

**Attachment 'A'**

**Resolution No. 2024- \_\_\_\_**

**A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION  
RECOMMENDING TO THE CITY COUNCIL TO INITIATE ANNEXATION FOR  
THE WHISPERING FALLS RESIDENTIAL PROJECT CONSISTING OF 5  
PARCELS IDENTIFIED AS APNs 020-160-36S, 020-160-18S, 020-160-19S,  
020-041-45S, AND 020-141-47S CONTAINING APPROXIMATELY 60 ACRES  
LOCATED ON THE EAST SIDE OF SOUTH MODOC AVENUE BETWEEN  
WEST KEARNEY BOULEVARD AND THE WEST CALIFORNIA AVENUE  
ALIGNMENT/SAN JOAQUIN VALLEY RAILROAD (ANNEXATION 2023-01)  
AND ADOPTION OF MITIGATED NEGATIVE DECLARATION (ENV 2023-01)  
AND MITIGATED MONITORING AND REPORTING PROGRAM**

**WHEREAS**, the City of Kerman desires to initiate proceedings, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code; and

**WHEREAS**, Government Code section 56654 provides that “[a] proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency . . . [;]” and

**WHEREAS**, the specific changes of organization requested consists of an annexation into the City of Kerman and detachment from the County of Fresno and a reorganization from the Kings River Conservation District into the Fresno Irrigation District of the parcels identified as APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, and 020-041-47S and the adjacent right-of-way on South Modoc Avenue and the West California Avenue Alignment (“Project Area”); and

**WHEREAS**, the Project Area includes one (1) active Williamson Act contract (APN 020-160-19S) as the northernmost parcel (which is not currently proposed for development);

**WHEREAS**, the City will not succeed to the rights, duties, and powers of the County under the Williamson Act contract for APN 020-160-19S, as allowed under California Government Code 51243.5, and meeting all the criteria under Subsection (d)/(e); and

**WHEREAS**, a map of the boundaries of the territory is set forth in Exhibits ‘A-1’ attached hereto and by this reference incorporated herein; and

**WHEREAS**, the proposed annexation area is inside the Sphere of Influence (SOI) of the City of Kerman; and

**WHEREAS**, the City has an agreement with the County of Fresno to comply with Revenue and Tax Code Section 99 regarding property tax revenue transfer upon annexation, which MOU includes standards of annexations; and

**WHEREAS**, the City does not propose any specific term and conditions for the proposed reorganization; and

**WHEREAS**, the reasons for this proposed annexation is to allow for the implementation of the City of Kerman 2040 General Plan adopted in July 2020; and

**WHEREAS**, the Project Area contains approximately 5 existing parcels containing approximately 60 acres within the City's existing Sphere of Influence, and is located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad (see Exhibit 'A-1'); and

**WHEREAS**, approval of the project would require approval of an Annexation 2023-01, Rezone 2023-01, General Plan Amendment 2023-01, Tentative Subdivision Map 2023-01, Development Plans 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-01; and

**WHEREAS**, the City prepared an Initial Study, Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program dated June 2024 (SCH #2024040147) for the project, and this related annexation; and

**WHEREAS**, the Planning Commission held a public hearing on July 15, 2024, to consider a recommendation to the City Council regarding annexation of the Project Area shown in Exhibit 'A-1'; and

**WHEREAS**, in conjunction with the public hearing on July 15, 2024, the Planning Commission considered a recommendation of rezoning and annexation for the Project Area, consistent with the General Plan, as amended; and

**WHEREAS**, in the public hearing on July 15, 2024, the Planning Commission considered recommending to the City Council that no significant environmental impacts would result from the proposed project with the incorporation of mitigation measures, adopt a Mitigation Monitoring and Reporting Program, dated June 2024 and certify that Mitigation Negative Declaration 2023-01 (SCH #2024040147) was prepared pursuant to CEQA; and

**WHEREAS**, after due consideration of all the items before it, the Planning Commission now desires to adopt this Resolution recommending to the City Council to initiate the annexation of the Project Area and Adoption of Mitigated Negative Declaration 2023-01 and Mitigated Monitoring and Reporting Program Prepared for the project.

**NOW, THEREFORE**, the Planning Commission of the City of Kerman resolves as follows:

1. Recitals. The Planning Commission hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA. Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA) of 1970, the City, as the Lead Agency, has analyzed the proposed Project and has prepared an Initial Study and Mitigated Negative Declaration 2023-01 (MND) and Mitigated Monitoring and Reporting Program dated June 2024 (SCH #2024040147) to evaluate the environmental effects of the project, including the proposed annexation. The Environmental Assessment / Initial Study was prepared for this project in accordance with the requirements of the CEQA Guidelines and reflects the City Council's independent judgment and analysis. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations. Preparation of Environmental Assessment necessitated a thorough review of the proposed Project and relevant

environmental issues. While the proposed Project could have a potentially significant effect on the environment, based on its independent judgment and analysis, the Planning Commission recommends the City Council find that feasible mitigation measures or alternatives have been incorporated into the project in order to avoid the effects or mitigate the effects to a point where no significant effect on the environment will occur, and there is no substantial evidence in the record that this Project may have any direct, indirect or cumulative effects on the environment that are potentially significant and adverse. The proposed Project will not result in any adverse effects which fall within the “Mandatory Findings of Significance” contained in Section 15065 of the State CEQA Guidelines. The project-specific mitigation measures included in the Project to avoid potentially significant effects are set forth in the Initial Study/Mitigated Negative Declaration and accompanying Mitigation Monitoring and Reporting Program. With the project specific mitigations imposed, there is no substantial evidence in the record that this Project may have significant direct, indirect or cumulative effects on the environment. As such, the Planning Commission recommends the City Council also find and determine that in light of the entire administrative record and the substantial evidence before it, the Project has been adequately environmentally assessed as required by CEQA per the the Initial Study/Mitigated Negative Declaration.

3. Recommendation of Adoption of MND and Mitigation Monitoring and Reporting Program. Based on the foregoing, the Planning Commission recommends that the City Council adopt the Mitigated Negative Declaration prepared for the Project, including the associated Mitigation Monitoring and Reporting Program, as the project will not result in any significant, adverse, environmental impacts with the mitigation imposed. The City of Kerman Community Development Department located at 850 S. Madera Ave. Kerman, CA 93630, is recommended to be designated as the custodian of the documents and other materials that constitute the record of proceedings upon which the decision is based. The Planning Commission further recommends that the City Council authorize the Director, or designee, to execute and file with the Fresno County Clerk, as appropriate, a Notice of Determination for approval of the Project.
4. General Plan Consistency. The Planning Commission finds that the annexation is consistent with the goals, objectives, and policies of the Kerman General Plan, as amended by General Plan Amendment 2023-01. In this regard, the Planning Commission recommends the City Council find that public necessity, convenience, general welfare, or good zoning practices justify annexation of the Project Area. Specifically, the annexation and pre-zoning change is consistent with the General Plan goals and policies, any operative plan, or adopted policy including LU-3.2 Urban Form; LU-3.3 Prevent Sprawl Development; and LU-5.4 New Incompatible Land Uses as described below, and implements the planned residential land uses in the Project Area.
  - (a) General Plan Policy LU-3.2. Urban Form: To maintain the City’s compact form, this policy requires the City to maintain growth management controls by managing changes to the City’s Sphere of Influence and incorporated City limits. Future changes to the City’s Sphere of Influence are managed by two growth lines, “Area 1” and “Area 2.” The Project Area is in Area 1.

In particular, the Project Area is within “Area 1” of the City’s Sphere of Influence. LU 3.2 Urban Form allows the City to consider requests to amend the current Sphere of influence and City limits into Area 1 based on the ability of the City to provide services to the area.

Further, for any change in Sphere of Influence or City Limits, the City is to consider 1) 80% of The change is also consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner, and to promote and protect the public health, safety, peace, comfort, and general welfare. The change is also necessary for good zoning practices to achieve the balance of land uses desired by the City and to provide sites for needed residential uses consistent with the General Plan.

- (b) General Plan Policy LU-3.3. Prevent Spawl Development. The City shall direct new development to areas that are continuous to existing or approved development and prevent sprawl development. The Project Area is contiguous to existing and approved development within City limits. Therefore, the Project is consistent.
- (c) General Plan Policy LU-5.4. New Incompatible Uses. This policy prohibits the City from introducing new incompatible land uses and environmental hazards into existing residential areas. The Project Area is adjacent to existing or approved residential development. The Project would result in new residential uses within a residential area and would not introduce incompatible land uses or environmental hazards. Therefore, the Project is consistent.

5. Findings for Annexation. The Planning Commission further finds, and recommends the City Council find, as follows:

- (a) The proposed annexation is within the City's adopted Sphere of Influence.

*This project is located within Area 1 of the proposed Sphere of Influence outlined in the General Plan and maintains growth management controls consistent with the General Plan including but not limited to LU-3.2, LU-3.3, LU-5.4.*

- (b) The proposal must be consistent with city general and specific plans, including adopted goals and policies.

*The proposed annexation area will be consistent with the City's General Plan goals and policies contingent upon approval of the entitlements, including the General Plan Amendment, Prezone/Rezone, Tentative Subdivision Map, Development Plans, Conditional Use Permit, and Variance, including but not limited to LU-2.1, LU-2.4, LU-2.5, LU-3.2, LU-3.3, LU-5.4, CIRC-1.10, and CIRC-2.1.*

- (c) Pursuant to CEQA, the proposal must mitigate any significant adverse effect on continuing agricultural operations on adjacent properties, to the extent reasonable and consistent with the applicable general and specific plan.

*The City has prepared an Initial Study / Mitigated Negative Declaration (MND) for the project. The MND has concluded that no significant environmental impacts will occur as a result of the project.*

(d) At least 25% of the area proposed for annexation has an approved tentative subdivision map(s) (single-family residential) and an approved site plan (for uses besides single-family).

*The proposed annexation would meet this condition whereby at least 25% of the proposed annexation area will include an approved tentative map for single-family residential and approved development plan for multi-family residential.*

(e) The annexation is to fulfill the city's Regional Housing Needs Allocation (RHNA) obligation which otherwise cannot be accommodated on lands currently within the city's incorporated boundary.

*The proposed annexation would meet this condition whereby the City has contemplated this annexation area as a housing program necessary to fulfill RHNA obligations within the City's 6<sup>th</sup> Cycle Housing Element Update.*

(f) The proposal would not create islands. Boundaries must ultimately minimize creation of peninsulas and corridors, or other distortion of boundaries.

*The proposed annexation area would not create islands. New boundaries would not create any peninsulas or corridors.*

4. Recommendation for Approval. Based on the information provided above, the Planning Commission recommends to the City Council of Kerman to initiate annexation for the entire Project Area that is not within the City limits, by adopting a resolution of application requesting the Local Agency Formation Commission of Fresno County to initiate proceedings for the change of organization of territory as described in Exhibit 'A-1', in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The Planning Commission recommends the City Council direct the City Manager to take all necessary steps to submit a complete application for the proposed annexation, including preparation and submittal of all LAFCO required forms, documents and studies and payment of all required fees, in accordance with any applicable agreement with the County of Fresno governing the same. The Planning Commission further recommends that the City shall, at least 30 days prior to filing any annexation proposal with the Fresno Local Agency Formation Commission, notify the County of Fresno of the City's intention to file such proposal and the date upon which City expects such proposal to be filed.
5. Effective Date of Resolution. This Resolution shall become effective immediately. The Secretary of the Planning Commission shall certify to the adoption of the Resolution and shall transmit copies of the same to the City Council of the City of Kerman.

**I HEREBY CERTIFY** that the foregoing Resolution was approved at a special meeting of the City of Kerman Planning Commission on the 15th day of July 2024, and was fully adopted at said meeting by the following vote:

Ayes:

Noes:

Absent:

Recused:

The foregoing resolution is hereby approved.

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Scott Bishop  
Chairperson

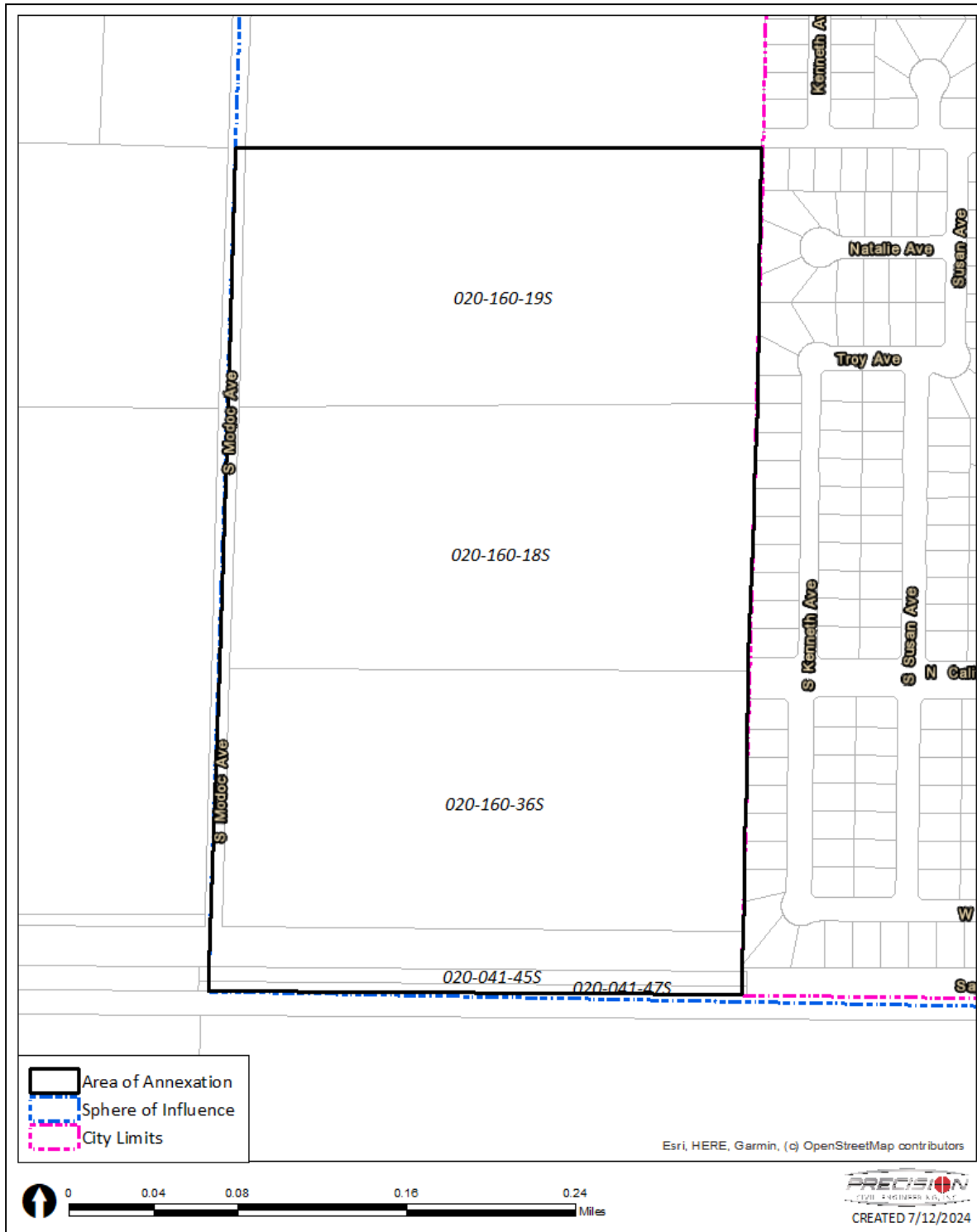
Attest:

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Jesus R. Orozco  
Planning Commission Secretary

Exhibit 'A-1': Proposed Area of Annexation

EXHIBIT 'A-1'  
Annexation 2023-01  
PROPOSED AREA OF ANNEXATION



APNs: 020-160-19S, 020-160-18S, 020-160-36S, 020-041-45S, 020-041-47S