

RESOLUTION NO. 25-__

A REVISED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN INITIATING ANNEXATION FOR THE WHISPERING FALLS RESIDENTIAL PROJECT CONSISTING OF SIX (6) PARCELS IDENTIFIED AS APNS 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, 020-041-47S, AND 020-041-09U CONTAINING APPROXIMATELY 64.76 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).

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 the Kings River Conservation District of the parcels identified as APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, 020-041-47S, and 020-041-09U 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) at the northernmost parcel (which is not currently proposed for development); and

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 **Exhibit ‘1’** attached hereto and by this reference incorporated herein; and

WHEREAS, the affected territory proposed to be changed is uninhabited, and on this day contains 3 registered voters, according to information received from the County Elections Office; 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 memorandum of understanding 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 through the development of a residential project proposed by Whispering Falls, LLC. (“Developer”); and

WHEREAS, the Project Area contains six (6) existing parcels containing approximately 64.76 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 (**Exhibit ‘1’**); and

WHEREAS, approval of the project requires approval of 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 annexation for the Project Area, consistent with the General Plan, as amended; and

WHEREAS, after due consideration of all the items before it, the Planning Commission recommended the City Council initiate the annexation of the Project Area; and

WHEREAS, all prerequisites for the initiation of proceedings, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, have been met; and

WHEREAS, the City Council held a duly noticed public hearing on the project; and

WHEREAS, after due consideration of all the items before it, the City Council now desires to adopt this Resolution to initiate proceedings for the affected territory as set forth in **Exhibit ‘1’**.

NOW, THEREFORE, the City Council of the City of Kerman resolves as follows:

1. Recitals. The City Council hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA. The City Council previously adopted Mitigated Negative Declaration 2023-01 (MND) for the project. The MND identified the annexation. The annexation does not change the environmental assessment of the MND. Further, the MND was recently adopted by the City Council. The City Council further finds that no subsequent review

is required under CEQA Guidelines section 15162 as since that time no substantial changes have been proposed in the project which will require major revisions of the previously adopted MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Likewise, no substantial changes have occurred since that time with respect to the circumstances under which the project is undertaken which will require major revisions of the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is also no new information, which was not known and could not have been known at the time of the adoption of the MND that the project will have significant effect not discussed in the MND. As such, the City Council finds Annexation 2023-01 has already been fully assessed in accordance with CEQA, no subsequent review is required under CEQA Guidelines section 15162, and no further action or review is required under CEQA.

4. General Plan Consistency. The City Council 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 City Council finds 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 Sprawl 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 City Council finds, 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 6th 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. Approval of Initiation of Reorganization. Based on the information provided above, the City Council of the City of Kerman approves initiation of annexation and reorganization 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 '1'**, in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The City Council authorizes and directs the City Manager to take all necessary steps to effectuate and initiate such reorganization proceedings, and to support Developer's processing of the same at Developer's sole cost and expense.
5. Effective Date of Resolution. This resolution shall become effective immediately after the City Council approves Rezone 2023-01 and said ordinance adopting the same then becomes effective. If said ordinance does not become effective within 65 days of the adoption of this Resolution, or the ordinance is not otherwise adopted by the City Council, then Annexation 2023-01 shall be returned to the City Council for further consideration and a final decision.

The foregoing resolution was adopted by the City Council of the City of Kerman at a regular meeting held on the 12th day of March 2025, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

The foregoing resolution is hereby approved.

Maria Pacheco
Mayor

ATTEST:

Josie Camacho
City Clerk

Exhibit '1': Proposed Area of Annexation (Annexation 2023-01)

Exhibit '1'

Proposed Area of Annexation (Annexation 2023-01)

