

FRESNO COUNTY

FIRE PROTECTION DISTRICT



January 31, 2003

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FEB 5 2003

Administration

Mr. John Holt
City of Clovis
1033 Fifth Street
Clovis CA 93612

Dear Mr. Holt:

Enclosed is an original copy of the transition agreement between the Fresno County Fire Protection District and the City of Clovis. Should you have any questions or concerns, please contact Chief Sunderland at (559) 485-7500, ext. 111 or me at (559) 485-7500, ext. 101.

Sincerely,

STEVE SUNDERLAND
CHIEF

By *Teodoro A. Mendoza*
Teodoro A. Mendoza
Deputy Chief

mza

Enclosure

c: Finance-A

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Administration

**Transition Agreement Between the City of Clovis
and the Fresno County Fire Protection District
Regarding Transfer of Certain General *Ad Valorem*
Real Property Tax Revenue Affected By Annexations**

THIS IS AN AGREEMENT dated for convenience as of January 1, 2003, by and between the CITY OF CLOVIS, a general law city and municipal corporation of the State of California ("CITY"), and the FRESNO COUNTY FIRE PROTECTION DISTRICT, a local fire protection district in the County of Fresno, State of California (currently organized and operated pursuant to the Fire Protection District Law of 1987 - Health and Safety Code Sections 13800, *et seq.*) ("DISTRICT").

RECITALS

A. DISTRICT currently is the primary provider of fire service and receives general purpose *ad valorem* property tax revenue from real property within its territorial limits, such revenue being based on application of the combined "parent zone" and applicable "service zone" tax rates to the taxable value of the real property within such territory.

B. DISTRICT's current territorial limits include certain unincorporated territory in DISTRICT's Service Zone 10 within which DISTRICT is such primary provider and also receives such revenue.

C. Expansion of CITY's incorporated territory may include the detachment of DISTRICT's territory, including Service Zone 10, and transfers to the CITY.

D. Under Government Code Section 57202, DISTRICT is immediately relieved of such primary provider obligation for detached territory upon the effective date of any such detachment. Pursuant to Government Code Sections 54902 and 54902.1, DISTRICT may continue as a taxing agency in such territory for an additional period of time, of up to eighteen (18) months, depending upon when the statement of the change is filed with the County auditor and assessor, and continues to receive such revenue accordingly.

E. Without affecting CITY's obligation to assume the primary provider obligation for detached territory as of the effective date of any such detachment, CITY and DISTRICT wish to provide defined transition periods and gradual phase-outs of DISTRICT's receipt of such revenue after the effective date of such detachment.

F. As more specifically described below, the parties mutually intend by this Agreement that after CITY actually begins receiving such revenue from detached/transferred territory, CITY shall at the times described below transfer to DISTRICT an amount equal to the agreed percentage of "Base Year Revenue" as defined below, reduced by the amount of such revenue which is attributable to such annexation on and after its effective date and which is received by

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DISTRICT as a taxing agency; such "Base Year Revenue" not to include any revenue resulting from sales or improvements of real property within the territory detached/transferred which occur after the "initial determination date" described below, CITY to retain all other revenue from the detached/transferred territory after the effective date of detachment as is not expressly required by this Agreement to be transferred to DISTRICT.

G. The parties wish to provide different schedules for revenue transfer in recognition of assumed different levels of service required for different territories annexed, depending upon the state of development in the particular territory prior to annexation.

H. As more specifically described below, the parties mutually intend by this Agreement that for annexations determined to be "not substantially developed" prior to annexation, DISTRICT shall receive a revenue transfer equal to ninety percent (90%) percent of Base Year Revenue for 10 years. City will pay that revenue transfer in a lump sum within sixty (60) days after the end of the fiscal year in which the CITY starts to receive CITY's apportionment of general purpose of *ad valorem* real property tax revenue from such annexation.

I. As more specifically described below, the parties mutually intend by this Agreement that for annexations determined to be "substantially developed" prior to annexation, DISTRICT shall receive a revenue transfer equal to one hundred percent (100%) of Base Year Revenue for the first year, eighty percent (80%) of Base Year Revenue for the second year, sixty percent (60%) of Base Year Revenue for the third year, forty percent (40%) of Base Year Revenue for the fourth year, and twenty percent (20%) of Base Year Revenue for the fifth year. City will pay that revenue transfer in a lump sum within sixty (60) days after the end of the fiscal year in which the CITY starts to receive CITY's apportionment of general purpose of *ad valorem* real property tax revenue from such annexation.

J. The parties wish to provide a clear means of administration and dispute resolution for purposes of this Agreement.

K. The parties recognize that the Fresno County Local Agency Formation Commission ("LAFCo") is contemplating a change to its current policies which require transition agreements between cities and fire district's prior to approving annexations to cities and detachments from fire districts, of which this Agreement is one. CITY is entering into this agreement principally because of LAFCo's policy. As more particularly described below, the parties agree that should LAFCo make material changes to its policies pertaining to transition agreements between cities and fire districts, CITY may terminate this Agreement upon thirty (30) days written notice thereof.

NOW, THEREFORE, CITY and DISTRICT hereby agree as follows:

Section 1. Effect of Recitals.

The foregoing recitals are true and correct and are part of this Agreement. They constitute the

fundamental reasons and basic tenets of this Agreement.

Section 2. Definitions/Interpretation of Agreement

2.1. Unless the particular provision or context otherwise requires, the definitions contained in this section (construed against the background of California laws as of the date of this Agreement regarding annexations [Government Code Sections 56000, *et seq.*] and real property taxation [Constitution Article 13A; Division 1 of the Revenue and Taxation Code relating to "Property Taxation"]) shall govern the construction, meaning, interpretation and application of such words and this Agreement, taking into account the fundamental reasons and basic tenets for same.

2.2. "Annexation" means a specific territorial area described in an executed "Certificate of Completion" for a completed change of organization or reorganization which effects a detachment of territory from DISTRICT and a transfer of same to CITY as of the effective date specified.

2.3. "Taxable value" means the value of real property ("land" and "improvements") within an annexation determined in accordance with law as shown by the equalized property tax roll of the Fresno County Assessor for the applicable determination date.

2.4. "Substantially developed" means an annexation's "improvements" taxable value to "land" taxable value ratio is equal to or greater than 1.25 to 1 as shown by the equalized property tax roll of the Fresno County Assessor for such annexation as of the applicable determination date.

2.5. "Effective date" means the date detachment of an annexation from DISTRICT becomes effective under Government Code Section 57202.

2.6. "LAFCo" means the Local Agency Formation Commission of Fresno County.

2.7. "Approval" means the date LAFCo adopts its "Resolution. Making Determinations" leading to an annexation.

2.8. "Tax lien date" means the annual January 1 date utilized by County tax officials to fix the annual equalized tax roll for the succeeding fiscal year.

2.9. "Fiscal year" means the July 1 - June 30 fiscal year utilized for property tax purposes.

2.10. "Initial determination date" for an annexation means the tax lien date for the fiscal year in which LAFCo gives approval leading to that particular annexation. (For example, January 1, 2003 would be the "initial determination date" for any annexation which receives LAFCO approval from July 1, 2003 through June 30, 2004.)

2.11. "Subsequent determination date(s)" for an annexation means the succeeding tax lien date(s) after the initial determination date for that particular annexation.

2.12. "Base Year Revenue" for an annexation means the sum derived by: Multiplying the Equivalent Tax Rate (ETR) by the Total Taxable Value (TTV) of the annexation; where the ETR equals sum of the Equivalent Tax Rate for the Parent Zone (ETRPZ) plus the Equivalent Tax Rate for Service Zone 10 (ETRZ10); where the ETRPZ equals the Net Tax Levy for the Parent Zone (NLPZ) divided by the Taxable Value for the Parent Zone (TVPZ); and where ETRZ10 equals the Net Tax Levy of Service Zone 10 (NLSZ10) divided by the Taxable Value of Service Zone 10 (TVZ10).

Expressed as equations, the calculation shall be made as follows:

$$\text{BYR} = \text{ETR} \times \text{TTV}$$

$$\text{ETR} = \text{ETRPZ} + \text{ETRZ10}$$

$$\text{ETRPZ} = \text{NLPZ} / \text{TVPZ}$$

$$\text{ETRZ10} = \text{NLSZ10} / \text{TVZ10}$$

Where: BYR means "Base Year Revenue"

ETR means "Equivalent Tax Rate"

TTV means "Total Taxable Value"

ETRPZ means "Equivalent Tax Rate for the Parent Zone"

ETRZ10 means "Equivalent Tax Rate for Service Zone 10"

NLPZ means "Net Tax Levy for the Parent Zone"

TVPZ means "Taxable Value for the Parent Zone"

NLSZ10 means "Net Tax Levy of Service Zone 10"

TVZ10 means "Taxable Value of Service Zone 10"

Example of Calculation of Base Year Revenue (BYR):

Assessed Value of Land:	\$100,000	
Assessed Value of Improvements:	\$50,000	
Total Assessed Value:	\$150,000	TTV
Ratio of Improvements to Land Value:	50%	
Net Tax Levy of Parent Zone:	\$6,024,55	NLPZ
Net Tax Levy of Zone 10:	\$2,234,90	
Total Tax Levy:	\$8,259,46	NLSZ10
Assessed value of Parent Zone:	\$7,764,075,494	TVPZ
Assessed value of Zone 10:	\$2,095,284,049	TVZ10
Total Assessed value:	\$9,859,359,543	

Equivalent Tax Rate (ETR) - Parent Zone:	0.077595%	ETRPZ = NTLPZ TVPZ
Equivalent Tax Rate (ETR) - Zone 10:	0.106664%	ETRZ10 = NTLZ10 / TVZ10
Combined ETR - Parent + Zone 10:	0.184259%	ETR = ETRPZ + ETRZ10
Base Year Revenue:	\$276.39	BYR = ETR * TTV

2.13. "Any *ad valorem* real property tax revenue which is attributable to such annexation on and after its effective date which has been received by DISTRICT as a taxing agency" means all such revenue DISTRICT receives which would instead have been received by CITY if, as of the effective date of such annexation:

- (a) DISTRICT had ceased being a taxing agency in such annexation; and
- (b) General purpose *ad valorem* property tax revenues had been prorated between the parties and paid direct to each of them accordingly.

2.14. "Primary provider" means the local entity which has the primary responsibility for providing personnel and equipment to the scene of an emergency except as modified by separate agreements.

Section 3. Revenue Transfers From CITY to DISTRICT.

3.1. CITY shall transfer revenue to DISTRICT for each annexation covered by this Agreement, all as set forth in more detail in Sections 3.2, 3.3 and 3.4, below. Sums due DISTRICT under this Agreement shall become due and payable from CITY sixty (60) days after the end of the fiscal year in which the CITY starts to receive CITY's apportionment of general purpose of *ad valorem* real property tax revenue from such annexation.

3.2. With regard to each annexation covered by this Agreement, CITY shall notify DISTRICT in writing of CITY's initial determination of the relevant items described below within a reasonable time not to exceed forty-five (45) days from the date of completion of such annexation; and CITY shall thereafter notify DISTRICT in writing not less than once each subsequent fiscal year of CITY's subsequent determination of later items:

- (a) The "effective date" of detachment from DISTRICT of such annexation.
- (b) The fiscal year of "LAFCo's approval" of such annexation.
- (c) Such annexation's status as "not substantially developed" or "substantially developed" as of the initial determination date.

(d) The "Base Year Revenue" for such annexation.

(c) The basis for (and calculation of) any reduction CITY claims against its obligation to transfer revenue as provided in Section 3.4, below.

Unless DISTRICT gives written notice to CITY of disagreement within forty-five (45) days of CITY's notice of a particular determination hereunder, such determination shall be conclusively deemed correct. If DISTRICT gives timely notice of disagreement, the matter shall be resolved as set forth in Section 7.5, below.

3.3. Commencing with the first fiscal year in which CITY (instead of DISTRICT) receives general *ad valorem* real property tax revenue from an annexation, at the times described in Section 3.1, above, CITY shall transfer revenue to DISTRICT in accordance with the formulas and schedules set forth in Section 3.4, below.

3.4. Commencing with the effective date of detachment of each annexation CITY shall be obligated to transfer to DISTRICT from the revenue received from such annexation the percentages of "Base Year Revenue" described below for that same annexation; provided, such transfer obligation of CITY shall be reduced by the amount of any *ad valorem* real property tax revenue which is attributable to such annexation on and after its effective date which has been received by DISTRICT as a taxing agency.

(a) For Annexations Which are Determined as of the Initial Determination Date to be NOT substantially Developed:

A revenue transfer equal to ninety percent (90%) percent of Base Year Revenue for 10 years. City will pay that revenue transfer in a lump sum within sixty (60) days after the end of the fiscal year in which the CITY starts to receive CITY's apportionment of general purpose of *ad valorem* real property tax revenue as set forth in Section 3.1 above.

(b) for Annexations Which Are Determined as of the Initial Determination Date to be Substantially Developed:

A revenue transfer equal to equal to one hundred percent (100%) of Base Year Revenue for the first year, eighty percent (80%) of Base Year Revenue for the second year, sixty percent (60%) of Base Year Revenue for the third year, forty percent (40%) of Base Year Revenue for the fourth year, and twenty percent (20%) of Base Year Revenue for the fifth year. City will pay that revenue transfer in a lump sum within sixty (60) days after the end of the fiscal year in which the CITY starts to receive CITY's apportionment of general purpose of *ad valorem* real property tax revenue as set forth in Section 3.1 above.

CITY shall transmit to DISTRICT written explanations of the CITY's calculations of any amount(s) due, including an explanation of any reduction(s) CITY claims against its obligation to transfer revenue as provided in Section 3.4, above. Unless DISTRICT gives written notice of disagreement within forty-five (45) days of receipt of CITY's explanations, CITY's calculations

shall be conclusively deemed correct. If DISTRICT gives timely notice of disagreement, the dispute shall be resolved as set forth in Section 7.5, below.

3.5. Notwithstanding the revenue transfers set forth in Section 3.4 of this Agreement, each fiscal year the CITY may designate up to twenty (20) acres of territory within annexations completed that fiscal year to be excluded from the calculation of Base Year Revenue. Such excluded territory shall be limited to parcels of five (5) acres or less and there shall be no more than four (4) exempted annexations per fiscal year. CITY shall notify DISTRICT in writing of any such excluded territory within a given annexation. The purpose of this Section is to reduce the impact of annexation costs on parcels that are annexed as part of a large annexation in an effort to maintain contiguous CITY boundaries.

Section 4. Scope of Agreement.

4.1. This Agreement shall only apply to annexations completed during the term hereof.

4.2. Except for Section 5, below, any obligations which DISTRICT has to provide fire protection services under the terms of any instant or mutual aid agreement or other agreement with CITY shall not otherwise be affected by the terms of this Agreement.

4.3. Notwithstanding the revenue transfer from CITY to DISTRICT as herein described for each annexation covered by this Agreement, the CITY will become the primary provider of fire protection services on and after the effective date of detachment of such annexation from DISTRICT.

Section 5. DISTRICT Assurances on Use of Revenue.

5.1. DISTRICT recognizes that the revenue transferred to it by this Agreement could otherwise have been appropriated by CITY to meet demands for fire services. In light thereof, DISTRICT agrees to use such revenues hereafter in an effort to maintain levels of DISTRICT service in areas adjacent to CITY (which will be also available to CITY under mutual aid or other agreements) that are at least equal to or better than the levels of service provided by DISTRICT in those areas immediately adjacent to CITY as of the date of this Agreement. Notwithstanding the foregoing, nothing in this Agreement is intended nor shall be construed to limit or restrain the powers of the DISTRICT's Board of Directors to make such budgetary or legislative decisions or, appropriations and decisions regarding levels of service (including, for example, decisions to relocate or close District Station 85) which it deems necessary for the overall safety and welfare of the DISTRICT as a whole.

5.2. DISTRICT covenants that it will not oppose and will support all annexations covered by this Agreement and will not directly or indirectly in any way seek or encourage opposition to such annexations or seek in any way to reopen the terms of this Agreement for the full term hereof, save and except through private request to CITY which DISTRICT agrees CITY may refuse without further recourse.

Section 6. Term of Agreement and Termination.

6.1. Term of Agreement. This Agreement shall become effective January 1, 2003 and shall automatically terminate no later than December 31, 2012, unless it has been terminated prior to that time by mutual agreement of the parties or as otherwise provided herein. Unless otherwise agreed in writing, such automatic termination does not extinguish the continuing obligations of the parties set forth in this Agreement arising with respect to annexations subject to this Agreement, all of which obligations shall continue until the revenue transfers for all such annexations have been completed.

6.2. Termination Due to Invalidity or Actions. Should all or any portion of this Agreement be declared invalid or inoperative by a court of competent jurisdiction, or should any party to this Agreement substantially fail to perform any of its obligations hereunder, or should any party to this Agreement take any action (whether intentional or by omission or commission) to frustrate the intentions of the parties as expressed in this Agreement, then in such event this entire Agreement as well as any ancillary documents entered into by the parties in order to fulfill the intent of this Agreement shall immediately be of no force and effect and this Agreement shall terminate in its entirety.

6.3. Termination Due to Change in Law. In entering into this Agreement, the parties mutually assume the continuation of the existing statutory scheme for the allocation and distribution of available real property tax revenue to local government as part of the fundamental reasons for and basic tenets for this Agreement. Accordingly, it is mutually understood and agreed that this Agreement shall terminate immediately and shall be of no further force and effect should changes occur in such statutory scheme (whether by legislative, judicial or state administrative action) which negate or frustrate the fundamental reasons or tenets of this Agreement, such termination to be in the entirety. Any party contending this section applies shall give written notice of termination pursuant to this section, which notice shall include an explanation of the reason(s) for such termination.

6.4. Termination Due to Change in LAFCo Policies. In entering into this Agreement, the parties recognize that the Fresno County Local Agency Formation Commission ("LAFCo") is contemplating a change to its current policies which require transition agreements between cities and fire district's prior to approving annexations to cities and detachments from fire districts. DISTRICT acknowledges that CITY is entering into this agreement principally because of LAFCo's policy. Should LAFCo make changes in its policies pertaining to transition agreements between cities and fire districts, which eliminates the requirement of a transition agreement as a prerequisite for the annexation or detachment of DISTRICT territory, CITY shall have a right to terminate this Agreement upon thirty (30) days written notice thereof. A recommendation by LAFCo for a transition agreement shall not be interpreted as a requirement for a transition agreement.

6.5. Termination Due to DISTRICT's Failure to Provide Service. This Agreement shall automatically terminate should DISTRICT cease to provide fire protection services in all

locations within the sphere of influence (as then established by LAFCo) of the City.

6.6. Notice/Termination for Breach or Other Reason. Prior to this Agreement being terminated for any material breach or other reasons which can be cured, the non-breaching party shall provide notice to the other of the grounds of the claimed material breach or reason accompanied by demand for cure. The allegedly breaching party shall have forty-five (45) days after receipt of such notice to cure. If any such default or reason is not cured in a timely manner, this Agreement may then be terminated for material breach or reason. As an alternative to termination of this Agreement for material breach of its terms and conditions or other reason, the parties may enforce this Agreement in any other manner authorized by law.

Section 7. General Provisions.

7.1. Modification. This Agreement may be modified or amended only by a writing duly authorized and executed by CITY and DISTRICT.

7.2. Enforcement. CITY and DISTRICT each acknowledge that this Agreement cannot bind or limit themselves or each other or their future governing bodies in the exercise of their discretionary legislative power. However, each binds itself that it will insofar as is legally possible, fully carry out the intent and purposes hereof, if necessary, by administrative and ministerial action independent of that legislative power and that this Agreement may be enforced by injunction or mandate or other writ to the full extent allowed by law.

7.3. Integration. With respect to the subject matter hereof, this Agreement is intended to be an integrated agreement and supersedes any and all previous negotiations proposals, commitments, writings and understandings of any nature whatsoever between CITY and DISTRICT as to the subject matter of this Agreement.

7.4. Notice. All notices, requests, determinations or other correspondence required or allowed by law or this Agreement to be provided by the parties shall be in writing and shall be deemed given and received when delivered to the recipient by first-class mail (or an equal or better form of delivery) at the following addresses:

CITY

City Manager
City of Clovis
1033 Fifth Street
Clovis, California 93612

DISTRICT

Fire Chief
Fresno County Fire Protection District
210 South Academy Avenue
Sanger, California 93657

By giving notice, either party may change its address for these purposes.

7.5. Dispute Resolution. If any dispute arises regarding the interpretation or application of this Agreement or any determination or calculation thereunder, the parties agree upon the request of either of them to meet and attempt to resolve the same amicably for a period not to exceed

thirty (30) days. If the dispute is not otherwise resolved, the parties may agree to submit any unresolved dispute to binding or advisory arbitration; or the disputing party may file an action in a court of competent jurisdiction located in the County of Fresno, State of California for these purposes.

7.6. Subsequent DISTRICT Agreements. DISTRICT agrees that if, during the term of this Agreement, DISTRICT negotiates a transition agreement with any other municipality which contains more favorable terms than this Agreement, DISTRICT shall notify CITY within thirty (30) days of such agreement and offer those same terms to CITY. More favorable terms, means, but is not necessarily limited to, another municipality paying to DISTRICT a lower percentage of taxes than CITY pays DISTRICT under this Agreement.

IN WITNESS WHEREOF, the parties-hereto have executed this Agreement in the County of Fresno, State of California.

CITY OF CLOVIS

By: 
Kathy Millison, City Manager


Dated: Jan 07, 2003

ATTEST:

By: 
Michael Prandini, City Clerk

Dated: 1/07/03

APPROVED AS TO FORM:

By: 
Thomas J. Riggs
Attorney for CITY

Dated: 1/08/03

FRESNO COUNTY FIRE PROTECTION DISTRICT

By: 
Russell Efrid, Board President

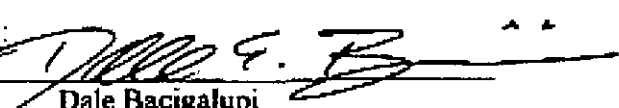
Dated: _____

ATTEST:

By: 
Ray Remy, Board Secretary

Dated: _____

APPROVED AS TO FORM:

By: 
Dale Bacigalupi
Attorney for DISTRICT

Dated: 1-20-03