The Regional Planning Commission has inquired as to the status of the Centennial Development Agreement (“DA”), should any part of the project area be annexed or incorporated. State law sets forth the requirements and procedures in such situations. (See Government Code Sections 65865.3 and 65865.4). Once finalized, the DA must be recorded. Under state law, all the rights and obligations of the DA as recorded are “tied to the property.” In other words, the City that incorporates or the jurisdiction that annexes the territory (collectively “City”) is subject to the terms of the DA, both its benefits and obligations.

State law also provides that upon incorporation or annexation, the DA remains in effect for either 1) the duration of the DA or 2) eight years from the effective date of incorporation or annexation, whichever is earlier. The parties may agree to further extend the term of the DA up to a maximum of 15 years from the effective date of incorporation or annexation. However, state law also provides that the City may modify or suspend provisions of the DA if it determines the DA would place its residents in a condition dangerous to their health or safety.

The approval of incorporation and annexation fall under the jurisdiction of the Local Agency Formation Commission (“LAFCO”). Procedurally, the change of a boundary (i.e., incorporation or annexation) entails developing a proposal, initiating the proposal, LAFCO review of the proposal, LAFCO public hearings and approval, and a public vote for the boundary change proposal.

Prior to LAFCO’s consideration of an incorporation or annexation application, the County and City must negotiate a property tax exchange agreement. This property tax exchange agreement may be revised from time to time by the parties. After a tax exchange agreement has been reached, LAFCO will review the application for annexation or incorporation. By state law, LAFCO will consider several factors including, but not limited to the following when considering the application:

- Population and population density;
- Land use;
- Likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next 10 years;
- Need for organized community services;
ATTACHMENT B: STAFF SUMMARY ON ANNEXATION AND INCORPORATION RELATED TO DEVELOPMENT AGREEMENTS

- Present costs and adequacy of governmental services and control in the area and probable future needs for those services and controls;
- Probable effect of the proposed incorporation or annexation and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas;
- Effect of incorporation or annexation on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county;
- Conformity of both the incorporation or annexation and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities on open-spaces;
- Effect of the incorporation or annexation on maintaining the physical and economic integrity of agricultural lands;
- Definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries;
- A regional transportation plan;
- Consistency with city or county general and specific plans;
- Comments of any affected local agency or other public agency; comments from the landowner or owners, voters, or residents of the affected territory;
- Ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change;
- Timely availability of water supplies adequate for projected needs;
- 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;
- Existing land use designations; and
- The extent to which the proposal will promote environmental justice.

(See Government Code Section 56668).

During the process of annexing a territory or incorporating a new city, the DA remains in full force and effect.