into the boundary of the new City. Include all lands currently inside the Springfield Meadows CSD within the new City. These measures would reduce the impact to a level of less than significant.	LAFCO	Boundary changes embodied in LAFCO Resolution approving incorporation.	Boundary changes formalized prior to Incorporation Approval by LAFCO.
INDIRECT IMPACTS				
Substantial alteration or degradation of land use character.	Create distinct community separators. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects related to the protection of land use character may be completed with the new City's adoption of General Plan within 30 months of the Effective Date of Incorporation.
Creation of substantial land use incompatibility.	The City should establish a General Plan conformity review process for all development projects. The City should require development projects to be located and designed in a manner that avoids adjacent incompatible land uses.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been	The establishment of new policies to address and mitigate project-specific effects related to land use incompatibility may be completed with the new City's adoption of its General Plan within 30 months of the Effective Date of Incorporation.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	The City and County should coordinate on land use policy for areas within the new City's Sphere of Influence. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.		developed.	
Potential for conversion of important farmland, grazing land, and land currently in agricultural production.	The City should establish a General Plan conformity review process for all development projects. The City should require development projects to be located and designed in a manner that avoids adjacent incompatible land uses. Identify acceptable mitigation for loss of agricultural lands. Provide additional protection for agricultural use. Provide adequate agricultural setbacks. Require agricultural fencing on adjacent residential property. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects related to farmland conversion may be completed with the new City's adoption of its General Plan within 30 months of the Effective Date of Incorporation.
Degradation of the quality of scenic vistas and scenic resources.	The City should establish a General Plan conformity review process for all development projects. Protect views from scenic corridors. The City should extend limitations on ridgeline development within scenic corridors or identified viewing locations to include all development.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects related to scenic vistas may be completed with the new City's adoption of its General Plan within 30 months of the Effective Date of Incorporation.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.			
Degradation of existing visual character or quality of the area.	The new City should consider the adoption of policies in its future general plan that would reduce impacts on visual resources of the area. Issues to consider include guidelines for ridgeline development, hillside development, preservation of Heritage Oaks, and retention of natural landform contours (i.e. criteria for mass grading designs). Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects related to visual character may be completed with the new City's adoption of its General Plan within 30 months of the Effective Date of Incorporatio
Creation of new sources of substantial light or glare that could adversely affect daytime or nighttime views.	Establish a General Plan conformity review process for all development projects. Consider lighting design features to reduce effects of nighttime lighting. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects related to light and glare may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Potential to opt out of Measure Y land use policies.	The City should adopt the Measure Y policies regarding land use restrictions in its own General Plan and encourage the new City to enforce these policies on new developments as a means to mitigate traffic impacts in excess of acceptable LOS standards. Until the new City has developed its General Plan adopting Measure Y policies on land use restrictions and identified policies intended to mitigate traffic impacts related to new development, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, with policies intended to address traffic impacts associated with new development within its jurisdiction. This has not yet been developed.	Completed with the new City's adoption of its General P... within 30 months following the Effective Date of Incorporation.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
Increase in daily and peak hour traffic on roadways already congested.	Implement new growth control measure. Adopt new traffic impact mitigation fee. Establish Level of Service (LOS) policies. Implement a frequent transit service on exclusive right-of-way to El Dorado Hills Business Park. Until the new City has developed its General Plan adopting a new growth control measure, a new traffic impact mitigation fee, and LOS policies intended to mitigate traffic impacts related to new development, this impact could be regarded as potentially significant and unavoidable.	New City EDCTA	Following Incorporation, the new City will be required to develop a General Plan, with policies intended to address traffic impacts associated with new development within its jurisdiction. This has not yet been developed. EDCTA may consider implementation of frequent transit service to the El Dorado Hills Business Park as demand for such a service warrants.	The establishment of a new growth control measure, new traffic impact fee, and LOS policies may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation. EDCTA may consider implementation of frequent transit service to the El Dorad[illegible] Hills Business Park when the demand for such a service justifies such consideration.
Unacceptable LOS conditions related to generation of new traffic in advance of transportation improvements.	Establish concurrency standards. The City should establish a General Plan conformity review process for all development projects. Until the new City has developed its General Plan policies on concurrency standards land use restrictions and identified policies intended to mitigate traffic impacts related to new development, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects on traffic may be completed with the new City's adoption of its General Plan which is to be completed within 30 months following the Effective Date of Incorporation.
Insufficient transit capacity.	Develop funding mechanism for park-and ride lots. Develop a program for expanded commuter bus service. Until the new City has developed its General Plan policies on developing funding mechanisms for transit improvements such as park-and-ride lots, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed development within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of a funding mechanism for park-and-ride lots may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Increase in surface water pollutants from	Encourage mitigation of the environmental	New City	Following Incorporation, the	The establishment of policies

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
additional wastewater treatment plant discharges.	impacts related to future expansions in wastewater treatment capacity. Encourage use of recycled water in new development served by public wastewater systems. *Require a will-serve letter from wastewater* treatment service provider. Until the new City has developed its General Plan policies on encouraging mitigation of impacts associated with wastewater treatment system improvements and the use of recycled water, this impact could be regarded as potentially significant and unavoidable.		new City will be required to evaluate the environmental effects associated with proposed wastewater treatment system improvements within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	encouraging the mitigation of environmental effects associated with wastewater treatment system improvements and the use of recycled water may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Increase in groundwater pollutants from onsite wastewater treatment systems (OWTS) (Septic Systems).	Monitor performance of septic systems annually. Until the new City has developed its General Plan policies to require the monitoring of septic systems, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with OWTS and septic systems within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of policies requiring the monitoring of septic systems may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Increase in demand for non-renewable resources for electricity and natural gas.	No feasible mitigation. This impact would remain significant and unavoidable.	N/A	N/A	N/A
Potential for land use incompatibility and other impacts of new and expanded energy supply infrastructure.	Require projects involving new electrical or natural gas supply or distribution facilities to be located and designed in a manner that avoids adjacent incompatible land uses. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed energy supply projects within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of n policies to address and mitigate project-specific effects related to energy infrastructure may be completed with the new City's adoption of its *General Plan* within 30 months following the Effective Date of Incorporation.
Potential land use incompatibility associated with development and expansion of law enforcement facilities.	Require new law enforcement facilities to be located and designed in a manner that avoids adjacent incompatible land uses.	New City	Following Incorporation, the new City will be required to evaluate the environmental	The establishment of new policies to address and mitigate project-specific effects related to

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	Incorporate compatibility requirements in City zoning ordinance. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.		effects associated with proposed law enforcement facilities within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	new law enforcement facilities may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Potential school incompatibility with adjacent land uses.	The City should require development projects to be located and designed in a manner to avoid adjacent incompatible land uses. Incorporate compatibility requirements in City zoning ordinance. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed school facilities within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects on school facilities may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Potential library incompatibility with adjacent land uses.	The City should require development projects to be located and designed in a manner to avoid adjacent incompatible land uses. Incorporate compatibility requirements in City zoning ordinance. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to evaluate the environmental effects associated with proposed library facilities within its jurisdiction within the context of its own land use plans and policies. These have not yet been developed.	The establishment of new policies to address and mitigate project-specific effects on library facilities may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Deterioration of existing parks and recreation facilities and need for new facilities.	Implement Parks Master Plan and Parks and Recreation Capital Improvement Program. Provide parks and recreation funding mechanisms. Establish development fee program to fund park and recreation improvements. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded	New City	Following Incorporation, the new City will be required to develop a General Plan, with policies intended to address the effects of new development on park and recreation facilities within its jurisdiction. This has not yet been developed.	The establishment of new policies to address and mitigate project-specific effects on park and recreation facilities may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	as potentially significant and unavoidable.			
Increase incidents of illegal disposal of household hazardous wastes.	None available. This impact would remain significant and unavoidable.	N/A	N/A	N/A
Increased risk of accidental release of hazardous materials.	Establish truck routes. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include truck routes within its jurisdiction. This has not yet been developed.	The establishment of truck routes may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Increased risk of exposure to hazardous waste resulting from new development on known, suspected and unknown contaminated sites.	Remediate contamination before construction of new development on contaminated sites. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to be used in the evaluation of environmental effects for development projects within its jurisdiction. This has not yet been developed.	The establishment of policies to be used in evaluating and mitigating project-specific environmental effects associated with hazardous materials may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Exposure to electromagnetic fields generated by new electric energy facilities at school locations.	Encourage coordination between utilities and school districts. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to encourage coordination between utilities and school districts within its jurisdiction. This has not yet been developed.	The establishment of policies to encourage coordination between utilities and school districts may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Public exposure to asbestos.	The City should establish a General Plan conformity review process for all development projects. Strengthen naturally occurring asbestos dust protection standards. Provide disclosure of naturally occurring asbestos on properties. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to be used in evaluating possible exposure to asbestos within its jurisdiction. This has not yet been developed.	The establishment of policies to be used in evaluating and mitigating asbestos exposure may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
Increased potential for fire incidents and fire hazards.	The City should establish a General Plan conformity review process for all development projects. Preclude development in areas of high wildland fire hazard. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to control development that may increase fire hazards within its jurisdiction. This has not yet been developed.	The establishment of policies to control and mitigate project-specific fire hazards may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Increased development in areas susceptible to landslide hazards.	The City should establish a General Plan conformity review process for all development projects. Require geologic analysis in areas prone to geologic or seismic hazards. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of geologic hazards within its jurisdiction. This has not yet been developed.	The establishment of policies t assist in the evaluation and mitigation of project-specific geologic hazards may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Additional development could affect the rate or extent of erosion.	The City should establish a general Plan conformity review process for all development projects. The City should restrict development or disturbance on steep slopes. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of erosion effects within its jurisdiction. This has not yet been developed.	The establishment of policies to assist in the evaluation and mitigation of project-specific erosion effects may be completed with the new City's adoption of its General Plan within 30 months following th Effective Date of Incorporation.
Exposure of noise-sensitive land uses to short-term (construction) noise.	Limit noise-generating construction activities. Establish truck routes to minimize truck noise at noise-sensitive land uses. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of noise effects within its jurisdiction. This has not yet been developed.	The establishment of policies to assist in the evaluation and mitigation of project-specific noise effects may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
Exposure to ground transportation noise sources.	Protect noise-sensitive land uses from unacceptable noise levels caused by new transportation noise sources. Establish truck routes to minimize truck noise at noise-sensitive land uses. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as *potentially significant* and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of noise effects within its jurisdiction. This has not yet been developed.	The establishment of policies to assist in the evaluation and mitigation of project-specific noise effects may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Exposure of noise-sensitive land uses to fixed or non-transportation noise sources.	Protect noise-sensitive land uses from unacceptable noise levels caused by stationary noise sources. Adopt a noise ordinance. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of noise effects within its jurisdiction. This has not yet been developed.	The establishment of policies assist in the evaluation a mitigation of project-specific noise effects may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Exposure to aircraft noise.	Enforce standards for interior noise levels in new development affected by aircraft noise. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of noise effects within its jurisdiction. This has not yet been developed.	The establishment of policies to assist in the evaluation and mitigation of project-specific noise effects may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Construction emissions of ROG, NO_x and PM_{10}.	Use updated recommendations to analyze and mitigate potential air quality impacts. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of air quality effects within its jurisdiction. This has not yet been developed.	The establishment of policies assist in the evaluation and mitigation of project-specific air quality effects may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Long-term operational (regional) emissions of ROG, NO_x and PM_{10}.	Use updated recommendations to analyze and mitigate potential air quality impacts. Encourage use of alternative-fuel vehicles.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of air quality	The establishment of policies to assist in the evaluation and mitigation of project-specific air quality effects may be completed with the new City's adoption of

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	Investigate use of fuel-efficient or alternative-fuel fleet vehicles. Prohibit wood-burning open-masonry fireplaces in new development. Develop incentive program to encourage use of newer cleaner burning EPA-certified wood stoves. Synchronize signalized intersections. Include pedestrian/bike paths connecting to adjacent development. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.		effects within its jurisdiction. This has not yet been developed.	its General Plan within 30 months following the Effective Date of Incorporation.
Toxic air emissions.	The City should establish a General Plan conformity review process for all development projects The City should require development projects to be located and designed in a manner that avoids adjacent incompatible land uses. Use updated recommendations to analyze and mitigate potential air quality impacts. Adopt a policy for facilities housing sensitive receptors. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of air quality effects within its jurisdiction. This has not yet been developed.	The establishment of policies to assist in the evaluation and mitigation of project-specific air quality effects may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Local mobile-source emissions of carbon monoxide (CO).	Investigate use of fuel-efficient alternative-fuel fleet vehicles. Until the project-specific details related to implementation of this mitigation measure can	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of air quality	The establishment of policies to assist in the evaluation and mitigation of project-specific air quality effects may be completed with the new City's adoption of

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	be clarified, this impact could be regarded as potentially significant and unavoidable.		effects within its jurisdiction. This has not yet been developed.	its General Plan within 30 months following the Effective Date of Incorporation.
Odorous emissions.	Require development projects to be located and designed in a manner that avoids adjacent incompatible land uses. Until the project-specific details related to implementation of this mitigation measure can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of air quality effects within its jurisdiction. This has not yet been developed.	The establishment of policies to assist in the evaluation and mitigation of project-specific air quality effects may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Loss and fragmentation of wildlife habitat, impacts on special status species, and impacts on wildlife movement.	Develop and implement an integrated natural resources management plan. Adopt a no-net-loss policy and mitigation program for important habitat. Require mitigation for loss of woodland habitat. Develop and implement an oak tree preservation ordinance. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of effects on biological resources within its jurisdiction. This has not yet been developed.	The establishment of policies [illegible] assist in the evaluation a[illegible] mitigation of project-specific effects on biological resources may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.
Destruction or alteration of known and unknown, prehistoric and historic sites, features, artifacts and human remains.	The City should establish a General Plan conformity review process for all development projects. Treat significant resources in ministerial development in accordance with CEQA standards. Adopt a cultural resources ordinance. Define historic design control districts. Prohibit significant alteration or destruction of NRHP/CRHR listed properties.	New City	Following Incorporation, the new City will be required to develop a General Plan, which may include policies to assist in the evaluation of effects on cultural resources within its jurisdiction. This has not yet been developed.	The establishment of policies to assist in the evaluation and mitigation of project-speci[illegible] effects on cultural resources may be completed with the new City's adoption of its General Plan within 30 months following the Effective Date of Incorporation.

Impact	Mitigation Measures	Responsibility	Implementation	Schedule
	Compile and provide access to cultural resources data not documented in NCIC files. Ensure that proposed projects do not disturb human internments. Until the project-specific details related to implementation of these mitigation measures can be clarified, this impact could be regarded as potentially significant and unavoidable.			

Local Agency Formation Commission
EXECUTIVE OFFICER'S REPORT
Agenda of June 1, 2005
(Continued from Meeting of May 25, 2005)

AGENDA ITEM 5: **Proposed incorporation of El Dorado Hills; LAFCO PROJECT NO. Project #03-10**

PROPONENT(S): El Dorado County Board of Supervisors, on behalf of the El Dorado Incorporation Committee, Norm Rowett and John Hidahl

INTRODUCTION

This document should be treated as a continuation and expansion of the Executive Officer's Report for the Proposed Incorporation of El Dorado Hills, presented to the Commission at the May 25, 2005 hearing. This document begins with a section entitled "Old Business" which serves only to document the decisions and determinations made by the Commission at the May 25, 2005 hearing. The changes are noted using ~~strikeout~~ to reflect deletions and underscore to reflect replacement wording.

The "New Business" consists of Sections V and VI that were not included in the May 25, 2005 Executive Officer's Report, as well as the balance of Section VII not previously addressed.

OLD BUSINESS

Final Boundary Determinations

Boundary Determinations included in the May 25, 2005 Executive Officer's Report are modified as follows:

1. Marble Valley

   LAFCO Determination: Development anticipated in the Marble Valley area will require a type and level of municipal services equal to most other areas included within the City boundaries. However, no development of Marble Valley has occurred and it is not known when such development might occur. The property is currently unimproved and there are no inhabitants and no need for public services. The property owner has asked LAFCO to remove the property from the incorporation boundary. Because there is currently no need for municipal services, and in light of the property owner's request, the entire Marble Valley property is excluded from the City boundary.

2. Marble Mountain Homeowners CSD

LAFCO Determination: In light of the determination by the Commission to exclude the Marble Valley property from the City boundary, and in light of the express desire of the Marble Mountain Homeowners CSD, the Marble Mountain Homeowners CSD should remain outside the boundary of the City.

3. Agricultural Areas South of the El Dorado Hills Business Park

a) The Mehrten and Dunlap Properties.

LAFCO Determination The agriculturally designated parcels south of the El Dorado Hills (108-050-01 and 108-050-15) are not appropriate to include within the incorporation area. This determination is based on the following reasons:

a) These parcels are in current agricultural land use.
b) One parcel is under an active Williamson Act contract.
c) There are no indications of need for urban services to these parcels.

b) All other properties.

LAFCO Determination: The industrial zoned parcels and the El Dorado Union High School parcel south of the El Dorado Hills Business Park are appropriate to include within the incorporation area. This determination is based on the following reasons:

i. The industrially zoned parcels indicate an anticipation of future development and need for urban services.
ii. The parcels that are within the EID and currently receive municipal water service from EID for existing industrial operations and uses demonstrate a need for urban services.
iii. Parcels that are owned by one owner should not be divided by the city boundary.
iv. The "flag" situation that would result from excluding the High School parcel from the city boundary would create an undesirable boundary configuration.
v. It is anticipated that the High School parcel will require municipal services in connection with a future high school at that location.

The ***SUMMARY OF BOUNDARY DETERMINATIONS*** is revised as follows:

a) All territory within El Dorado Hills Community Services District and its Sphere of Influence included within the incorporation boundary including the Promontory, ~~Marble Valley,~~ Lakehills Drive Area and Green Springs Ranch.

b) All territory within the Springfield Meadows CSD is included within the proposed incorporation boundary.

~~c) All territory within the Marble Mountain Homeowners CSD is included within the proposed incorporation boundary.~~

d) The Hickok Road and Arroyo Vista areas and the Cameron Park CSD Sphere of Influence are excluded.

e) The Carson Creek project area is included.

f) The El Dorado Hills Business Park is located within the proposed incorporation boundary.

g) The incorporation area also includes ~~five~~ seven properties south of the El Dorado Hills Business Park that are in the EDHCWD but not in the EDHCSD or its Sphere of Influence (A.P.N. 108-050-05, 108-050-06, 108-050-07, 108-050-08, 108-050-14, 108-050-17 and 108-050-42).

h) The recommended incorporation boundary includes portions of the territories of the El Dorado Hills County Water District~~,~~ and the Rescue Fire Protection District ~~and the El Dorado County Fire Protection District~~.

i) The Mehrten Parcel is excluded from the boundary.

j) The Dunlop Ranch is excluded from the boundary.

Final Terms and Conditions related to Governmental Reorganizations and service Responsibilities

1. The City is authorized to provide and shall provide the following public services:

   a) General Government, including City Manager, City Attorney, City Clerk.

   b) Law Enforcement (including traffic control and accident investigation currently supplied by the California Highway Patrol);

   c) Planning and Land Use Regulation;

   d) Building Inspection;

   e) Maintenance, Engineering and Construction of streets and highways currently maintained by the County of El Dorado;

   f) Animal Care and Regulation;

g) Park and Recreation;

h) Flood Control;

i) Solid Waste;

j) Landscape Maintenance;

k) Street lighting.

l) Refuse Collection, through franchise agreements with private waste collection providers;

m) Cable Television, through franchise agreements with Comcast and/or other private CATV service providers; and,

n) Administration of architectural review and enforcement of Covenants, Conditions and Restrictions (CC&Rs) (see Section 17 (f), below.

2. The City is not authorized to provide the following services and these services shall not be provided by the City. These services shall continue after incorporation and shall be exclusively provided by the agency or agencies identified below, consistent with spheres of influence as determined by LAFCO until and unless service responsibilities are modified by LAFCO pursuant to Government Code §56425, et. seq.:

   a) Domestic Water Supply and Irrigation: El Dorado Irrigation District;

   b) Wastewater Collection, Treatment, and Disposal: El Dorado Irrigation District;

   c) Fire Protection and Emergency Services: El Dorado Hills County Water District, Rescue Fire Protection District, El Dorado County Fire Protection District (hereinafter, the "Fire Agencies");

   d) Resource Conservation: El Dorado County Resource Conservation District;

   e) Schools: Buckeye Union School District, Rescue Union School District, Latrobe Union School District, and El Dorado Union High School District;

   f) Library: El Dorado County Library (County Service Area 10);

   g) Transit: El Dorado County Transit Authority;

   h) Electric Service: Pacific Gas & Electric Company;

   i) Natural Gas: Pacific Gas & Electric Company;

   j) Telephone/Communications: SBC and other private providers;

k) Cemetery: El Dorado County, and others.

l) ~~Mosquito Abatement: El Dorado County~~

m) Air Pollution Control: El Dorado Air Quality Management District [City is expected to join the District and to participate as a new member];

3. The new City shall continue in effect the park development standards and related development impact fees for park and recreation services of the El Dorado Hills CSD in effect as of the Effective Date.

4. Wildland Fire Protection.

The new City shall provide funding to insure that wildland fire protection services are provided within the area of the City for the portions of the new City that, by state law, are reclassified from State Responsibility Area to Local Responsibility Area, as a result of incorporation. This obligation shall be satisfied by the new City as follows:

~~a) For the first year after the effective date of incorporation and until such time as the City and affected fire agencies complete an agreement, the City shall fund continuation of CDF Wildland fire coverage by paying such amount as CDF requires to the affected Fire Agencies who shall contract with CDF for continuation of coverage.~~

~~b) During that year, the City, working with the Fire Districts shall provide for continuation of coverage. The City shall contract with each of the affected Fire Agencies. In such case the City shall transfer to the respective Fire Agency an amount that the City and each Fire Agency mutually agree provides an adequate level of wildland fire protection services that are at least equal to the level provided by the CDF. Such amount may be transferred via a tax exchange agreement pursuant to R&T Code Section 99.01;~~

a) Pursuant to its authority under Government Code Section 56815 and in accordance with Revenue and Taxation Code Section 99 et seq., LAFCO shall require the City to enter into a tax sharing agreement with the three affected Fire Districts providing for the transfer of property tax sufficient to cover the costs to be incurred by the respective districts in providing wildland fire protection. Said tax sharing agreement shall provide for an initial transfer of property tax sufficient to fund each District's projected annual cost of providing such protection as detailed in the Comprehensive Fiscal Analysis. The Tax Sharing Agreement shall further provide that every three years thereafter, the County Auditor, in consultation with the City and the three Fire Districts, shall adjust the tax sharing arrangement to an amount sufficient to cover the then projected annual cost of providing such protection, taking into account increases or decreases in the total acreage subject to such wildland fire protection due to annexation, detachment or reclassification and the Districts' projected costs.

The Fire Districts shall perform a wildland reclassification assessment every three years, prior to the start of the subsequent three year "agreement period." This reclassification shall result in a direct adjustment (upwards or downwards) to the wildland coverage cost to be borne by the City. The Tax Sharing Agreement shall further provide that the annual amount of property taxes transferred pursuant to this Tax Sharing Agreement shall not exceed the projected cost of providing such service through a Cooperative Contract with the California Department of Forestry, so long as such Cooperative Contracts are an option available to the Districts.

b) In all cases, the level of wildland fire protection services shall be not less than the same level as provided by the CDF prior to incorporation.

c) Nothing herein is intended as a grant of authority to the City to provide fire and emergency services. The City's sole authority is to fund the continuation of such service by the fire agencies or CDF.

d) Should the City or an Affected Fire Agency fail to perform any of its obligations as set forth herein, any citizen may obtain a court order to compel the City or Fire Agency to perform their obligations hereunder, or to enforce the terms of any agreement between the City and the Fire Agencies then or most recently in effect.

5. Pursuant to Government Code Section 57376, the new City shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all county ordinances previously applicable shall remain in full force and effect as city ordinances for a period of 120 days after incorporation or until the city council has enacted ordinances superseding the county ordinances, whichever occurs first..

Specifically included among the County ordinances to be adopted by the new City, and not by way of limitation, are the following:

a) The Fire District Improvement Fee, as set forth in Chapter 13.20 of the County Ordinance Code. In accordance with the provisions of Chapter 13.20, the new City shall transfer to any affected Fire Agency an amount equal to the present Fire District Improvement Fee in effect as of the Effective Date on new development projects to which is applies.
b) The El Dorado Hills –Salmon Falls Roadway Improvement Fee (RIF)
c) The El Dorado County Transportation Impact Mitigation (TIM) Fee;
d) County Buildings and Construction Code (Chapter 15)
e) County Subdivision Ordinance (Chapter 16)
f) County Grading, Erosion and Sediment Control Ordinance
g) County Zoning Ordinance (Chapter 17), including specifically, and not by way of limitation,
    i) The County's Right-to-Farm ordinance (Chapter 17.13)
    ii) The Ecological Preserve and Fee In-Lieu of Mitigation (Chapter 17.71)

6. The City shall adopt the El Dorado County General Plan as the interim City General Plan for the incorporated area. The El Dorado County General Plan shall remain in effect for 30 months or until the new City has adopted a new City General Plan pursuant to Government Code Section 65360.

7. In accordance with Government Code Section 65865.3 (a) and (b), any and all development agreements entered into between El Dorado County and any development project applicant or sponsor and any conditions of approval imposed by the Board of Supervisors on discretionary projects prior to the Effective Date shall remain valid and enforceable between the applicant and the City . Upon the Effective Date, the City shall administer such development agreements, including any and all conditions of approval, and mitigation measures adopted pursuant to CEQA for such projects, as the same were imposed by the Board of Supervisors at the time of project approval.

8. To continue the present level of service related to the review of grading plans, and to assure that grading activities proposed for sites within the incorporation area conform with the requirements of the County's Grading and Erosion Control Ordinances, the City shall enter into an agreement with the El Dorado County Resource Conservation District (RCD) for such services. The agreement shall provide for planning and technical assistance to the City and to property owners within the incorporation area in return for the payment of fees for such services which shall be at the same level as fees charged for comparable services within the City of Placerville.

9. The City shall maintain at least the same level of transit service provided by the El Dorado County Transit Authority in the incorporation area.

The new City shall either (a) join the El Dorado County Transit Authority as a new member and in that capacity, transfer to the Authority all funding to which the City may be eligible to receive under applicable federal and state transit funding sources so as to provide transit services within City boundaries at a level at least equal to services provided prior to incorporation; or (b) in the event the new City fails to join the EDCTA, or withdraws from the JPA, the new City shall annually provide to EDCTA funds or revenue equal to the loss in revenue by the EDCTA as a result of either the new City failing to join the EDCTA or withdrawing from the EDCTA. The funds or revenue shall be provided either through development fees, sales tax revenues, Transportation Development Act funds, property taxes, , or other revenue sources or funds, to insure no loss of funding to the EDCTA. Whether or not the new City joins the EDCTA, the EDCTA shall retain the right to use the commuter bus stops in the new City and to provide commuter bus service within the new City.

In joining the EDCTA as specified in (a) above, the new City shall agree to the provisions set forth in the Joint Exercise of Powers Agreement, including the amendment dated May 22, 2001. The EDCTA shall be designated as the transit operator for El Dorado Hills and shall be authorized to file the claim for apportionment under Public Utilities Code Section 99260 on behalf of the new City as provided in Section 15 of the JPA Agreement.

10. The boundary of the City shall include the fill width of all roadway parcels that lie along the perimeter of the City with the exception of two segments of Green Valley Road which will remain outside the City boundary and the County shall continue road maintenance responsibility along Green Valley Road in those road segments described as follows: (1) Green Valley Road contiguous and running along APN 11505107 and (2) contiguous to parcels numbered 11505111 and 11505112. The City shall be responsible for roadway maintenance on the full width of roads that lie along its exterior boundary.

11. Responsibility for all roads, obligations for roads, and road maintenance for all roads, <u>excluding private roads</u>, within the jurisdiction of all districts that are being dissolved in connection with this incorporation shall transfer to the new City upon the Effective Date.

12. All roads included within the El Dorado County Road System as of the Effective Date shall transfer to the City upon the Effective Date in accordance with Government Code Section 58385.

13. The City shall initiate sphere of influence proceedings in a timely manner with LAFCO so as to allow LAFCO to adopt a sphere if influence for the new City no later than one (1) year following the Effective Date.

14. Pursuant to Government Code Section 57384, the County shall continue to provide to the incorporation area all services furnished to the area prior to incorporation, at the same level and in accordance with the budget for the County adopted prior to the Effective Date, for the remainder of the fiscal year during which the incorporation becomes effective, or for a shorter period if the City of El Dorado Hills, acting through its City Council, requests discontinuation of a service or services.

15. The territory included within the new city boundary shall detach from County Service Area 9 (CSA 9). The City shall continue to provide the same level of services previously provided by CSA 9 through continuation of the service zones within the City. All funds held by the County for the service zones being detached shall be transferred to the new City. The parcel charges currently in effect in the affected service zones shall continue in effect within the City. The City shall utilize the funds to continue the services within the service zones.

16. With respect to all agency dissolutions and governmental reorganizations ordered in connection with this incorporation, no agency being dissolved shall take any actions described in Government Code Section 56885.5 except in compliance with the requirements thereof.

))

17. The dissolution and reorganization of the El Dorado Hills Community Services District and the Springfield Meadows CSD~~, and the Marble Mountain Homeowners CSD~~ is conditioned pursuant to the following provisions:

a) All real and personal property, including land, vehicles and structures, interests in property, rights of use, all monies, including cash on hand and moneys due, but uncollected, of any dissolving district shall transfer to the City as successor agency to the dissolving districts, in accordance with Government Code §57452 and 57457. A list of assets currently owned by the EDHCSD is set forth in **Exhibit A**, attached hereto and incorporated herein by reference. The list of assets attached is not intended to be exhaustive of all assets to be transferred.

b) All transfers of real property and property interests shall be transferred to the City subject to any and all liens or other financial obligations and encumbrances lawfully entered into by the dissolving District prior to the Effective Date.

c) Property held in trust by any dissolving district shall be conveyed to the new City and shall be used for the purposes for which it was collected, in accordance with Government Code Sections 57382 and 57462.

d) The services provided by the dissolving districts shall continue at a level not less than that provided by the districts prior to the Effective Date of dissolution.

e) The City shall continue the parks and recreation services, landscaping and lighting maintenance, solid waste collection and disposal, and Cable TV services at a level not less than that provided by the El Dorado Hills CSD prior to the Effective Date.

f) With respect to architectural review and enforcement of Conditions, Covenants and Restrictions (CC&Rs) for subdivisions within the EDHCSD, the City shall continue to provide such services at a level not less than that provided by the EDHCSD for not less than one (1) year following the Effective Date.

g) Pursuant to Government Code §56886(t), any authorized charges, fees, assessments or taxes being collected by the dissolving districts shall to be transferred to the City of El Dorado Hills as the successor agency, including the EDHCSD development impact fee.

i) Any employee of a dissolving district as of the date of dissolution and reorganization of the district shall continue as an employee of the City of El Dorado Hills on an interim basis. If the City determines to continue any such employee as a permanent city employee, the City shall continue all employment rights, seniority, retirement, accrued leave and related benefits of such employee to the maximum extent feasible consistent with the City's employment rules.

j) The Effective Date of Dissolution and Reorganization of all dissolving districts shall be the Effective Date.

k) Each dissolving district shall transfer all records, archives and related materials to the City of El Dorado Hills, to be retained by the city for a minimum of five years following the Effective Date of Dissolution and Reorganization.

18. Any and all costs incurred by or on behalf of the El Dorado Local Agency Formation Commission in connection with LAFCO Project 03-10, Proposed Incorporation of El Dorado Hills, that remain unpaid and outstanding as of the Effective Date shall be paid by the Incorporation Committee prior to the recordation by the Executive Officer of the Certificate of Completion.

NEW BUSINESS

V. FISCAL AND REVENUE NEUTRALITY ISSUES AND DETERMINATIONS

A principal responsibility for LAFCO in considering the proposed incorporation of El Dorado Hills is to make findings and determinations consistent with state law and LAFCO's own policies that will assure that adverse fiscal impacts on the County, resulting from incorporation, are adequately mitigated.

The specific legislative intent, as set forth in Government Code Section 56815, states:

> *...any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies.*
>
> *It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.*

The Legislature further requires:

> *(b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:*
> *(1) Revenues currently received by the local agency transferring the affected territory that, 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.*

Section 56815 of the Cortese-Knox-Hertzberg Act also requires that in approving any incorporation

> *"...the Commission may approve a proposal that includes an 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 [on the County) 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".*

Other Policy Factors to be Considered

- *The Commission shall consider existing government services and facilities, cost and adequacy of such services and facilities (§56668(b), Policy 3.3). If service capacity and/or infrastructure will be expanded, the applicant will submit cost and financing plans (Policy 3.3.2.2).*

- *The Commission shall consider existing and proposed government services and facilities, the cost and adequacy of such services and facilities and probable effects of the proposal on the area and adjacent areas (§56668(b) and Policy 3.3). LAFCO will discourage projects that shift the cost of service and/or service benefits to others or other service areas (Policy 6.1.8).*

- *The Commission shall consider the cost and adequacy of alternative services and facilities (§56668).*

❐ *The Commission shall consider the sufficiency of revenues and per capita assessed valuation. (§56668(j))*

El Dorado LAFCo has adopted local policies to implement this requirement on incorporations. Specifically El Dorado LAFCo Policy 6.7.20 calls for LAFCo to convene a Revenue Neutrality Committee composed of representatives of the incorporation committee and the County in an attempt to reach agreement on terms to achieve revenue neutrality. The Committee will have "up to 90 days" to negotiate an agreement. The policy goes on to provide "At the conclusion of the meetings of the Revenue Neutrality Committee or at the end of the 90 day negotiating period, the LAFCo Executive Officer will certify that agreement with respect to the revenue neutrality terms and conditions has been reached or has not been reached."

Following these policies, the LAFCo Staff formally convened preliminary Revenue Neutrality Committee meetings as early as November 2004. Additional preliminary meetings were held on January 17, 2005 and March 3, 2005, in which introductions were made, ground rules established and discussion of the draft Revenue Neutrality Agreement from 2001 was discussed.

However substantive discussions were delayed due to the delays in completion of the Comprehensive Fiscal Analysis (CF A). The CF A was originally scheduled for completion in December of 2004 but was delayed due to difficulties in obtaining necessary information from County departments. All of the data was finally received in February and the CFA completed on March 11,2005. Only then could substantive discussions begin.

The first meeting was held on March 14, 2005. Since then the Committee has met ten times. The incorporation committee's initial proposal was to accept the Revenue Neutrality terms as set forth in the draft CFA. The County responded to this and offered its first counter proposal on April 11. The Incorporation Committee rejected this counter proposal and made a new modified proposal on April 14. The County rejected the incorporation committee's proposal on April18. At the meeting on April 21, the County submitted its second proposal and during the meeting, the Incorporation Committee rejected it. The Incorporation Committee submitted a further revised proposal on April 25. The County rejected that in a letter issued on Friday, April 29, in which they also set forth revised terms of their previous proposal. Since that time the County has issued two subsequent proposals, and the Incorporation Committee one. The most recent proposals were dated May 26, 2005 and were discussed at a meeting on May 27, 2005..

The County and incorporation proponents have negotiated seriously and in good faith in an attempt to reach a final Revenue Neutrality Agreement, but no agreement has been reached within the time limits established by LAFCO. In the event that an agreement between the parties might not be reached, LAFCO staff requested that the professional firm who had prepared the CFA, Economic & Planning Systems, Inc., to recommend revenue neutrality terms for the consideration of the Commission.

Comprehensive Fiscal Analysis

In accordance with the Act, a Comprehensive Fiscal Analysis (CFA)[7] was prepared for the proposed incorporation. The CFA has found that as an incorporated city, El Dorado Hills is expected to

[7] Final CFA, Table A-2.

experience increased municipal revenues from property taxes, sales taxes, real property transfer taxes and other sources. This long-term improving fiscal condition of the City will enable it to provide improved levels of service to its citizens, even as the population of the City grows, over time, and needs increase. As reflected in the Comprehensive Fiscal Analysis (CFA), incorporation is expected to provide an increasing General Fund Balance, over time, which will permit the City maintain and improve its ability to provide municipal services for current and future residents.

The CFA demonstrates that the new City will have sufficient revenues to fund the essential public services for which it will be responsible, in accordance with the Terms and Conditions related to Services and Governmental Reorganizations as approved by LAFCO.

Negative fiscal effects on the affected local fire agencies, as a result of loss of wildland fire protection services by the CDF, will be mitigated through Condition 4 of the Terms and Conditions related to Services and Governmental Reorganizations and in accordance with the mitigation requirements set forth in the EIR for Impact 2-8.

The CFA has identified that there is a net surplus of revenues generated in El Dorado Hills that exceeds the cost or providing services.

Decision Points:

1. To what extent should growth in El Dorado Hills continue to assist the County with the cost of services incurred outside of El Dorado Hills?

2. Over what length of time should such assistance extend? Specifically, should it continue for the duration of the 10-year time frame embodied in LAFCO Policy 6.7.23, or for a longer term? Do unique local circumstances in EDH justify a mitigation period longer than the 10-years that is embodied in 6.7.23 of LAFCO policy?

3. How should the amount of any assistance from El Dorado Hills to the County increase over time, given the time value of money, the effects of inflation, and changes in underlying assessed value of property?

4. Should the amount be adjusted in some proportion to the cost increase for services in the rest of the County, or, alternatively, should the amount of the assistance, if any, be adjusted based on the proportionate increase in the cost of such services elsewhere, or should it remain at a flat dollar amount or a constant percentage?

5. Should the level of assistance be adjusted based on changes in the assessed value of land within the incorporation area, or based on changes in inflation, using the (CPI) or other index?

6. Should the fiscal impact mitigation include the General Fund, the Road Fund, both, or some combination thereof over the same or differing time periods?

Proposed Fiscal Mitigation Terms prepared by EPS.

The attached Memorandum from EPS sets forth the proposed terms for fiscal mitigation, prepared in the absence of an agreement between the parties. The main points of the proposal are:

1. General Fund Mitigation Payments: $309,000 per year, adjusted annually by CPI.
2. Road Fund Mitigation Payments: $751,300, adjusted annually by CPI.
3. Term of Payments: 10 Years
4. Other Fiscal Mitigation: None

Factors to Consider in Evaluating the Proposed Terms.

Under our system of local government in the State of California, Counties are responsible for provisions of certain public services. Principal among these services are health and welfare services and criminal justice services. These two groups of services typically take up a majority of a county budget. In El Dorado County, health and welfare services and criminal justice services made up $102,000,000 of the County $161,000,000 budget for the 2004-2005 fiscal year, or over 65% of the total budget. While the county receives substantial state and federal support for many of these programs, nevertheless the County expends a significant portion of its resources in these areas.

The provision of service by the County necessarily varies from one area of the County to another based largely upon need. Certain areas of a county will have a high need for county social services and criminal justice while other, typically more affluent areas, have a lower need. At the same time, it is often the case that the areas with the most need for county services generate lower levels of revenue to the County while areas of low need generate much higher revenue to the County. The County relies on the surplus revenue from the higher revenue-low need areas to support the excess cost of providing services in the lower revenue-high need areas. Without that support, the County could not maintain the level of service in the areas where it is most needed.

Upon incorporation of a new city with the county, certain county revenues are transferred by operation of law to the new city to support its operations. County property tax is transferred to the new city in proportion to the cost of services transferred from the County to the new city. Sales tax generated within the area of the new city is entirely transferred to the new city. Half of the property transfer tax is also transferred to the new city.

When the area of the new city is one of the high revenue-low need areas of the County, as is typically the case, the County loses some of the excess revenue that it counted on to service the high need areas. El Dorado Hills is such a community. According to the Comprehensive Fiscal Analysis, the County of El Dorado would lose approximately $300,000 more in revenue than it saves from transferring services to the new city. This surplus revenue is then not available to offset the excess cost in other areas of the County.

The Legislature recognized the problem and attempted to fix it in adopting in 1992 what is now Section 56815 of the Cortese-Knox-Hertzberg Act. Section 56815 requires that an incorporation be "revenue neutral" to other affected agencies. Specifically, it requires that the revenue transferred from the county to the new city be substantially equal to the cost of services transferred. If it is not, the negative fiscal effect must be "adequately mitigated by tax sharing agreements, lumpsum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886". The statute further directs that

> *(d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).*

The Legislature was very general in specifying the methods by which revenue neutrality was to be achieved. It did, however, direct the Governor's Office of Planning and Research (OPR) in the Cortese-Knox-Hertzberg Act Section 56815.2 to develop incorporation guidelines to guide incorporations, including the revenue neutrality determination. The Guidelines are permissive rather than mandatory.

The Guidelines provide for revenue neutrality negotiations between the incorporation proponents and the County and other affect agencies to reach a revenue neutrality agreement. The guidelines further specify (in pertinent part):

> The calculation of revenue neutrality should be based on the following standards ….and agreements should be negotiated pursuant to the following policies:
>
> *--Revenue neutrality agreements should be based on county costs and revenues for the most recent prior year for which data are available.*
> *--Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Generally, anticipated or projected revenue growth should not be included.*
>
> The term of mitigation payments may be either ongoing or limited to a specific number of years. Revenue neutrality agreements that provide for ongoing payments may provide for the permanent sharing of revenues between the new city and affected agencies if agreed to by the parties involved and if a means of adjustment after incorporation is included. Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains incorporation shall be included in the LAFCO resolution.

El Dorado LAFCo has also adopted policies to implement revenue neutrality. Among those policies is one that limits the duration of mitigation as follows:

> Duration of Fiscal Impact Mitigation: The duration of mitigation payments should extend no more than 10 years, based on the county's ability to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city.

Section 56815(d) and the state and local policies implementing revenue neutrality all suggest that greater flexibility may be available if the proponents and county agree. However, when LAFCo imposes revenue neutrality, its scope is more limited. In particular, the policies would direct that the mitigation be limited to a 10 year period and that it not reflect "the growth in revenues" that might occur within El Dorado Hills during that period.

The problem with these limitations is that they ignore the reality that the loss of revenue to the County is a permanent, ongoing loss that grows over time. While the loss is approximately $300,000 in 2005, the amount would grow over time as the assessed valuation and property tax revenue in El Dorado Hills grows. The CFA estimates that the assessed valuation within the proposed city will grow by substantially over the 10 years. Presumably the loss to the County would grow by a similar amount

Further, given the recent update of the County General Plan and the controversy that surrounded that measure, the County has little likelihood of being able "to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city." Therefore, the Commission may determine that the limitation of the duration of mitigation to 10 years is inappropriate given the circumstances that exist.

LAFCo's exist in each of the 58 counties in order to implement Cortese-Knox-Hertzberg in accordance with "local circumstances." Commission may determine that the specific local circumstance such as those surrounding the General Plan, the effect of the State Fiscal crisis on the County of El Dorado, and other factors may justify variation from the policies. The Commission may then impose a tax sharing agreement as opposed to a flat mitigation dollar amount and set a duration of that agreement to exceed the 10 years of its policy.

Should the Commission choose a length of mitigation payments longer than 10 years, staff suggests the following determination:

> ***Staff Suggested Determination*** Constraints related to topography, road access, and system-wide limits on water resources and wastewater treatment services present significant impediments to the County's ability to implement GP amendments or to take other measures that could potentially adjust or compensate for the loss of revenues over an extended period of time due to the incorporation of El Dorado Hills.

Other Statutory Fiscal Determinations and Findings.

1. A Comprehensive Fiscal Analysis (CFA), required pursuant to Government Code 56800, has been prepared, circulated for public review and comment and presented at public hearings.

2. The incorporation of El Dorado Hills will receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation and the City is found to be fiscally viable; this finding is required pursuant to Government Code Section 56720.

3. The incorporation will result in a similar exchange of both revenue and responsibility for service delivery. The incorporation is not occurring primarily for financial reasons.

4. The negative fiscal effects of incorporation have been adequately mitigated by terms and conditions approved by LAFCO pursuant to Government Code Section 56886.

5. The Commission finds and determines that the proposed incorporation is consistent with the legislative direction set forth in Government Code Section 56301 and will discourage urban sprawl, preserve open space and prime agricultural lands, efficiently provide government services, and encourage the orderly formation and development of local agencies based upon local conditions and circumstances.

MEMORANDUM

To: Nat Taylor; *Lamphier Gregory*

From: Walter Kieser, Jamie Gomes, and Amy Lapin

Subject: Proposed LAFCO Fiscal Mitigation Terms—Proposed El Dorado Hills Incorporation; EPS #14472

Date: May 27, 2005

This memorandum presents proposed fiscal mitigation terms to include in the El Dorado Hills incorporation terms and conditions, which are being prepared by the LAFCO Executive Officer for commission consideration. As you are aware, LAFCO must be prepared to include such mitigation terms in the incorporation terms and conditions in the event that El Dorado County (County) and the incorporation proponents do not reach a mutually acceptable revenue neutrality agreement that is acceptable also to LAFCO.

The proposed fiscal mitigation terms are intended to mitigate potential fiscal impacts on the County resulting from incorporation. These fiscal mitigation terms do not address separate negotiations between cityhood proponents and one or more of the independent fire protection districts. The proposed fiscal mitigation terms are based on the Alternative Boundary, as described in the Environmental Impact Report (EIR) and Comprehensive Fiscal Analysis (CFA) for the proposed El Dorado Hills Incorporation.

The proposed fiscal mitigation terms are based on the following information:

- Guiding Principles approved by the LAFCO commission on May 18, 2005; and
- Quantitative analysis in the CFA and conducted by EPS.

The Guiding Principles for fiscal mitigation terms were established using the following three basic criteria:

1. Meets statutory requirements and considers LAFCO's Incorporation Guidelines;
2. Addresses County concerns regarding the short- and long-term ability to provide regional services to County residents; and
3. Addresses City feasibility including fiscal mitigation-revenue sharing payments.

Economic & Planning Systems, Inc., (EPS) has drafted the following fiscal mitigation terms on behalf of LAFCO staff using the Guiding Principles, quantitative analysis, and EPS's professional judgment regarding the quantitative analysis. The fiscal mitigation terms may need to be refined after further review and direction by LAFCO staff.

The following fiscal mitigation terms are intended for direct inclusion in the incorporation terms and conditions, subject to language changes by LAFCO counsel to comply with legal requirements. Please note the italicized text, which is provided as a basis for the fiscal mitigation terms, would not be included in the actual incorporation terms and conditions. The fiscal mitigation terms are summarized in **Table A**.

FISCAL MITIGATION TERMS

1. Transition Year Cost Repayment

On the effective date of incorporation and through the entire first fiscal year of the City (unless terminated earlier by City written request), the County will continue to provide public services to the City and its residents. The CFA estimated the amount of these costs to be approximately $4.3 million (in 2004 dollars).

This transition year cost will be offset by the first quarter's worth of City sales tax that will be retained by the County, that otherwise would have accrued to the City. The City will repay the remaining transition year cost over a five-year period with interest at the County Treasury pooled rate. Transition year cost repayment will occur annually (as described under Form of Payment below), commencing in Fiscal Year 2007–08 and ending in Fiscal Year 2011–12. The City may choose to pay off all or a portion of the principal amount owed to the County at any time during the transition year cost repayment period.

2. Fiscal Mitigation

A. General Fund Fiscal Mitigation Payments

Beginning in Fiscal Year 2006–07 and annually through Fiscal Year 2015–16 (ten fiscal years), the City will pay the County the difference in base year (Fiscal Year 2003–04) general fund revenues and expenditures transferred from the County to the City, as adjusted by the method described below.

In Fiscal Year 2006-07, the Fiscal Year 2003–04 amount of $309,000 will be adjusted by the total percentage increase in the City's gross locally secured tax roll from Fiscal Year 2003-04 to 2006-07. As LAFCO staff has instructed, each year thereafter, the annual general fund mitigation payment will be adjusted by increasing the prior year's payment by the percentage increase in the City's gross locally secured tax roll from the prior fiscal year.

B. Road Fund Fiscal Mitigation Payments

Beginning in Fiscal Year 2006–07 and annually through Fiscal Year 2015–16 (ten fiscal years), the City will pay the County the difference in base year (Fiscal Year 2003–04) road fund revenues and expenditures transferred from the County to the City, as adjusted by the method described below.

Road Fund Fiscal Mitigation Payments will be calculated in the same manner as described for General Fund Fiscal Mitigation Payments. The Fiscal Year 2003-04 amount equals $751,300.

Basis of Fiscal Mitigation Term

Short-term fiscal mitigation payments are based on calculations from the CFA. Specifically, the CFA separately calculated the difference between current general fund and road fund revenues that would be transferred to the proposed city and the cost of current general fund and road fund services that would be assumed by the proposed city. The comparison of revenues and costs transferred for the general fund and for the road fund were based on base Fiscal Year 2003–04 data. As you are aware, EPS has recommended the annual adjustment index could be replaced by a simple consumer price index while still having fiscal mitigation payments tied to property tax sharing.

3. Form of Payment

All payments the City owes the County will be withheld from the property tax revenues received by the County (for the area in the City) that would be distributed to the City.

4. Additional Terms

A. Revision Clause

The payment obligations described herein are subject to modification if there is either a statewide structural change in the services which are required by the State to be provided by the County or the City, or a statewide structural change in the manner in which the above mandated services are funded. Either the City or the County may request LAFCO review the fiscal mitigation terms if one of the above triggering events occurs. Such a request for review must be made no later than six months after the occurrence of the triggering event.

B. Interagency Cooperation

The County and the City may mutually consider pooling resources or sharing certain revenues to achieve common goals (e.g., sharing transient occupancy tax revenues to promote regional tourism). LAFCO encourages such or other efforts at interagency cooperation but has no opinion on this issue regarding fiscal mitigation for incorporation.

LONG-TERM COUNTYWIDE REGIONAL SERVICES COSTS

The Guiding Principles stated that fiscal mitigation terms would consider the County's long-term ability to provide Countywide regional services (non-municipal services) to its residents. On-going countywide regional services costs are costs that will be incurred by the County to provide services to County residents and employees, whether they reside or work in incorporated cities or the unincorporated County. Using the CFA information and the El Dorado County budget, EPS examined the County's long-term financial ability to provide countywide regional services.

Based on the quantitative analysis, mitigation for countywide regional services costs is not included in the recommended fiscal mitigation terms based on the following findings:

- Incorporation would not create long-term annual deficits for the County in providing countywide regional services to El Dorado Hills residents;

- Following the ten year LAFCO fiscal mitigation term identified in the El Dorado LAFCO policies on incorporation, estimated County revenues in El Dorado Hills will exceed the estimated countywide regional service costs in El Dorado Hills; and,
- Estimated long-term revenues exceed estimated costs because County revenue growth outpaces expenditure growth within El Dorado Hills. The County has the discretion to use revenues that exceed costs in any area of the County.

Based on these findings, it is not necessary to include a fiscal mitigation term to address the long-term fiscal impact on countywide regional services costs.

DRAFT

Table A
El Dorado Hills Incorporation
Summary of Fiscal Mitigation Terms

Fiscal Mitigation Term	Period Start	Period End	Period Length	Annual Amount	Annual Adjustment
				(2004 $)	
1 Transition Year Cost Repayment	FY 2007-08	FY 2011-12	5 years	tbd [1]	N/A
2 Fiscal Mitigation - General Fund	FY 2006-07	FY 2015-16	10 years	$309,000	Annual Percent Growth of City's Assessed Value
3 Fiscal Mitigation - Road Fund	FY 2006-07	FY 2015-16	10 years	$751,300	Annual Percent Growth of City's Assessed Value

[1] Annual loan repayment amount will depend upon actual principal amount borrowed and County treasury pooled interest rate.

El Dorado Hills Incorporation Committee

May 27, 2005

To: Al Manard, El Dorado County LAFCO Chairperson
From: The El Dorado Hills Incorporation Committee
Subject: Incorporation Committee Final RN offer
Ref: Letter to LAFCO dated March 7, 2005; Subject: Schedule concerns-Incorporation of EDH being on the November 2005 ballot

Dear Al,

The Incorporation Committee's negotiating team met with the County's team this morning to try and reach a Revenue Neutrality Agreement between the two parties. Unfortunately, we were not able to reach an agreement by the deadline set by the LAFCO Commission at their special meeting on May 18th to remain on schedule for the November 2005 election.

The primary responsibility for the EDH Incorporation Committee as the Incorporators is to represent the future City's interest and protect the financial viability of the city during the LAFCO process. The Committee was also committed to proposing revenue neutrality payments to the County based on State law, OPR Incorporation Guidelines, and LAFCo's Policies, Guidelines and Procedures document. Cortese- Knox-Hertzberg requires the fiscal impact to be mitigated in a manner wherein "a similar exchange of both revenue and responsibility for service delivered" is accomplished. However, the County has rejected all of our proposals, even the proposals that exceed State Law and LAFCO policies.

The County's offers have all included a multiplying effect that makes it very difficult to determine the actual amount the City would pay in Revenue Neutrality payments. The Incorporation Committee position has always been the people of El Dorado Hills should have a clear understanding of the amount of these payments. The Committee's proposals have included the approximate cost of the payment so it would be available to the voters when making their decision on Incorporation.

We have included with this correspondence a copy of the Committee's final RN proposal for your records.

The Incorporation Committee's proposals have always been complete, timely, and have abided by the law and policy of the governing bodies and offered the County additional funds for a win-win situation.

In contrast, the County's last offer requested a forty year mitigation period, being 4 times greater than the LAFCo policy stipulates. As the County did not provide any financial analysis to substantiate their last offer, as previously requested by the incorporation committee, the committee estimated that the County's proposal amounts to 100's of millions of dollars in total, in contrast to the CFA's estimate of approximately 10 million dollars. It's also difficult to reach an agreement when the County acknowledges the amount of the General Fund payment calculated in the CFA, but requests a multiplier of the City's property tax to substantially increase the calculated payment. The Committee is very concerned that the City would become financially unviable if the County's proposal were used for determining the amount of RN payments.

Respectfully,

John Hidahl	Norm Rowett
Chairman, El Dorado Hills Incorporation Committee	Vice Chairman, El Dorado Hills Incorporation Committee

El Dorado Hills Incorporation
MAY 26, 2005 PROPONENTS OFFER

The Incorporation Committee has made offers to the County based on California State statutes, and the Incorporation Policies, Guidelines, and Procedures – A Guide to LAFCO Process for City Incorporation in El Dorado County (LAFCO policies). In addition, the Incorporation Committee has offered additional incentives in excess of these amounts in order to try to reach a negotiated agreement with the County.

Government Code Section 56815 states that "It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibilities for service delivery among the county, the city, and other subject agencies. Section 56815 is known as the revenue neutrality provision. In sum, the cost of services to be transferred should be "substantially equal" to the amount of revenue to be transferred. Section 56815 thus favors neither the new City nor the County or district.

The Public Review Draft Report of the Comprehensive Fiscal Analysis (CFA) prepared by Economic & Planning Systems (EPS) on March 11, 2005 documents the dollar impacts to the County based on the Government Code Sections. The incorporation committee is in agreement with the amount to be mitigated related to the County General Fund is $309,001 (as may be amended with boundary adjustments) and the County Road Fund is $751,262 (as may be amended with boundary adjustments). El Dorado LAFCO policies states that the duration of payments should extend no more than 10 years.

Based on this methodology which is the same as the methodology included in the Public Review Draft of the CFA, the new City would owe $3,090,010 to the County General Fund over the 10 year term and $7,512,620 to the County Road Fund over the 10 years for a total amount of $10,602,630.

In order to try to reach a negotiated agreement with the County, the Incorporation Committee is willing to provide the following additional incentives beyond what State law and the LAFCO policies dictate.

1. The City will pay the County the General Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of twenty five years, with an annual CPI indexed inflation factor (such as the Consumer Price Index for all urban consumers - California). Said payments shall start in 2007 and culminate in 2031.

2. The City will pay the County the Road Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of ten years, with an annual CPI

indexed inflation factor (such as the Consumer Price Index all urban consumers - California). Said payments shall start in 2007 and culminate in 2016.

The total value of this offer in today's dollars is $7,725,025 to the County General Fund and $7,512,620 to the County Road Fund for total payments in today's dollars of $15,237,645.

Road Fund Note:

The County would also continue to receive over $1 million a year in State road gas taxes based on El Dorado Hills population that can now be used exclusively outside of El Dorado Hills City boundaries. After incorporation, the County will have no cost of maintaining roads in El Dorado Hills.

The combination of City road fund mitigation payments and County Road gas taxes related to El Dorado Hills development for the ten year period of RN payments would allow the County to spend over $17 million on county roads outside of the City of El Dorado Hills.

The proponents are very concerned about the existing condition of the roads and streets in El Dorado Hills. The main collectors and arterial roads within the city boundaries are deteriorating at a high rate due to the impacts of operating at or near capacity and the high volume of large heavy vehicles and the County not maintaining a regular maintenance schedule. The City will need every road fund property tax dollars to prevent the continued deterioration of these roads.

The County of El Dorado

Chief Administrative Office

330 Fair Lane
Placerville, CA 95667-4197

Laura S. Gill
Chief Administrative Officer

Phone (530) 621-5530
Fax (530) 626-5730

Al Manard, El Dorado County LAFCO Chairperson
550 Main Street, Suite E
Placerville CA 95667

Subject: County of El Dorado's Final Revenue Neutrality Offer

Dear Mr. Manard,

The County's negotiating team met with the El Dorado Hills Incorporation team this morning to try and reach a Revenue Neutrality Agreement between the two parties. Unfortunately, we were not able to reach an agreement by the deadline set by the LAFCO Commission at their special meeting on May 18, 2005.

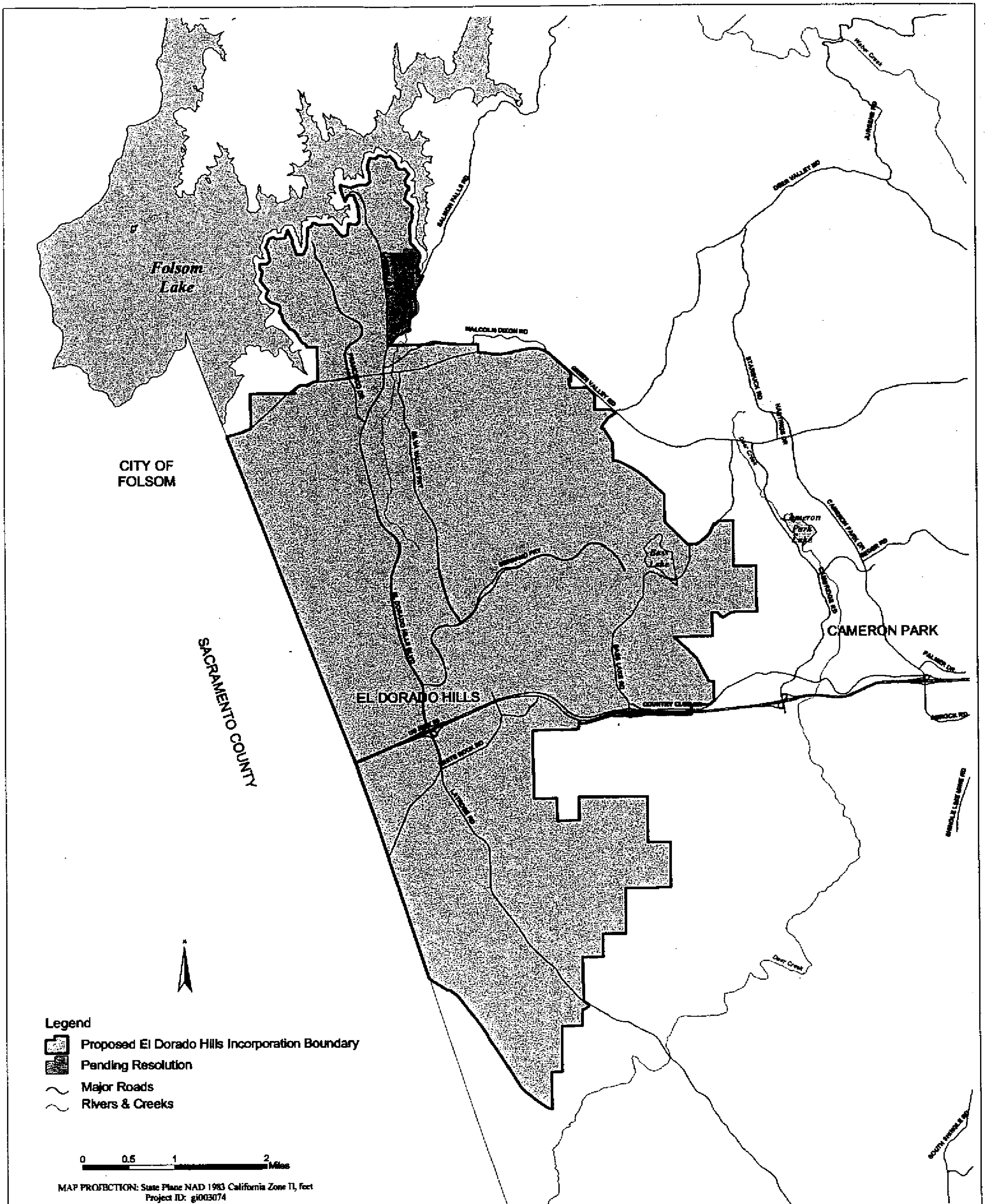
The County has scheduled a special meeting of the Board of Supervisors for 8:00 a.m. on Tuesday, May 31, 2005, at which time the Board will review the revenue neutrality issue. Because of the compressed time frame we feel it would be inappropriate for the County staff to submit a final proposal to LAFCO before the Board of Supervisors has considered the matter on Tuesday. We anticipate submitting to LAFCO the County's position on revenue neutrality and other terms and conditions of incorporation following our Board meeting.

We wish to thank you and your staff for your continuing efforts to bring this item to conclusion.

Sincerely,

Laura S. Gill
Chief Administrative Officer

BOUNDARY OF THE PROPOSED INCORPORATION OF THE CITY OF EL DORADO HILLS LAFCO PROJECT 03-10



Source: El Dorado County

Local Agency Formation Commission

STAFF REPORT

Agenda of June 1, 2005

REQUESTED LEGISLATION REPORT

SUMMARY

Attached please find an analysis of AB 1602 (Laird) prepared for the Assembly Committee on Local Government. The bill is co-sponsored by 11 other Assemblymembers and Senators. The bill proposes to delete the restriction that only cities formed before August 2004 receive the VLF "bump" historically awarded to new cities.

BILL STATUS

The bill was passed unanimously by the Assembly on May 16 and is currently waiting for a hearing date in the Senate Committee on Local Government. CALAFCO has not taken a position on this bill.

S:\Corinne\Legislation\LegReport06-01-05.wpd

Online Viewing

Hard copy of any attachments available upon request

Date of Hearing: April 20, 2005

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Simon Salinas, Chair
AB 1602 (Laird) - As Introduced: February 22, 2005

SUBJECT : Local government finance.

SUMMARY : Allows new cities, during their first seven years, to get a special population calculation for the purpose of the allocation of that portion of vehicle license fees (VLF) which are apportioned to cities on the basis of population. Specifically, this bill deletes the provision that restricts receipt of additional allocations of VLF to new cities whose populations were determined as of August 5, 2004.

EXISTING LAW :

1)Establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state.

2)Requires the Controller to allocate VLF revenues in the Motor Vehicle License Fee Account to cities, counties, and cities and counties, in the amounts determined under specified formulas, on a monthly basis based on the proportion that the population of each city, county, or city and county bears to the total population of all cities, counties, and cities and counties in the state.

3)Requires that additional allocations are to be made to newly-incorporated cities for which the population was computed under a specified statute as of August 5, 2004, in an amount equal to VLF revenues that would have been allocated to those cities under specified provisions of law, as those laws existed on January 1, 2004.

FISCAL EFFECT : Unknown

COMMENTS :

1)Prior to 1935, cities and counties collected property taxes on vehicles. In order to make collection easier and less costly, in 1935 the state began collecting these revenues as a part of the annual vehicle license renewal. Under the State

Constitution, these revenues, after payment of collection costs, must be allocated to cities and counties. A portion of these revenues are allocated to cities on the basis of population. In 1935, the tax rate was 1.75% of a vehicle's value. In 1948, the tax rate was increased to 2%.

2) In 1987, the Legislature provided new cities with additional revenues for their first 10 years by providing that their population would be calculated by either their actual population, or their number of registered voters on the date of incorporation times three, whichever was larger. The rationale for this "bump" was that a new city faced extraordinary costs as it established infrastructure and services and should be given extra assistance to do that job properly. In 1991, this special calculation was reduced from 10 to seven years.

3) From the late 1990s to early 2000s, the vehicle license tax rate paid by vehicle owners was lowered to 0.65%, with the state's General Fund backfilling the revenue loss to cities and counties (the revenue difference between the 2% tax rate and the 0.65% tax rate). Proposition 1A on the November 2004 ballot provided a guarantee that cities and counties would receive the backfill. This was done by a transfer of property taxes from schools to cities that were in existence on August 5, 2005, and to counties and an increased backfill of schools from the state.

4) Currently a city that incorporated after January 1, 1987, and was in existence before
August 5, 2004, gets a share of the VLF-property tax transfer required by Proposition 1A,
a population-based sharing of the city-share of the VLF, and, if the city had been incorporated not more than seven years before, the "special" population calculation.

5) A statute that accompanied Proposition 1A deleted the special calculation for population for new cities that were incorporated after August 5, 2004. As a result, a city that is created after August 5, 2004, gets a population-based sharing of the city-share of the VLF but no "special" population calculation for its first seven years of existence. The result of this, according to AB 1602's advocates, is to place another large, and potentially insurmountable, obstacle in the way of new incorporations, which have already slowed

considerably over the last decade as a result of a range of factors.

6)AB 1602 reestablishes the special population calculation for new cities, and is sponsored by advocates of incorporation for six proposed cities in El Dorado, Madera, Monterey, Riverside, and Santa Clara Counties..

REGISTERED SUPPORT / OPPOSITION :

Support

Carmel Valley Forum [CO-SPONSOR]
El Dorado Hills Incorporation Committee [CO-SPONSOR]
Wildomar Incorporation Now [CO-SPONSOR]
Individual letter

Opposition

None on file

Analysis Prepared by : J. Stacey Sullivan / L. GOV. / (916) 319-3958

Table 2
El Dorado Hills Incorporation
Comprehensive Fiscal Analysis
Comparison of Possible Indices to Escalate Fiscal Mitigation Payments

Index	Advantages	Disadvantages
Consumer Price Index	• Tied to change in cost (e.g. cost of service) • Officially published, recognized source • Ease of annual administration	• Not directly tied to the cost of providing specific county services • May not represent local conditions depending upon chosen index
Assessed Value Change	• Ease of annual administration	• Index measures revenue change not change in expenditures • Index change for EDH will likely exceed change in services costs • Contrary to OPR guidelines on mitigation • Increases proportion of property tax going to County as compared to CFA calculated property tax share used by City to provide municipal services to its residents
Municipal Cost Index	• Tied to change in cost (e.g. cost of service) • Officially published, recognized source • Ease of annual administration	• Nationwide index may not represent local conditions • Index includes expenditures for certain capital expenditures • Historically this index has been less than CPI
State Controller County Expenditures	• Actual data and tied to the cost of providing services • Officially published, recognized source	• Data is three fiscal years behind • State-wide data may not be reflective of El Dorado County • Index includes changes in amount and type of services Statewide • Index includes expenditures for enterprise ventures • Annual expenditure patterns may be linked to revenue changes as opposed to service cost changes • Could be difficult to annually administer
El Dorado County Expenditures	• Local measurement of service cost increases	• County expenditures include both municipal and countywide services • Index includes changes in amount and type of services Countywide • Annual expenditure patterns may be linked to revenue changes as opposed to service cost changes • Could be difficult to annually administer

Source: EPS.

"indices"

Fiscal Mitigation Terms

For the Proposed El Dorado Hills Incorporation

El Dorado County Local Agency Formation Commission
June 1, 2005

Economic & Planning Systems, Inc.
Public Finance Real Estate Economics Regional Economics Land Use Policy

Presentation Overview

- Absence of Revenue Neutrality Agreement
- Summary of County Proposal
- Summary of Incorporation Proponents' Proposal
- LAFCO Fiscal Mitigation Terms
- Indices for Annual Fiscal Mitigation Payment Escalation
- Revenue Neutrality Decisions

El Dorado County Proposal

Fiscal Mitigation	Period (FY beginning) [1]	Duration	Annual Amount [2] (2004 $)	Estimated Total Value (2004 $)
General Fund	FY 2012-FY 2051	40 Years	$309,000	$35.0 million
Road Fund	FY 2012-FY 2051	40 Years	$751,300	$85.0 million

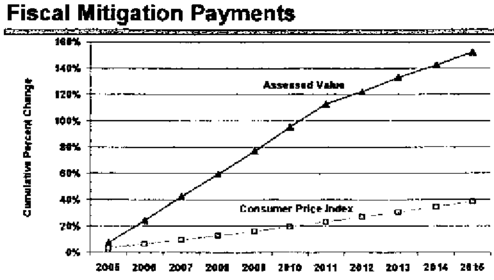
[1] FY 2006-07 would be the City's first fiscal year.
[2] Annual increase in payments is indexed to assessed value growth in new City of El Dorado Hills. Average annual assessed value growth is assumed to be approximately 9% per year. Amount discounted to 2004 $ using 3% for inflation.

Incorporation Proponents' Proposal

Fiscal Mitigation	Period (FY beginning) [1]	Duration	Annual Amount [2] (2004 $)	Estimated Total Value (2004 $)
General Fund	FY 2006-FY 2030	25 Years	$309,000	$7.7 million
Road Fund	FY 2006-FY 2015	10 Years	$751,300	$7.5 million

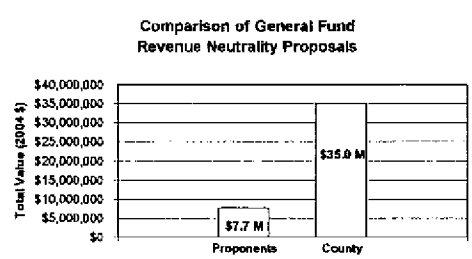
[1] FY 2006-07 would be the City's first fiscal year.
[2] Annual increase in payments is indexed to a published annual Consumer Price Index inflation factor (e.g., CPI – All Urban Consumers – California). CPI is assumed to be 3% for this analysis. Amount discounted to 2004 $ using 3% for inflation.

Comparison of Possible Indices to Escalate Fiscal Mitigation Payments

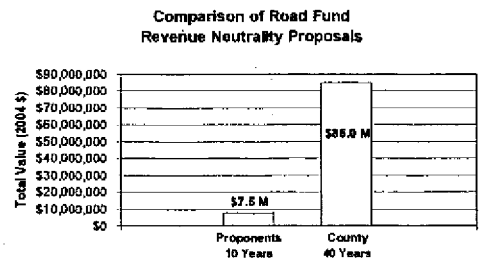


Change in A.V. = Measurement of change in property assessed value (prop. tax revenue)
Change in Consumer Price Index = Measurement of change in costs

Comparison of Revenue Neutrality Proposals – General Fund



Comparison of Revenue Neutrality Proposals – Road Fund



LAFCO Fiscal Mitigation Terms

- LAFCO may impose fiscal mitigation terms
- Based on State Statutes
- Based on OPR Guidelines on Incorporations
- Based on LAFCO Policies
- Based on Guiding Principles
- Based on CFA and other quantitative analysis

LAFCO Fiscal Mitigation Terms

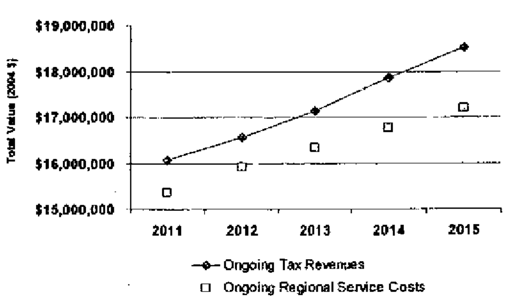
Fiscal Mitigation	Period (FY beginning) [1]	Duration	Annual Amount [2] (2004 $)	Estimated Total Value (2004 $)
General Fund	FY 2006-FY 2015	10 Years	$309,000	$3.1 million
Road Fund	FY 2006-FY 2015	10 Years	$751,300	$7.5 million

[1] FY 2006-07 would be the City's first fiscal year.
[2] Annual increase in payments is indexed to a published annual Consumer Price Index inflation factor (e.g., CPI – All Urban Consumers – California). CPI is assumed to be 3% for this analysis. Amount discounted to 2004 $ using 3% for inflation.

LAFCO Fiscal Mitigation Terms

- Term of Fiscal Mitigation Payments
  - Based on State statutes and OPR guidelines
  - Based on LAFCO policies, Guiding Principles, and CFA
  - Long term – County revenues will exceed County service costs in EDH
- Consumer Price Index as Fiscal Mitigation Payment Escalator
  - Tied to change in cost (e.g., cost of services)
  - Officially published, recognized source
  - Ease of annual administration

Comparison of El Dorado County Estimated Annual Regional Service Costs and Revenues in EDH



Potential Indices for Annual Fiscal Mitigation Payment Escalation

- Consumer Price Index
- Assessed Value Change
- Municipal Cost Index
- State Controller County Expenditures
- El Dorado County Expenditures

Comparison of Revenue Neutrality Proposals and Fiscal Mitigation Terms

Table 1
El Dorado Hills Incorporation
Comprehensive Fiscal Analysis
Comparison of Revenue Neutrality Proposals - June 1, 2006

Fiscal Mitigation Term	Period Start [1]	Period End	Period Length	Annual Amount	Estimated Total Value	Annual Adjustment
				(2004 $)	(2004 $)	
GENERAL FUND						
1 Incorporation Proponents	FY 2006-07	FY 2030-31	25 years	$309,000	$7,725,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
2 El Dorado LAFCO	FY 2006-07	FY 2015-16	10 years	$309,000	$3,090,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
3 El Dorado County	FY 2012-13	FY 2051-52	40 years	$309,000	$34,943,624	Annual Percent Growth of City's Assessed Value [3]
ROAD FUND						
1 Incorporation Proponents	FY 2006-07	FY 2015-16	10 years	$751,300	$7,513,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
2 El Dorado LAFCO	FY 2006-07	FY 2015-16	10 years	$751,300	$7,513,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
3 El Dorado County	FY 2012-13	FY 2051-52	40 years	$751,300	$84,957,627	Annual Percent Growth of City's Assessed Value [3]

Source: Incorporation Proponents; El Dorado County; El Dorado LAFCO; and EPS.

"compare"

[1] FY 2006-07 would be the City's first fiscal year.
[2] Annual increase in payments is indexed to a published annual Consumer Price Index inflation factor (e.g., CPI – All Urban Consumers – California). CPI is assumed to be 3% for this analysis. Amount discounted to 2004 $ using 3% for inflation.
[3] Annual increase in payments is indexed to assessed value growth in new City of El Dorado Hills. Average annual assessed value growth is assumed to be approximately 9% per year. Amount discounted to 2004 $ using 3% for inflation.

Revenue Neutrality Decisions

1. Confirm amount of Base Year Fiscal Mitigation Payment (General Fund $309,000 and Road Fund $751,300)

2. Confirm start date for Fiscal Mitigation Payments

3. To what extent should growth in El Dorado Hills continue to assist the County with the cost of services inside and outside of El Dorado Hills?

4. Confirm duration (length of time) of the Fiscal Mitigation Payments?

Revenue Neutrality Decisions (cont.)

5. How should the Mitigation Payments be adjusted over time?
   a) By CPI (i.e. cost based index)
   b) By Change in Assessed Value (revenue based index)
   c) By Other index

6. Should the General Fund and Road Fund components of Revenue Neutrality be treated the same or differently?
   a) Start year
   b) Duration
   c) Adjustment factor

Comparison of Revenue Neutrality Proposals and Fiscal Mitigation Terms

Table 1
El Dorado Hills Incorporation
Comprehensive Fiscal Analysis
Comparison of Revenue Neutrality Proposals - June 1, 2005

Fiscal Mitigation Term	Period Start [1]	Period End	Period Length	Annual Amount (2004 $)	Estimated Total Value (2004 $)	Annual Adjustment
GENERAL FUND						
1 Incorporation Proponents	FY 2006-07	FY 2030-31	25 years	$309,000	$7,725,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
2 El Dorado LAFCO	FY 2006-07	FY 2015-16	10 years	$309,000	$3,090,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
3 El Dorado County	FY 2012-13	FY 2051-52	40 years	$309,000	$34,943,624	Annual Percent Growth of City's Assessed Value [3]
ROAD FUND						
1 Incorporation Proponents	FY 2006-07	FY 2015-16	10 years	$751,300	$7,513,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
2 El Dorado LAFCO	FY 2006-07	FY 2015-16	10 years	$751,300	$7,613,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
3 El Dorado County	FY 2012-13	FY 2051-52	40 years	$751,300	$64,957,627	Annual Percent Growth of City's Assessed Value [3]

Source: Incorporation Proponents; El Dorado County; El Dorado LAFCO; and EPS.

[1] FY 2006-07 would be the City's first fiscal year.
[2] Annual increase in payments is indexed to a published annual Consumer Price Index inflation factor (e.g., CPI – All Urban Consumers – California). CPI is assumed to be 3% for this analysis. Amount discounted to 2004 $ using 3% for inflation.
[3] Annual increase in payments is indexed to assessed value growth in new City of El Dorado Hills. Average annual assessed value growth is assumed to be approximately 9% per year. Amount discounted to 2004 $ using 3% for inflation.

Comparison of Revenue Neutrality Proposals and Fiscal Mitigation Terms

Table 1
El Dorado Hills Incorporation
Comprehensive Fiscal Analysis
Comparison of Revenue Neutrality Proposals - June 5, 2006

Fiscal Mitigation Term	Period Start [1]	Period End	Period Length	Annual Amount	Estimated Total Value	Annual Adjustment
				(2004 $)	(2004 $)	
GENERAL FUND						
1 Incorporation Proponents	FY 2006-07	FY 2030-31	25 years	$309,000	$7,725,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
2 El Dorado LAFCO	FY 2006-07	FY 2015-16	10 years	$309,000	$3,090,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
3 El Dorado County	FY 2012-13	FY 2051-52	40 years	$309,000	$24,943,424	Annual Percent Growth of City's Assessed Value [3]
ROAD FUND						
1 Incorporation Proponents	FY 2006-07	FY 2015-16	10 years	$751,300	$7,513,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
2 El Dorado LAFCO	FY 2006-07	FY 2015-16	10 years	$751,300	$7,513,000	Annual CPI adjustment (e.g., CPI All Urban Consumers - CA) [2]
3 El Dorado County	FY 2012-13	FY 2051-52	40 years	$751,300	$64,857,827	Annual Percent Growth of City's Assessed Value [3]

Source: Incorporation Proponents; El Dorado County; El Dorado LAFCO; and EPS.

[1] FY 2006-07 would be the City's first fiscal year.
[2] Annual increase in payments is indexed to a published annual Consumer Price Index inflation factor (e.g., CPI - All Urban Consumers - California). CPI is assumed to be 3% for this analysis. Amount discounted to 2004 $ using 3% for inflation.
[3] Annual increase in payments is indexed to assessed value growth in new City of El Dorado Hills. Average annual assessed value growth is assumed to be approximately [illegible]% per year. Amount discounted to 2004 $ using 3% for inflation.

El Dorado Hills Incorporation Draft CFA

June 1, 2005

Al Manard, El Dorado County LAFCO Chairperson
550 Main Street, Suite E
Placerville, CA 95667

Dear Mr. Manard,

The LAFCO Commissioners must decide on the terms of the revenue neutrality payments that the new City of El Dorado Hills would pay to El Dorado County. There is considerable amount of information before you, but overall the decision process is straight forward.

The revenue neutrality payments should be based on State Law, the State Office of Planning and Research Incorporation Guidelines, the El Dorado LAFCOs Policies, Guidelines, and Procedures for Incorporation, and the fiscal analysis prepared by LAFCO's consultant. The Government Code Section 56815 is known as the "revenue neutrality" provision. "Revenue neutrality" means that the cost of services transferred should be substantially equal to the amount of revenue to be transferred. Government Code section 56815 thus favors neither the new City nor the County. This should guide your decision making.

The Public Review Draft of the Comprehensive Fiscal Analysis (CFA) prepared by Economic & Planning Systems (EPS) concludes that the amount needed to be mitigated is $309,000 per year for the General Fund and $751,300 per year for the County Road Fund. The Incorporation Committee and the County, unless the County has some new information for us tonight, both agreed to these figures.

Two issues remain - term of the payment, and the inflator to be applied to the amount. These issues are straightforward in determining fiscal neutrality based on State Law, OPR Guidelines, this LAFCO's policies, and the fiscal consultant's analysis.

As the staff report states, when LAFCO imposes revenue neutrality, its scope is more limited than when the incorporation proponents and County come to agreement. Quoting the staff report "In particular, the policies would direct that the mitigation be limited to a 10 year period and that it not reflect the growth in revenues that might occur within El Dorado Hills during that period".

The first issue is term of payment. The El Dorado LAFCO policy states that, "The duration of mitigation payments should extend no more than 10 years." The staff report tries to give the Commission some wiggle room on the 10 year policy by saying that due to problems related to the County General Plan that there may be some room to move beyond the 10 years. However, any policies used in determining payments must keep to the terms of "revenue neutrality", thus not finding a way to generate excess surplus revenues to the County from incorporation.

As the EPS fiscal analysis in their memo stated, the County will be generating excess revenues above costs following incorporation after the ten years of payments are complete. Thus, there is no way for the Commission to extend the term beyond 10 years and keep the payments "revenue neutral".

The next issue is the payment inflator. All incorporations that I am aware of have based the total mitigation amount on CPI inflation amount at most, and sometimes used a lower amount. For example, in Sacramento County for Elk Grove, Rancho Cordova, and Citrus Heights the annual inflator for determining total mitigation amounts was approximately 1% per year which is considerably less than inflation. Note the Guidelines as written state "Anticipated or projected revenues growth should not be included". Anything above CPI inflation should not be allowed due it being based on anticipated or projected revenue growth.

The Government Code sections do a very thorough and precise job of allocating a fair share of property tax revenues to the City based on the services the City is taking on instead of the County – services such as police, planning, animal control, public works, engineering, and road maintenance. In this case, 5.51% of the property tax is the calculated property tax share. The City will need that 5.51% of the property tax and its future growth to meet the service needs, especially as the population in El Dorado Hills grows and nearly doubles. To give the County any growth beyond CPI related to the $309,000 General Fund and $751,000 road fund mitigation amount is stealing money from the City as the City provides its legally required municipal services.

Even after incorporation, the County still retains over three and half times more property tax share than the City upon incorporation. Upon incorporation, the County gets rid of sheriff, planning, and other municipal service costs but still receives over $177 million in revenues from El Dorado Hills over the first 10 years of incorporation. Compare this to the $74 million in revenue transferred from the County which the City will need to provide for the services transferred from the County for that same 10 year period.

As the County's previous fiscal consultant in past years, I can knowledgably state that the $177 million is way beyond the service costs the County will experience related to El Dorado Hills. The County is thus making money on El Dorado Hills to provide services in other parts of the County even without any General Fund mitigation payments. This is a fact that the County has not disputed to date.

In fact, EPS in their May 27 memo (that is included in your packet) did an analysis related to Proposed LAFCO Fiscal Mitigation Terms. The analysis prepared was a long-term Countywide Regional Service costs analysis that stated "the following findings:

- Incorporation would not create long-term annual deficits for the County in providing countywide regional services to El Dorado Hills' residents;

- Following the ten year LAFCO fiscal mitigation term identified in the El Dorado LAFCO polices on incorporation, estimated County revenues in El Dorado Hills will exceed the estimated countywide regional services costs in El Dorado Hills; and,

- Estimated long-term revenues exceed estimated costs because County revenue growth outpaces expenditure growth in El Dorado Hills. The County has the discretion to use revenues that exceed costs in any area of the County.

Based on these findings, it is not necessary to include a fiscal mitigation term to address the long-term fiscal impact on countywide regional services."

These are very strong findings. Based on my previous fiscal work, I would expect that the fiscal surplus to El Dorado County from El Dorado Hills is in the millions of dollars a year. The Incorporation Committee has asked LAFCO staff for the detailed EPS analysis, and was told yesterday we could not have it. This is very relevant information to your decision and should be provided to you, us, and the Public. This important information should not be held under closed covers but should be public, particularly since the El Dorado Hills incorporation has provided $359,834 for the costs of the LAFCO studies.

The Staff Report on page 12, states that "In the event that an agreement between the parties might not be reached, LAFCO staff requested that the professional firm who had prepared the CFA, Economic & Planning Systems, Inc., to recommend revenue neutrality terms for the consideration of the Commission." On page 14, the EPS terms for fiscal mitigation are shown:

1. General Fund Mitigation Payments: $309,000 per year, adjusted annually by CPI.
2. Road Fund Mitigation Payments: $751,300, adjusted annually by CPI.
3. Term of Payments: 10 Years.
4. Other Fiscal Mitigation: None.

You as LAFCO Commissioners are the final decision makers in this process. As LAFCO Commissioners you are required to be fair and objective in your analysis and decision. You need to put-aside any relationships you may have with the

County or incorporation proponents and look at the merits of the issue. In this case, your revenue neutrality decision must be based on State law, OPR Guidelines, El Dorado County LAFCO Guidelines and Policies, and work and recommendations of the LAFCO fiscal consultant.

Your decision is about "revenue neutrality" which is a straight forward concept. Given a negotiated agreement was not reached by the County and Incorporation Committee, the Commission needs to stay to this policy and not look to provide El Dorado County a revenue windfall that it is seeking.

When analyzing the State law, OPR Guidelines, LAFCO policies, and EPS work it is very clear that the amount of revenue neutrality payments should be the amount set forth in the CFA ($309,000 General Fund and $751,300 Road Fund) escalated by CPI inflation annually for a ten year term. Anything greater is in violation of State law, OPR Guidelines, LAFCO policies, and the fiscal analysis prepared for LAFCO.

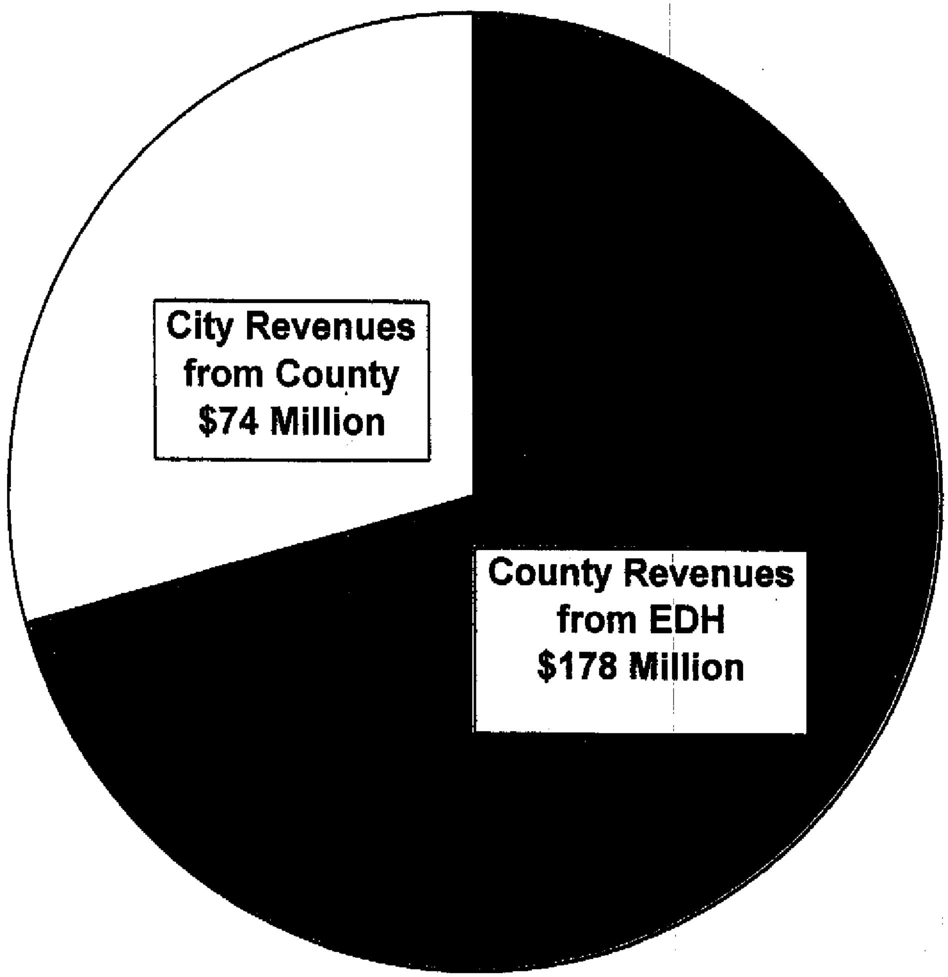
Thank you for your time and consideration.

Sincerely,

Joseph Chinn

Cc: Roseanne Chamberlain, LAFCO Executive Officer
LAFCO Commissioners

El Dorado Hills Revenues at Incorporation
10 Year Revenue Summary (in Millions of $'s)



El Dorado Hills Incorporation - Alternative Boundary

	10 Year Total 2007 - 2016 Millions of $'s	Notes
County Revenues from El Dorado Hills following Incorporation		
Property Tax	**$158.1**	County prop tax share at 24.77% (per County information) less share transferred to City
Public Safety Sales Tax	$11.3	Calculated from CFA figures
Property Transfer Tax	$5.3	CFA
CFA Mitigation Amount	$3.1	CFA
County Revenues from EDH	**$177.8**	

City of El Dorado Hills revenues transferred from County		
Property Tax	$45.4	City prop tax share at 5.51% per the CFA
Sales Tax	$23.5	CFA
Property Transfer Tax	$5.3	CFA
Transient Occupancy Tax	$2.6	CFA
CFA Mitigation Amount	($3.1)	CFA
City Revenues from County	**$73.7**	

The County of El Dorado

Chief Administrative Office

330 Fair Lane
Placerville, CA 95667-4197

Laura S. Gill
Chief Administrative Officer

Phone (530) 621-5530
Fax (530) 626-5730

Al Manard, El Dorado County LAFCO Chairperson
550 Main Street, Suite E
Placerville CA 95667

Subject: County of El Dorado's Final Revenue Neutrality Offer

Dear Mr. Manard,

The County's negotiating team met with the El Dorado Hills Incorporation team this morning to try and reach a Revenue Neutrality Agreement between the two parties. Unfortunately, we were not able to reach an agreement by the deadline set by the LAFCO Commission at their special meeting on May 18, 2005.

The County has scheduled a special meeting of the Board of Supervisors for 8:00 a.m. on Tuesday, May 31, 2005, at which time the Board will review the revenue neutrality issue. Because of the compressed time frame we feel it would be inappropriate for the County staff to submit a final proposal to LAFCO before the Board of Supervisors has considered the matter on Tuesday. We anticipate submitting to LAFCO the County's position on revenue neutrality and other terms and conditions of incorporation following our Board meeting.

We wish to thank you and your staff for your continuing efforts to bring this item to conclusion.

Sincerely,

Laura S. Gill
Chief Administrative Officer

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EL DORADO COUNTY CALIFORNIA
Chief Administrative Office

June 1, 2005

Chairman Al Manard and Commissioners
El Dorado County Local Agency Formation Commission
550 Main Street, Suite E
Placerville, CA 95667

Re: El Dorado Hills Incorporation Project - Revenue Neutrality Conditions

Honorable Chairman and Commissioners:

You have received a letter from Louis B. Green, County Counsel, which transmits the County's position on revenue neutrality which was approved by the Board of Supervisors at a special meeting on Tuesday, May 31, 2005. The County has since discovered an oversight in the position communicated in the Board's motions. The attached letter to the Board of Supervisors outlines the oversight: the motion effectively eliminated any revenue neutrality payments to the County from the new city for the first six years. Consequently, I ask your commission to consider adding the following language to the terms and conditions for the proposed City of El Dorado Hills:

> The unadjusted general fund and road district revenue neutrality payments would continue for a period of six years, commencing in fiscal year 2006/2007 and ending in fiscal year 2011/2012. The amount of the annual revenue neutrality payment for each type of revenue will be in the amount set forth in the final Comprehensive Financial Report.

The original request from the County to LAFCO to impose revenue neutrality payments for no less than 40 years beginning in fiscal year 2012/2013, adjusted from fiscal year 2003/2004 by the rate of increase in assessed value within the newly incorporated city, would remain in effect.

I will ask the Board of Supervisors to ratify this request at its meeting on Tuesday, June 7.

Thank you for your consideration of this request.

Sincerely,

Laura S. Gill

Laura S. Gill
Chief Administrative Officer

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EL DORADO COUNTY CALIFORNIA

Chief Administrative Office

June 1, 2005

Memo To: Board of Supervisors

From: Laura S. Gill, Chief Administrative Officer Laura S Gill

Subject: Clarification of BOS Action of May 31, 2005 Concerning Potential Incorporation of El Dorado Hills

<u>Recommendation</u>

I recommend that the Board of Supervisors amend its direction to staff to request the Local Agency Formation Commission (LAFCO) to impose a condition that the unadjusted general fund and road district revenue neutrality payments would continue for a period of six years, commencing in fiscal year 2006/2007 and ending in fiscal year 2011/2012. The amount of the annual revenue neutrality payment for each type of revenue will be in the amount set forth in the final Comprehensive Financial Report. The original direction to request LAFCO to impose revenue neutrality payments for no less than 40 years beginning in fiscal year 2012/2013 would remain in effect.

<u>Background</u>

At its special meeting of May 31, 2005, the Board of Supervisors adopted three motions regarding the County's requested terms and conditions to be submitted to the El Dorado County Local Agency Formation Commission (LAFCO) concerning the potential incorporation of El Dorado Hills. The second motion directed that the County's submission to LAFCO include a request for LAFCO to:

> ...impose a condition that the general fund and road district revenue neutrality payments would continue for a period of not less than 40 years commencing in fiscal year 2012/2013 and LAFCO provide that any revenue neutrality payments be adjusted from fiscal year 2003/2004 by the rate of increase in assessed value within the newly incorporated city.

<u>Issues/Analysis</u>

The intent of the motion was to relieve the new city of the burden of paying an escalated revenue neutrality payment to the County while it is paying its five-year loan to the County for General Fund-related services provided during the first year of incorporation. However, the unintended effect of the motion is to eliminate <u>any</u> revenue neutrality payments to the County for either the General Fund or the Road Fund from the new city for the first six years. This is contrary to the findings included in the Comprehensive Financial Analysis, as it included both payments in determining the fiscal viability of the new city.

To correct this situation, I propose the following amendment to the motion stated above to clarify the County's position:

> To request the Local Agency Formation Commission (LAFCO) impose a condition that the unadjusted general fund and road district revenue neutrality payments would continue for a period of six years, commencing in fiscal year 2006/2007 and ending in fiscal year 2011/2012. The amount of the annual revenue neutrality payment for each type of revenue will be in the amount set forth in the final Comprehensive Financial Report. Further, commencing in fiscal year 2012/2013, the general fund and road district revenue neutrality payments would continue for a period of not less than 40 years and be adjusted from fiscal year 2003/2004 by the rate of increase in assessed value within the newly incorporated city.

In order to approve the incorporation, LAFCo must find that the city is fiscally viable. County staff has reviewed the estimated fiscal effect of this amendment through a spread sheet analysis using the assumptions of the CFA. Staff is satisfied that the viability of the city is not adversely affected by the addition of this amendment. As noted previously, the County's proposal for the Road Fund does result in an operating deficit for fiscal years 2014 through 2029; however, the level of fund balance remaining in the Road Fund remains above 103% of projected expenses throughout the 46-year period.

I remain available to answer any questions you may have concerning the proposed amended request to LAFCO.

Copy: Louis B. Green, County Counsel
Joe Harn, Auditor-Controller
Jim Wiltshire, Assistant Chief Administrative Officer
Shawna Purvines, Economic Development Coordinator
Baxter Culver

Fund Balance Analysis Based on EDH CFA Table A-1 for ALTERNATIVE BOUNDARY
Total Payments to County versus Accumulated Operating Surpluses

	General	Road	Total
Total Anticipated Revenues	$ 1,665,977,704	$ 326,573,767	$ 1,992,551,470
Total Anticipated Expenses	1,264,298,326	162,451,536	1,426,749,862
Operating Surplus/(Deficit)	$ 401,679,377	$ 164,122,231	$ 565,801,608
Amount Requested by El Dorado County:			
Unadjusted Revenue Neutrality	$ 13,139,210	$ 42,773,744	$ 55,912,954
EPS Changes to Revenue Neutrality	861,120	(8,280,000)	$ (7,418,880)
Effect of AV Escalator	53,450,166	119,219,923	$ 172,670,089
Total El Dorado County Request	$ 67,450,496	$ 153,713,667	$ 221,164,163
Request as % of Surplus	16.79%	93.66%	39.09%
% of County Payments by fund	30.50%	69.50%	

Fund Balance Analysis Based on EDH CFA Table A-1 for ALTERNATIVE BOUNDARY

General Fund					ANALYSIS		
Year of Incorporation	1	2	3	4	5	6	7
Year of RNA		Loan 1	Loan 2	Loan 3	Loan 4	Loan 5	1
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Revenues	11,738,711	14,071,656	15,339,278	16,568,006	17,516,626	18,066,434	18,578,229
Expenses	6,707,076	14,559,060	15,393,848	15,617,061	15,981,924	16,422,477	15,936,617
Surplus/(Deficit)	5,031,635	(487,404)	(54,570)	950,945	1,534,702	1,643,957	2,641,612
CFA Rev Neutrality	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)
EPS Chg to CFA	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)
CFA Fire District RN	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)
County Proposal - AV	-	-	-	-	-	-	(404,714)
Surplus/(Deficit)	4,465,915	(1,053,124)	(620,290)	385,225	968,982	1,078,237	1,671,178
Est Fund Balance	5,713,022	4,659,898	4,039,608	4,424,833	5,393,815	6,472,052	8,143,230
EFB as % of Exp	85.18%	32.01%	26.24%	28.33%	33.75%	39.41%	51.10%

Fund Balance Analysis

General Fund								
Year of Incorporation	15	16	17	18	19	20	21	22
Year of RNA	9	10	11	12	13	14	15	16
	2021	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**
Revenues	24,493,431	25,350,701	26,237,976	27,156,305	28,106,776	29,090,513	30,108,681	31,162,484
Expenses	19,810,017	20,404,317	21,016,447	21,646,940	22,296,348	22,965,239	23,654,196	24,363,822
Surplus/(Deficit)	4,683,415	4,946,384	5,221,529	5,509,365	5,810,427	6,125,274	6,454,485	6,798,663
CFA Rev Neutrality	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)
EPS Chg to CFA	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)
CFA Fire District RN	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)
County Proposal - AV	(639,048)	(672,067)	(706,242)	(741,613)	(778,222)	(816,112)	(855,328)	(895,917)
Surplus/(Deficit)	3,478,646	3,708,597	3,949,567	4,202,032	4,466,486	4,743,442	5,033,437	5,337,026
Est Fund Balance	30,147,772	33,856,369	37,805,936	42,007,969	46,474,454	51,217,896	56,251,333	61,588,359
EFB as % of Exp	152.18%	165.93%	179.89%	194.06%	208.44%	223.02%	237.81%	252.79%

Fund Balance Analysis

General Fund								
Year of Incorporation	32	33	34	35	36	37	38	39
Year of RNA	26	27	28	29	30	31	32	33
	2038	**2039**	**2040**	**2041**	**2042**	**2043**	**2044**	**2045**
Revenues	43,957,762	45,496,284	47,088,654	48,736,756	50,442,543	52,208,032	54,035,313	55,926,549
Expenses	32,742,939	33,725,227	34,736,984	35,779,093	36,852,466	37,958,040	39,096,781	40,269,685
Surplus/(Deficit)	11,214,823	11,771,057	12,351,670	12,957,663	13,590,077	14,249,992	14,938,532	15,656,864
CFA Rev Neutrality	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)	(285,635)
EPS Chg to CFA	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)	(18,720)
CFA Fire District RN	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)	(261,365)
County Proposal - AV	(1,388,747)	(1,448,006)	(1,509,339)	(1,572,818)	(1,638,519)	(1,706,520)	(1,776,900)	(1,849,744)
Surplus/(Deficit)	9,260,356	9,757,331	10,276,611	10,819,125	11,385,838	11,977,752	12,595,911	13,241,400
Est Fund Balance	135,092,621	144,849,951	155,126,562	165,945,687	177,331,525	189,309,277	201,905,188	215,146,588
EFB as % of Exp	412.59%	429.50%	446.57%	463.81%	481.19%	498.73%	516.42%	534.26%

Fund Balance Analysis Based on EDH CFA Table A-1 for ALTERNATIVE BOUNDARY

Road Fund				EPS ANALYSIS			
Year of Incorporation	1	2	3	4	5	6	7
Year of RNA		Loan 1	Loan 2	Loan 3	Loan 4	Loan 5	1
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Revenues	2,815,708	3,007,969	3,202,234	3,408,083	3,598,431	3,705,746	3,824,848
Expenses	1,486,400	1,588,732	1,714,836	1,817,168	1,876,713	1,960,029	2,019,575
Surplus/(Deficit)	1,329,308	1,419,237	1,487,398	1,590,915	1,721,718	1,745,717	1,805,273
CFA Rev Neutrality	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)
EPS Chg to CFA	180,000	180,000	180,000	180,000	180,000	180,000	180,000
County Proposal - AV	-	-	-	-	-	-	(997,126)
Surplus/(Deficit)	579,444	669,373	737,534	841,051	971,854	995,853	58,283
Est Fund Balance	840,139	1,509,512	2,247,046	3,088,097	4,059,951	5,055,804	5,114,087
EFB as % of Exp	56.52%	95.01%	131.04%	169.94%	216.33%	257.95%	253.23%

Road Fund				EPS ANALYSIS			
Year of Incorporation	1	2	3	4	5	6	7
Year of RNA		Loan 1	Loan 2	Loan 3	Loan 4	Loan 5	1
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Revenues	2,815,708	3,007,969	3,202,234	3,408,083	3,598,431	3,705,746	3,824,848
Expenses	1,486,400	1,588,732	1,714,836	1,817,168	1,876,713	1,960,029	2,019,575
Surplus/(Deficit)	1,329,308	1,419,237	1,487,398	1,590,915	1,721,718	1,745,717	1,805,273
CFA Rev Neutrality	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)
EPS Chg to CFA	180,000	180,000	180,000	180,000	180,000	180,000	180,000
Mod County Proposal - AV	-	-	-	-	-	-	(525,485)
Surplus/(Deficit)	579,444	669,373	737,534	841,051	971,854	995,853	529,924
Est Fund Balance	840,139	1,509,512	2,247,046	3,088,097	4,059,951	5,055,804	5,585,728
EFB as % of Exp	56.52%	95.01%	131.04%	169.94%	216.33%	257.95%	276.58%

Fund Balance Analysis

Road Fund								
Year of Incorporation	15	16	17	18	19	20	21	22
Year of RNA	9	10	11	12	13	14	15	16
	2021	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**
Revenues	4,775,679	4,942,828	5,115,827	5,294,881	5,480,202	5,672,009	5,870,529	6,075,997
Expenses	2,553,679	2,630,289	2,709,198	2,790,474	2,874,188	2,960,414	3,049,226	3,140,703
Surplus/(Deficit)	2,222,000	2,312,538	2,406,629	2,504,407	2,606,013	2,711,595	2,821,303	2,935,294
CFA Rev Neutrality	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)
EPS Chg to CFA	180,000	180,000	180,000	180,000	180,000	180,000	180,000	180,000
County Proposal - AV	(1,574,474)	(1,655,826)	(1,740,025)	(1,827,171)	(1,917,368)	(2,010,721)	(2,107,341)	(2,207,343)
Surplus/(Deficit)	(102,338)	(93,152)	(83,261)	(72,629)	(61,218)	(48,990)	(35,903)	(21,913)
Est Fund Balance	4,094,288	4,001,137	3,917,876	3,845,247	3,784,029	3,735,039	3,699,136	3,677,223
EFB as % of Exp	160.33%	152.12%	144.61%	137.80%	131.66%	126.17%	121.31%	117.08%

Road Fund								
Year of Incorporation	15	16	17	18	19	20	21	22
Year of RNA	9	10	11	12	13	14	15	16
	2021	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**
Revenues	4,775,679	4,942,828	5,115,827	5,294,881	5,480,202	5,672,009	5,870,529	6,075,997
Expenses	2,553,679	2,630,289	2,709,198	2,790,474	2,874,188	2,960,414	3,049,226	3,140,703
Surplus/(Deficit)	2,222,000	2,312,538	2,406,629	2,504,407	2,606,013	2,711,595	2,821,303	2,935,294
CFA Rev Neutrality	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)
EPS Chg to CFA	180,000	180,000	180,000	180,000	180,000	180,000	180,000	180,000
Mod County Proposal - AV	(865,710)	(914,177)	(964,098)	(1,015,517)	(1,068,479)	(1,123,029)	(1,179,216)	(1,237,088)
Surplus/(Deficit)	606,426	648,497	692,666	739,025	787,671	838,702	892,223	948,342
Est Fund Balance	9,413,347	10,061,844	10,754,511	11,493,536	12,281,207	13,119,908	14,012,131	14,960,473
EFB as % of Exp	368.62%	382.54%	396.96%	411.88%	427.29%	443.18%	459.53%	476.34%

3

Fund Balance Analysis

Road Fund								
Year of Incorporation	32	33	34	35	36	37	38	39
Year of RNA	26	27	28	29	30	31	32	33
	2038	**2039**	**2040**	**2041**	**2042**	**2043**	**2044**	**2045**
Revenues	8,570,794	8,870,772	9,181,249	9,502,593	9,835,184	10,179,415	10,535,695	10,904,444
Expenses	4,220,842	4,347,468	4,477,892	4,612,228	4,750,595	4,893,113	5,039,907	5,191,104
Surplus/(Deficit)	4,349,952	4,523,305	4,703,358	4,890,365	5,084,589	5,286,302	5,495,788	5,713,340
CFA Rev Neutrality	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)
EPS Chg to CFA	180,000	180,000	180,000	180,000	180,000	180,000	180,000	180,000
County Proposal - AV	(3,421,569)	(3,567,569)	(3,718,680)	(3,875,079)	(4,036,952)	(4,204,490)	(4,377,892)	(4,557,364)
Surplus/(Deficit)	178,519	205,871	234,814	265,422	297,773	331,948	368,032	406,112
Est Fund Balance	4,460,765	4,666,636	4,901,450	5,166,872	5,464,645	5,796,593	6,164,625	6,570,737
EFB as % of Exp	105.68%	107.34%	109.46%	112.03%	115.03%	118.46%	122.32%	126.58%

Road Fund								
Year of Incorporation	32	33	34	35	36	37	38	39
Year of RNA	26	27	28	29	30	31	32	33
	2038	**2039**	**2040**	**2041**	**2042**	**2043**	**2044**	**2045**
Revenues	8,570,794	8,870,772	9,181,249	9,502,593	9,835,184	10,179,415	10,535,695	10,904,444
Expenses	4,220,842	4,347,468	4,477,892	4,612,228	4,750,595	4,893,113	5,039,907	5,191,104
Surplus/(Deficit)	4,349,952	4,523,305	4,703,358	4,890,365	5,084,589	5,286,302	5,495,788	5,713,340
CFA Rev Neutrality	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)	(929,864)
EPS Chg to CFA	180,000	180,000	180,000	180,000	180,000	180,000	180,000	180,000
Mod County Proposal - AV	(1,920,434)	(2,000,543)	(2,083,055)	(2,168,042)	(2,255,579)	(2,345,743)	(2,438,611)	(2,534,265)
Surplus/(Deficit)	1,679,655	1,772,898	1,870,439	1,972,458	2,079,145	2,190,695	2,307,313	2,429,211
Est Fund Balance	28,188,879	29,961,777	31,832,216	33,804,674	35,883,819	38,074,515	40,381,828	42,811,039
EFB as % of Exp	667.85%	689.18%	710.88%	732.94%	755.35%	778.12%	801.24%	824.70%

Law Office
Of
ROBERT A. LAURIE

3161 Cameron Park Drive,
Suite 215
Cameron Park, CA 95682
Tel: 530.672.1566
email:ralaurie@sbcglobal.net

May 24, 2005

Ms Roseanne Chamberlain
Executive Officer
El Dorado County LAFCO
550 Main Street, Suite E
Placerville, CA 95667

Re: El Dorado Hills Incorporation; Request for Exclusion – Equestrian Estates

Dear Ms Chamberlain:

On behalf of those listed on the attached list, objection is made to inclusion of such properties within the proposed city boundaries. It is my client's desire to retain the rural characteristics of their community and such would be inconsistent with the urban nature of municipal organization.

Specifically, the following comments are offered for your consideration:

1. The subject area forms a geographic peninsula. This is inconsistent with "the formation of orderly and logical boundaries" and it is not evident that such would be in the interest of the total organization of government services (LAFCO Policy 3.9.4).

2. The incorporation would encourage growth in this community in a manner inconsistent with well planned, well ordered and efficient development policies in violation of LAFCO Policy 6.1.4.

3. Pursuant to the provisions of Policy 6.1.10, LAFCO may not approve proposals involving agencies that have a Sphere of Influence more than five years old until a service review has been conducted. This policy would apply to both the El Dorado Hills County Water District as well as the CSD.

4. All of the properties within Equestrian Estates are rural/agricultural in nature and accordingly should be excluded from the incorporation boundaries (LAFCO Policy 6.7.8.2).

5. The Staff Report argues that it is essential to provide for a smooth transition of services from the CSD to the City, thus the importance of maintaining the integrity of District/City boundaries. Yet, it is also recommended that the City not enforce neighborhood CC&Rs, one of the more critical services provided by the CSD. In fact, the Staff Report argues that a primary reason for rejecting exclusion is the loss of CSD services including CC&R enforcement. (See Pages 19, 20). If the City is not going to enforce CC&Rs then this argument can not stand.

6. The Staff Report incorrectly implies that the majority of property owners in the neighborhood prefer to be included within the incorporated area. Signatures on file with LAFCO include a significant number of properties from outside of the neighborhood. The majority of property owners from within Equestrian Estates object to inclusion.

Thank you for your consideration.

Very truly yours,

Robert A. Laurie

ROBERT A. LAUKIE

①

May 31, 2005

TO:

As property owners in the Lakehills Drive - Salmon Falls Road [illegible] area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Richard Moorhouse 1191-Lakehills ct

Karen Moorhouse

2

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Gary Applegarth 1210 Lexington Court
El Dorado Hills, CA

Janet Applegarth

3

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

1220 LEXINGTON Ct., EDH

4

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Jay Dennis 1691 Lakehills Dr.

Linda Dennis

(6)

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Nancy Fletcher 1781-Lakehills Dr.

Gary R. Fletcher

7

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Clarence Rich 9033 Winding Oak Dr

Madeline Rich 9033 - Winding Oak Dr.

8

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

1881 Lakehills Dr.
El Dorado Hills, CA.

(9)

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

James L. G[illegible] P.O. Box 5028 EDH 9576

Linda L. Green P.O. Box 5028 EDH 9576

10, 11, 12, 16

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Norma J Hampton

2040 Salmon Falls Rd - EDH Ca 95762

(13)

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Robert B. Price III	1999 Lakehills Dr

Louise C. Price

(14)

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

2003- Lakehills Dr

15

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

2062 LAKE Hills Dr

17

May 31, 2005

TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Ken Christensen 2030 Salmon Falls

Peggy Christensen

(18)

May 31, 2005

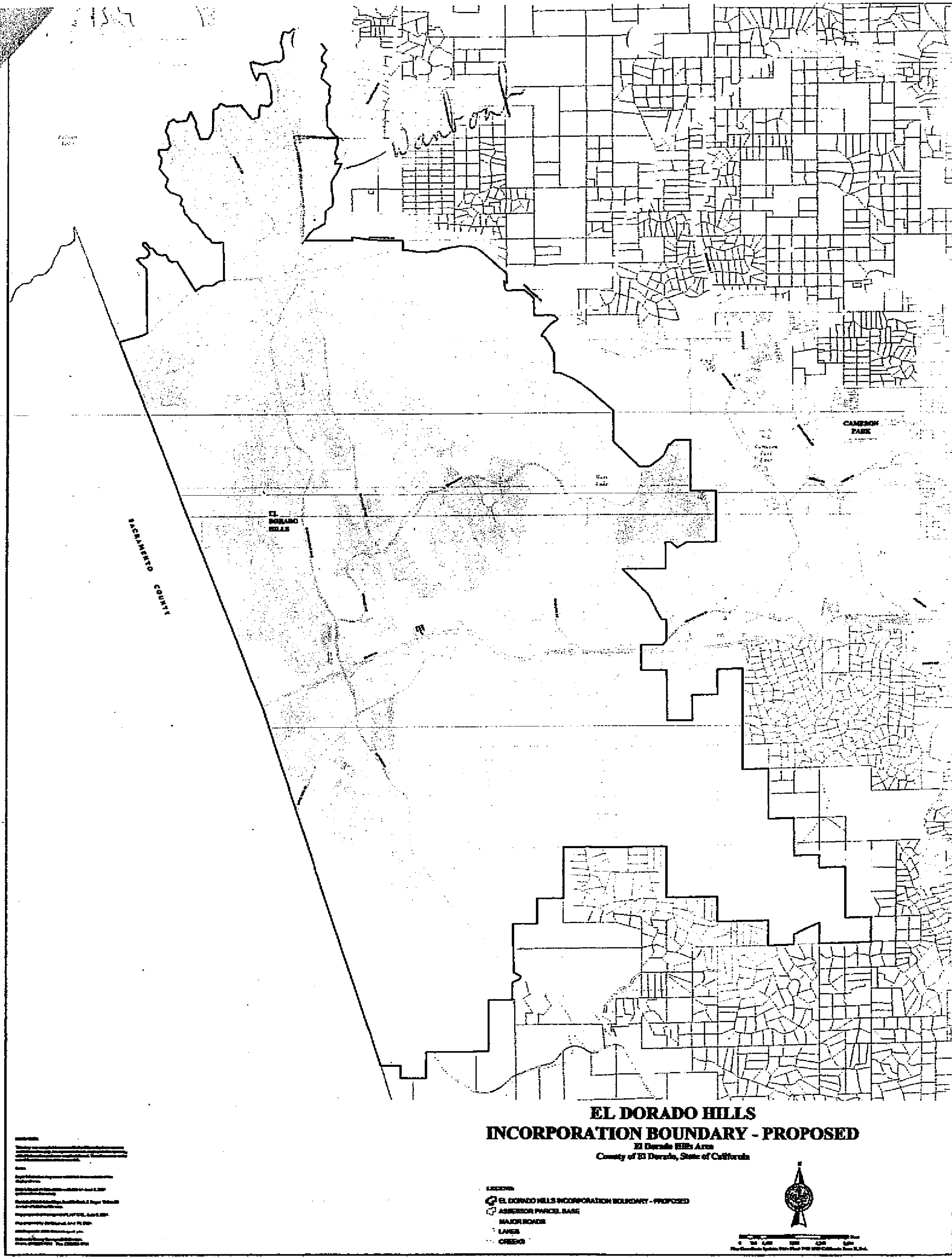
TO: LAFCO

As property owners in the Lakehills Drive - Salmon Falls Road triangle area, located between Lakehills Drive and Salmon Falls Road, we would like to emphasize our desire to remain within the El Dorado County jurisdiction, and not be included in the proposed El Dorado Hills city incorporation.

We are the majority of the 26-parcel area and we are requesting to be left out of the proposed city.

Mark William Aldrich 1212-Lexington Ct

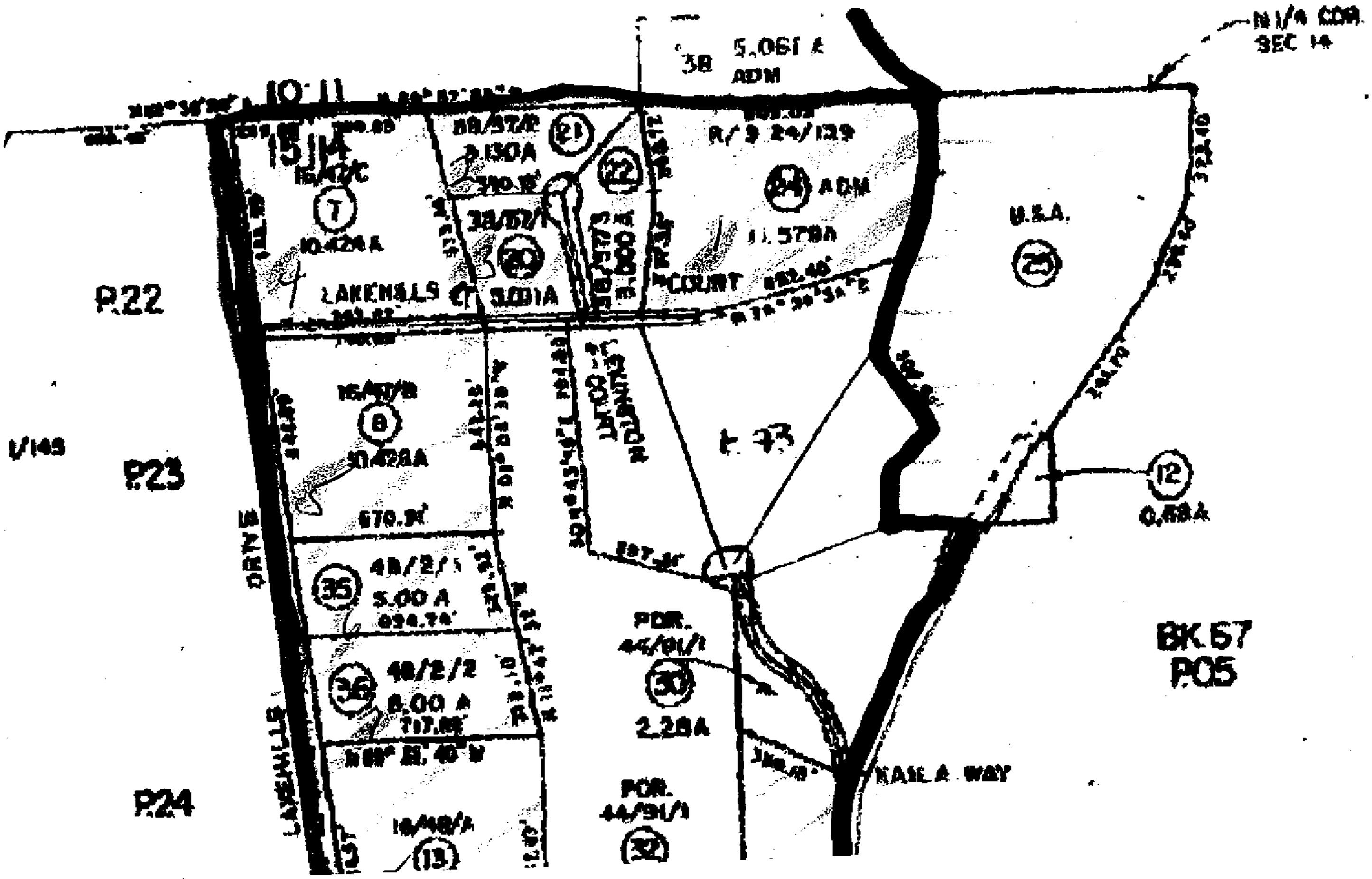
Andrea Jacob Aldrich 1212-Lexington Ct



SACRAMENTO COUNTY
EL DORADO HILLS
CAMERON PARK
EL DORADO HILLS
INCORPORATION BOUNDARY - PROPOSED
El Dorado Hills Area
County of El Dorado, State of California
LEGEND
EL DORADO HILLS INCORPORATION BOUNDARY - PROPOSED
ASSESSOR PARCEL BASE
MAJOR ROADS
LAKES
CREEKS

R.8E., M.D.M.

Tax Area Code



LAW OFFICE
OF
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Attorneys at Law

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FAX (530) 622-9614
billofwrights@sbcglobal.net

May 23, 2005

Roseanne Chamberlain
Executive Officer
Local Agency Formation Commission
550 Main Street, Suite E
Placerville, CA 95667

Re: El Dorado Hills Incorporation

Dear Members of the Commission:

This office represents the Rescue Fire Protection District and the El Dorado County Fire Protection District. The El Dorado Hills Fire Department is represented by the Law Firm of Hefner, Stark and Marois.

As discussed at the May 18, 2005 board meeting, Rescue Fire and County Fire are very concerned with the impact to their Districts from the proposed incorporation. The boundaries of the incorporation have been drawn to include portions of these Districts. The Rescue Fire Protection District currently serves Green Springs Ranch subdivision. The El Dorado County Fire Protection District currently serves a portion of the Marble Valley project (collectively referred to herein as the "Affected Areas"). Unless an adequate resolution can be reached acceptable to the Districts, we request that LAFCo mitigate the impact to these Districts by excluding the Affected Areas from the incorporation boundaries.

There will be a significant impact to the Districts as a result of the conversion of the Affected Areas from a state responsibility area to a local responsibility area. Unless adequate financial arrangements are secured for the Districts, the Districts will be adversely impacted due to the change in financial obligations for this area. Under a worse case scenario, a fire in the Affected Areas that requires air support, bulldozers and work-crews from CDF could potentially bankrupt the Districts.

The mitigation measure in the EIR addressed this impact as follows:

Direct Impact 2-8 Loss of Wildland Fire Protection Service by the CDF
Mitigation:

1. Require the Retention of CDF for Wildland Fire Projection through contractual agreements between the new city, the El Dorado Hills Fire Department (EDHCWD) and the CDF.
2. Require the new City to transfer to EDHCWD an amount sufficient to fund the cost of continued CDF Wildland Fire Protection for all affected areas within the new City boundary.

Results:
Less than significant.

This mitigation measure is inadequate for several reasons. First, it fails to include Rescue Fire and County Fire. Second, the mitigation measure improperly assumes that the new city will have the power and authority to provide fire protection services to the Affected Areas. Third, the EIR attempts to mitigate the impact through an unenforceable condition. Requiring the new city to enter into an agreement sometime in the future simply is not enforceable, particularly when the terms of this agreement are not set forth in detail.

The only way to properly mitigate this impact is to identify a secure funding source to pay CDF. The impact is unquestionably a direct impact from the incorporation because without the incorporation the status quo for the Affected Areas would continue and the land would remain in the state responsibility area. To properly mitigate this impact a feasible mitigation measure is required that LAFCo can say with certainty will mitigate the impact. Otherwise the impact is significant and unmitigated. A condition attempting to require a currently nonexistent entity to approve an agreement at an unspecified time in the future does not meet this criteria.

The Districts are disappointed in the current position taken by LAFCo staff that Government Code Section 56815 does not allow a tax sharing agreement or other secure financial mechanism for mitigating this impact. We disagree with the opinion that Section 56815 only applies if the fire districts transfer their service responsibilities to the new city. The statute does not include such a limitation. The intent of the statute is to provide a secure funding source for all of the impacted agencies whenever responsibility for providing a service is altered as a result of the incorporation. Section 56815(c) provides an opportunity for the Commission to base its findings for approval based upon the fact that the impacts have been adequately mitigated by tax sharing agreements or similar financial arrangements. The Districts contend that the Legislature expressed broad support for providing statutory authority to provide concrete solutions to financial impacts to affected agencies as a result of incorporation.

The Code does not limit the authority of LAFCo simply because the financial impact results from a shift in State responsibility. Certainly the Legislature intended this code to provide broad authority to address these issues so LAFCos are not faced with the dilemma of attempting to mitigate financial impacts by unenforceable conditions that require the future city to enter into future financial agreements, the length, term and conditions of which are unknown.

A plain reading of this statute envisions the ability to financially mitigate this transfer of responsibility.

Government Code Section 56815 reads as follows:

> (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.
>
> (b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:
> (1) Revenues currently received by the local agency transferring the affected territory that, 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.
>
> (c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an 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.
>
> (d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).

> (e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

The authority granted under this Section is very broad and subsection (c) clearly envisions tax-sharing agreements to address these issues. Although Government Code Section 56810 could be read to require a transfer of responsibility in order to complete a property tax exchange, Section 56810 by its own terms supplements Section 56815 and is not intended to limit the authority under Section 56815.

Further authority to adjust the tax structure to address issues such as this can be found in Section 56886, which provides for the terms and conditions that can be imposed by the Commission. Here the code also envisions the ability to impose, transfer, divide or apportion obligations of the city and to fix the collection of taxes to satisfy that obligation.

Section 56886(c) authorizes:

> (c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for that payment.

Section 56886(c)is not just limited to allocating taxes for bonded indebtedness. The Section by its own terms also applies to "other contracts or obligations".

Section 56886(f) provides LAFCo with the authority for:

> f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement district within that local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local

agency has the authority to establish zones for incurring Indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

Section 56886(i) further provides LAFCo with the authority for:

i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

The ability to divide moneys or funds to meet future obligations under Section 56886(i) would include the authority to authorize a tax sharing agreement as also provided in Section 56815.

Finally, Section 56886 (v) provides further grants authority for LAFCo to act on "[A]ny other matters necessary or incidental to any of the terms and conditions specified in this section."

The Districts respectfully request that LAFCo remove the Affected Areas from the incorporation proposal. Absent removing the Areas, the Districts request LAFCo to require a dedicated revenue source from a tax sharing agreement to mitigate this impact.

Very truly yours,

WmMWright
ld
William M. Wright

WMW:ld
cc: Chief Lacher
Chief Knoop

EL DORADO HILLS
COMMUNITY SERVICES DISTRICT

May 26, 2005

Mr. Al Manard, Chair
Local Agency Formation Commission
550 Main Street Suite E
Placerville, CA 95667

RE: El Dorado Hills Incorporation Application: Terms & Conditions

Dear Al:

Thank you for again holding the LAFCO meeting on the El Dorado Hills incorporation issues in El Dorado Hills. As you witnessed from the considerable turn out last night, the convenient access to the Commission appears to be an important common denominator in attendance!

The Terms and Conditions proposed by staff were thorough and well written. In particular, the agreement reached by the Incorporation Committee and fire district's was clear and well balanced. If the incorporation of El Dorado Hills is successful at the ballot box, the community should see valuable fire and medical services continue at their present level while the City will not be unfairly burdened with costs for wild land fires at an unnecessary level.

Item No. 17 of the Terms & Conditions included several key areas and we appreciate the meticulous efforts of staff to draft and present them to you. A particularly complicated topic was that of CC&Rs (covenants, conditions and restrictions) services which is a bit of an anomaly for a government agency. The idea of continuing CC&R design review and enforcement for one year gives the new City adequate time to evaluate before deciding to maintain, modify, or abandon this service. The primary purpose of self-government is to have local control over services and this condition provides the flexibility the community needs.

The one change we do suggest in Item No. 17—and in other documents as appropriate—is to replace the term "dissolution" with "reorganization". The word "dissolution" implies that the District goes away or disappears when, in fact, the District services,

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properties, employees, etc., are truly just folded—or reorganized—into the new City. As stated in several of the paragraphs in Item No. 17, real property, property held in trust, fixed assets, services, contractual obligations, fees, charges, assessments, taxes, employees and records all become the property and responsibility of the new city. "Reorganization" better conveys this notion and assures that transfer of any responsibility that may have been overlooked by the Terms & Conditions is automatically captured. It also solidly obligates the new City to continue all commitments of the former community services districts.

We look forward to continuing to work with the Commission and its staff as we near closure on the application process.

Sincerely,

Wayne A. Lowery
General Manager

cc: Roseanne Chamberlain
Nat Taylor
John Hidahl
Norm Rowett

EL DORADO COUNTY
OFFICE OF
THE COUNTY COUNSEL

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May 31, 2005

Board of Supervisors,
County of El Dorado
330 Fair Lane
Placerville, CA 95667

Re: Proposed Incorporation of El Dorado Hills: Revenue Neutrality Negotiations and Other Terms and Conditions of Approval

Honorable Supervisors:

The El Dorado County Local Agency Formation Commission (LAFCo) is scheduled to hear the proposed incorporation of El Dorado Hills on June 1, 2005, with final action anticipated on June 8, 2005. The purpose of this memorandum is to update the Board of Supervisors on the proceedings and, in particular, the revenue neutrality negotiations that have been ongoing for over two months. Following the update, staff will request that the Board ratify any positions to be presented to LAFCo by the County.

REVENUE NEUTRALITY NEGOTIATIONS

Negotiations regarding revenue neutrality have been ongoing since the release of the draft Comprehensive Fiscal Analysis on March 14, 2005. The negotiations have involved County staff, representatives of the Incorporation Committee, and LAFCo staff as facilitators. The County has been represented in these negotiations principally by Laura Gill, Chief Administrative Officer, Louis Green, County Counsel, Shawna Purvines, Director of Economic Development, and Joe Harn, County Auditor. Consulting support was provided by Baxter Culver, who has substantial experience working on incorporation projects throughout the state.

The last formal negotiating session took place on Friday, May 27, 2005. Unfortunately, we must report that the parties were unable to reach agreement regarding revenue neutrality. Therefore, in approving the incorporation for placement on the ballot, if it chooses to do so, LAFCo will need to develop a term or condition regarding revenue neutrality to be applied. Late of Friday, May 27, 2005, the LAFCo Executive Officer issued her updated report that included her recommendation for a revenue neutrality condition in the absence of agreement among the parties. However, both parties were still encouraged to submit their individual proposals. County staff is requesting direction from the Board of Supervisors with respect to the position to be put forward to LAFCo.

What is revenue neutrality?

Before 1992, state law did not require a newly incorporated city to compensate a county for the negative fiscal impact of incorporation on the county. In cases where the newly incorporated city was a high revenue generating area, this often caused severe economic hardship for the county. In 1992, the Legislature enacted a code section that is now found at California Government Code Section 56815. It establishes the requirement of finding that an incorporation is "revenue neutral." "Revenue neutrality" (a term not actually used in the legislation) is only loosely defined by Section 56815. Even twelve years after the enactment of the section, there is no case law that helps in the interpretation.

Section 56815 prohibits a LAFCo from approving a city incorporation unless it makes a finding that the revenues currently received by the County that will be transferred to the city and the expenditures currently made by the County to provide services within the proposed area of incorporation which will be assumed by the new city are "substantially equal." In the case of the El Dorado Hills incorporation, these numbers are not substantially equal. The Comprehensive Fiscal Analysis shows a negative impact on the County of approximately $305,000.00 in the general fund, and a negative impact of approximately $750,000.00 with regard to road district tax revenues (which are used for road maintenance), for fiscal year 2003-2004.[1] However, Section 56815(c)(2) allows LAFCo to approve an incorporation that has a negative fiscal effect; provided, that it finds that the negative fiscal effect has been "adequately mitigated" through the use of tax sharing agreements, lump-sum payments, payments over a fixed period of time, or other terms and conditions specified. Hence, the County and incorporation proponents negotiate over revenue neutrality payments to the County and, in the absence of an agreement that can be incorporated into LAFCo's approval, it is necessary for LAFCo to impose conditions that adequately mitigate the negative fiscal effect on the County.

It should be noted that revenue neutrality is usually studied based on the conditions that exist at the time the CFA is prepared, a snapshot in time. Revenue neutrality seeks to offset the difference between *current* revenues and costs transferred. It does not deal with anticipated future revenue growth. As a result, in a situation such as El Dorado Hills, where the area seeking to incorporate has been planned to develop so that growth in revenue generation in the incorporated area is likely to exceed revenue growth in the remainder of the County, the County may well find itself negatively impacted based on its future expectations, even in light of any revenue neutrality payments received.

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[1]The CFA represents a snapshot in time. Financial information for fiscal year 2003-2004 was the most recent information available at the time the CFA was prepared.

The County provides two types of services. County-wide services are provided to residents of the County whether or not they reside with incorporated cities. These include services such as the criminal justice system (*i.e.* District Attorney, Public Defender, Probation Department, jail system), a portion of the costs of the court system although the courts currently are independent of the County, environmental protection (*e.g.* health department), libraries, and community services (*e.g.* senior services, general assistance). A portion of these services are funded through the general fund, although other dedicated sources of income are also available. These services will continue to be provided by the County to residents of El DoThese services will continue to be provided by the County to residents of El Dorado Hills, should it incorporate.

The County also provides what are commonly referred to as "municipal" services to residents within the *unincorporated* territory of the County. These are services such as police, parks and recreation, and road construction and maintenance, animal control, and general governmental services. Upon incorporation, the new city would assume responsibility for the provision of these services at its cost (although the actual provision of certain services may be by County personnel under a contract with the new city). It is these costs that are transferred to the city and are considered as a factor in revenue neutrality.

Upon incorporation, a portion of the property tax currently received by the County from within El Dorado Hills will be transferred to the new city in accordance with a formula established by law. The city will also receive other tax revenues generated within the city that otherwise would go to the County, such as sales tax, hotel/motel tax, and real property transfer tax.

A negative fiscal impact on the County in the event of an El Dorado Hills incorporation is typical of incorporations where the area incorporating has experienced, and expects to experience, more rapid economic development than the rest of the County. In essence, the area is a net revenue generator. In simple terms, the negative fiscal impact on the County shown by the CFA represents tax revenues generated in El Dorado Hills that have been spent either on county-wide services, or to enhance the municipal services enjoyed by residents of the County outside of the El Dorado Hills area. *After the incorporation of El Dorado Hills, the County will still be responsible for the provision of County-wide services to all of the residents of the County whether they reside within incorporated cities or in the unincorporated area, and for the provision of municipal services to approximately 100,000 residents of unincorporated territory.* The County must fulfill these responsibilities despite the loss of a substantial portion of tax revenue from the area of the County that is experiencing the highest rate of revenue growth in the County.

Unless that negative effect is fully mitigated, the incorporation of El Dorado Hills will necessarily result in a reduction of either county-wide services or municipal services outside of El Dorado Hills, or both, from what would have been expected had the incorporation not occurred. This difference presumably will be used to enhance municipal services provided by the city to its residents. The revenue neutrality payments should offset this differential and adequately mitigate the negative fiscal impact of incorporation.

<u>Terms of Revenue Neutrality.</u>

Revenue neutrality agreements around the state have differed due to varying circumstances. All use the CFA analysis as their basis. However, they have taken different forms. Some call for tax sharing among the entities, others provide for specified payments. Some include combinations of several approaches. Representatives of the County and the Incorporation Committee, along with LAFCo staff, have reviewed the draft CFA and worked to eliminate ambiguities and correct inaccuracies. The parties are in agreement on the differences between current revenues to be transferred and the current cost of services to be assumed by the County (revenue neutrality payments), shown in 2003-2004. As noted above, those amounts are approximately $305,000.0 for the general fund and $750,000.00 for the road district taxes. We also have agreed to eliminate from consideration alternative methods of mitigating the negative fiscal effect of incorporation, such a tax sharing agreements, in order to simplify the process.

~~The differences that the negotiators were not able to overcome relate to the term (number of years) the payments would run and the index to be used to adjust the payments annually.~~

1. **<u>Term</u>.** County staff believes that, conceptually, the revenue neutrality payments should continue *in perpetuity*. In order for LAFCo to approve the incorporation, it must find that the negative fiscal impact of incorporation has been adequately mitigated. The negative fiscal impact of incorporation lasts forever. The revenue sources that are transferred to the city are never returned to the County. If revenue neutrality were looked at over time, rather than as a snapshot at a particular time, the negative impact on the County is likely to increase compared with what would be expected if incorporation does not occur, because in a rapidly growing area such as El Dorado Hills the growth in the revenue transferred to the city is likely to far exceed the cost of providing services that the County had been providing.

It has been suggested that the term of the revenue neutrality payments should be limited because, over time, growth in other County revenues will offset the net loss due to incorporation. That argument fails for three reasons. First, that growth in other revenues will be needed to maintain both county-wide services and municipal services provided by the County to residents in unincorporated areas. Second, the net loss is never offset. Regardless of the rate at which the other County revenues grow, the revenue available to the County will always be less than if incorporation did not occur. The net loss will increase if revenue growth in the incorporated area exceeds the growth in cost of providing services.

Finally, the suggestion that growth in County revenues will offset the negative fiscal effect of incorporation is inconsistent with the position the incorporation proponents and LAFCo policies take. Particularly with respect to incorporations of areas experiencing rapid economic growth, like El Dorado Hills, counties frequently try to secure a portion of future revenue growth in recognition that the area was planned to be an economic engine for the county and that loss of the revenue to incorporation has a long-term negative impact on the planned growth of and service provision by the county. We sought such mitigation through proposals for tax sharing. However, this concept was opposed based on the argument that revenue neutrality is not intended to compensate the county for loss of anticipated future revenue growth, only for the negative fiscal impact experienced based on the transfer of current revenues and costs. Ultimately, County negotiators conceded this position.

The suggestion that revenue neutrality payments can be limited in time because growth in other County revenues will offset the loss due to incorporation is the same concept, only in reverse. The city has a legal and fiscal obligation to make revenue neutrality payments to the County to mitigate the negative fiscal impact of incorporation. To say that the revenue neutrality payments can cease because other County revenue will grow is nothing less than the proponents of incorporation asking for a portion of the *County's* future growth in revenue to offset the city's legal and fiscal obligations. The city should not be able to have it both ways–resisting any effort by the County to share in the city's future revenue growth while seeking a portion of the County's revenue growth to fulfill its fiscal obligations back to the County. This falls under the long-revered maxim of jurisprudence: What's good for the goose, is good for the gander.

Given more and more experience with the negative fiscal impacts of incorporations, the trend is for counties to seek longer terms for revenue neutrality payments. Indeed, one of the more recent revenue neutrality agreements to be concluded includes a portion of the mitigation payments, framed as a tax sharing agreement, to continue *in perpetuity*. The revenue neutrality agreement for the City of Goleta, in Santa Barbara County, which was approved in 2001, provides that the County will received mitigation payments in the form of tax sharing agreements that were estimated to amount to an initial payment of approximately $2.2 million dollars per year for a period of 10 years. However, to avoid any negative impact on the provisions of county-wide services, it was further agreed that the county would receive an additional 50% of the property tax and 30% of the sales tax accruing to the city from within a substantial defined portion of the city. These latter payments will continue *in perpetuity* without any cap, and were estimated to be the equivalent of approximately $3.3 million.

Other counties, however, have not been as successful in negotiating similar agreements. Incorporations within Sacramento County of Elk Grove, Rancho Cordova, and Citrus Heights have revenue neutrality agreements with payment schedules of 25 years. It is staff's understanding that Orange County has approved revenue neutrality agreements with terms of 10 years or less, although under circumstances where the county deemed incorporation to be beneficial to the county so that the county sought to provide economic incentives to the incorporations.

Even though a request for revenue neutrality payments *in perpetuity* is legally defensible, the County's negotiating team concluded early in the negotiations that it was unlikely to reach an agreement on those terms. Moreover, it appeared unlikely that the LAFCo staff would recommend such a term in the absence of agreement among the parties. That position has now been confirmed. Because all parties, including the Board of Supervisors, have expressed a desire to see the matter resolved through an agreement by the parties rather than being thrown to LAFCo for a decision, the negotiating team modified its original position to provide for a fixed term short of *in perpetuity*. However, the negotiating team has always made clear in the negotiations that any proposal made or agreed to by staff is subject to final approval by the Board of Supervisors.

The last proposal made by County staff at our negotiation session of May 27, 2005, was for mitigation payments to be made for a period of 40 years, commencing in fiscal year 2012-2013. This deferral of commencement of payments was an attempt to bolster the city's fiscal viability in the early years of incorporation and to recognize that over years 2-6 the city would be repaying the County for the cost of services provided in the first year of incorporation. The amounts of the payments ($305,000.00 for the general fund and $750,000.00 for road district) would be increased annually, commencing in 2003-2004, by the rate of growth in assessed value in El Dorado Hills. A copy of that proposal is attached as Exhibit "A." That proposal was not acceptable to the incorporation proponents, who submitted their own proposal which is attached as Exhibit "B." It provides for the general fund payments to continue for a period of 25 years, and the road district payments to continue for 10 years. The payments would be adjusted by the consumer price index. This proposal was not acceptable to County staff.

The proponents' proposal was submitted to LAFCo for inclusion in the Commission's packet on Friday, May 27, 2005. County staff felt that because any agreement reached in negotiations was subject to approval by the Board of Supervisors, it would be inappropriate for staff to release its proposal until it has been reviewed by the Board which can approve any position it wishes to take before LAFCo. Therefore, we requested a special meeting to be held by the Board on Tuesday, May 31, 2005, to establish its position to be conveyed to LAFCo even though there is no proposed revenue neutrality agreement to be approved.

In order to approve the incorporation, LAFCo must find that the city is fiscally viable. County staff has reviewed our various proposals and run them through a spread sheet analysis using the assumptions of the CFA. Staff is satisfied that the viability of the city is not adversely affected by the length of term selected for revenue neutrality payments.

2. **<u>Escalator Index</u>.** Both parties have agreed that the payments reflective of the negative impact in 2003-2004 should be adjusted over time, otherwise it no longer reflects the true impact on the County. (This is not the same as an agreement share the future revenue growth of the city.) However, the parties were unable to agree on the escalation factor to be used. There are several possible indices that could be used. The task is made more difficult by the fact that the impact on the County is affected by two different elements, the increase in revenues being transferred and the increase in costs being assumed by the city. Each party has argued for a different index. The County staff has proposed that the payments be adjusted by the

rate of increase in assessed value within El Dorado Hills, being the index most directly related to the increase in the revenue transferred. The incorporation proponents maintain that the consumer price index be used to reflect the inflation rate as it relates to cost.

In order to approve the incorporation, LAFCo must find that the city is fiscally viable. County staff has reviewed our various proposals and run them through a spread sheet analysis using the assumptions of the CFA. Staff is satisfied that the viability of the city is not adversely affected by the selection of the escalator equal to the rate of increase in assessed value within El Dorado Hills for revenue neutrality payments. (The County's proposal for the Road Fund does result in an operating deficit for fiscal years 2014 through 2029; however, the level of fund balance remaining in the Road Fund remains above 103% of projected expenses.)

RECOMMENDATION OF THE LAFCo EXECUTIVE OFFICER

Late of Friday, May 27, 2005, the LAFCo Executive Officer issued a report that included the Executive Officer's recommendation on a revenue neutrality condition to be imposed in the event the parties could not reach agreement. As anticipated, the Executive Officer's recommendation limits the term of the mitigation payments to 10 years, *even though the final offer from the proponents offered general fund mitigation payments for a term of 25 years.* The recommendation includes escalating the payments using CPI, as requested by the incorporation proponents. It is significant to note that the EPS report dated May 27, 2005, that was prepared to assist the staff in developing its recommendation, recommends escalating the mitigation payments at the rate of growth of assessed value within El Dorado Hills, *the escalator index requested by the County.*

El Dorado County LAFCo Policy 6.7.23 reads as follows:

> Duration of Fiscal Impact Mitigation: The duration of mitigation payments should extend no more than 10 years, based on the county's ability to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city.

It was anticipated that the LAFCo staff would not exceed this limit in its recommendation. However, the County Counsel's position with respect to this policy was expressed early in the negotiations, and was confirmed in a later letter dated May 6, 2005. A copy of that letter is attached as Exhibit "C." It is County Counsel's opinion that the policy is invalid because it is inconsistent with state law in that it does not mitigate the negative fiscal impact of the incorporation, it is arbitrary and does not take into consideration of the circumstances of a particular incorporation, it calls for the County to apply its future revenue growth to offset the city's legal obligation to mitigate the negative fiscal impact of incorporation, and there is no evidence sufficient to conclude that the County could offset the negative impacts of incorporation through amendments to its general plan. In fact, the recent general plan proceedings undertaken by the County indicate otherwise. In addition, the application of Policy 6.7.23 raises substantial CEQA issues in that the policy clearly contemplates that its application will result in the County addressing the fiscal impacts by amending its general plan, presumably to provide for more revenue generating growth. This policy clearly has growth-inducing impacts on the County, as well as impacts on growth patterns and on the County's ability to provide affordable housing. Yet, none of these issues were discussed in the incorporation EIR.

Even the LAFCo staff recognizes the difficulty with applying policy 6.7.23. After noting the constraints of Policy 6.7.23, at page 16 of the Executive Officer's report, she states as follows:

> The problem with these limitations is that *they ignore the reality that the loss of revenue to the County is a permanent, ongoing loss that grows over time.* While the loss is approximately $300,000 [General Fund] in 2005, the amount would grow over time as the assessed valuation and property tax revenue in El Dorado Hills grows. The CFA estimates that the assessed valuation within the proposed city will grow by [*sic*] substantially over the ten years. Presumably the loss to the County would grow by a similar amount.
>
> Further, given the recent update of the County General Plan and the controversy That surrounded that measure, the County has little likelihood of being able "to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city." *Therefore, the Commission may determine that the limitation of the duration of mitigation to 10 years is inappropriate given the circumstances that exist.* (Emphasis added.)

Clearly, the LAFCo staff felt constrained by Policy 6.7.23, but recognized the Commission's authority to approve a condition that exceeded the duration set forth in that policy if warranted by the circumstances. Even though these policy constraints may "ignore the reality" as staff puts it, the LAFCo Commission cannot. The LAFCo Commission is obligated to find that the negative fiscal impact of incorporation on the County has been mitigated in order to approve the incorporation. That requires payments for a term substantially longer than 10 years, arguably *in perpetuity*. Even the proponents have offered general fund mitigation payments for a term substantially exceeding 10 years. County staff believes the Board of Supervisors should make its specific requests known to the LAFCo Commission.

ALTERNATIVES

Staff believes that the Board of Supervisors should adopt a position to be transmitted to LAFCO. There are numerous positions that could be taken. However, based on our analysis of the justifications for the various positions, the proposals already made by the County's negotiating team, and a desire to accommodate the concerns of the Incorporation Committee, staff proposes the following as a possible range of positions for consideration:

1. **Term.**

A. Request that LAFCo impose a condition that both general fund and road district revenue neutrality payments continue *in perpetuity,* commencing in fiscal year 2012-2013.

B. Request that LAFCo impose a condition that both general fund and road district revenue neutrality payments continue for a period of not less than 40 years, commencing in fiscal year 2012-2013. This is consistent with staff's last proposal made in negotiations.

C. Request that LAFCo impose a condition that establishes different terms for the general fund and road district revenue neutrality payments. If the Board chooses this option, staff recommends a period of not less than 40 years for the general fund payments, and a period of not less than 25 years for the road district payments.

2. **Escalator Index.**

A. Request that LAFCo provide that any revenue neutrality payments be adjusted from 2003-2004 by the rate of increase in assessed value within the newly incorporated city, as set forth in Exhibit "A.".

B. Request that LAFCo provide that any revenue neutrality payments be adjusted from 2003-2004 the increase in the consumer price index as requested by the incorporation proponents.

C. Apply different indices to the general fund and road district revenue neutrality payments.

3. **Manner of Collection.** Any proposal put forth by the Board of Supervisors should clearly specify that the County will be entitled to withhold payments due from property tax revenues collected for disbursement to the city.

Staff would be pleased to respond to any questions you might have.

Respectfully submitted,

Laura S. Gill

LAURA S. GILL
Chief Administrative Officer

Louis B. Green

LOUIS B. GREEN
County Counsel

LBG/stl
Attachments
S:\Bd of Supervisors\Correspondence\Revenue Neutrality Report v3

El Dorado Hills Incorporation

County's Revised Revenue Neutrality Proposal
May 26, 2005

This revised proposal is put forth by the County's negotiating team in the hope of facilitating discussion at our meeting of May 27, 2005, which is expected to be the last negotiating session before the expiration of the deadline established by LAFCO for the submittal of the terms of any agreement reached. Our negotiating team is still of the belief that reaching a negotiated agreement is the preferable outcome, and we will continue to work to that end as long as time permits. In order to facilitate the process, the Board of Supervisors has agreed to hold a special Board meeting on Tuesday, May 31, 2005, in order to ratify an agreement if one is reached. If not, the Board will act to ratify its position presented to LAFCO.

The proposal set forth below represents further movement by the County in an effort to resolve this matter. In particular, you will note that the proposal focuses exclusively on the central issue which is the revenue neutrality payments over time based upon the calculations in the Comprehensive Fiscal Analysis ("CFA"). All other financial terms have been dropped, including requests for sharing portions of the sales and transient occupancy tax revenues. The proposal made by the Incorporation Committee for a sharing of property and sales tax growth in the El Dorado Hills Business Park is omitted. It is hoped that this will allow the parties to focus on what have become the key issues–the term of the revenue neutrality payments to be made and the index to be applied to adjust those payments. These issues can now be discussed directly without having to deal with offsets and alternatives for other forms of revenue sharing. It also places the negotiations in a posture where, if no agreement is reached, the positions of the parties can be presented to LAFCO in a clear and concise manner for evaluation and determination. We assume that the Incorporation Committee will similarly state its position either prior to tomorrow's meeting or at the opening of the meeting to facilitate the discussion.

The County's revised proposal is as follows:

1. <u>General Fund CFA Payments</u>. Beginning in fiscal year 2012-2013, and continuing for a period of 40 consecutive fiscal years, the County shall receive annual payments from the city in order to mitigate the negative fiscal effect of the incorporation on the County documented by the CFA, as required by California Government Code Section 56815(c)(2). The amount of each annual payment shall be calculated as follows. The initial payment made in fiscal year 2012-2013 shall be an amount arrived at by increasing $304,355.00 by the total percent increase in the gross secured locally assessed tax roll from fiscal year 2003-2004 to fiscal year 2012-2013. The $304,355.00 represents the difference in fiscal year 2003-2004 between the then current revenue being transferred to the new city by the County and the then current cost of services being assumed by the new city, as reflected in the CFA. Each fiscal year after the initial payment, the amount of the annual payment will be determined by increasing the prior year's payment by the percent increase in the gross secured locally assessed tax roll from the prior fiscal year. In making these adjustments, the gross secured locally assessed tax roll shall be determined as of the date the tax roll is delivered by the County Assessor to the County

EXHIBIT 'A'

Auditor, which occurs on or about July 1st of each year.

> (**Comment:** This ties the base payments to the CFA numbers. Term is reduced from 45 years to 40 years.)

2. **Road District Tax CFA Payments.** Payments to mitigate lost revenue from the Road District Tax shall be calculated in the same manner as for general fund payments set out in paragraph 1, above. The payments shall commence at the same time and continue for the same period as the general fund payments. The amount agreed upon as the 2003-2004 base is $749,864.00.

(**Comment:** Provisions mirror those for general fund payments.)

3. **Tax Sharing Provisions Beyond CFA Payments Specified Above.** ***The County is deleting all requests for tax sharing beyond the payments specified above.***

~~The County's previous proposal included the following:~~

A. Transient Occupancy Tax. Beginning in 2013, County shall be entitled to receive 25% of TOT collected within the City for a period of 25 years. The proposed city would use at least an additional 25% of the TOT collected within the city during that period for promotion and tourism and economic growth in El Dorado County and El Dorado Hills.

(**Comment:** This request is ***deleted.***)

B. Sales Tax. The County shall be entitled to receive 10% of the growth in Sales Tax occurring within the proposed city for a period of 25 years, beginning in 2020. However, in each year that such revenue sharing is in effect, the growth in sales tax shall be calculated compared to a base year of 2008. However, no actual payments will be made until 2020 and no payments will accrue for the years 2008-2019.

(**Comment:** This request is ***deleted.***)

4. **Form of Payment.** All payments due to the County shall be withheld from property tax revenues received by County and due for distribution to the city.

ADDITIONAL TERMS:

Revision Clause

> This Agreement may be revised only in the event of significant changes in the way local government is financed in California, or due to some unforeseen, cataclysmic event as defined.

El Dorado Hills Incorporation

MAY 26, 2005 PROPONENTS OFFER

The Incorporation Committee has made offers to the County based on California State statutes, and the Incorporation Policies, Guidelines, and Procedures – A Guide to LAFCO Process for City Incorporation in El Dorado County (LAFCO policies). In addition, the Incorporation Committee has offered additional incentives in excess of these amounts in order to try to reach a negotiated agreement with the County.

Government Code Section 56815 states that "It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibilities for service delivery among the county, the city, and other subject agencies. Section 56815 is known as the revenue neutrality provision. In sum, ~~the cost of services to be transferred should be "substantially equal" to the amount of revenue to be transferred. Section 56815 thus favors~~ neither the new City nor the County or district.

The Public Review Draft Report of the Comprehensive Fiscal Analysis (CFA) prepared by Economic & Planning Systems (EPS) on March 11, 2005 documents the dollar impacts to the County based on the Government Code Sections. The incorporation committee is in agreement with the amount to be mitigated related to the County General Fund is $309,001 (as may be amended with boundary adjustments) and the County Road Fund is $751,262 (as may be amended with boundary adjustments). El Dorado LAFCO policies states that the duration of payments should extend no more than 10 years.

Based on this methodology which is the same as the methodology included in the Public Review Draft of the CFA, the new City would owe $3,090,010 to the County General Fund over the 10 year term and $7,512,620 to the County Road Fund over the 10 years for a total amount of $10,602,630.

In order to try to reach a negotiated agreement with the County, the Incorporation Committee is willing to provide the following additional incentives beyond what State law and the LAFCO policies dictate.

1. The City will pay the County the General Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of twenty five years, with an annual CPI indexed inflation factor (such as the Consumer Price Index for all urban consumers - California). Said payments shall start in 2007 and culminate in 2031.

2. The City will pay the County the Road Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of ten years, with an annual CPI

EXHIBIT 'B'

indexed inflation factor (such as the Consumer Price Index all urban consumers - California). Said payments shall start in 2007 and culminate in 2016.

The total value of this offer in today's dollars is $7,725,025 to the County General Fund and $7,512,620 to the County Road Fund for total payments in today's dollars of $15,237,645.

Road Fund Note:

The County would also continue to receive over $1 million a year in State road gas taxes based on El Dorado Hills population that can now be used exclusively outside of El Dorado Hills City boundaries. After incorporation, the County will have no cost of maintaining roads in El Dorado Hills.

The combination of City road fund mitigation payments and County Road gas taxes related to El Dorado Hills development for the ten year period of RN payments would allow the County to spend over $17 million on county roads outside of the City of El Dorado Hills.

The proponents are very concerned about the existing condition of the roads and streets in El Dorado Hills. The main collectors and arterial roads within the city boundaries are deteriorating at a high rate due to the impacts of operating at or near capacity and the high volume of large heavy vehicles and the County not maintaining a regular maintenance schedule. The City will need every road fund property tax dollars to prevent the continued deterioration of these roads.

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May 6, 2005

VIA ELECTRONIC MAIL AND U.S. MAIL

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Re: LAFCO Policy No. 6.7.23

Dear Scott, Harriet and Dennis:

Laura Gill has asked that I prepare a letter outlining my legal concerns regarding LAFCO Policy No. 6.7.23.

The purpose of this letter is not to promote confrontation. It is the opposite. I think it is important for the parties to be fully aware of the concerns of the others in order to accurately assess the effectiveness or counterproductiveness of any positions they may develop and assert, and the other party's likely reaction to it.

EXHIBIT 'C'

The County remains committed to working with the Incorporation Committee and the LAFCO staff to develop a proposal that can be agreed upon and presented to LAFCO for action so that, if LAFCO's action is positive, it can be presented to the voters at the earliest possible date. We have agreed to *try* to meet the deadline for getting the proposal to the voters on November 5, 2005, even though that may mean reducing the time otherwise available to the parties to complete these complex negotiations, noting that the negotiations are all-encompassing and extend beyond the strict confines of revenue neutrality. However, the County will not agree to a proposal that does not meet its legitimate needs merely to meet the deadline for a November 5, 2005, election. Nor will the County accept a solution imposed on the parties if it does not meet the legitimate needs of the ~~County and is not in compliance with the law.~~

Last Friday's e-mail to Nat Taylor from the Incorporation Committee indicating that the Committee desired to terminate negotiations and have the matter brought directly to LAFCO indicated that there are differing opinions among the parties as to interpretation of State law and local policies without defining those differences. Nevertheless, it is our impression that at least one of the issues concerns the application of Policy 6.7.23. I raised this issue in one of our earliest negotiation sessions and pointed out that the County did not believe the negotiations should be constrained by Policy 6.7.23, nor that LAFCO could validly impose such a condition in the event no agreement was reached. No resolution of that issue was reached, but the negotiations continued with each party reserving whatever rights it had. It was proposed that LAFCO undertake a discussion of the issue. The item has been on the LAFCO agenda at least once, I believe twice, but has not yet been addressed. I presume that LAFCO would not reject a proposed agreement reached by the parties even though the term might exceed that prescribed in Policy 6.7.23. Unfortunately, it is our perception that the Incorporation Committee may wish to have the incorporation issue brought directly to the LAFCO Commission for action, assuming that LAFCO would impose mitigation limited by Policy 6.7.23. Such an action, however, may have unintended, negative consequences on the process. The purpose of this letter is to try to avoid that situation.

I have serious concerns about the validity of Policy 6.7.23 both on its face and as it may be applied. If the LAFCO Commission were to approve the incorporation over the objections of the County with mitigation payments limited to 10 years as suggested in Policy 6.7.23, and the Board of Supervisors found the terms of the approval to be unsatisfactory, I would recommend that the Board consider litigation. That decision obviously would be up to the Board. But, I am setting forth some of my concerns in this letter in the hope of avoiding such a confrontation. Such litigation could ultimately determine the LAFCO action to be invalid. If so, the incorporation effort would require the preparation of a new CFA and possibly a new EIR. Certainly, such litigation would be costly and time consuming, which is not in the interest of any party. I have addressed this letter to counsel because it does deal with legal aspects of the situation. It is intended only as a general description of my concerns, not as a complete legal brief on the issues. I did not want to communicate directly with the Incorporation Committee because of possible ethical constraints regarding communications directly with a represented party. I urge you to share this information with your clients and provide them with your own independent analysis so that any actions that the parties take are at least fully informed as to the potential consequences.

The last section of this letter is also intended as supplemental comments on the El Dorado Hills Incorporation EIR, as explained below. Scott, if you feel that segregating those comments and submitting them is a separate letter is preferable, let me know.

~~**I. Policy 6.7.23, on its face, is inconsistent with the requirements of Government Code Section 56815.**~~

California Government Code Section 56815(b) prohibits LAFCO approval of an incorporation unless the current revenues being transferred are substantially equal to the current expenditures made by the transferring agency for services that will be assumed by the newly incorporated city. In other words, the incorporation must be revenue neutral. The Comprehensive Fiscal Analysis (CFA) prepared for the El Dorado Hills incorporation clearly concludes that the incorporation is not revenue neutral, and analyzes the negative fiscal impact on the County. Nevertheless, Section 56815(c)(2) allows approval of an incorporation that is not revenue neutral if LAFCO finds that "[t]he 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." Although not directly applicable, probably the most apt definition of "mitigation" is found in the CEQA Guidelines Section 15370 which describes one form of mitigation as "[c]ompensating for the impact by replacing or providing substitute resources or environments." In this instance, that would mean replacing the net lost revenues.

Policy 6.7.23 reads as follows:

"Duration of Fiscal Impact Mitigation: The duration of mitigation payments should extend no more than 10 years, *based on the county's ability to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city.*" (Emphasis added.)

Mitigation payments limited to 10 years under Policy 6.7.23 do not constitute "mitigation" of the negative fiscal impacts of the incorporation. The revenue loss from the property transferred in the course of the incorporation continues forever. Mitigation payments over 10 years do not mitigate the negative impacts beyond the 10 year period. The fact that revenues may grow within the remaining unincorporated territory does not eliminate that negative impact. No matter how much revenues grow in the county, they would have been greater had the property not been transferred to a newly incorporated city. Moreover, any growth in county revenues is required to maintain services in the unincorporated areas even without reference to the negative impacts of the incorporation.

Section 56815(c)(2) calls for LAFCO to find that the fiscal impact on the County "has been" mitigated at the time it approves the incorporation. It is clear that limited term payments do not constitute mitigation. At best, it can be characterized as temporary assistance while the *County* attempts to mitigate the fiscal impacts. Section 56815(c)(2) requires that the fiscal impacts actually be mitigated by conditions imposed at the time of the incorporation. It does not allow for LAFCO to shunt responsibility to the County to address impacts not mitigated by the LAFCO conditions. ~~Moreover, the impacts cannot be considered mitigation since there is no evidence that the County can offset the negative fiscal impacts.~~ As mentioned above, simply fostering growth in the unincorporated territory does not mitigate the loss of revenue to the city because the County would have received that revenue in addition to that generated by growth. Also, having gone through the recent general plan process it is not at all clear that the County could expand growth in the remainder of the County to offset the negative fiscal impacts of incorporation (assuming that to do so is desirable) due traffic capacity constraints, infrastructure issues, topography and a number of other reasons. To the extent Policy 6.7.23's reference to "other measures necessary to *adjust to or compensate for* the loss of revenue" (emphasis added) is alluding to cost or service cutting in response to the loss of revenue, that does not constitute mitigation and is unacceptable.

For these reasons, I conclude that Policy 6.7.23 is contrary to the provisions of Section 56815.

2. **Policy 6.7.23 is arbitrary and unreasonable.**

While local LAFCOs have the authority to adopt regulations, those regulations must be reasonable and not arbitrary. Policy 6.7.23 does not satisfy that requirement in two respects. First, it is an absolute restriction without regard to the facts of any individual case. What constitutes proper mitigation for the incorporation of El Dorado Hills may be very different in every aspect, including term, than that which would be appropriate for the incorporation of another area of the County. Policy 6.7.23 does not provide LAFCO with the necessary discretion to address these differing circumstances.

In addition, we are aware of no other local LAFCO that has adopted a similar policy. All recent incorporation agreements that we know of have terms substantially longer than 10 years. They appear to range from 25 years to *in perpetuity*. Local LAFCO policies can be drawn to address local conditions and circumstances. However, I am aware of no circumstances or conditions present in El Dorado County that suggest that the County would be in a better position to offset the loss of revenue than any other county where no such a policy was adopted, or in a position to offset such revenue loss in 60% less time than is provided in the shortest comparable incorporation agreement of which we are aware.

3. **Policy 6.7.23 is inconsistent with other provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and Guidelines and Policies adopted under that Act.**

Aside from revenue neutrality, LAFCO needs to make certain findings and conform to prescribed standards in approving an incorporation. One of the purposes of LAFCO is "discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances." (Cal. Gov't. Code Section 56301.) The County recently adopted a general plan. For decades, planning efforts recognized that the El Dorado Hills area would be more suitable to certain types of growth than other areas due to its proximity to infrastructure, transportation corridors and jobs. Yet, Policy 6.7.23 ignores those facts and abdicates its obligation to ensure the mitigation of negative fiscal impacts in favor of a policy of telling the County to amend its general plan to find ways of offsetting the revenue loss. This certainly is not designed to accomplish the goals set forth in Government Code Section 56301.[1]

Another important factor to be considered by LAFCO in processing a proposal is "[t]he extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs . . ." (Gov't. Code Section 56668(l)). As you are probably aware, the California Department of Housing and Community Development already has voiced its concern over the validity of the County's Housing Element based on both physical constraints and limitations imposed by general plan policies to mitigate traffic and other environmental impacts. The suggestion by LAFCO that the negative fiscal impacts be mitigated by the County amending its general plan to provide more opportunity for revenue generating development conflicts directly with the achievement of this policy goal.

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[1]The Incorporation Committee has argued under State law and local guidelines that revenue neutrality may not include payments for loss of anticipated future revenue. While we have attempted to address their concern in our most recent proposal, we note that either under Government Code Section 56815(d) or other general policies, the impact of the loss of future revenue is a legitimate factor to consider in determining whether a particular incorporation complies with Section 56301 and other applicable policies.

Finally, the failure of LAFCO to ensure true mitigation of the fiscal impacts of the incorporation is contrary to Policy 6.7.4, adopted by the El Dorado County LAFCO, which reads as follows:

> "Adverse Effects: The proposed incorporation should not have significant adverse social and economic impacts upon any particular communities or groups in the incorporating area or affected unincorporated area."[2]

4. **Policy 6.7.23 introduces new potential environmental impacts that must be analyzed in the El Dorado Hills Incorporation Environmental Impact Report if the Policy is applied by LAFCO.**

The clear import of Policy 6.7.23 is that rather than requiring a showing that the negative fiscal impacts of the incorporation have been mitigated, it is leaving it to the County to offset or adapt to the negative fiscal impact beyond 10 years. It suggests doing so through implementation of "general plan amendments and tak[ing] other measures necessary to adjust to or compensate for the loss of revenue due to incorporation of a new city." In short, the County is to offset the revenue loss through means that include amending its general plan to somehow offset the revenue loss, presumably through promoting revenue generating development.

The County has just completed the adoption of a new general plan that carefully balances competing concerns for growth, environmental protection, traffic mitigation and other factors. Policy 6.7.23 prompts the County to revisit those decisions for the sole purpose of mitigating the negative fiscal impacts of incorporation. The absence of true fiscal mitigation combined with this direction is a clear impetus to the County to revisit its land use policies for fiscal reasons. It is growth inducing and favors development of useable land for revenue generation in lieu of affording housing, open space or environmental mitigation. This is not speculative. It is the express direction of Policy 6.7.23. It is not beyond the authority of LAFCO to control because we are talking about the application by LAFCO of one of its own policies. The impacts are not too vague to analyze since the amount of revenue to be offset is known and projections as to the types of land use changes that would have to be made to achieve this offset in addition to otherwise expected revenue, if feasible, can be determined.

The draft EIR contains no consideration of these factors. Therefore, if LAFCO were to consider approval of the incorporation with imposition of mitigation payments limited to the term

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[2] I would again emphasize that this policy mandates that LAFCO take into consideration the impacts of lost future revenues on the County, whether they are addressed in the context of revenue neutrality or in LAFCO's overall consideration of the application.

set forth in Policy 6.7.23, the County maintains that such action cannot be taken without further consideration of these factors, and the potential significant adverse impacts that may result, in the EIR.

We are requesting that the comments made in this section be received by LAFCO as supplemental comments on the El Dorado Hills Incorporation EIR. I know the comment period has closed. However, the law is clear that although the lead agency *may* not have an obligation to respond to late comments, such comments are part of the administrative record and serve to satisfy the requirement that an objecting party exhaust its administrative remedies.

As I said at the start of this letter, it is our desire that negotiations continue with a goal of reaching agreement so that the process can move forward to an early conclusion that will have the voters expressing their desires. I am encouraged by the fact that I just learned that a negotiating session has been scheduled for Monday at 9:00 a.m. This letter is not intended to obstruct that process, but to ensure that all parties participate with complete information regarding the concerns of the others. I hope the Incorporation Committee will follow suit, since their recent correspondence has referenced the fact that they feel the County is not proceeding in compliance with State law or local policies, but repeatedly fails to specify the basis for their assertions.

Hopefully, we can all get together and work out something that works well for all parties.

Yours truly,

Louis B. Green

LOUIS B. GREEN
County Counsel

LBG/stl
cc: Laura Gill
Jim Wiltshire
Joe Harn
Shawna Purvines
Baxter Culver
s:\Planning\Correspondence\LAFCO Policy 6.7.23 ltr

May 31, 2005

Roseanne Chamberlain
El Dorado County LAFCO
550 Main St., Ste. E
Placerville, CA 95667

Re: Staff Report for June 1, 2005 LAFCO Meeting

Dear Ms Chamberlain,

The following are comments concerning the June 1, 2005 staff report.
p.2 The SUMMARY OF BOUNDARY DETERMINATIONS is revised as follows:
The deletion of the two schools located west of the new Bass Lake alignment should be mentioned in this section.
p.3. "(j) Dunlap spelling varies from page to page. "Dunl<u>ap</u>" is the correct version.
p.4. 2.c) "El Dorado County Fire Protection District" should be deleted since the district covers eastern Marble Valley project, which was deleted from within city boundaries.
p.5, 4. a) line 3. "three affected Fire Districts" should be <u>two</u> affected districts.
p.15, para 4, line 2. "other affect agencies" should be "affected".
p. 16, para 3, near end of line 4. Delete "by" in "grow by substantially" section of sentence.

Questions:
P 16. "Duration of Fiscal Impact Mitigation". I am presuming LAFCO, but what entity" determines the "duration of mitigation payments"?
Last report page, "Boundaries of the Proposed Incorporation of the City of El Dorado Hills". During the 'decision point' votes concerning boundaries in the last meeting, the northern Bass Lake area was approached in at least three ways. Specifically, 2.a – Green Spring Creek was deleted due to future annexation to Cameron Park CSD. 2.b. The two schools on the west side of the new Bass Lake Road alignment plan on annexing to Cameron Park CSD and so was deleted from the western section to be included in the city. 2.c Green Springs Ranch was included in the city per the residents' wishes.
2.b vote gives the impression that only non-school parcels were deleted from city boundaries. If this is true, then the parcel between the schools and 2.c Green Spring Ranch is within the city. The desired commercial operation would benefit from municipal services. Due the nature of the commercial use, it would be a good east-west buffer between the schools and the Ranch. <u>Please clarify</u>.

Sincerely,
Harriett B Segel
Harriett B Segel

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June 1, 2005

Chairman Al Manard and Commissioners
El Dorado County Local Agency Formation Commission
550 Main Street, Suite E
Placerville, CA 95667

Re: El Dorado Hills Incorporation Project - Revenue Neutrality Conditions

Honorable Chairman and Commissioners:

The County of El Dorado and the representatives of the Incorporation Committee were unable to reach agreement on the terms of a revenue neutrality agreement within the time allotted by LAFCo's schedule. This is a disappointment for all of us who worked hard to reach an agreement. Nevertheless, the matter is now before LAFCo for a determination. You have received a report from your Executive Officer for your meeting of June 1, 2005, as well as a proposal from the Incorporation Committee. This letter transmits the County's position on revenue neutrality which was approved by the Board of Supervisors at a special meeting on Tuesday, May 31, 2005.

The position adopted by the Board of Supervisors is the same as that put forward by the County's negotiating team on May 27, 2005. It requests that LAFCo require revenue neutrality mitigation payments be made by the new city for a period of not less than 40 years. The proposed starting date for the payments was fiscal year 2012-2013, but the County is willing to accept the proponents position that payment should begin in fiscal year 2006-2007. The payments would be increased by the increase in the gross secured locally assessed tax roll in the city annually from 2003-2004, which was the base year used for calculations by the Comprehensive Fiscal Analysis.

A staff report dated May 31, 2005, was presented to the Board of Supervisors at its special meeting. It provides a detailed discussion of the reasons for the County's position. A copy is enclosed with this letter for your information and will not be repeated in detail here. Attachment "A" to that letter is the language of the proposal made by the County negotiating team last Friday in the last negotiating session.

There is one point that needs to be highlighted. The LAFCo Executive Officer's report recommends revenue neutrality payments that would terminate after 10 years. However, it is clear that the Executive Officer's recommendation is based largely on a desire not to exceed the guidelines of LAFCo Policy 6.7.23 which generally indicates that mitigation payments should be limited to 10 years. Following a discussion of that policy, however, your Executive Officer makes the point that the County has been making throughout these negotiations when, at page 16 of the report, the Executive Officer states that:

> The problem with these limitations is that they ignore the reality that the loss of revenue to the County is a permanent, ongoing loss that grows over time. While the loss is approximately $300,000 in 2005 [general fund], the amount would grow over time as the assessed valuation and property tax revenue in El Dorado Hills grows. The CFA estimates that the assessed valuation within the proposed city will grow by [*sic*] substantially over the 10 years. Presumably the loss to the County would grow by a similar amount.
>
> Further, given the recent update of the County General Plan and the controversy that surrounded that measure, the County has little likelihood of being able "to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city [as suggested in Policy 6.7.23]." *Therefore, the Commission may determine that the limitation of the duration of mitigation to 10 years is inappropriate given the circumstances that exist.* (Emphasis added.)

Your staff has confined its recommendation to the adopted Commission policy and left it to the Commission to go beyond that policy if warranted. Clearly, the circumstances described by your staff exist to justify a longer mitigation period. The loss to the County is permanent, regardless of whether other revenue sources grow. The loss of this tax base means that no matter how fast other County revenues grow, the total revenues available to fund county-wide services and municipal services to residents of the unincorporated areas of the County will always be less than if incorporation did not happen. This is the negative fiscal effect on the County that must be mitigated under California Government Code Section 56815(c)(2). To rely on the growth of other County revenues to make up this shortfall is impossible by definition, and suggests that the County should give up its future growth in other revenues in order to relieve the new city of its legal obligations, a suggestion that is at odds with the arguments of the incorporation proponents throughout the process.

On another issue raised by the LAFCo Executive Officer, this will confirm that the Board of Supervisors incorporated in its motion a request that repayment over a term of five years be required for the cost of services to be provided to the city by the County during the remainder of the first fiscal year following incorporation.

We trust that the LAFCo Commission will give serious consideration to the County's position and act to adequately mitigate the negative fiscal impact on the County as required by law.

Respectfully submitted,

Louis B. Green

LOUIS B. GREEN
County Counsel

LBG/stl
Enc.
cc: LAFCo Executive Officer
Board of Supervisors
Chief Administrative Officer
County Auditor
s:\Bd of Supervisors\Correspondence\LAFCo ltr re revenue neutrality final

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May 31, 2005

~~Board of Supervisors,~~
~~County of El Dorado~~
330 Fair Lane
Placerville, CA 95667

Re: Proposed Incorporation of El Dorado Hills: Revenue Neutrality Negotiations and Other Terms and Conditions of Approval

Honorable Supervisors:

The El Dorado County Local Agency Formation Commission (LAFCo) is scheduled to hear the proposed incorporation of El Dorado Hills on June 1, 2005, with final action anticipated on June 8, 2005. The purpose of this memorandum is to update the Board of Supervisors on the proceedings and, in particular, the revenue neutrality negotiations that have been ongoing for over two months. Following the update, staff will request that the Board ratify any positions to be presented to LAFCo by the County.

REVENUE NEUTRALITY NEGOTIATIONS

Negotiations regarding revenue neutrality have been ongoing since the release of the draft Comprehensive Fiscal Analysis on March 14, 2005. The negotiations have involved County staff, representatives of the Incorporation Committee, and LAFCo staff as facilitators. The County has been represented in these negotiations principally by Laura Gill, Chief Administrative Officer, Louis Green, County Counsel, Shawna Purvines, Director of Economic Development, and Joe Harn, County Auditor. Consulting support was provided by Baxter Culver, who has substantial experience working on incorporation projects throughout the state.

The last formal negotiating session took place on Friday, May 27, 2005. Unfortunately, we must report that the parties were unable to reach agreement regarding revenue neutrality. Therefore, in approving the incorporation for placement on the ballot, if it chooses to do so, LAFCo will need to develop a term or condition regarding revenue neutrality to be applied. Late of Friday, May 27, 2005, the LAFCo Executive Officer issued her updated report that included her recommendation for a revenue neutrality condition in the absence of agreement among the parties. However, both parties were still encouraged to submit their individual proposals. County staff is requesting direction from the Board of Supervisors with respect to the position to be put forward to LAFCo.

What is revenue neutrality?

Before 1992, state law did not require a newly incorporated city to compensate a county for the negative fiscal impact of incorporation on the county. In cases where the newly incorporated city was a high revenue generating area, this often caused severe economic hardship for the county. In 1992, the Legislature enacted a code section that is now found at California Government Code Section 56815. It establishes the requirement of finding that an incorporation is "revenue neutral." "Revenue neutrality" (a term not actually used in the legislation) is only ~~loosely defined by Section 56815. Even twelve years after the enactment of the section, there is~~ no case law that helps in the interpretation.

Section 56815 prohibits a LAFCo from approving a city incorporation unless it makes a finding that the revenues currently received by the County that will be transferred to the city and the expenditures currently made by the County to provide services within the proposed area of incorporation which will be assumed by the new city are "substantially equal." In the case of the El Dorado Hills incorporation, these numbers are not substantially equal. The Comprehensive Fiscal Analysis shows a negative impact on the County of approximately $305,000.00 in the general fund, and a negative impact of approximately $750,000.00 with regard to road district tax revenues (which are used for road maintenance), for fiscal year 2003-2004.[1] However, Section 56815(c)(2) allows LAFCo to approve an incorporation that has a negative fiscal effect; provided, that it finds that the negative fiscal effect has been "adequately mitigated" through the use of tax sharing agreements, lump-sum payments, payments over a fixed period of time, or other terms and conditions specified. Hence, the County and incorporation proponents negotiate over revenue neutrality payments to the County and, in the absence of an agreement that can be incorporated into LAFCo's approval, it is necessary for LAFCo to impose conditions that adequately mitigate the negative fiscal effect on the County.

It should be noted that revenue neutrality is usually studied based on the conditions that exist at the time the CFA is prepared, a snapshot in time. Revenue neutrality seeks to offset the difference between *current* revenues and costs transferred. It does not deal with anticipated future revenue growth. As a result, in a situation such as El Dorado Hills, where the area seeking to incorporate has been planned to develop so that growth in revenue generation in the incorporated area is likely to exceed revenue growth in the remainder of the County, the County may well find itself negatively impacted based on its future expectations, even in light of any revenue neutrality payments received.

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[1]The CFA represents a snapshot in time. Financial information for fiscal year 2003-2004 was the most recent information available at the time the CFA was prepared.

The County provides two types of services. County-wide services are provided to residents of the County whether or not they reside with incorporated cities. These include services such as the criminal justice system (*i.e.* District Attorney, Public Defender, Probation Department, jail system), a portion of the costs of the court system although the courts currently are independent of the County, environmental protection (*e.g.* health department), libraries, and community services (*e.g.* senior services, general assistance). A portion of these services are funded through the general fund, although other dedicated sources of income are also available. These services will continue to be provided by the County to residents of El DoThese services will continue to be provided by the County to residents of El Dorado Hills, should it incorporate.

The County also provides what are commonly referred to as "municipal" services to residents within the *unincorporated* territory of the County. These are services such as police, parks and recreation, and road construction and maintenance, animal control, and general governmental services. Upon incorporation, the new city would assume responsibility for the provision of these services at its cost (although the actual provision of certain services may be by County personnel under a contract with the new city). It is these costs that are transferred to the city and are considered as a factor in revenue neutrality.

Upon incorporation, a portion of the property tax currently received by the County from within El Dorado Hills will be transferred to the new city in accordance with a formula established by law. The city will also receive other tax revenues generated within the city that otherwise would go to the County, such as sales tax, hotel/motel tax, and real property transfer tax.

A negative fiscal impact on the County in the event of an El Dorado Hills incorporation is typical of incorporations where the area incorporating has experienced, and expects to experience, more rapid economic development than the rest of the County. In essence, the area is a net revenue generator. In simple terms, the negative fiscal impact on the County shown by the CFA represents tax revenues generated in El Dorado Hills that have been spent either on county-wide services, or to enhance the municipal services enjoyed by residents of the County outside of the El Dorado Hills area. *After the incorporation of El Dorado Hills, the County will still be responsible for the provision of County-wide services to all of the residents of the County whether they reside within incorporated cities or in the unincorporated area, and for the provision of municipal services to approximately 100,000 residents of unincorporated territory.* The County must fulfill these responsibilities despite the loss of a substantial portion of tax revenue from the area of the County that is experiencing the highest rate of revenue growth in the County.

Unless that negative effect is fully mitigated, the incorporation of El Dorado Hills will necessarily result in a reduction of either county-wide services or municipal services outside of El Dorado Hills, or both, from what would have been expected had the incorporation not occurred. This difference presumably will be used to enhance municipal services provided by the city to its residents. The revenue neutrality payments should offset this differential and adequately mitigate the negative fiscal impact of incorporation.

Terms of Revenue Neutrality.

Revenue neutrality agreements around the state have differed due to varying circumstances. All use the CFA analysis as their basis. However, they have taken different forms. Some call for tax sharing among the entities, others provide for specified payments. Some include combinations of several approaches. Representatives of the County and the Incorporation Committee, along with LAFCo staff, have reviewed the draft CFA and worked to eliminate ambiguities and correct inaccuracies. The parties are in agreement on the differences between current revenues to be transferred and the current cost of services to be assumed by the County (revenue neutrality payments), shown in 2003-2004. As noted above, those amounts are approximately $305,000.0 for the general fund and $750,000.00 for the road district taxes. We also have agreed to eliminate from consideration alternative methods of mitigating the negative fiscal effect of incorporation, such a tax sharing agreements, in order to simplify the process.

The differences that the negotiators were not able to overcome relate to the term (number of years) the payments would run and the index to be used to adjust the payments annually.

1. **Term**. County staff believes that, conceptually, the revenue neutrality payments should continue *in perpetuity*. In order for LAFCo to approve the incorporation, it must find that the negative fiscal impact of incorporation has been adequately mitigated. The negative fiscal impact of incorporation lasts forever. The revenue sources that are transferred to the city are never returned to the County. If revenue neutrality were looked at over time, rather than as a snapshot at a particular time, the negative impact on the County is likely to increase compared with what would be expected if incorporation does not occur, because in a rapidly growing area such as El Dorado Hills the growth in the revenue transferred to the city is likely to far exceed the cost of providing services that the County had been providing.

It has been suggested that the term of the revenue neutrality payments should be limited because, over time, growth in other County revenues will offset the net loss due to incorporation. That argument fails for three reasons. First, that growth in other revenues will be needed to maintain both county-wide services and municipal services provided by the County to residents in unincorporated areas. Second, the net loss is never offset. Regardless of the rate at which the other County revenues grow, the revenue available to the County will always be less than if incorporation did not occur. The net loss will increase if revenue growth in the incorporated area exceeds the growth in cost of providing services.

Finally, the suggestion that growth in County revenues will offset the negative fiscal effect of incorporation is inconsistent with the position the incorporation proponents and LAFCo policies take. Particularly with respect to incorporations of areas experiencing rapid economic growth, like El Dorado Hills, counties frequently try to secure a portion of future revenue growth in recognition that the area was planned to be an economic engine for the county and that loss of the revenue to incorporation has a long-term negative impact on the planned growth of and service provision by the county. We sought such mitigation through proposals for tax sharing. However, this concept was opposed based on the argument that revenue neutrality is not intended to compensate the county for loss of anticipated future revenue growth, only for the negative fiscal impact experienced based on the transfer of current revenues and costs. Ultimately, County negotiators conceded this position.

The suggestion that revenue neutrality payments can be limited in time because growth in other County revenues will offset the loss due to incorporation is the same concept, only in reverse. The city has a legal and fiscal obligation to make revenue neutrality payments to the County to mitigate the negative fiscal impact of incorporation. To say that the revenue neutrality payments can cease because other County revenue will grow is nothing less than the proponents of incorporation asking for a portion of the *County's* future growth in revenue to offset the city's legal and fiscal obligations. The city should not be able to have it both ways–resisting any effort by the County to share in the city's future revenue growth while seeking a portion of the County's revenue growth to fulfill its fiscal obligations back to the County. This falls under the long-revered maxim of jurisprudence: What's good for the goose, is good for the gander.

Given more and more experience with the negative fiscal impacts of incorporations, the trend is for counties to seek longer terms for revenue neutrality payments. Indeed, one of the more recent revenue neutrality agreements to be concluded includes a portion of the mitigation payments, framed as a tax sharing agreement, to continue *in perpetuity*. The revenue neutrality agreement for the City of Goleta, in Santa Barbara County, which was approved in 2001, provides that the County will received mitigation payments in the form of tax sharing agreements that were estimated to amount to an initial payment of approximately $2.2 million dollars per year for a period of 10 years. However, to avoid any negative impact on the provisions of county-wide services, it was further agreed that the county would receive an additional 50% of the property tax and 30% of the sales tax accruing to the city from within a substantial defined portion of the city. These latter payments will continue *in perpetuity* without any cap, and were estimated to be the equivalent of approximately $3.3 million.

Other counties, however, have not been as successful in negotiating similar agreements. Incorporations within Sacramento County of Elk Grove, Rancho Cordova, and Citrus Heights have revenue neutrality agreements with payment schedules of 25 years. It is staff's understanding that Orange County has approved revenue neutrality agreements with terms of 10 years or less, although under circumstances where the county deemed incorporation to be beneficial to the county so that the county sought to provide economic incentives to the incorporations.

Even though a request for revenue neutrality payments *in perpetuity* is legally defensible, the County's negotiating team concluded early in the negotiations that it was unlikely to reach an agreement on those terms. Moreover, it appeared unlikely that the LAFCo staff would recommend such a term in the absence of agreement among the parties. That position has now been confirmed. Because all parties, including the Board of Supervisors, have expressed a desire to see the matter resolved through an agreement by the parties rather than being thrown to LAFCo for a decision, the negotiating team modified its original position to provide for a fixed term short of *in perpetuity*. However, the negotiating team has always made clear in the negotiations that any proposal made or agreed to by staff is subject to final approval by the Board of Supervisors.

The last proposal made by County staff at our negotiation session of May 27, 2005, was for mitigation payments to be made for a period of 40 years, commencing in fiscal year 2012-2013. This deferral of commencement of payments was an attempt to bolster the city's fiscal viability in the early years of incorporation and to recognize that over years 2-6 the city would be repaying the County for the cost of services provided in the first year of incorporation. The amounts of the payments ($305,000.00 for the general fund and $750,000.00 for road district) would be increased annually, commencing in 2003-2004, by the rate of growth in assessed value in El Dorado Hills. A copy of that proposal is attached as Exhibit "A." That proposal was not acceptable to the incorporation proponents, who submitted their own proposal which is attached as Exhibit "B." It provides for the general fund payments to continue for a period of 25 years, and the road district payments to continue for 10 years. The payments would be adjusted by the consumer price index. This proposal was not acceptable to County staff.

The proponents' proposal was submitted to LAFCo for inclusion in the Commission's packet on Friday, May 27, 2005. County staff felt that because any agreement reached in negotiations was subject to approval by the Board of Supervisors, it would be inappropriate for staff to release its proposal until it has been reviewed by the Board which can approve any position it wishes to take before LAFCo. Therefore, we requested a special meeting to be held by the Board on Tuesday, May 31, 2005, to establish its position to be conveyed to LAFCo even though there is no proposed revenue neutrality agreement to be approved.

In order to approve the incorporation, LAFCo must find that the city is fiscally viable. County staff has reviewed our various proposals and run them through a spread sheet analysis using the assumptions of the CFA. Staff is satisfied that the viability of the city is not adversely affected by the length of term selected for revenue neutrality payments.

2. <u>Escalator Index</u>. Both parties have agreed that the payments reflective of the negative impact in 2003-2004 should be adjusted over time, otherwise it no longer reflects the true impact on the County. (This is not the same as an agreement share the future revenue growth of the city.) However, the parties were unable to agree on the escalation factor to be used. There are several possible indices that could be used. The task is made more difficult by the fact that the impact on the County is affected by two different elements, the increase in revenues being transferred and the increase in costs being assumed by the city. Each party has argued for a different index. The County staff has proposed that the payments be adjusted by the

rate of increase in assessed value within El Dorado Hills, being the index most directly related to the increase in the revenue transferred. The incorporation proponents maintain that the consumer price index be used to reflect the inflation rate as it relates to cost.

In order to approve the incorporation, LAFCo must find that the city is fiscally viable. County staff has reviewed our various proposals and run them through a spread sheet analysis using the assumptions of the CFA. Staff is satisfied that the viability of the city is not adversely affected by the selection of the escalator equal to the rate of increase in assessed value within El Dorado Hills for revenue neutrality payments. (The County's proposal for the Road Fund does result in an operating deficit for fiscal years 2014 through 2029; however, the level of fund balance remaining in the Road Fund remains above 103% of projected expenses.)

RECOMMENDATION OF THE LAFCo EXECUTIVE OFFICER

Late of Friday, May 27, 2005, the LAFCo Executive Officer issued a report that included the Executive Officer's recommendation on a revenue neutrality condition to be imposed in the event the parties could not reach agreement. As anticipated, the Executive Officer's recommendation limits the term of the mitigation payments to 10 years, *even though the final offer from the proponents offered general fund mitigation payments for a term of 25 years.* The recommendation includes escalating the payments using CPI, as requested by the incorporation proponents. It is significant to note that the EPS report dated May 27, 2005, that was prepared to assist the staff in developing its recommendation, recommends escalating the mitigation payments at the rate of growth of assessed value within El Dorado Hills, *the escalator index requested by the County.*

El Dorado County LAFCo Policy 6.7.23 reads as follows:

> Duration of Fiscal Impact Mitigation: The duration of mitigation payments should extend no more than 10 years, based on the county's ability to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city.

It was anticipated that the LAFCo staff would not exceed this limit in its recommendation. However, the County Counsel's position with respect to this policy was expressed early in the negotiations, and was confirmed in a later letter dated May 6, 2005. A copy of that letter is attached as Exhibit "C." It is County Counsel's opinion that the policy is invalid because it is inconsistent with state law in that it does not mitigate the negative fiscal impact of the incorporation, it is arbitrary and does not take into consideration of the circumstances of a particular incorporation, it calls for the County to apply its future revenue growth to offset the city's legal obligation to mitigate the negative fiscal impact of incorporation, and there is no evidence sufficient to conclude that the County could offset the negative impacts of incorporation through amendments to its general plan. In fact, the recent general plan proceedings undertaken by the County indicate otherwise. In addition, the application of Policy 6.7.23 raises substantial CEQA issues in that the policy clearly contemplates that its application will result in the County addressing the fiscal impacts by amending its general plan, presumably to provide for more revenue generating growth. This policy clearly has growth-inducing impacts on the County, as well as impacts on growth patterns and on the County's ability to provide affordable housing. Yet, none of these issues were discussed in the incorporation EIR.

Even the LAFCo staff recognizes the difficulty with applying policy 6.7.23. After noting the constraints of Policy 6.7.23, at page 16 of the Executive Officer's report, she states as follows:

> The problem with these limitations is that *they ignore the reality that the loss of revenue to the County is a permanent, ongoing loss that grows over time.* While the loss is approximately $300,000 [General Fund] in 2005, the amount would grow over time as the assessed valuation and property tax revenue in El Dorado Hills grows. The CFA estimates that the assessed valuation within the proposed city will grow by [*sic*] substantially over the ten years. Presumably the loss to the County would grow by a similar amount.
>
> Further, given the recent update of the County General Plan and the controversy That surrounded that measure, the County has little likelihood of being able "to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city." *Therefore, the Commission may determine that the limitation of the duration of mitigation to 10 years is inappropriate given the circumstances that exist.* (Emphasis added.)

Clearly, the LAFCo staff felt constrained by Policy 6.7.23, but recognized the Commission's authority to approve a condition that exceeded the duration set forth in that policy if warranted by the circumstances. Even though these policy constraints may "ignore the reality" as staff puts it, the LAFCo Commission cannot. The LAFCo Commission is obligated to find that the negative fiscal impact of incorporation on the County has been mitigated in order to approve the incorporation. That requires payments for a term substantially longer than 10 years, arguably *in perpetuity*. Even the proponents have offered general fund mitigation payments for a term substantially exceeding 10 years. County staff believes the Board of Supervisors should make its specific requests known to the LAFCo Commission.

ALTERNATIVES

Staff believes that the Board of Supervisors should adopt a position to be transmitted to LAFCO. There are numerous positions that could be taken. However, based on our analysis of the justifications for the various positions, the proposals already made by the County's negotiating team, and a desire to accommodate the concerns of the Incorporation Committee, staff proposes the following as a possible range of positions for consideration:

1. <u>Term</u>.

A. Request that LAFCo impose a condition that both general fund and road district revenue neutrality payments continue *in perpetuity,* commencing in fiscal year 2012-2013.

B. Request that LAFCo impose a condition that both general fund and road district revenue neutrality payments continue for a period of not less than 40 years, commencing in fiscal year 2012-2013. This is consistent with staff's last proposal made in negotiations.

C. Request that LAFCo impose a condition that establishes different terms for the general fund and road district revenue neutrality payments. If the Board chooses this option, staff recommends a period of not less than 40 years for the general fund payments, and a period of not less than 25 years for the road district payments.

2. <u>Escalator Index</u>.

A. Request that LAFCo provide that any revenue neutrality payments be adjusted from 2003-2004 by the rate of increase in assessed value within the newly incorporated city, as set forth in Exhibit "A.".

B. Request that LAFCo provide that any revenue neutrality payments be adjusted from 2003-2004 the increase in the consumer price index as requested by the incorporation proponents.

C. Apply different indices to the general fund and road district revenue neutrality payments.

3. <u>Manner of Collection</u>. Any proposal put forth by the Board of Supervisors should clearly specify that the County will be entitled to withhold payments due from property tax revenues collected for disbursement to the city.

Board of Supervisors
May 31, 2005
Page 10

Staff would be pleased to respond to any questions you might have.

Respectfully submitted,

Laura S. Gill

LAURA S. GILL
Chief Administrative Officer

Louis B. Green

LOUIS B. GREEN
County Counsel

LBG/stl
Attachments
S:\Bd of Supervisors\Correspondence\Revenue Neutrality Report v3

El Dorado Hills Incorporation

County's Revised Revenue Neutrality Proposal
May 26, 2005

This revised proposal is put forth by the County's negotiating team in the hope of facilitating discussion at our meeting of May 27, 2005, which is expected to be the last negotiating session before the expiration of the deadline established by LAFCO for the submittal of the terms of any agreement reached. Our negotiating team is still of the belief that reaching a negotiated agreement is the preferable outcome, and we will continue to work to that end as long as time permits. In order to facilitate the process, the Board of Supervisors has agreed to hold a special Board meeting on Tuesday, May 31, 2005, in order to ratify an agreement if one is reached. If not, the Board will act to ratify its position presented to LAFCO.

The proposal set forth below represents further movement by the County in an effort to resolve this matter. In particular, you will note that the proposal focuses exclusively on the central issue which is the revenue neutrality payments over time based upon the calculations in the Comprehensive Fiscal Analysis ("CFA"). All other financial terms have been dropped, including requests for sharing portions of the sales and transient occupancy tax revenues. The proposal made by the Incorporation Committee for a sharing of property and sales tax growth in the El Dorado Hills Business Park is omitted. It is hoped that this will allow the parties to focus on what have become the key issues--the term of the revenue neutrality payments to be made and the index to be applied to adjust those payments. These issues can now be discussed directly without having to deal with offsets and alternatives for other forms of revenue sharing. It also places the negotiations in a posture where, if no agreement is reached, the positions of the parties can be presented to LAFCO in a clear and concise manner for evaluation and determination. We assume that the Incorporation Committee will similarly state its position either prior to tomorrow's meeting or at the opening of the meeting to facilitate the discussion.

The County's revised proposal is as follows:

1. <u>General Fund CFA Payments</u>. Beginning in fiscal year 2012-2013, and continuing for a period of 40 consecutive fiscal years, the County shall receive annual payments from the city in order to mitigate the negative fiscal effect of the incorporation on the County documented by the CFA, as required by California Government Code Section 56815(c)(2). The amount of each annual payment shall be calculated as follows. The initial payment made in fiscal year 2012-2013 shall be an amount arrived at by increasing $304,355.00 by the total percent increase in the gross secured locally assessed tax roll from fiscal year 2003-2004 to fiscal year 2012-2013. The $304,355.00 represents the difference in fiscal year 2003-2004 between the then current revenue being transferred to the new city by the County and the then current cost of services being assumed by the new city, as reflected in the CFA. Each fiscal year after the initial payment, the amount of the annual payment will be determined by increasing the prior year's payment by the percent increase in the gross secured locally assessed tax roll from the prior fiscal year. In making these adjustments, the gross secured locally assessed tax roll shall be determined as of the date the tax roll is delivered by the County Assessor to the County

EXHIBIT 'A'

Auditor, which occurs on or about July 1st of each year.

(**Comment:** This ties the base payments to the CFA numbers. Term is reduced from 45 years to 40 years.)

2. <u>Road District Tax CFA Payments</u>. Payments to mitigate lost revenue from the Road District Tax shall be calculated in the same manner as for general fund payments set out in paragraph 1, above. The payments shall commence at the same time and continue for the same period as the general fund payments. The amount agreed upon as the 2003-2004 base is $749,864.00.

(**Comment:** Provisions mirror those for general fund payments.)

3. <u>Tax Sharing Provisions Beyond CFA Payments Specified Above</u>. ***The County is deleting all requests for tax sharing beyond the payments specified above.***

The County's previous proposal included the following:

A. <u>Transient Occupancy Tax</u>. Beginning in 2013, County shall be entitled to receive 25% of TOT collected within the City for a period of 25 years. The proposed city would use at least an additional 25% of the TOT collected within the city during that period for promotion and tourism and economic growth in El Dorado County and El Dorado Hills.

(**Comment:** This request is ***deleted***.)

B. <u>Sales Tax</u>. The County shall be entitled to receive 10% of the growth in Sales Tax occurring within the proposed city for a period of 25 years, beginning in 2020. However, in each year that such revenue sharing is in effect, the growth in sales tax shall be calculated compared to a base year of 2008. However, no actual payments will be made until 2020 and no payments will accrue for the years 2008-2019.

(**Comment:** This request is ***deleted***.)

4. <u>*Form of Payment*</u>. All payments due to the County shall be withheld from property tax revenues received by County and due for distribution to the city.

ADDITIONAL TERMS:

Revision Clause

This Agreement may be revised only in the event of significant changes in the way local government is financed in California, or due to some unforeseen, cataclysmic event as defined.

El Dorado Hills Incorporation
MAY 26, 2005 PROPONENTS OFFER

The Incorporation Committee has made offers to the County based on California State statutes, and the Incorporation Policies, Guidelines, and Procedures – A Guide to LAFCO Process for City Incorporation in El Dorado County (LAFCO policies). In addition, the Incorporation Committee has offered additional incentives in excess of these amounts in order to try to reach a negotiated agreement with the County.

Government Code Section 56815 states that "It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibilities for service delivery among the county, the city, and other subject agencies. Section 56815 is known as the revenue neutrality provision. In sum, the cost of services to be transferred should be "substantially equal" to the amount of revenue to be transferred. Section 56815 thus favors neither the new City nor the County or district.

The Public Review Draft Report of the Comprehensive Fiscal Analysis (CFA) prepared by Economic & Planning Systems (EPS) on March 11, 2005 documents the dollar impacts to the County based on the Government Code Sections. The incorporation committee is in agreement with the amount to be mitigated related to the County General Fund is $309,001 (as may be amended with boundary adjustments) and the County Road Fund is $751,262 (as may be amended with boundary adjustments). El Dorado LAFCO policies states that the duration of payments should extend no more than 10 years.

Based on this methodology which is the same as the methodology included in the Public Review Draft of the CFA, the new City would owe $3,090,010 to the County General Fund over the 10 year term and $7,512,620 to the County Road Fund over the 10 years for a total amount of $10,602,630.

In order to try to reach a negotiated agreement with the County, the Incorporation Committee is willing to provide the following additional incentives beyond what State law and the LAFCO policies dictate.

1. The City will pay the County the General Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of twenty five years, with an annual CPI indexed inflation factor (such as the Consumer Price Index for all urban consumers - California). Said payments shall start in 2007 and culminate in 2031.

2. The City will pay the County the Road Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of ten years, with an annual CPI

FXHIBIT 'B '

indexed inflation factor (such as the Consumer Price Index all urban consumers - California). Said payments shall start in 2007 and culminate in 2016.

The total value of this offer in today's dollars is $7,725,025 to the County General Fund and $7,512,620 to the County Road Fund for total payments in today's dollars of $15,237,645.

Road Fund Note:

The County would also continue to receive over $1 million a year in State road gas taxes based on El Dorado Hills population that can now be used exclusively outside of El Dorado Hills City boundaries. After incorporation, the County will have no cost of maintaining roads in El Dorado Hills.

The combination of City road fund mitigation payments and County Road gas taxes related to El Dorado Hills development for the ten year period of RN payments would allow the County to spend over $17 million on county roads outside of the City of El Dorado Hills.

The proponents are very concerned about the existing condition of the roads and streets in El Dorado Hills. The main collectors and arterial roads within the city boundaries are deteriorating at a high rate due to the impacts of operating at or near capacity and the high volume of large heavy vehicles and the County not maintaining a regular maintenance schedule. The City will need every road fund property tax dollars to prevent the continued deterioration of these roads.

EL DORADO COUNTY
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May 6, 2005

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Re: LAFCO Policy No. 6.7.23

Dear Scott, Harriet and Dennis:

Laura Gill has asked that I prepare a letter outlining my legal concerns regarding LAFCO Policy No. 6.7.23.

The purpose of this letter is not to promote confrontation. It is the opposite. I think it is important for the parties to be fully aware of the concerns of the others in order to accurately assess the effectiveness or counterproductiveness of any positions they may develop and assert, and the other party's likely reaction to it.

EXHIBIT 'C'

The County remains committed to working with the Incorporation Committee and the LAFCO staff to develop a proposal that can be agreed upon and presented to LAFCO for action so that, if LAFCO's action is positive, it can be presented to the voters at the earliest possible date. We have agreed to *try* to meet the deadline for getting the proposal to the voters on November 5, 2005, even though that may mean reducing the time otherwise available to the parties to complete these complex negotiations, noting that the negotiations are all-encompassing and extend beyond the strict confines of revenue neutrality. However, the County will not agree to a proposal that does not meet its legitimate needs merely to meet the deadline for a November 5, 2005, election. Nor will the County accept a solution imposed on the parties if it does not meet the legitimate needs of the County and is not in compliance with the law.

Last Friday's e-mail to Nat Taylor from the Incorporation Committee indicating that the Committee desired to terminate negotiations and have the matter brought directly to LAFCO indicated that there are differing opinions among the parties as to interpretation of State law and local policies without defining those differences. Nevertheless, it is our impression that at least one of the issues concerns the application of Policy 6.7.23. I raised this issue in one of our earliest negotiation sessions and pointed out that the County did not believe the negotiations should be constrained by Policy 6.7.23, nor that LAFCO could validly impose such a condition in the event no agreement was reached. No resolution of that issue was reached, but the negotiations continued with each party reserving whatever rights it had. It was proposed that LAFCO undertake a discussion of the issue. The item has been on the LAFCO agenda at least once, I believe twice, but has not yet been addressed. I presume that LAFCO would not reject a proposed agreement reached by the parties even though the term might exceed that prescribed in Policy 6.7.23. Unfortunately, it is our perception that the Incorporation Committee may wish to have the incorporation issue brought directly to the LAFCO Commission for action, assuming that LAFCO would impose mitigation limited by Policy 6.7.23. Such an action, however, may have unintended, negative consequences on the process. The purpose of this letter is to try to avoid that situation.

I have serious concerns about the validity of Policy 6.7.23 both on its face and as it may be applied. If the LAFCO Commission were to approve the incorporation over the objections of the County with mitigation payments limited to 10 years as suggested in Policy 6.7.23, and the Board of Supervisors found the terms of the approval to be unsatisfactory, I would recommend that the Board consider litigation. That decision obviously would be up to the Board. But, I am setting forth some of my concerns in this letter in the hope of avoiding such a confrontation. Such litigation could ultimately determine the LAFCO action to be invalid. If so, the incorporation effort would require the preparation of a new CFA and possibly a new EIR. Certainly, such litigation would be costly and time consuming, which is not in the interest of any party. I have addressed this letter to counsel because it does deal with legal aspects of the situation. It is intended only as a general description of my concerns, not as a complete legal brief on the issues. I did not want to communicate directly with the Incorporation Committee because of possible ethical constraints regarding communications directly with a represented party. I urge you to share this information with your clients and provide them with your own independent analysis so that any actions that the parties take are at least fully informed as to the potential consequences.

The last section of this letter is also intended as supplemental comments on the El Dorado Hills Incorporation EIR, as explained below. Scott, if you feel that segregating those comments and submitting them is a separate letter is preferable, let me know.

1. <u>Policy 6.7.23, on its face, is inconsistent with the requirements of Government Code Section 56815.</u>

California Government Code Section 56815(b) prohibits LAFCO approval of an incorporation unless the current revenues being transferred are substantially equal to the current expenditures made by the transferring agency for services that will be assumed by the newly incorporated city. In other words, the incorporation must be revenue neutral. The Comprehensive Fiscal Analysis (CFA) prepared for the El Dorado Hills incorporation clearly concludes that the incorporation is not revenue neutral, and analyzes the negative fiscal impact on the County. Nevertheless, Section 56815(c)(2) allows approval of an incorporation that is not revenue neutral if LAFCO finds that "[t]he 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." Although not directly applicable, probably the most apt definition of "mitigation" is found in the CEQA Guidelines Section 15370 which describes one form of mitigation as "[c]ompensating for the impact by replacing or providing substitute resources or environments." In this instance, that would mean replacing the net lost revenues.

Policy 6.7.23 reads as follows:

"<u>Duration of Fiscal Impact Mitigation</u>: The duration of mitigation payments should extend no more than 10 years, *based on the county's ability to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city.*" (Emphasis added.)

Mitigation payments limited to 10 years under Policy 6.7.23 do not constitute "mitigation" of the negative fiscal impacts of the incorporation. The revenue loss from the property transferred in the course of the incorporation continues forever. Mitigation payments over 10 years do not mitigate the negative impacts beyond the 10 year period. The fact that revenues may grow within the remaining unincorporated territory does not eliminate that negative impact. No matter how much revenues grow in the county, they would have been greater had the property not been transferred to a newly incorporated city. Moreover, any growth in county revenues is required to maintain services in the unincorporated areas even without reference to the negative impacts of the incorporation.

Section 56815(c)(2) calls for LAFCO to find that the fiscal impact on the County "has been" mitigated at the time it approves the incorporation. It is clear that limited term payments do not constitute mitigation. At best, it can be characterized as temporary assistance while the County attempts to mitigate the fiscal impacts. Section 56815(c)(2) requires that the fiscal impacts actually be mitigated by conditions imposed at the time of the incorporation. It does not allow for LAFCO to shunt responsibility to the County to address impacts not mitigated by the LAFCO conditions. Moreover, the impacts cannot be considered mitigation since there is no evidence that the County can offset the negative fiscal impacts. As mentioned above, simply fostering growth in the unincorporated territory does not mitigate the loss of revenue to the city because the County would have received that revenue in addition to that generated by growth. Also, having gone through the recent general plan process it is not at all clear that the County could expand growth in the remainder of the County to offset the negative fiscal impacts of incorporation (assuming that to do so is desirable) due traffic capacity constraints, infrastructure issues, topography and a number of other reasons. To the extent Policy 6.7.23's reference to "other measures necessary to *adjust to or compensate for* the loss of revenue" (emphasis added) is alluding to cost or service cutting in response to the loss of revenue, that does not constitute mitigation and is unacceptable.

For these reasons, I conclude that Policy 6.7.23 is contrary to the provisions of Section 56815.

2. **Policy 6.7.23 is arbitrary and unreasonable.**

While local LAFCOs have the authority to adopt regulations, those regulations must be reasonable and not arbitrary. Policy 6.7.23 does not satisfy that requirement in two respects. First, it is an absolute restriction without regard to the facts of any individual case. What constitutes proper mitigation for the incorporation of El Dorado Hills may be very different in every aspect, including term, than that which would be appropriate for the incorporation of another area of the County. Policy 6.7.23 does not provide LAFCO with the necessary discretion to address these differing circumstances.

In addition, we are aware of no other local LAFCO that has adopted a similar policy. All recent incorporation agreements that we know of have terms substantially longer than 10 years. They appear to range from 25 years to *in perpetuity*. Local LAFCO policies can be drawn to address local conditions and circumstances. However, I am aware of no circumstances or conditions present in El Dorado County that suggest that the County would be in a better position to offset the loss of revenue than any other county where no such a policy was adopted, or in a position to offset such revenue loss in 60% less time than is provided in the shortest comparable incorporation agreement of which we are aware.

3. ***Policy 6.7.23 is inconsistent with other provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and Guidelines and Policies adopted under that Act.***

Aside from revenue neutrality, LAFCO needs to make certain findings and conform to prescribed standards in approving an incorporation. One of the purposes of LAFCO is "discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances." (Cal. Gov't. Code Section 56301.) The County recently adopted a general plan. For decades, planning efforts recognized that the El Dorado Hills area would be more suitable to certain types of growth than other areas due to its proximity to infrastructure, transportation corridors and jobs. Yet, Policy 6.7.23 ignores those facts and abdicates its obligation to ensure the mitigation of negative fiscal impacts in favor of a policy of telling the County to amend its general plan to find ways of offsetting the revenue loss. This certainly is not designed to accomplish the goals set forth in Government Code Section 56301.[1]

Another important factor to be considered by LAFCO in processing a proposal is "[t]he extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs . . ." (Gov't. Code Section 56668(l)). As you are probably aware, the California Department of Housing and Community Development already has voiced its concern over the validity of the County's Housing Element based on both physical constraints and limitations imposed by general plan policies to mitigate traffic and other environmental impacts. The suggestion by LAFCO that the negative fiscal impacts be mitigated by the County amending its general plan to provide more opportunity for revenue generating development conflicts directly with the achievement of this policy goal.

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[1]The Incorporation Committee has argued under State law and local guidelines that revenue neutrality may not include payments for loss of anticipated future revenue. While we have attempted to address their concern in our most recent proposal, we note that either under Government Code Section 56815(d) or other general policies, the impact of the loss of future revenue is a legitimate factor to consider in determining whether a particular incorporation complies with Section 56301 and other applicable policies.

Finally, the failure of LAFCO to ensure true mitigation of the fiscal impacts of the incorporation is contrary to Policy 6.7.4, adopted by the El Dorado County LAFCO, which reads as follows:

> "Adverse Effects: The proposed incorporation should not have significant adverse social and economic impacts upon any particular communities or groups in the incorporating area or affected unincorporated area."[2]

4. **Policy 6.7.23 introduces new potential environmental impacts that must be analyzed in the El Dorado Hills Incorporation Environmental Impact Report if the Policy is applied by LAFCO.**

The clear import of Policy 6.7.23 is that rather than requiring a showing that the negative fiscal impacts of the incorporation have been mitigated, it is leaving it to the County to offset or adapt to the negative fiscal impact beyond 10 years. It suggests doing so through implementation of "general plan amendments and tak[ing] other measures necessary to adjust to or compensate for the loss of revenue due to incorporation of a new city." In short, the County is to offset the revenue loss through means that include amending its general plan to somehow offset the revenue loss, presumably through promoting revenue generating development.

The County has just completed the adoption of a new general plan that carefully balances competing concerns for growth, environmental protection, traffic mitigation and other factors. Policy 6.7.23 prompts the County to revisit those decisions for the sole purpose of mitigating the negative fiscal impacts of incorporation. The absence of true fiscal mitigation combined with this direction is a clear impetus to the County to revisit its land use policies for fiscal reasons. It is growth inducing and favors development of useable land for revenue generation in lieu of affording housing, open space or environmental mitigation. This is not speculative. It is the express direction of Policy 6.7.23. It is not beyond the authority of LAFCO to control because we are talking about the application by LAFCO of one of its own policies. The impacts are not too vague to analyze since the amount of revenue to be offset is known and projections as to the types of land use changes that would have to be made to achieve this offset in addition to otherwise expected revenue, if feasible, can be determined.

The draft EIR contains no consideration of these factors. Therefore, if LAFCO were to consider approval of the incorporation with imposition of mitigation payments limited to the term

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[2] I would again emphasize that this policy mandates that LAFCO take into consideration the impacts of lost future revenues on the County, whether they are addressed in the context of revenue neutrality or in LAFCO's overall consideration of the application.

set forth in Policy 6.7.23, the County maintains that such action cannot be taken without further consideration of these factors, and the potential significant adverse impacts that may result, in the EIR.

We are requesting that the comments made in this section be received by LAFCO as supplemental comments on the El Dorado Hills Incorporation EIR. I know the comment period has closed. However, the law is clear that although the lead agency *may* not have an obligation to respond to late comments, such comments are part of the administrative record and serve to satisfy the requirement that an objecting party exhaust its administrative remedies.

As I said at the start of this letter, it is our desire that negotiations continue with a goal of reaching agreement so that the process can move forward to an early conclusion that will have the voters expressing their desires. I am encouraged by the fact that I just learned that a negotiating session has been scheduled for Monday at 9:00 a.m. This letter is not intended to obstruct that process, but to ensure that all parties participate with complete information regarding the concerns of the others. I hope the Incorporation Committee will follow suit, since their recent correspondence has referenced the fact that they feel the County is not proceeding in compliance with State law or local policies, but repeatedly fails to specify the basis for their assertions.

Hopefully, we can all get together and work out something that works well for all parties.

Yours truly,

Louis B. Green

LOUIS B. GREEN
County Counsel

LBG/stl
cc: Laura Gill
Jim Wiltshire
Joe Harn
Shawna Purvines
Baxter Culver
s:\Planning\Correspondence\LAFCO Policy 6.7.23 ltr

El Dorado Hills Incorporation Committee

May 27, 2005

To: Al Manard, El Dorado County LAFCO Chairperson
From: The El Dorado Hills Incorporation Committee
Subject: Incorporation Committee Final RN offer
Ref: Letter to LAFCO dated March 7, 2005; Subject: Schedule concerns-Incorporation of EDH being on the November 2005 ballot

Dear Al,

The Incorporation Committee's negotiating team met with the County's team this morning to try and reach a Revenue Neutrality Agreement between the two parties. Unfortunately, we were not able to reach an agreement by the deadline set by the LAFCO Commission at their special meeting on May 18th to remain on schedule for the November 2005 election.

The primary responsibility for the EDH Incorporation Committee as the Incorporators is to represent the future City's interest and protect the financial viability of the city during the LAFCO process. The Committee was also committed to proposing revenue neutrality payments to the County based on State law, OPR Incorporation Guidelines, and LAFCo's Policies, Guidelines and Procedures document. Cortese- Knox-Hertzberg requires the fiscal impact to be mitigated in a manner wherein "a similar exchange of both revenue and responsibility for service delivered" is accomplished. However, the County has rejected all of our proposals, even the proposals that exceed State Law and LAFCO policies.

The County's offers have all included a multiplying effect that makes it very difficult to determine the actual amount the City would pay in Revenue Neutrality payments. The Incorporation Committee position has always been the people of El Dorado Hills should have a clear understanding of the amount of these payments. The Committee's proposals have included the approximate cost of the payment so it would be available to the voters when making their decision on Incorporation.

We have included with this correspondence a copy of the Committee's final RN proposal for your records.

The Incorporation Committee's proposals have always been complete, timely, and have abided by the law and policy of the governing bodies and offered the County additional funds for a win-win situation.

In contrast, the County's last offer requested a forty year mitigation period, being 4 times greater than the LAFCo policy stipulates. As the County did not provide any financial analysis to substantiate their last offer, as previously requested by the incorporation committee, the committee estimated that the County's proposal amounts to 100's of millions of dollars in total, in contrast to the CFA's estimate of approximately 10 million dollars. It's also difficult to reach an agreement when the County acknowledges the amount of the General Fund payment calculated in the CFA, but requests a multiplier of the City's property tax to substantially increase the calculated payment. The Committee is very concerned that the City would become financially unviable if the County's proposal were used for determining the amount of RN payments.

Respectfully,

John Hidahl
Chairman,
El Dorado Hills Incorporation Committee

Norm Rowett
Vice Chairman,
El Dorado Hills Incorporation Committee

El Dorado Hills Incorporation

MAY 26, 2005 PROPONENTS OFFER

The Incorporation Committee has made offers to the County based on California State statutes, and the Incorporation Policies, Guidelines, and Procedures – A Guide to LAFCO Process for City Incorporation in El Dorado County (LAFCO policies). In addition, the Incorporation Committee has offered additional incentives in excess of these amounts in order to try to reach a negotiated agreement with the County.

Government Code Section 56815 states that "It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibilities for service delivery among the county, the city, and other subject agencies. Section 56815 is known as the revenue neutrality provision. In sum, the cost of services to be transferred should be "substantially equal" to the amount of revenue to be transferred. Section 56815 thus favors neither the new City nor the County or district.

The Public Review Draft Report of the Comprehensive Fiscal Analysis (CFA) prepared by Economic & Planning Systems (EPS) on March 11, 2005 documents the dollar impacts to the County based on the Government Code Sections. The incorporation committee is in agreement with the amount to be mitigated related to the County General Fund is $309,001 (as may be amended with boundary adjustments) and the County Road Fund is $751,262 (as may be amended with boundary adjustments). El Dorado LAFCO policies states that the duration of payments should extend no more than 10 years.

Based on this methodology which is the same as the methodology included in the Public Review Draft of the CFA, the new City would owe $3,090,010 to the County General Fund over the 10 year term and $7,512,620 to the County Road Fund over the 10 years for a total amount of $10,602,630.

In order to try to reach a negotiated agreement with the County, the Incorporation Committee is willing to provide the following additional incentives beyond what State law and the LAFCO policies dictate.

1. The City will pay the County the General Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of twenty five years, with an annual CPI indexed inflation factor (such as the Consumer Price Index for all urban consumers - California). Said payments shall start in 2007 and culminate in 2031.

2. The City will pay the County the Road Fund Tax Revenue Neutrality (RN) amounts identified in the final CFA for a term of ten years, with an annual CPI

indexed inflation factor (such as the Consumer Price Index all urban consumers - California). Said payments shall start in 2007 and culminate in 2016.

The total value of this offer in today's dollars is $7,725,025 to the County General Fund and $7,512,620 to the County Road Fund for total payments in today's dollars of $15,237,645.

Road Fund Note:

The County would also continue to receive over $1 million a year in State road gas taxes based on El Dorado Hills population that can now be used exclusively outside of El Dorado Hills City boundaries. After incorporation, the County will have no cost of maintaining roads in El Dorado Hills.

The combination of City road fund mitigation payments and County Road gas taxes related to El Dorado Hills development for the ten year period of RN payments would allow the County to spend over $17 million on county roads outside of the City of El Dorado Hills.

The proponents are very concerned about the existing condition of the roads and streets in El Dorado Hills. The main collectors and arterial roads within the city boundaries are deteriorating at a high rate due to the impacts of operating at or near capacity and the high volume of large heavy vehicles and the County not maintaining a regular maintenance schedule. The City will need every road fund property tax dollars to prevent the continued deterioration of these roads.

EL DORADO LOCAL AGENCY FORMATION COMMISSION

550 MAIN STREET SUITE E
PLACERVILLE, CA 95667

TELEPHONE:(530)295-2707
FAX:(530)295-1208

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Local Agency Formation Commission will hold a public hearing at 5:30 p.m. or as soon thereafter as possible, on June 1, 2005, Meeting Room in Building C, El Dorado County Government Center, located at 2850 Fairlane Court, Placerville, CA 95667, to consider the following items:

> Incorporation of the Proposed City of El Dorado Hills, LAFCO Project No. 03-10 including the following actions: Resolution Certifying the Final Environmental Impact Report, Resolution Adopting Findings of Fact and Statement of Overriding Considerations, Resolution Adopting a Mitigation Monitoring and Reporting Program (Continued from May 18, 2005): Adoption of related changes of organization (Continued from May 25, 2005)

Any person may submit oral or written comments. Staff will distribute written comments to the Commission if submitted 24 hours before the meeting. Roseanne Chamberlain, Executive Officer, LAFCO, 550 Main Street Suite E, Placerville, CA 95667. If you have any questions, you may contact the LAFCO office during normal business hours at (530) 295-2707.

EL DORADO LOCAL AGENCY FORMATION COMMISSION

ROSEANNE CHAMBERLAIN, EXECUTIVE OFFICER

MOUNTAIN DEMOCRAT
TO BE PUBLISHED ONE TIME ONLY: May 11, 2005

c:\shared\susan\metings\05MayLegal

I, Susan Stahmann, Clerk to LAFCO, do declare that I notified the following persons/entities of the Meetings/Closed Sessions noted below. Further, I Susan Stahmann, do declare that I either posted or caused to be posted the "Agendas/Meetings/Closed Session of LAFCO at the Board of Supervisors and Bldg "C" Main Bulletin Boards on or before 12:00 p.m. on _________

____

Susan Stahmann, Clerk to LAFCO

	AGENDA - (Double Sided - 7)	Meeting Date: 6/1/05	Mailed: 5-24-05	
√	Agenda File - LAFCO			
√	Chamberlain, Roseanne	LAFCO		
√	John Driscoll, City Mgr.	City of Placerville	487 Main Street	Placerville, CA 95667
√	Fratini, Corinne	LAFCO		
√	Sacramento Bee	Folsom Bureau	1835 Prairie City Rd., Suite 500	Folsom, CA 95630
√	Stahmann, Susan	LAFCO		
√	Tahoe Tribune	Editor	3079 Harrison Ave.	So. Lake Tahoe, CA 96150
	AGENDA - (e-mailed) 5/23			
e-m	Allen, Nancy	LAFCO Commission	wyomom@webtv.net	
e-m	Arietta, Butch	Springfield Meadows CSD	Barietta57@aol.com	
e-m	Baumann, Helen	BOS	bostwo@co.el-dorado.ca.us	
e-m	Brillisour, Jo Ann	El Dorado County - Planning	jbrillisour@co.el-dorado.ca.us	
e-m	Browne, Scott	Attorney At Law	scottbrowne@jps.net	
e-m	Burney, Naomi	League of Women Voters	nburney@plv4.innercite.com	
e-m	Chamberlain, Roseanne	LAFCO	roseanne@co.el-dorado.ca.us	
e-m	Colvin, Robby	LAFCO Commission	robbycolvin@hotmail.com	
e-m	Cooper, Brian	El Dorado Irrigation District	bcooper@eid.org	
e-m	Corcoran, Daniel	EID	dcorcoran@eid.org	
e-m	Costamagna, Gary	LAFCO Commission	pnjcosta@jps.net	
e-m	Davis, Don		ddavis67@pacbell.net	
e-m	Deister, Ane	EID	adeister@eid.org	
e-m	Dupray, Rusty	LAFCO Commission	bosone@co.el-dorado.ca.us	
e-m	Ford, Frank	Citizens for Good Government	fordcgg@pacbell.net	

e-m	Fraser, John	EID	jfraser@innercite.com	
e-m	Fratini, Corinne	LAFCO	cfratini@co.el-dorado.ca.us	
e-m	Frye, Larry R., Chief	EDH County Water	Larry@edhfire.com	
e-m	Georgetown Gazette-Ctrl Disp	Newspaper	gazette@d-web.com	
e-m	Gill, Laura	CAO's office	lgill@co.el-dorado.ca.us	
e-m	Gibson, Thomas	LAFCO Counsel	Thomas.Gibson@bbklaw.com	
e-m	Grace, Lori	EID	lgrace@eid.org	
e-m	Hagen, Carl	LAFCO Commission	chagen@d-webb.com	
e-m	Hidahl, John		john.hidahl@aerojet.com	
e-m	Hillyer, Dianna	EDH CSD	dhillyer@edhcsd.org	
e-m	Hollis, Bob	Request	rhollis@CarnegiePartners.com	
e-m	Jackson, Mindy	El Dorado Transit	mjackson@innercite.com	
e-m	Lacher, Bruce	El Dorado County Fire District	c7700@directcon.net	
e-m	Life Newspapers	Newspaper	editor@villagelife.com	
e-m	Loftis, Francesca	LAFCO Commission	floftis@CWnet.com	
e-m	Long, Ted	LAFCO Commission	tedtahoe@hotmail.com	
e-m	Lowery, Wayne	El Dorado Hills CSD-Gen. Mgr.	wlowery@edhcsd.org	
e-m	Margaret Moody	BOS	mmoody@co.el-dorado.ca.us	
e-m	McDonald, Linda	EID	lmcdonald@eid.org	
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e-m	Neasham, Sam		Neasham@neashamlaw.com	
e-m	Osborne, George	EID	gwclosborne@comcast.net	
e-m	Paine, Richard C.	LAFCO Commission	paine@trajen.com	
e-m	Purvines, Shawna	CAO's office	spurvines@co.el-dorado.ca.us	
e-m	Rescue Fire Protection District	Fire Protection District	rescuefd@directcon.net	
e-m	Russell, Dan	El Dorado County Surveyor	drussell@co.el-dorado.ca.us	
e-m	Sanders, Vicki	CAO's Office	vsanders@co.el-dorado.ca.us	
e-m	Segel, Harriett	Public	tuffi@innercite.com	
e-m	Smith & Gabbert, Inc.	El Dorado Land & Development	Kim@waveshift.com	
e-m	Solaro, Dave	Board of Supervisors	dsolaro@co.el-dorado.ca.us	
e-m	Stack, Noel	Mt. Democrat	nstack@mtdemocrat.net	

e-m	Sweeney, Jack	LAFCO Commission	bosthree@co.el-dorado.ca.us	
e-m	Weimer, Michele	EID	mweimer@eid.org	
e-m	Wheeldon, George	LAFCO Commission	wheeldon@sbcglobal.net	
e-m	Witt, Norb		nwitt@sbcglobal.net	
e-m	Word, Chris	EID	cword@eid.org	
e-m	Wright, William	Attorney at Law	billofwrights@sbcglobal.net	
	INCORPORATION ONLY			
e-m	Taylor, Nat	Project Manager	ntaylor@lamphier-gregory.com	
	AGENDA (Single-Sided)			
√	Post- B, C & LAFCO (3)			
√	Agenda Item File	Districts for Budget		
√	Agenda Item Person			
	PACKET (20) - Mailed			
√	Allen, Nancy	Commission	P. O. Box 803	Georgetown, CA 95634
√	Chamberlain, Roseanne	LAFCO		
√	Colvin, Roberta	LAFCO Commission	2854 Bennett Dr.	Placerville, CA 95667
√	Costamagna, Gary	Commission	4100 Marble Ridge Road	El Dorado Hills, CA 95762
√	Dupray, Rusty	Commission	Board of Supervisors	
√	Fratini, Corinne	LAFCO		
√	Gibson, Thomas	LAFCO Counsel	BBK 400 Capitol Mall, Ste 1650	Sacramento, CA 95814
√	Hagen, Carl	LAFCO Commission	183 Placerville Dr.	Placerville, CA 95667
√	Loftis, Francesca	Commission	7085 Nutmeg Lane	Placerville, CA 95667
√	Long, Ted	LAFCO Commission	2498 Kubel Ave.	So. Lake Tahoe, CA 96150
√	Manard, Aldon	Commission	3591 Coloma Canyon Rd.	Greenwood, CA 95635
√	Paine, Richard C.	Commission	Board of Supervisors	
√	Public Review Binder			
√	Stahmann, Susan	LAFCO		
√	Sweeney, Jack	Commission	Board of Supervisors	
√	Wheeldon, George	Commission	EID-2890 Mosquito Road	Placerville, CA 95667
√	Extra Copy for Meeting			
√	Stack, Noel	Mt. Democrat	1360 Broadway	Placerville, CA 95667