
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM NO. 7

DATE: **April 10, 2013**

TO: **Fresno Local Agency Formation Commission**

FROM: **Jeff Witte, LAFCo Executive Officer**

SUBJECT: **Consider Adoption: City of Kingsburg "Guardian-Sun Maid Reorganization"**. Proposed annexation of 118.68 acres to the Selma-Kingsburg-Fowler County Sanitation District (SKF) for the territory located between Golden State Boulevard and State Route 99 north of the existing City of Kingsburg City Limits. The proposal will also include the annexation of 430.84 acres to the City of Kingsburg and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located south of east Mountain View Avenue, west of south Bethel Avenue, and east of State Route 99. At the request of Fresno County, the boundary includes the industrialized area and the area between Golden State and State Highway 99 **(LAFCo File No. RO-12-7)**.

Applicant: Don Pauley, City Manager, City of Kingsburg

Land Owners/Parties of Real Interest: Donald and Janet Berry, George and Louise Alves, David Kazanjian, Anastacio and Oralia Mulillo, Susan Scarry, Vie-Del Company, Sun-Maid Growers of California, Guardian Industries, Selma Farmers Market LLC, Consolidated Irrigation District (Phillip Desatoff), Selma-Fowler-Kingsburg County Sanitation District, and the City of Kingsburg

Recommendation:

As explained below, continue to the June 5, 2013, hearing to see whether or not the City of Kingsburg and the Fresno County Fire Protection District can agree on conditioning language with respect to transition of services, property tax revenues, and the operation of Station 83.

Background:

The City of Kingsburg (the "City"), in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, has initiated a reorganization intended to annex 430 acres to the City (118.68 of such acres will be annexed to the Selma-Kingsburg-Fowler Sanitation District) and detached from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District.

On November 19, 2003, the City, in accordance with State law requirements, pre-zoned the entire territory to appropriate zone districts consistent with the City of Kingsburg's General Plan. On September 6, 2012, the Kingsburg City Council certified the mitigated negative declaration prepared for this reorganization with the adoption of Resolution 2012-35. The Kingsburg City Council initiated this reorganization on September 6, 2012, with the adoption of Resolution No. 2012-36. A Certificate of Filing has been issued by the LAFCo Executive Officer.

Consideration of this reorganization requires the Commission to review and consider the Mitigated Negative Declaration prepared and certified by the City for the Guardian/Sun-Maid Annexation and Change of Zone (Pre-Zone) under the requirements of the California Environmental Quality Act ("CEQA").

The Proposed Reorganization:

The proposed Guardian/Sun-Maid Reorganization includes the annexation of approximately 430 acres to the City (118.68 of such acres will be annexed to the Selma-Kingsburg-Fowler Sanitation District) and detachment from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District. The subject territory has been pre-zoned by the City as Heavy Industrial, Light Industrial, and Highway Commercial. The entire area is located within the City of Kingsburg's existing Sphere of Influence and within the North Kingsburg Specific Plan Area which identified the subject territory for future annexation consideration (collectively, the "Project").

The Project area is roughly triangular in shape, located along the north City limits and is generally bounded by Mountain Avenue on the north, Bethel Avenue on the east, and State Route 99 along the south and west. The proposed annexation area is also bisected by Golden State Boulevard and the Union Pacific Railroad that runs parallel to State Route 99.

The majority of the Project area, 350 acres, is developed with industrial/commercial uses, approximately 52 acres are undeveloped, and the remainder consists of street rights-of-way. The environmental setting of the Project area is dominated by agricultural use to the north and east, State Highway 99 to the west, and a recreational vehicle park and vacant land to the south. The agricultural uses are predominantly vineyards and stone fruit.

Pre-zoning of the Project area is a requirement for the annexation and the pre-zoning must be consistent with the City's General Plan in order to meet LAFCo policies. The area east of the railroad had been pre-zoned Heavy Industrial consistent with the Kingsburg General Plan. As part of the Project, the City of Kingsburg pre-zoned approximately 2.35 acres of Highway Commercial east of the railroad, along Mountain View, and approximately 39.29 acres of Highway Commercial and 87.44 acres of Light Industrial between the Golden State Corridor and State Highway 99 consistent with the Kingsburg General Plan and the North Kingsburg Specific Plan. The North Kingsburg

Specific Plan identified the area between the Golden State Corridor and State Highway 99 with a mixed use overlay to allow a range of uses in the future.

The Project also includes the annexation of a portion of the subject property to the Selma-Kingsburg-Fowler County Sanitation District (SKF) and detachment from the Fresno County Fire Protection District, Consolidated Irrigation District, and Kings River Conservation District.

Factors to be Considered Pursuant to Government Code Section 56668

1. Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next ten years.

Within the proposed annexation area there are ten landowners, including only two residences. The current County zoning is heavy industrial and agriculture. The property has been pre-zoned by the City as light industrial, heavy industrial and highway commercial.

The proposed annexation area is located along the north City limits and is generally bounded by Mountain Avenue on the north, Bethel Avenue on the east, and State Route 99 along the south and west. The proposed annexation area is also bisected by Golden State Boulevard and the Union Pacific Railroad that runs parallel to State Route 99.

The majority of the proposed annexation area, 350 acres, is currently developed with industrial/commercial uses, approximately 52 acres are undeveloped, and the remainder consists of street rights-of-way. The environmental setting of the Project area is dominated by agricultural use north and east, State Highway 99 to the west, and a recreational vehicle park and vacant land to the south. The agricultural uses are predominantly vineyards and stone fruit. There is no additional development proposed within the proposed annexation area at this time.

2. The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. As well as the ability of the newly formed or receiving entity to provide the services which are subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary changes.

Water Services – Currently, the three industries have their own water systems. A water main will be extended from Kamm Avenue to Amber Lane. Once the annexation has been approved, ownership of the water main will transfer to the City and be made available for connection to all adjoining properties.

Sanitary Sewer – The subject territory is within the Selma-Kingsburg-Fowler (SKF) County Sanitation District and two of the three industries are already connected to the SKF sewer. For the remaining industry, connection to the SKF sewer will not be difficult to achieve.

Storm Water Drainage – Each of the three industries in the subject territory handle runoff on-site and have ample acreage for this purpose.

Solid Waste Collection – The City of Kingsburg contracts with Waste Management for solid waste collection and the industries in the subject territory have the option of receiving services under this contract.

Police Protection – The subject territory is currently under the jurisdiction of the Fresno County Sheriff's Department and California Highway Patrol. The Kingsburg Police Department will provide law enforcement protection after annexation.

Fire Protection – The subject territory is currently served by the Fresno County Fire Protection District from Station 83, which is located directly across Mountain View Avenue from the Guardian glass plant. Supplemental protection is provided from the Tulare County Fire Department's Kings River Station, the Kings County Fire Department Station at Burris Park, and the City of Kingsburg. Following reorganization, the City of Kingsburg will assume primary responsibility for fire protection.

Ambulance and Paramedic Service – Services are provided by the Kingsburg Fire Department and would continue to be rendered in the same manner.

Street Lighting – The only street light in the public right-of-way serving the subject territory is located at the southwest corner of Bethel and Mountain View Avenues. Responsibility for the provision of street lighting will transition from the County of Fresno to the City of Kingsburg. Sun-Maid is responsible for maintenance of all lights installed on Bethel Avenue along the Sun Maid plant.

Parks and Recreation – The City has a full-time Community Services Coordinator and a Parks Master Plan adopted in 2002. Because the City collects recreation area acquisition and improvement fees only from new residential development, and because the subject territory is industrial in nature, the subject territory will not generate such fees, nor will it generate demand for parks and recreation services.

Transit Services – In cooperation with the Council of Fresno County Governments, the City operates a dial-a-ride transit van in and around the City during business hours six days per week that will serve the subject territory.

Schools – The subject territory is divided by the boundary between the Selma Unified School District and Kingsburg's school districts (Kingsburg Joint Union High School District and Kingsburg Joint Union Elementary Charter School District). Because there are only two residences within the territory, an insignificant number of students, if any, are added to the population of any school. However, the project generates considerable revenues for schools through property taxes and school fees. Building projects within the territory are assessed school fees at the industrial rate of 51 cents per square foot.

Public Right-of-Way – The City will assume responsibility for Bethel Avenue from Kamm Avenue to Mountain View Avenue, and for Indianola Avenue south of Mountain View. The City of Kingsburg is annexing only half of the right-of-way of Mountain View Avenue, leaving the County responsible for the northern (westbound) portion. Projects on Mountain View will have to be coordinated between the City and County of Fresno.

Other Services – City-provided services will be more convenient to access than those currently provided by the County of Fresno. City Hall, the Planning and Development Department, the Senior Center, the police and fire departments, and other city facilities are located within a few miles of the subject territory. In Kingsburg there are branches of the Fresno County Free Library and the Fresno County Superior Court.

3. The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

There are no effects anticipated since the area is covered in the City of Kingsburg's General Plan and is within an area previously designated by LAFCo as the City of Kingsburg's Sphere of Influence.

4. The conformity of both the proposal and its anticipated effects with both the adopted Commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.

See section on consistency of the reorganization with LAFCo Policies, Standards and Procedures below.

5. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.

Although the 2008 Important Farmland Mapping and Monitoring Map for eastern Fresno County identifies portions of the project area as prime farmland, much of the areas so identified is currently developed as industrial and commercial uses consisting of buildings or structures and areas used for the application of wastewater by the Sun Maid Raisin Growers.

Only a small portion of the project site is currently cultivated and the otherwise undeveloped parcels are small, precluding use for production agriculture. A 15-acre vineyard on the south side of Mountain View Avenue west of Bethel Avenue is owned by Guardian Industries. It is anticipated it will be used for future expansion. A remnant vineyard of about four acres also exists between State Highway 99 and Golden State Boulevard southeast of Amber Avenue.

In addition, the City of Kingsburg has a right-to-farm ordinance that will allow the continued operation of agricultural properties upon annexation.

6. The definiteness and certainty of the boundaries of the territory, the conformance of proposed boundaries with lines of assessment or ownership, the creation of island or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

The boundaries are definite and certain and contiguous to the existing City limits. There are no conflicts with lines of assessment or ownership.

7. A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.

A transportation system within the project area is currently developed. The major access to the properties within the project area is from Mountain View to the north, Bethel to the east and south, and Golden State to the west and east. A Traffic Impact Study was prepared for the proposed project, which indicated that the study intersections and road segments currently operate at acceptable levels of service.

8. The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

The entire project area is located within the City of Kingsburg's existing Sphere of Influence and is adjacent to existing City Limits.

9. The comments of any affected local agency or other public agency.

By letter dated November 21, 2012, the City of Selma informed LAFCo of its pending litigation against the City of Kingsburg concerning the Mitigated Negative Declaration. In that letter, the City of Selma requested that "the Commission make any and all determinations upon the Resolution of Application only after notice and hearing on the Resolution of Application, in accordance with applicable law."

This letter was followed up by 2 additional letters dated December 6, 2012 and December 14, 2012, reiterating the same comments.

On March 29, 2013, staff received a large set of documents from the Fresno County Fire Protection District concerning the Guardian/Sun-Maid Reorganization, the lack of a fire transition agreement between the Fresno County Fire Protection District and the City of Kingsburg, the Mitigated Negative Declaration prepared for the Guardian/Sun-Maid Reorganization, and the City's ability to provide fire protection services to the newly annexed territory. Due to the voluminous nature of the documents and the fact that staff only received it a few days before the preparation of this report, staff is in the process of fully reviewing and/or analyzing the documents. They are provided with this report.

10. Timely availability of water supplies adequate for projected needs.

As stated, currently the three industries within the subject territory have their own water systems. A water main will be extended from Kamm Avenue to Amber Lane. Once the annexation has been approved, ownership of the water main will transfer to the City and be made available for connection to all adjoining properties.

11. The 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 as determined by the appropriate council of governments.

Following reorganization, the subject territory will be zoned light industrial, heavy industrial, and highway commercial. No new residences are expected to be constructed within the subject territory.

12. Any information or comments from the landowners, voters, or residents of the affected territory.

As of this writing, LAFCo has not received any information or comments from landowners, voters, or residents. However, LAFCo has received signed consent forms from five of the landowners (11 parcels) owning just less than forty-six percent of the land value.

13. Any information relating to existing land use designations.

The current County zoning for the subject territory is heavy industrial and agriculture.

The 2008 Important Farmland Mapping and Monitoring Map for eastern Fresno County identifies portions of the project area as prime farmland. However, much of the areas so identified are currently developed as industrial and commercial uses consisting of buildings or structures and areas used for the application of wastewater by the Sun Maid Raisin Growers.

Only a small portion of the project site is currently cultivated and the otherwise undeveloped parcels are small, precluding use for production agriculture. A 15-acre vineyard on the south side of Mountain View Avenue west of Bethel Avenue is owned by Guardian Industries. It is anticipated it will be used for future expansion. A remnant vineyard of about four acres also exists between State Highway 99 and Golden State Boulevard southeast of Amber Avenue.

14. The extent to which the proposal will promote environmental justice.

Given the current and projected land uses, staff is not aware of any impact the application will have with respect to the fair treatment of people of all races and income, or the location of public facilities or services.

15. Location and Characteristics of any Disadvantaged Unincorporated Communities

LAFCo staff and the City of Kingsburg have determined that there are no disadvantaged unincorporated communities in the area being annexed or in the surrounding area.

Consistency with LAFCo Policies, Standards and Procedures:

The entire project area is located within the City of Kingsburg's existing Sphere of Influence and is adjacent to existing City Limits.

The proposal is consistent with LAFCo Policy 102-05, which in part states:

All developed urban land inside a City's Sphere of Influence shall be encouraged to annex to the City.

The proposal is consistent within the North Kingsburg Specific Plan Area which identified this territory for future annexation consideration.

No additional development is planned for the affected territory. The Service Plan submitted for this Reorganization indicates that all necessary urban services (police, fire, water, etc.) are available to serve the affected territory. (See Service Plan at www.fresnolafco.org.)

As per State law, the factors to be considered in reviewing reorganization proposals include the extent to which the proposal will promote "environmental justice". As set forth in Government Code Section 56668(o), environmental justice means "the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and provision of public services." Staff believes that the increased level of public services that will be provided by the City to the affected territory supports this objective.

The proposal would carry out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental

agencies so as to advantageously provide for the present and future needs of the County and its communities.

LAFCo Policies, Standards and Procedures section 102-04-041 requires, when a proposed reorganization includes annexation of territory to a city and detachment from a fire protection district, a transition agreement to provide for the orderly transition of services from the fire protection district to the city. Transition agreements are to provide for orderly transfer of service from the fire protection district to the city, and may involve transfer of stations, personnel, equipment, property taxes, etc., as mutually determined by the city and fire protection district.

The fire transition agreement between the Fresno County Fire Protection District and the City expired on December 31, 2012, and a new agreement has not been entered into by the parties. When a fire transition agreement is not in place, LAFCo Policies, Standards and Procedures, requires the City to submit the following information to the Executive Officer:

- (1) A statement explaining why the city does not have a transition agreement in effect with the fire protection district; and
- (2) Reasons, if any, why the city believes that a transition agreement is not necessary or is undesirable for the processing of the proposed reorganization.

In conformance with the requirements of LAFCo Policies, Standards and Procedures, the City provided their reasons in the attached statements concerning the lack of a fire transition agreement between the City and the Fresno County Fire Protection District. The District opposes this Application and has responded with documents disputing the City's contentions and providing additional materials (See Exhibit "A").

Fire Protection Services:

Currently, the subject territory is served by the Fresno County Fire Protection District from Station 83. Station 83 is directly across Mountain View Avenue from the Guardian glass plant (part of the proposed annexation). In addition to receiving fire protection from Station 83, the subject territory receives supplemental protection from the Tulare County Fire Department's Kings River Station (Avenue 400 west of Road 40, about six miles east), the Kings County Fire Department station at Burris Park (Clinton Avenue west of Sixth Avenue, 12 miles south), and the City of Kingsburg.

Upon annexation, the City fire department would assume primary responsibility for fire protection. The City has determined that it has sufficient service capability to meet the fire and emergency response needs of the annexed territory. The closest City of Kingsburg fire station to the subject territory is located in downtown Kingsburg, approximately 2.4 miles from the subject territory. The City also owns a site at the southeast corner of Sierra Street and Bethel Avenue (slightly more than one mile from the subject territory) that has been designated for development of a satellite fire station. This station, if constructed, would provide additional service to the subject property from

the City of Kingsburg. Although a mutual aid agreement is currently in place between the Fresno County Fire Protection District and the City, under which fire staff at Station 83 would respond to a fire within the subject territory, the Fresno County Fire Protection District has indicated that it intends to terminate that mutual aid agreement.

In the absence of a fire transition agreement, the City has indicated that it is willing to agree to provide to the District a lump-sum payment constituting ten years of property tax revenues for allocation toward fire protection, or approximately \$300,000.00. This amount would be consistent with the terms contained in the immediately expired fire transition agreement between the City and the District.

Staff is recommending that this item be continued to the June 5, 2013, hearing to give the City and the District one last attempt to enter into a fire transition agreement consistent with LAFCo Policy 102-04-041. Staff is concerned that Station 83, given its close proximity to the subject territory, would potentially not serve the subject property. One potential remedy to this concern would be an agreement between the City and the District to jointly share the cost of Station 83 as it relates to a proportionate cost for the service needs for the annexed area.

Staff makes note that LAFCo has broad conditioning authority. Under Gov. Code section 56886(h), LAFCo could condition its approval of this application on the "acquisition, improvement, disposition, sale, transfer or division of any property, real or personal."

LAFCo Policy 102-41-041-A allows for the Commission to approve this application in the absence of a fire transition agreement between the City and the District based upon various findings including "any other appropriate reason(s) that are in the public interest, as determined by the Commission."

Property Tax Exchange Agreement:

Revenue and Taxation Code Section 99 provides that whenever an application is filed, but prior to issuing a certificate of filing, the Executive Officer shall initiate a process through the County Assessor and Auditor of generating information to allow for the negotiated exchange of property taxes related to the boundary changes that have been proposed.

On January 16, 2013, LAFCo staff sent notice of the application to the County of Fresno Auditor-Controller, Vicki Crow, requesting resolutions from the subject agencies agreeing on the exchange of property tax revenue. [However, the Auditor-Controller did not respond as the City and County have a Master Tax Sharing agreement in place.](#) Therefore, a negotiated exchange of property taxes related to the proposed boundary changes is not required. A copy of the letter to Vicki Crow is attached at Exhibit "B".

Environmental Impacts and Compliance with CEQA:

The City of Kingsburg (the “City”) is the lead agency and has found that although the Project could have a significant effect on the environment, sufficient mitigation was adopted to prevent significant effects on the environment.

- On April 25, 2012, the City released, for public review and comment, a mitigated negative declaration and a notice of intent to adopt that mitigated negative declaration for the Project (the “Mitigated Negative Declaration” available on the LAFCo website at www.fresnolaftco.org).
- The public review period for the Mitigated Negative Declaration closed on May 25, 2012.
- On September 6, 2012, the Kingsburg City Council certified the final Mitigated Negative Declaration.
- On March 29, 2013, the City of Kingsburg informed the LAFCo Executive Officer that the City intends to provide an addendum to the certified Mitigated Negative Declaration addressing the lack of a fire transition agreement between the Fresno County Fire Protection District and the City of Kingsburg.

In December, 2012, the City of Selma filed a Petition for Writ of Mandate against the City of Kingsburg challenging the City’s certification of the Mitigated Negative Declaration (12CECG03223). A copy of the City’s lawsuit is available on the website at www.fresnolaftco.org.

The City of Selma essentially alleges that it is adversely affected by the City of Kingsburg’s failure to adequately consider, evaluate, and mitigate the significant environmental impacts of the project as it relates to impacts on air quality, agricultural impacts, greenhouse gas emissions, hydrology and water quality, traffic, fire protection, and overall cumulative impacts.

On March 29, 2013, the City informed LAFCo’s Executive Officer that the City intends to provide an addendum to the Mitigated Negative Declaration concerning the lack of a fire transition agreement between the Fresno County Fire Protection District and the City. The lead agency or a responsible agency may prepare an addendum to a previously adopted negative declaration if minor technical changes or additions are necessary. (CEQA Guidelines, § 15164(b)). An addendum need not be circulated for public review but can be included in or attached to the adopted negative declaration. (CEQA Guidelines, § 15164(c)). The decision-making body shall consider the addendum with the adopted negative declaration prior to making a decision on the project. (CEQA Guidelines, § 15164(d)). Section 14(a) of the Mitigated Negative Declaration states as follows:

a) Fire Protection

Less than Significant. The annexed area will be served by the City’s fire department. The City of Kingsburg has determined that it

has sufficient service capability to meet the fire and emergency response needs of the area. A transition agreement is in place between the City and the Fresno County Fire Protection District that addresses financial impacts resulting from detachment from the District. Impacts on fire protection would be less than significant.

Due to the expiration of the fire transition agreement in place between the City and the Fresno County Fire Protection District that was in place at the time the Mitigated Negative Declaration was adopted by the City, the City has prepared an addendum to the Mitigated Negative Declaration (the "Addendum"), which is attached as Exhibit "C".

The City completed Mitigated Negative Declaration covers the action now before the Commission with respect to annexation of 430 acres to the City of Kingsburg, and portions of that same territory to the Selma-Kingsburg-Fowler County Sanitation District (SKF), as well as the detachment of the same territory from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District and the pre-zone of the subject area to Heavy Industrial, Light Industrial, and Highway Commercial.

As a "Responsible Agency" the Commission is required, pursuant to CEQA Guidelines, to independently review and consider the environmental effects of the Project as presented in the adopted Final Mitigated Negative Declaration for the Guardian/Sun-Maid Reorganization prepared by the Lead Agency, the City of Kingsburg, prior to reaching a decision on the Project. (CEQA Guidelines 15096). Once the Commission has considered such impacts, however, the Commission has limited ability to conduct its own separate environmental review. (See *City of Redding v. Shasta County Local Agency Formation Commission* (3d Dist. 1989) 209 Cal.App.3d 1169 (requiring responsible agencies to treat lead agencies' environmental documents as legally adequate even when such documents are the subject of pending litigation against the lead agencies).)

The Commission has several options with regard to CEQA and the certified Mitigated Negative Declaration. The Commission may choose one of the following three options:

Option 1: The Commission can rely on the Mitigated Negative Declaration certified by the City of Kingsburg.

Option 2: The Commission can elect to prepare a subsequent or supplemental mitigated negative declaration for the entire Project. (This option is only available if the Commission believes that substantial new information has become available since the City's certification of the Mitigated Negative Declaration. At this time, Staff is unaware of any such new information other than the litigation mentioned previously.)

Option 3: The Commission can elect to assume the role of lead agency for the Project.

Indemnification Agreement:

Staff recommends that approval of the proposal be conditioned upon the Applicant signing an indemnification agreement, acceptable to the LAFCo Executive Officer and Counsel, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of, or in connection with, the Commission's actions related to this matter.

Alternatives for Commission Action:

Again, staff recommends that the Commission continue this matter for 30 days. This report presents specific actions for the Commission to consider, including the approval of the Guardian/Sun-Maid annexation to the City of Kingsburg and the Selma-Kingsburg-Fowler County Sanitation District (SKF) and the detachment of the same territory from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District and the pre-zoning of the subject area to Heavy Industrial, Light Industrial, and Highway Commercial with specific terms and conditions.

It is recommended that following its review of this report and any testimony and materials that are submitted, the Commission consider the following options:

OPTION 1 – Continue this item to the June 5, 2013, hearing for the reasons specified above.

OPTION 2 - Adopt this report and APPROVE the following proposed action:

Approve the Reorganization annexing 430 acres to the City of Kingsburg (118.68 acres of which shall also be annexed to the Selma- Kingsburg-Fowler Sanitation District) and detached from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District.

1. Acting as Responsible Agency under CEQA Guidelines, find that the environmental effects of the project as shown in the adopted Mitigated Negative Declaration (including the Addendum) prepared and certified by Kingsburg City Council were reviewed and considered and comply with the requirements of CEQA Guidelines section 15096.
2. Find that the proposed reorganization is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including, but not limited to, Section 56668 and Fresno LAFCo adopted Policies, Standards and Procedures, including, but not limited to, Section 102-04-041, and this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

3. Find that approval of the proposed reorganization is based on sufficient information including the Executive Officer's report to the Commission and all other testimony and information provided by persons and interested agencies, and in connection with state law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, CEQA, and Commission Policies, Standards and Procedures.
4. Assign the distinctive short-form designation "Guardian/Sun-Maid Reorganization" and approve the annexation of 430 acres to the City of Kingsburg (118.68 acres of which shall also be annexed to the Selma-Kingsburg-Fowler Sanitation District) and detached from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District, subject to the following terms and conditions:
 - 4.1 Applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter; and
 - 4.2 A transition agreement acceptable to the City and the District concerning staff at Station 83.
5. Waive further Conducting Authority Proceedings and order the reorganization subject to requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the 30-day reconsideration period.
6. Direct staff to initiate and conduct subsequent proceedings in compliance with the decision of the Local Agency Formation Commission only upon the signing of the resolution by the Chair.

OPTION 3 – Adopt this report and DENY the proposed changes.

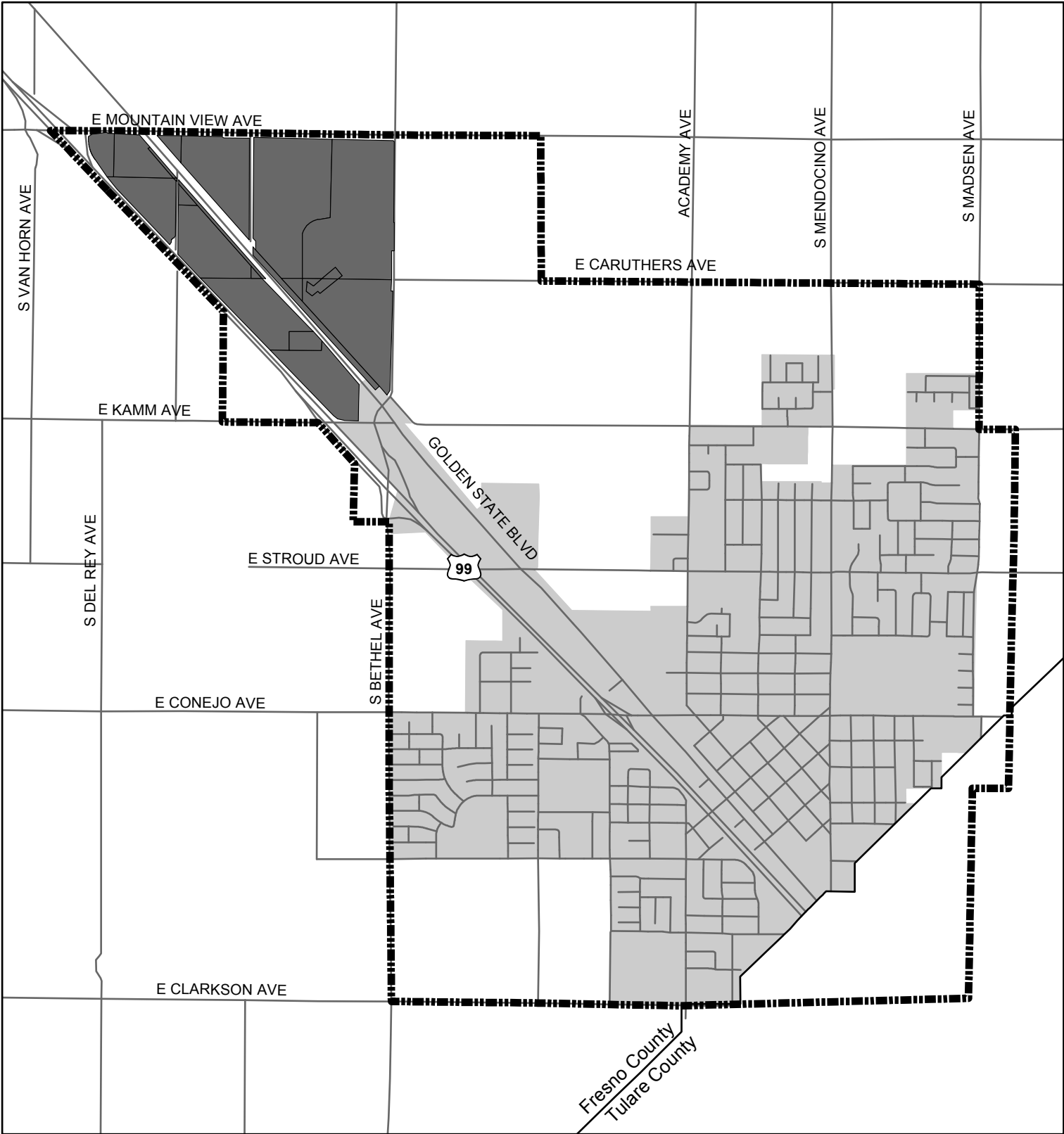
EXHIBITS:

Exhibit "A" – Documents provided by Fresno County Fire Protection District




Exhibit "B" – Revenue & Taxation Code Section 99 Letter to Vicki Crow

Exhibit "C" – Addendum to the Guardian/Sun-Maid Reorganization Mitigated Negative Declaration.

FIGURE 1 - ANNEXATION TO THE CITY



Legend

-  Sphere of Influence
-  City Limits
-  Affected Territory

City of Kingsburg "Guardian-Sun Maid Reorganization"
LAFCo File No. RO-12-7

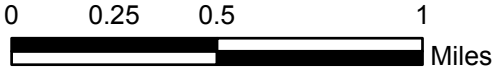
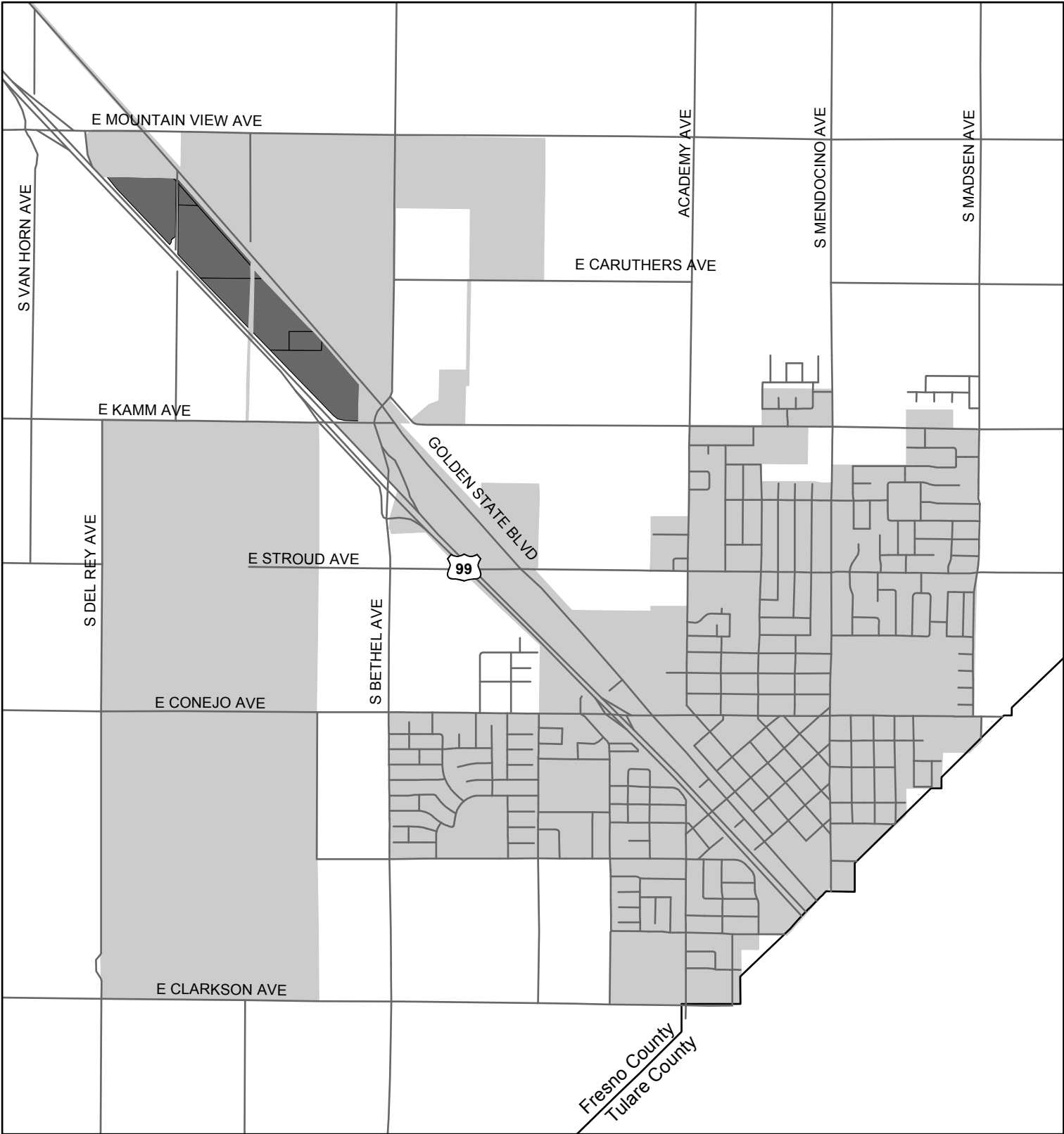




FIGURE 2 - ANNEXATION TO DISTRICT



Legend

-  District Boundary and SOI
-  Affected Territory

City of Kingsburg "Guardian-Sun Maid Reorganization"
LAFCo File No. RO-12-7

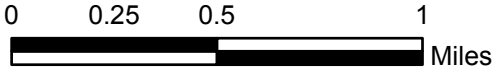




EXHIBIT A

FRESNO COUNTY FIRE

PROTECTION DISTRICT

210 South Academy Avenue
Sanger, California 93657
Telephone: (559) 493-4300
Fax: (559) 875-8473
www.fresnocountyfire.org

March 29, 2013

Jeff Witte, LAFCo Executive Officer
2607 Fresno Street, Suite B
Fresno, California 93721

Re: City of Kingsburg, Sun-Maid Guardian Reorganization

Dear Mr. Witte,



Initially, the Fresno County Fire Protection District ("District") notes that a Municipal Service Review ("MSR") (Government Code section 56430) is currently underway with respect to the District and would be the baseline for significant portions of information requested by you as Commission and the Executive Officer to evaluate the applications of the City of Kingsburg ("City") for change of organization. Accordingly, the District requests that the Commission continue the matter for seventy days consistent with Government Code section 56666 which would be beyond the time frame when the completion of the MSR is currently proposed. In the absence of such information the record on this application could lead to an inconsistent analysis by the Commission's Executive Officer with respect to the facts necessary to determine the primary issue of which local agency can most efficiently provide fire service to the affected territory of the application.

Second, the District notes that the City environmental document under the California Environmental Quality Act (Public Resources Code section 21000, *et seq.* "CEQA") that accompanied the application, a Mitigated Negative Declaration ("MND") for consideration by the Commission and their responsible agency under CEQA is factually inaccurate in at least one respect.

The involved MND disposes of the issue of impact of the application action on the environment, specifically public services - fire protection by indicating that a Transition Agreement is in effect (while acknowledging that it expires on December 31, 2012) between the City and the District. In other words, there are changed circumstances under which the project - the annexation/detachments are to be carried out - something none of the affected agencies would dispute.

Executive Officer Witte
March 29, 2013
Page 2

In referencing these issues, the District reserves the right to comment in all respects on the City application currently scheduled for hearing on April 10, 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith A. Larkin", with a stylized flourish at the end.

KEITH A. LARKIN
Fire Chief

dh

cc: Ken Price, LAFCo Attorney
Armando Lopez, LAFCo President
Michael Del Puppo, Board President
William D. Ross, District Counsel



FRESNO COUNTY FIRE

PROTECTION DISTRICT

210 South Academy Avenue
Sanger, California 93657
Telephone: (559) 493-4300
Fax: (559) 875-8473
www.fresnocountyfire.org

March 20, 2013

VIA ELECTRONIC DELIVERY

jewitte@co.fresno.ca.us
Mando.parlier@gmail.com
kprice@bakermanock.com
mikedelpuppo@fresnocountyfire.org

Don Pauley, City Manager
City of Kingsburg
1401 Draper Street
Kingsburg, California 93631

Dear Mr. Pauley,

In consideration of a "stand alone" Transition Agreement with the City of Kingsburg for the Guardian/Sun Maid reorganization, the Fire District would like the City to clarify their means for providing fire protection services to the affected property once the annexation is complete. In referencing the Negative Declaration submitted for the City action before the annexation, the City states that fire protection services will be provided by the City and through the existing Automatic Aid Agreement with the Fire District. Given the current level of emergency response services provided to the City by the Fire District through our Automatic Aid Agreement and the close proximity of Fire District Station 83 facilities to the affected property, the Fire District is concerned that fire services will remain their primary responsibility after the annexation.


As you know, in 2007 the Fire District and City of Kingsburg entered into an Automatic Aid Agreement for fire protection services. Within that Agreement the City agrees to provide one (1) engine with 2 personnel staffing when requested by the Fire District and the Fire District agrees to provide a Chief Officer and two (2) engines with 2 personnel staffing when requested by the City. To illustrate how this equates in sharing of resources, in 2012 the Fire District responded into the City of Kingsburg on 88 calls, with 115 Fire Apparatus, for a total of 145 hours of time committed and by comparison the City of Kingsburg has responded into the Fire District on 39 calls, with 42 Fire Apparatus, for a total of 15 hours of time committed. As you can see, the level of support the Fire District is providing to the City in time commitment is almost ten (10) times that provided by the City to the Fire District. This does not include any additional resources that may be called upon from the Fire District including Water Tenders, technical rescue, Hazardous Materials, Critical Incident Stress Management (CISM), breathing support, and ICS organization for large scale incidents.

Mr. Pauley
March 20, 2013
Page 2

Once the Fire District has received a Standards for Deployment Plan from the City of Kingsburg that appropriately addresses the response to fire protection and hazardous materials incidents occurring at the Sun Maid and Guardian Glass facilities, we will welcome the opportunity to engage in discussions for formulating a "stand alone" Transition Agreement.

If you should have any questions or need further clarification, please feel free to contact me at (559) 493-4300.

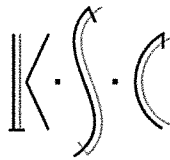
Sincerely,



KEITH A. LARKIN
Fire Chief

gw

cc: Mike Del Puppo, Board President
Jeff Witte, LAFCo Executive Officer
Armando Lopez, LAFCo Chairman
Ken Price, LAFCo Legal Counsel



KAHN, SOARES & CONWAY, LLP
ATTORNEYS AT LAW

MICHAEL J. NOLAND
HANFORD OFFICE
mnoland@kschanford.com

March 8, 2013



Via Email (cfleming@co.fresno.ca.us) and U.S. Mail

Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission
2607 Fresno Street, Suite B
Fresno, CA 93721

Re: Stand-Alone Fire Transition Agreement for the Guardian-Sun Maid
Reorganization;
Our File No. 11141.01

Dear Mr. Witte:

This letter is in response to your letter dated February 25, 2013 addressed to Don Pauley, City Manager for the City of Kingsburg and Keith Larkin, Chief, Fresno County Fire Protection District.

Please be advised the City of Kingsburg will enter into a stand-alone Fire Transition Agreement, only for the Guardian-Sun Maid Reorganization, having the same terms and conditions as the Transition Agreement between the City of Kingsburg and the Fresno County Fire Protection District dated October 16, 2003 and which expired on December 31, 2012 ("**Transition Agreement**"). In accordance with the provisions of Section 3.1 of the Transition Agreement, the City of Kingsburg will pay the Fire Transition Fee of approximately Three Hundred Thousand Dollars (\$300,000.00) to the Fresno County Fire Protection District within sixty (60) days after the end of the fiscal year in which the City of Kingsburg starts to receive the City's apportionment of general purpose ad valorem real property tax revenue from the annexation territory.

The City of Kingsburg will prepare the stand-alone Fire Transition Agreement in accordance with the statements set forth in this letter upon being advised by the Fresno County Fire Protection District of its agreement to proceed in the same manner.

March 8, 2013

Page 2

Should you have any questions with regards to the statements set forth in this letter or wish to discuss this matter further, please do not hesitate to contact me.

Thank you for your continued assistance with regards to this matter.

Sincerely,

KAHN, SOARES & CONWAY, LLP

A handwritten signature in black ink, appearing to read "Michael J. Noland", written over the printed name.

Michael J. Noland

MJN/jla

Enclosure

cc: Kenneth Price, LAFCo Legal Counsel
Donald F. Pauley, City Manager, City of Kingsburg



FRESNO COUNTY FIRE

PROTECTION DISTRICT

210 South Academy Avenue
Sanger, California 93657
Telephone: (559) 493-4300
Fax: (559) 875-8473
www.fresnocountyfire.org

February 27, 2013

Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission
2607 Fresno Street, Suite B
Fresno, California 93721

Dear Mr. Witte,

The Fresno County Fire Protection District (District) is in receipt of your letter dated February 25, 2013, in which you reference a "stand-alone" Transition Agreement for the Guardian-Sun Maid Reorganization. Please accept this letter as a point of clarification to the discussions held at the meeting in my office on February 20, 2013, attended by LAFCo Counsel Ken Price, yourself, and myself.

The District is willing to give consideration to utilizing the Transition Agreement that expired this past December 31, 2012, as a stand-alone agreement with the City of Kingsburg (City) for the Guardian-Sun Maid Reorganization. However, it was offered as a good faith gesture to the City with the conditions that the City agree to pay the District as a prorated portion of the current property tax revenue received by the District (as per the Agreement calculations) and that the City be willing to enter into a successor agreement. The District simply asks for the City to put forth a good faith gesture in return.

Since it appears that LAFCo has taken on the mediator role in these discussions, please provide this clarification to the City of Kingsburg and advise us of their response.

Thank you for your assistance with this matter.

Sincerely,

KEITH A. LARKIN
Fire Chief

gw

cc: Michael Del Puppo, Board President

Witte, Jeff

From: Don Pauley <dfpauley@cityofkingsburg-ca.gov>
Sent: Tuesday, February 26, 2013 4:47 PM
To: bhaddix@ci.sanger.ca.us; Bruce Rudd; 'John Holt'; 'Rene Ramirez'; 'Rob Brown'; 'Steve Henry'; Dave Elias; D-B Heusser; Fire Chief; 'Greg Tarascou'; 'Jerry Isaak'; 'John Borboa'; Lou Martinez; 'Mark Scott'; 'Mike Despian'; 'Mike Kain'; Nicole Zieba; 'Rob Wooley'; Roseann Galvin; scarrigan@ci.sanger.ca.us
Subject: Final meeting

The Fire Transition Agreement Committee held its final meeting with the Fire District this morning. The purpose for the meeting was to explore with Chief Larkin his statements that the District is open to negotiating Transition Agreements with other jurisdictions different from the terms contained in the Clovis agreement. Considering that the Clovis agreement contains a most favored nation status clause that would allow Clovis to benefit from any agreement(s) that have a more favorable fiscal impact the Committee wanted to clarify what he meant. In our meeting Chie Larkin offered a very disturbing scenario.

The District proposal is to include in future transition agreements with individual jurisdictions a service component that could include dispatch services as a condition of Auto Aid Agreements with the District; he argued that this would improve the dispatch of closest available units thus avoiding delays; and Training, Servicing of vehicles and equipment, and Prevention, i.e. business inspections and plan checks. These service components are offered as an offset to the financial impacts of the transition agreement. Clearly any jurisdiction wishing to avail themselves of one or more of these service components will be an element of the template and done so on a case-by-case basis. Whether they result in a most favored nation status clause implication will be determined by the City of Clovis.

In the end it was clear that the District is unwilling to make changes that they feel will impact the financial benefits of the Clovis agreement. All they are willing to do is offer other jurisdictions services that further tie them to the District into the future and offer some "benefits" for allowing the District to continue to collect property tax revenues for ten years after an annexation.

Based on the District's proposal the Committee has determined that the Clovis agreement will serve as the template for jurisdictions wishing to enter into an agreement with the District. Whether the jurisdiction will avail themselves of the service components being offered by the District must be on a jurisdiction-by-jurisdiction basis. The Committee would further suggest that any agreement be annexation specific until the LAFCo Board has made changes to their policies requiring transition agreements to avoid any conflict over the application of new LAFCo policies to agreements that are in effect at the time LAFCo takes such action.

The LAFCo Board will be receiving an update from the Committee on the status of negotiations at the Boards March 13th meeting. They will also be receiving a white paper from their staff on their transition agreement policy. This meeting will be at 1:30 PM in the Board of Supervisors Board room. You might want to put it on your calendar as the presence of all cities will continue to show our interest in and desire for change.

Thank you for allowing me to serve as the Chair of the Committee. I would encourage all of you to continue your vigilance and input with LAFCo and the implementation of a County-wide Auto Aid Agreement between all of the cities. Only through those efforts will we be able to show the District, LAFCo and the County that we are able to function in a mutually self-supporting way.

Don Pauley
City Manager
City of Kingsburg
1401 Draper Street
Kingsburg, CA 93631
Phone: (559) 897-5821
Fax: (559) 897-5568
dfpauley@cityofkingsburg-ca.gov
Web Site: cityofkingsburg-ca.gov

"Do what you love in the service of people who love what you do" Steve Farber



Fresno Local Agency Formation Commission

February 25, 2013

Mr. Don Pauley, City Manager
City of Kingsburg
1401 Draper Street
Kingsburg, CA 93631

Mr. Keith Larkin, Chief
Fresno County Fire Protection District
210 S. Academy Avenue
Sanger, CA 93657

Dear Mr. Pauley and Chief Larkin:

Subject: Stand-Alone Fire Transition Agreement for the "Guardian-Sun Maid Reorganization"

Per our recent conversations, it is my understanding that both the City of Kingsburg and the Fresno County Fire Protection District would be agreeable to entering into a "stand-alone" fire transition agreement for the "Guardian-Sun Maid Reorganization" utilizing the same terms of the fire transition agreement that expired on December 31, 2012. It is also my understanding that the City of Kingsburg is willing and able to pay the same fire transition fee (approximately \$300,000) described in the expired agreement to the Fresno County Fire Protection District.

LAFCo policies require that a copy of the transition agreement be supplied to the Executive Officer along with the completed application. I ask that you provide me with an executed copy of the stand-alone fire transition agreement as soon as possible. Alternatively, because I am aware of the terms of the prior agreement, the City and District may each supply me with a confirmatory letter of their intent to move forward with such a stand-alone agreement. However, I do ask that you provide the Commission with the fully executed stand-alone agreement by the time the item is considered before the Commission, which I anticipate to be April 10, 2013.

Please let me know as soon as possible if you have any further questions or concerns.

Yours truly,


Jeff Witte
Executive Officer

JW:cf

Cc: Darlene Mata, Planning Consultant
Ken Price, LAFCo Counsel



EXHIBIT B

Fresno Local Agency Formation Commission

NOTICE OF FILING OF APPLICATION FOR JURISDICTIONAL CHANGE UNDER REVENUE AND TAX CODE SECTION 99

DATE: January 16, 2013

TO: Dave King, Assessor's Office
Vicki Crow, Auditor-Controller's Office

SUBJECT: "Guardian-Sun Maid Reorganization" (Revised – Maps & Legal
Descriptions Attached)

In order to begin the computations required by Section 99 of the Revenue and Taxation Code, we are giving you notice that the subject application has been received for processing. Before we can issue a certificate of filing, resolutions from the subject local agencies agreeing on the exchange of property tax revenue are required. Any special district affected may negotiate on its own behalf. The Board of Supervisors shall negotiate and adopt such resolution on behalf of the subject special districts.

The agencies whose service area or responsibilities will be altered by the application are:

Fresno County Fire Protection District
Kings River Conservation District

Please refer to the pertinent provisions of Section 99(b) for the procedures. Since there are time limitations within these particular sections, we would appreciate your prompt attention to the matter. Attached is a map of the area of the jurisdictional change.

Also, please send us a copy of the letter from the County Auditor sent out to the affected agencies, and a list of those agencies, giving the calculations done by your office. Unless otherwise instructed by that agency, your letter requesting negotiation should be sent to the clerk of the local agency. Please notify us of the date of mailing for all affected agencies.

Thank you.

JEFF WITTE
EXECUTIVE OFFICER

JW:cf

cc: John Navarette, Administrative Officer (app. and map)
City of Kingsburg (applicant)
Gigi Gibbs, Economic Development Analyst

ADDENDUM TO GUARDIAN/SUN-MAID REORGANIZATION INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

INTRODUCTION

On August 15, 2012, the City of Kingsburg City Council, by resolution, adopted a Mitigated Negative Declaration for the Guardian/Sun-Maid Reorganization (“**Annexation**”). The Initial Study evaluated whether the impacts from the Annexation and pre-zoning (collectively, “**Project**”) of approximately 430 acres of land (collectively, “**Territory**”) into the City of Kingsburg and a portion of the Territory into the Selma-Kingsburg-Fowler County Sanitation district may have a significant effect on the environment. The Annexation of the Territory results in the detachment of the Territory from the Fresno County Fire Protection District, Consolidated Irrigation District and the Kings River Conservation District. The Project includes the pre-zoning of the Territory to Heavy Industrial, Light Industrial and Highway Commercial.

Effective, December 31, 2012, the Transition Agreement Between the City of Kingsburg and the Fresno County Fire Protection District Regarding Transfer of Certain General Ad Valorem Real Property Tax Revenue Affected by Annexations dated October 16, 2003 (“**Transition Agreement**”) expired. The City of Kingsburg and the Fresno County Fire Protection District have not entered into a new transition agreement.

STATUTORY ANALYSIS

Under the California Environmental Quality Act (“**CEQA**”), an addendum to an adopted Negative Declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15163 of the CEQA Guidelines calling for preparation of a subsequent negative declaration have occurred. Section 14 of the Initial Study (Public Services) acknowledges the existence of the Transition Agreement which addresses financial impacts (revenue transfers from the City of Kingsburg to the Fresno County Fire Protection District) that may result from the detachment of the Territory from the Fresno County Fire Protection District. The Transition Agreement did not require the Fresno County Fire Protection District to continue to provide fire protection services to the Territory after annexation and expiration of the Transition Agreement did not result in any new or increased impacts to fire protection services for the Territory after annexation. Additionally, the City of Kingsburg Fire Department has sufficient capacity to service Territory with both fire and emergency services.

The provisions of Section 15162 of the CEQA Guidelines do not require the preparation of a subsequent negative declaration because the expiration of the Transition Agreement does not result in:

(i) a substantial change in the Project which will require major revisions of the Mitigated Negative Declaration due to the involvement of new significant environment effects or a substantial increase in the severity of previously identified significant effects;

(ii) a substantial change with respect to the circumstances under which the Project is undertaken which will require major revisions of the Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(iii) new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Mitigated Negative Declaration was adopted which shows any of the following: (a) the Project will have one or more significant effects not discussed in the Mitigated Negative Declaration; (b) significant effects previously examined will be substantially more severe than shown in the Mitigated Negative Declaration; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City of Kingsburg declined to adopt the mitigation measure or alternative; or (d) mitigation measures or alternatives which are considerably different from those analyzed in the Mitigated Negative Declaration will substantially reduce one or more significant effects on the environment, but the City of Kingsburg decline to adopt the mitigation measure or alternative. Therefore, this Addendum satisfies the requirements of Section 15164 of the CEQA Guidelines.

SUMMARY AND FINDINGS

All potential impacts identified on the Initial Study “Environmental Checklist” were reconsidered in the preparation of this Addendum. For all impact areas identified on the “Environmental Checklist”, the expiration of the Transition Agreement will not result in any: (i) physical changes to the Territory; (ii) changes to the Project; (iii) new impact(s) not already identified in the Guardian/Sun-Maid Reorganization Mitigated Negative Declaration; or (iv) substantial increase in the severity of previously identified impacts. This Addendum supports the finding that the Project does not result in any new impacts and does not exceed the level of impacts identified in the Mitigated Negative Declaration due to Project modification, physical changes to the Territory or new information regarding the Project.

This Addendum is written as an addition to and will be attached to the Guardian/Sun-Maid Reorganization Mitigated Negative Declaration, adopted August 15, 2012. A copy of this Addendum is available for review at the City of Kingsburg Planning Department, 1401 Draper Street, Kingsburg CA 93631.