

**RESOLUTION NO. RO-08-11**

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

<b>A REQUEST TO ALLOW WAIVER OF MANDATORY TIME REQUIREMENT FOR HEARING OF THE "MCKINLEY-BRAWLEY NO. 5 REORGANIZATION"</b>	)	<b>APPROVED REQUEST TO WAIVE ONE-YEAR TIME REQUIREMENT FOR HEARING ON THE MCKINLEY- BRAWLEY NO. 5 REORGANIZATION"</b>
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**WHEREAS**, on January 9, 2008, the Local Agency Formation Commission conditionally approved the proposed City of Fresno "McKinley-Brawley No. 4 Reorganization" to annex 41.89 acres of territory to the City of Fresno and detach from the North Central Fire Protection District and the Kings River Conservation District for territory located at the northwest corner of W. McKinley and N. Brawley Avenues; and

**WHEREAS**, on April 9, 2008, the Local Agency Formation Commission did hold a protest hearing on the "McKinley-Brawley No. 4 Reorganization" and determined that following an opportunity for public testimony and an opportunity to file or withdraw written protests that, at the time the public hearing was closed at said protest hearing, eight written protests representing 66.67 percent of the total registered voters residing within the affected territory were filed on Official Protest Form(s) and not withdrawn; and

**WHEREAS**, based upon the results of said protest, Resolution No. RO-07-24 adopted at the regular LAFCo hearing on the 9<sup>th</sup> day of January, 2008, conditionally approving the "McKinley-Brawley No. 4 Reorganization," terminated by majority protest; and

**WHEREAS**, Government Code Section 57090 stipulates that if Commission proceedings are terminated by a majority vote, that no substantially similar proposal for a change of reorganization on the same territory may be considered by the Commission within one year after the date of the adoption of the certificate of termination by the Commission unless the Commission finds such time restriction to be detrimental to the public interest; and

**WHEREAS**, on July 23, 2008, a request was received by the property owner to waive the one year restriction for just cause as provided for by Government Code Section 57090 (b); and

**WHEREAS**, said request was set for consideration before the Commission on the 10<sup>th</sup> day of September, 2008, at the hour of 1:30 p.m. on said day; and

**WHEREAS**, the Executive Officer reviewed said request and prepared a report, said request and report having been presented to and considered by this Commission; and

**WHEREAS**, this Commission considered all relevant factors and written and oral 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.** Pursuant to Government Code Section 57090 (b), this Commission finds that it would be detrimental to the public interest to prohibit consideration of the City of Fresno "McKinley-Brawley No. 5 Reorganization" (LAFCo File No. RO-08-11), which is substantially similar to the proposal located within the same territory, considered under the City of Fresno "McKinley-Brawley No. 4 Reorganization" (LAFCo File No. 07-24) and which was terminated by protest of a majority of registered voters.

**Section #2.** This Commission does approve the request to waive the one year time period for consideration of the "McKinley-Brawley No. 5 Reorganization".

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**ADOPTED THIS 10<sup>th</sup> DAY OF SEPTEMBER, 2008, BY THE FOLLOWING VOTE:**

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

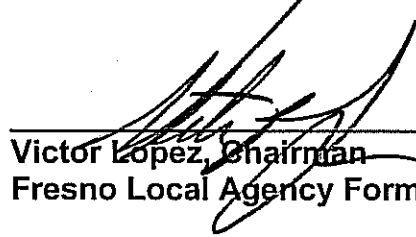
**NOES: None**

**ABSENT: None**

**STATE OF CALIFORNIA)  
COUNTY OF FRESNO )**

**CERTIFICATION**

**I, Victor Lopez, 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 10<sup>th</sup> day of September, 2008.**

  
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**Victor Lopez, Chairman  
Fresno Local Agency Formation Commission**

**RESOLUTION NO. RO-08-11A**

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

**A REQUEST BY LANDOWNER PETITION ) APPROVED WITH CONDITIONS  
FOR APPROVAL OF THE "MCKINLEY- )  
BRAWLEY NO. 5 REORGANIZATION" )**

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**WHEREAS**, reorganization proceedings were initiated by landowner petition to annex 41.89 acres to the City of Fresno and detach from the North Central Fire Protection District and the Kings River Conservation District, for territory located near the northwest corner of McKinley and Brawley Avenues, said territory being described within Exhibit "A", attached hereto and by this reference incorporated herein; and

**WHEREAS**, an application was submitted by landowner petition 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 10<sup>th</sup> day of September, 2008, at the hour of 1:30 p.m.; and

**WHEREAS**, notice of said hearing was given as required by State law; 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 all information contained within the Environmental documents prepared by the City of Fresno including the Initial Studies, the City adopted Mitigated Negative Declaration, and the Finding of Conformity with the Master Environmental Impact Report (MEIR) No. 10130, all of which were included within 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 Proposal by the City of Fresno prior to making its determination and finds the following:

1. The subsequent Proposal is within the scope of the (overall) project covered by the MEIR prepared and certified for the 2025 Fresno General Plan.
2. The proposed Proposal 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.
3. No new or additional mitigation measures or alternatives are required in order to avoid or mitigate a significant environmental effect (CEQA Section 15177).
4. 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.
5. 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 finds as required by Government Code Section 56375(m) that, in order to waive restrictions on islands as per Government Code Section 56744, that the Commission determines that the annexation of the subject territory is necessary to promote orderly development, and that the annexation of the adjoining territory to the west cannot, at this time, be reasonably annexed to the City of Fresno.

**Section #4:** This Commission assigns the distinctive short form designation "McKinley-Brawley No. 5 Reorganization" and approves the reorganization (annexation and detachments) subject to the following conditions of approval:

1. The City of Fresno shall submit to the Executive Officer verification that a Right-to-Farm Covenant is required and made a part of the City's development agreement and that this legal covenant will be recorded with the final tract map approved by the City for the affected territory.
2. Ownership of land permitting, the reorganization shall include the full existing right-of-way width of adjacent streets.

**Section #5:** This Commission finds and determines pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:

1. The territory is uninhabited.
2. All landowners have not consented to the Reorganization in writing.

**Section #6.** Direct 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 #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.

**Section #8.** This Commission's actions approving this reorganization 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.

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**ADOPTED THIS 10<sup>th</sup> DAY OF SEPTEMBER, 2008, BY THE FOLLOWING VOTE:**

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

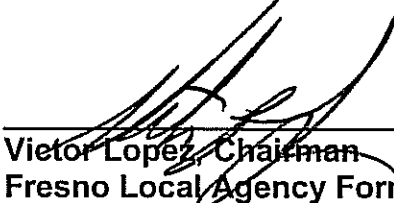
**NOES: None**

**ABSENT: None**

STATE OF CALIFORNIA)  
COUNTY OF FRESNO )

**CERTIFICATION**

I, Victor Lopez, 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 10<sup>th</sup> day of September, 2008.






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Victor Lopez, Chairman  
Fresno Local Agency Formation Commission

# EXHIBIT "A"



## Legend

-  City Limits
-  Affected Territory

City of Fresno "McKinley-Brawley  
No. 5 Reorganization"  
LAFCo File No. RO-08-11

