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

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**AGENDA ITEM NO. 11**

**DATE:** June 13, 2007

**TO:** Fresno Local Agency Formation Commission

**FROM:** Rick Ballantyne, Executive Officer

**SUBJECT:** **Conducting Authority Proceedings - City of Fresno "Dakota-Temperance No. 1 Reorganization"**. A reorganization consisting of the annexation of 51.91 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District for territory located north of the E. Dakota Avenue alignment and both east and west of N. Temperance Avenue (**LAFCo File No. RO-07-8**).

**Background and Summary**

- This protest hearing is being conducted pursuant to the California Government Code commencing with Section 57000 which requires LAFCo to carry out Conducting Authority Proceedings.
- At its April 18, 2007 meeting, the Commission conditionally approved the "Dakota-Temperance No. 1 Reorganization" by adopting Resolution No. RO-07-8, attached to this Report as Exhibit "A", and incorporated herein by this reference. This protest hearing is required because not all landowners and registered voters had signed consent forms prior to Commission's action.
- The approved reorganization consists of the annexation of 51.91 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District for territory located north of the E. Dakota Avenue alignment and both east and west of N. Temperance Avenue.
- At today's hearing, prior to consideration of protests, the Commission's resolution making determinations will be summarized. The Commission will then hear and receive any oral or written protests, objections, or evidence made, presented, or filed.
- All property owners in the affected territory were sent written notice of this hearing, instructions on how to protest, and an official protest form (see Exhibit "B"). At this writing, staff has not received any official written protests.
- At any time prior to the conclusion of this hearing any landowner or registered voter residing within the affected territory may file a written protest against the annexation.
- Should insufficient valid protests be received and not withdrawn, the Commission's determination to conditionally approve the reorganization stands.<sup>1</sup>

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<sup>1</sup> Not longer than 30 days following this hearing in accordance with Government Code Sections 56100, 57075, and 57078.

## **Recommendation**

Direct staff to determine the value of valid protests received and not withdrawn and report these results to the Commission within the time prescribed by State law. If feasible, report these results at this hearing.

## **Conducting Authority Proceedings**

### **Executive Officer's Summary**

The following is a summary of the Commission's Resolution making determinations, which must be presented at the hearing prior to the Commission's consideration of protests.

- At its April 18, 2007 meeting, having considered all relevant factors and heard all interested parties wishing to speak regarding the proposal, the Commission determined that the environmental effects of the project as shown in the CEQA documents submitted by the Lead Agency were legally adequate pursuant to the CEQA Guidelines and that the proposed reorganization was consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and LAFCo Policies, Standards and Procedures.
- The Commission, therefore, approved the proposed Reorganization subject to conditions as contained within the adopted Fresno LAFCo Commission Resolution (see Exhibit "A").
- Having determined that the affected territory is inhabited and that not all landowners in the territory consented to the annexation in writing, the Commission directed staff to set a protest hearing pursuant to the requirements of California Government Code Section 57000.

### **Public Testimony**

Prior to making its determination for this proposal the Commission must hear and receive any oral or written protests, objections, or evidence made, presented, or filed. The Chairman may call for any final protests to be filed or withdrawn prior to closing the public hearing. The annexation will be terminated if written protests filed with the Executive Officer (and not withdrawn) are sufficient to overturn the Commission's action. Protest procedures for inhabited annexations are outlined below:

### **Termination:**

The change of organization or reorganization will be terminated if written protests are filed with the LAFCo Executive Officer (and not withdrawn) representing a majority (50% or more) of the registered voters residing in the affected territory (Government Code Section 57078).

### **Election:**

The proposal area has been determined to be "inhabited", therefore it will be subject to confirmation by the registered voters residing in the affected territory (i.e., by an election) if protests are filed (and not withdrawn) by either:

- At least 25%, but less than 50%, of the registered voters residing in the affected territory, or
- At least 25% of owners of land within the affected territory whose properties also constitute at least 25% of the assessed value of land within the affected territory (Government Code Section 57075).

### **Annexation Ordered**

The change of organization (annexation) will be ordered if the number of protests filed with the LAFCo Executive Officer (and not withdrawn) falls below the threshold numbers stated above, subject to the previously mentioned condition.

### **Calculating the Value of Protests Received**

At the close of the public hearing, staff may be directed to determine the value of valid protests received and not withdrawn. Should substantial valid protests be received and not withdrawn, staff may be directed to determine the value of all protests and issue written results to the Commission within 30 days. The reorganization will stand as approved if the number of protests filed with LAFCo (and not withdrawn) falls below the thresholds described above.

**RESOLUTION NO. RO-07-8**

**FRESNO LOCAL AGENCY FORMATION COMMISSION  
FRESNO COUNTY, CALIFORNIA**

**A REQUEST BY THE CITY OF FRESNO ) APPROVE WITH CONDITIONS  
FOR APPROVAL OF THE "DAKOTA- )  
TEMPERANCE NO. 1 REORGANIZATION" )**

**WHEREAS**, reorganization proceedings were initiated by the City of Fresno to annex 51.91 acres to the City of Fresno and detach from the Fresno County Fire Protection District and the Kings River Conservation District for territory located north of the E. Dakota Avenue alignment and both east and west of N. Temperance Avenue, said territory being described within Exhibit "A", attached hereto and by this reference incorporated herein; and

**WHEREAS**, an application was submitted to this Commission by the City of Fresno as required by State Law, and the application for said proposed reorganization was accepted for filing by the Executive Officer and set for hearing on the 18<sup>th</sup> day of April, 2007, at the hour of 1:30 p.m.; and

**WHEREAS**, notice of said hearing was given as required by State Law; and

**WHEREAS**, the Fresno County Fire Protection District and the City of Fresno have a transition agreement in full force and effect that applies to fire protection services within the affected territory on file with the Commission; and

**WHEREAS**, a Master Property Tax Sharing Agreement exists between the City of Fresno and the County of Fresno, the responsible local agencies for the exchange of property tax revenues covering this reorganization; and

**WHEREAS**, the County of Fresno submitted a letter to this Commission stating that the County has determined that the proposed annexation of the affected territory to the City of Fresno is consistent with the Master Property Tax Sharing Agreement; and

**WHEREAS**, the Executive Officer reviewed the application and prepared a report to this Commission, including a recommendation for approval upon certain conditions, said report having been mailed at least five days before the public hearing; and

**WHEREAS**, said report was duly considered by this Commission pursuant to State Law; and

**WHEREAS**, this Commission reviewed and considered the information in the "Master Environmental Impact Report (MEIR) No. 10130" prepared and certified for the 2025 Fresno General Plan, prepared by the Lead Agency, the City of Fresno, which was included in the Executive Officer's report to this Commission; and

**WHEREAS**, this Commission considered all relevant factors and evidence and heard all interested parties wishing to speak on said application.

**NOW, THEREFORE, BE IT RESOLVED** that the Fresno Local Agency Formation Commission does **HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER** as follows:

**Section #1.** Acting as a Responsible Agency under CEQA Guidelines, this Commission considered the information in the Initial Study and the Finding of Conformity with the 2025 Fresno General Plan Master Environmental Impact Report (MEIR No. 10130) prepared for this project by the City of Fresno prior to making its determination, and finds the subsequent project (Proposal) to be within the scope of the (overall) project covered by the MEIR prepared and certified for the 2025 Fresno General Plan, and that the proposed project will have no additional significant effect, as defined by subdivision (d) of Section 21158 of the Public Resources Code, on the environment that was not identified in the MEIR and requires no new or additional mitigation measures or alternatives in order to avoid or mitigate a significant environmental effect (CEQA Section 15177), and that the Lead Agency's Initial Study and "Finding of Conformity with the MEIR" were prepared in accordance with the requirements of CEQA Guidelines and are consistent with State law, and that the City's environmental documents and findings prepared for this Proposal are determined to be legally adequate pursuant to CEQA Guidelines Section 15096.

**Section #2.** This Commission finds that the proposed reorganization is consistent with LAFCo Policies, Standards and Procedures Section 210 - Standards for Annexation to Cities and Urban Service Districts (01-10), and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

**Section #3.** This Commission hereby assigns the distinctive short form designation "Dakota-Temperance No. 1 Reorganization" and approves the reorganization (annexation and detachments) subject to the following conditions of approval:

- A. The entire affected territory shall be pre-zoned prior to completion (recordation) of this reorganization.

Note: The pre-zoning shall remain for a time pursuant to State law (Government Code Section 56000)

- B. Ownership of land permitting, the annexation shall include the full existing right-of-way width of adjacent streets.

**Section #4.** This Commission finds and determines pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:

- A. The territory is inhabited.
- B. Not all landowners and affected agencies have consented to the proposed reorganization.

**Section #5.** This Commission hereby directs staff to set a protest hearing pursuant to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 57000 et seq.).

**Section #6.** This Commission's actions approving this proposal shall expire one year from the date of this Resolution unless all proceedings are complete, including compliance with all conditions of approval, terms and conditions, and the issuance of a Certificate of Completion by the Executive Officer.

**Section #7.** The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Government Code Section 56882 and to file, as appropriate, in the office of the Fresno County Clerk all environmental documents, if any, pertaining to the approval of this Proposal, as required by State law.

\* \* \* \* \*

**ADOPTED THIS 18<sup>th</sup> DAY OF APRIL, 2007, BY THE FOLLOWING VOTE:**

**AYES:** Commissioners Rodriguez, Lopez, Anderson, Fortune, Waterston

**NOES** None

**ABSENT:** None

STATE OF CALIFORNIA)  
COUNTY OF FRESNO )

**CERTIFICATION**

I, Bob Waterston, Chairman of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the 18<sup>th</sup> day of April, 2007.






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Bob Waterston, Chairman  
Fresno Local Agency Formation Commission

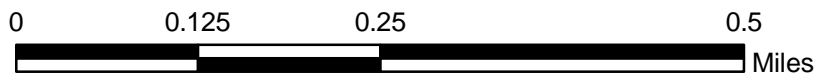
# EXHIBIT "A"



## Legend

-  Sphere of Influence
-  City Limits
-  Affected Territory

City of Fresno "Dakota-Temperance  
No. 1 Reorganization"  
LAFCo File No. RO-07-8



## EXHIBIT "B"

### NOTICE OF PROTEST HEARING REGARDING

**PLEASE BE ADVISED THAT A PROTEST HEARING** will be held by the Fresno Local Agency Formation Commission (LAFCo) on **Wednesday, June 13, 2007, at 1:30 p.m., or as soon thereafter as possible**, in Room 301, Hall of Records, Tulare and "M" Streets, in downtown Fresno concerning the following:

**City of Fresno "Dakota-Temperance No. 1 Reorganization"**. A reorganization consisting of the annexation of 51.91 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District for territory located north of the E. Dakota Avenue alignment and both east and west of N. Temperance Avenue (**LAFCo File No. RO-07-8**).

At its April 18, 2007 hearing, the Fresno Local Agency Formation Commission approved this reorganization (annexation and detachments). Because your property is located in the affected territory, you have the right to protest this decision, should you disagree with it. For a complete description of the proposed annexation, including its boundaries, terms and conditions, you may request a copy of LAFCo's Resolution approving the proposal at the address below.


**HOW TO FILE A PROTEST:** Owners of land or registered voters within the boundaries of the affected territory may file written protests in opposition to the proposed reorganization. Protests may either be mailed or delivered to Fresno LAFCo, 2115 Kern Street, Suite 310, Fresno, CA 93721, or presented to the Commission before the end of the protest hearing. You need not attend the hearing to file a protest, but each protest form must state that you are a landowner and/or registered voter and must include your name, mailing address and street address (if different) or an Assessor Parcel Number (APN) identifying the location of your property within the affected territory. Written protests must be filed and received no later than the conclusion of the hearing to be considered valid. Each protest filed will be counted separately. An **Official LAFCo Protest Form** is attached if you wish to file a protest. This form may be copied. The results of protests received will be determined within 30 days following the hearing in accordance with California Government Code Sections 57075 and 57078.

**MAJORITY PROTEST:** In the case of inhabited territory (**like yours**), proceedings will be **terminated** if the Commission finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent a majority protest. A majority protest is defined as the filing of valid protests by 50 percent or more of the registered voters residing in the affected territory.

**ELECTION:** An election may also be called to decide this matter. An election will be called if at least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory file valid protests or if at least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory file valid protests.

**ANNEXATION WILL OCCUR:** Annexation of your property to the City of Fresno will occur without an election if valid protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory. In this case the Commission's approval stands and the reorganization is ordered.

For additional **information** please contact the Commission Office, 2115 Kern Street, Suite 310, Fresno, CA 93721. Please direct any questions or comments to Rick Ballantyne, AICP, LAFCo Executive Officer at (559) 495-0604 or e-mail Mr. Ballantyne at [rballantyne@co.fresno.ca.us](mailto:rballantyne@co.fresno.ca.us).



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Rick Ballantyne, AICP  
Fresno LAFCo Executive Officer

**DATED:** May 21, 2007  
LAFCo File No.: RO-07-8

**OFFICIAL LAFCo PROTEST FORM**  
**CITY OF FRESNO "DAKOTA-TEMPERANCE NO. 1 REORGANIZATION"**

Each of the undersigned is the landowner of the property located within the proposal area described below and/or a registered voter residing in the territory. The undersigned hereby protests the proposed "DAKOTA-TEMPERANCE NO. 1 REORGANIZATION" as provided for in Section 57051 of the California Government Code.

**NAME OF PROPOSAL "DAKOTA-TEMPERANCE NO. 1 REORGANIZATION" (RO-07-8)**

Land Owner       Registered Voter (may indicate both landowner and registered voter if applicable)

**Date** \_\_\_\_\_ **Name** \_\_\_\_\_  
(Please type or print)

**Full Legal Signature** \_\_\_\_\_

**Address** \_\_\_\_\_  
Number Street City or town

**Description of affected property if not at above address** \_\_\_\_\_  
Assessor's Parcel Number if known

Address or other description

**NAME OF PROPOSAL "DAKOTA-TEMPERANCE NO. 1 REORGANIZATION" (RO-07-8)**

Land Owner       Registered Voter (may indicate both landowner and registered voter if applicable)

**Date** \_\_\_\_\_ **Name** \_\_\_\_\_  
(Please type or print)

**Full Legal Signature** \_\_\_\_\_

**Address** \_\_\_\_\_  
Number Street City or town

**Description of affected property if not at above address** \_\_\_\_\_  
Assessor's Parcel Number if known

Address or other description

**NAME OF PROPOSAL "DAKOTA-TEMPERANCE NO. 1 REORGANIZATION" (RO-07-8)**

Land Owner       Registered Voter (may indicate both landowner and registered voter if applicable)

**Date** \_\_\_\_\_ **Name** \_\_\_\_\_  
(Please type or print)

**Full Legal Signature** \_\_\_\_\_

**Address** \_\_\_\_\_  
Number Street City or town

**Description of affected property if not at above address** \_\_\_\_\_  
Assessor's Parcel Number if known

Address or other description

**PLEASE NOTE** - This official protest form must be utilized to submit a valid protest. The use of any other form will invalidate your protest. It is understood that for landowner protests involving a parcel with more than one owner listed on the County's Assessment Roll, only the signer's proportionate share of the value of the property will be credited in the protest.

**THIS IS A LEGAL NOTICE**