

**PLANNING COMMISSION
RESOLUTION NO. 2025-27**

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A RESOLUTION APPROVING THE FILING OF AN APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION FOR THE REORGANIZATION OF APPROXIMATELY 220 ACRES LOCATED NORTH OF PELANDALE AVENUE, SOUTH OF KIERNAN AVENUE, EAST OF TULLY ROAD AND WEST OF THE FORMER TIDEWATER RAILROAD/FUTURE VIRGINIA TRAIL CORRIDOR, INCLUDING RIGHTS OF WAY ON PELANDALE AVENUE, KIERNAN AVENUE AND TULLY ROAD, FOR ANNEXATION TO THE CITY OF MODESTO (OWNER INITIATED—UNINHABITED)

WHEREAS, Fitzpatrick Land Development, LLC (“Applicant”), is the owner of approximately 70 acres of real property, located between Pelandale Avenue to the south and Bangs Avenue to the north, east of Tully Road and west of the former Tidewater Railroad/future Virginia Trail Corridor; and

WHEREAS, the City has received a request from the Applicant to initiate reorganization of the Property and adjacent right-of-way on Pelandale Avenue, Bangs Avenue, and Tully Road, a total of 70 acres, for annexation to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq; and

WHEREAS, the application was amended to propose the inclusion of additional properties located to the north of the subject site, totaling 150 acres, into the proposed annexation to the City of Modesto, said 150-acres on multiple properties bordered by Bangs Avenue to the south and Kiernan Avenue to the north, Tully Road to the west and the former Tidewater Railroad/future Virginia Trail Corridor to the east; and

WHEREAS, the City received notifications from the respective property owners of the 150-acres that the properties be included in the proposed Founders Point East

Reorganization to the City of Modesto, thereby expanding the overall annexation area to a total of 220 acres (“Properties”); and

WHEREAS, the Resolution of Application is proposed pursuant to the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq; and

WHEREAS, the Properties to be annexed are within Stanislaus County, said annexation area is contiguous to the existing City limits, and is within the Sphere of Influence of the City of Modesto as adopted by the Stanislaus Local Agency Formation Commission (LAFCO); and

WHEREAS, the Properties proposed to be annexed are uninhabited as defined by Government Code Section 56079.5 (fewer than twelve registered voters), and a description of the boundaries of the subject Properties is set forth in **Exhibits “A” and “B”, attached** hereto and by this reference incorporated herein; and

WHEREAS, Properties includes four Williamson Act contracts involving five parcels that were protested by the City of Modesto and were upheld by LAFCO; and

WHEREAS, the Properties are covered by the Master Tax Sharing Agreement that address tax sharing entered into between the County of Stanislaus and City of Modesto which was approved on April 9, 1996 and revised on July 12, 2022; and

WHEREAS, the annexation area received a Measure M advisory vote in November 1997; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in **Exhibit “C”**, **attached** hereto and by this reference incorporated herein; and

WHEREAS, an Initial Study has been prepared by staff, as required by CEQA; and

WHEREAS, the Initial Study concluded that while the project may have a potentially significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent, and a Mitigated Negative Declaration, Environmental Assessment No. EA/C&ED No. 2024-14, was prepared; and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on March 31, 2025 and concluded on April 28, 2025; and

WHEREAS, the City received public comments on the draft Initial Study/Mitigated Negative Declaration and no significant changes to the document were necessary as a result; and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration; and

WHEREAS, a public hearing was held by the Planning Commission on May 5, 2025, in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The reorganization area is part of the Kiernan-McHenry Comprehensive Planning District of the City of Modesto Urban Area General Plan adopted by the Modesto City Council on March 5, 2019 and subsequent amendments, and as amended by the proposed amendment for the Founders Point East Specific Plan.
2. The proposed reorganization is consistent with the Modesto Urban Area General Plan as amended, because it is consistent with General Plan Growth Goals II.B.1 which states “Keep urban development as contiguous as possible in order to minimize urbanization of valuable farmland, foster resident convenience, improve air quality, reduce automobile vehicle miles traveled, improve public health and safety, and provide for economy in City services”, II.F.1 which states “Facilitate the creation and expansion of business parks to achieve a more equitable jobs-housing balance”, and II.F.5 to “pursue a diverse supply of housing types and costs, as well as diverse supply of jobs with varying income potential, to balance local job and housing opportunities.”
3. The requested reorganization will result in planned, orderly and efficient development of the area, and the most efficient provision of services.
4. The Properties are located within Stanislaus County, within the City’s adopted Sphere of Influence, contiguous to the existing City limits and can be most efficiently served with City services.
5. The Property proposed to be annexed to the City of Modesto are uninhabited as defined by Government Code Section 56079.5 (fewer than twelve registered voters) and a description of the boundaries of the subject Properties is set forth in **Exhibits “A” and “B”, attached** hereto and by this reference incorporated herein.
6. The City of Modesto exercises its option not to succeed to the Williamson Act Contracts No. 75-1981, No. 75-1982, No. 76-2108 (two parcels), and No. 76-2109, pursuant to California Government Code Section 51243.5 and tentatively cancel said contracts.
7. The Properties are covered by the Master Tax Sharing Agreement that address tax sharing entered into between the County of Stanislaus and City of Modesto which was approved on April 9, 1996 and revised on July 12, 2022.
8. An Initial Study/Mitigated Negative Declaration, Environmental Assessment No. EA/C&ED No. 2024-14, has been prepared by the City of

Modesto that analyzed the proposed project, and the Planning Commission has determined that while the project may have a potentially significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent, and that the Mitigated Negative Declaration should be adopted by the City Council.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Modesto that it recommends to the City Council approval of a Resolution of Application of reorganization to LAFCO to annex the Property to the City of Modesto, subject to the following conditions:

1. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

BE IT FURTHER RESOLVED by the Planning Commission that it also recommends to the City Council that, pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in **Exhibit "C"**, **attached** hereto and by this reference incorporated herein.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on May 5, 2025, by Commissioner Grewal, who moved its adoption, which motion was seconded by Commissioner Arroyo and carried by the following vote:

Ayes: Arroyo, Goriel, Grewal, Russell, Shanks
Noes: Black
Absent: Hauselmann
Recused: None

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF
MODESTO.

Signed copy on file in CEDD

Jessica Hill, Secretary

Attachments: **Exhibit “A”** Legal Description
Exhibit “B” Annexation Proposal Map
Exhibit “C” Plan for Services

EXHIBIT "A"

Legal Description: Founders Point East Reorganization to the City of Modesto

All that land situated in the West Half of Section 5 of Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, described as follows:

Assessor's Parcel No. 046-002-001

All that portion of the Southwest Quarter of Section 5, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, bounded and particularly described as follows, to wit:

Beginning at the Northwest corner of the said Southwest Quarter of said Section 5, and running thence Easterly along the North line of said Southwest Quarter a distance of 1697.73 feet, more or less, to the Northwest corner of land conveyed to Charles Luchessa, et at, by Deed recorded in Volume 16 of Official Records, at Page 406, in the County Recorder's Office of said Stanislaus County; thence South along the West line of land so conveyed to Charles Luchessa a distance of 17.77 chains; thence North $88^{\circ} 17'$ West a distance of 1699.05 feet, more or less, to the West line of said section 5; thence North along said last named line, a distance of 17.77 chains to the point of beginning.

EXCEPTING THEREFROM the East 20 acres thereof.

ALSO, EXCEPTING THEREFROM that parcel conveyed to County of Stanislaus by Deed recorded March 13, 1986, in Reel 101, Image 1834, described as follows:

All that portion of the Southwest Quarter of Section 5, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, state of California, described as follows:

Beginning at the intersection of the present South line of 40 foot wide Bangs Avenue with the present East line of 40 foot wide Tully Road; thence South $88^{\circ} 35'$ East, 20.00 feet South of and parallel with the centerline of said Bangs Avenue, 40.00 feet; thence South $53^{\circ} 42' 06''$ West 49.00 feet to a point on the East line of said Tully Road; thence North $0^{\circ} 57'$ West, 20.00 feet East of and parallel with the centerline of said Tully Road, 30.00 feet to the point of beginning.

ALSO, EXCEPTING THEREFROM that parcel conveyed to the City of Modesto by that certain Grant Deed recorded September 1, 2005, Instrument No. 2005-0158866 Stanislaus County Records.

ALSO, EXCEPTING THEREFROM that parcel conveyed to the City of Modesto by that certain Final Order of Condemnation recorded October 2, 2007, Instrument No. 2007- 0123525 Stanislaus County Records.

ALSO, EXCEPTING THEREFROM that parcel conveyed to the City of Modesto by that certain Grant Deed recorded December 15, 2009, Instrument No. 2009-0119104 Stanislaus County Records.

Assessor's Parcel No. 046-002-002

Parcel One:

The East 20 acres of the following described property:

All that portion of the Southwest quarter of Section 5, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the Northwest corner of said Southwest quarter of said Section 5 and running thence Easterly along the Northerly line of said Southwest quarter, a distance of 1697.73 feet, more or less, to the Northwest corner of land conveyed to Charles Luchessa, et at, by Deed recorded in Vol. 16 of Official Records, at page 406, said Stanislaus County Records; thence South, along the West line of land so conveyed to Charles Luchessa, a distance of 17.77 chains; thence North 88 degrees 17' West, a distance of 1699.05 feet, more or less, to the West line of said Section 5; thence North along said last named line a distance of 17.77 chains to the point of beginning.

EXCEPTING THEREFROM all that portion of said land as Granted to the City of Modesto in that certain Grant Deed recorded December 1, 1999, as Instrument No. 1999-0112066.

ALSO EXCEPTING THEREFROM all that portion contained in the "Final Order of Condemnation Action in Eminent Domain", recorded August 22, 2007, as Instrument No. 2007-0108074, of Official Records.

Parcel Two:

The East 936.53 feet of the following:

All that portion of the Southwest quarter of Section 5, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Commencing at a post set for the interior quarter corner of said Section 5, above, Township and Range; thence South 0 degrees 43' East, 17.77 chains; thence North

88 degrees 17' West, 39.63 chains and 20 feet to the center of a Country road running North and South between Sections 5 and 6 of said Township and Range; thence North 0 degrees 40' West, 17.77 chains along the centerline of said country Road to the Northwest corner of the Southwest quarter of said Section 5; thence South 88 degrees 18' East, 39.61 chains and 20 feet to the point of beginning.

EXCEPTING THEREFROM all that portion of said land as Granted to the City of Modesto in that certain Grant Deed recorded December 1, 1999, as Instrument No. 1999-0112066.

ALSO EXCEPTING THEREFROM all that portion contained in the "Final Order of Condemnation Action in Eminent Domain", recorded August 22, 2007, as Instrument No. 2007-0108074, of Official Records.

Also including the following land as described below:

All that land situated in the Northwest Quarter of Section 5 of Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, described as follows:

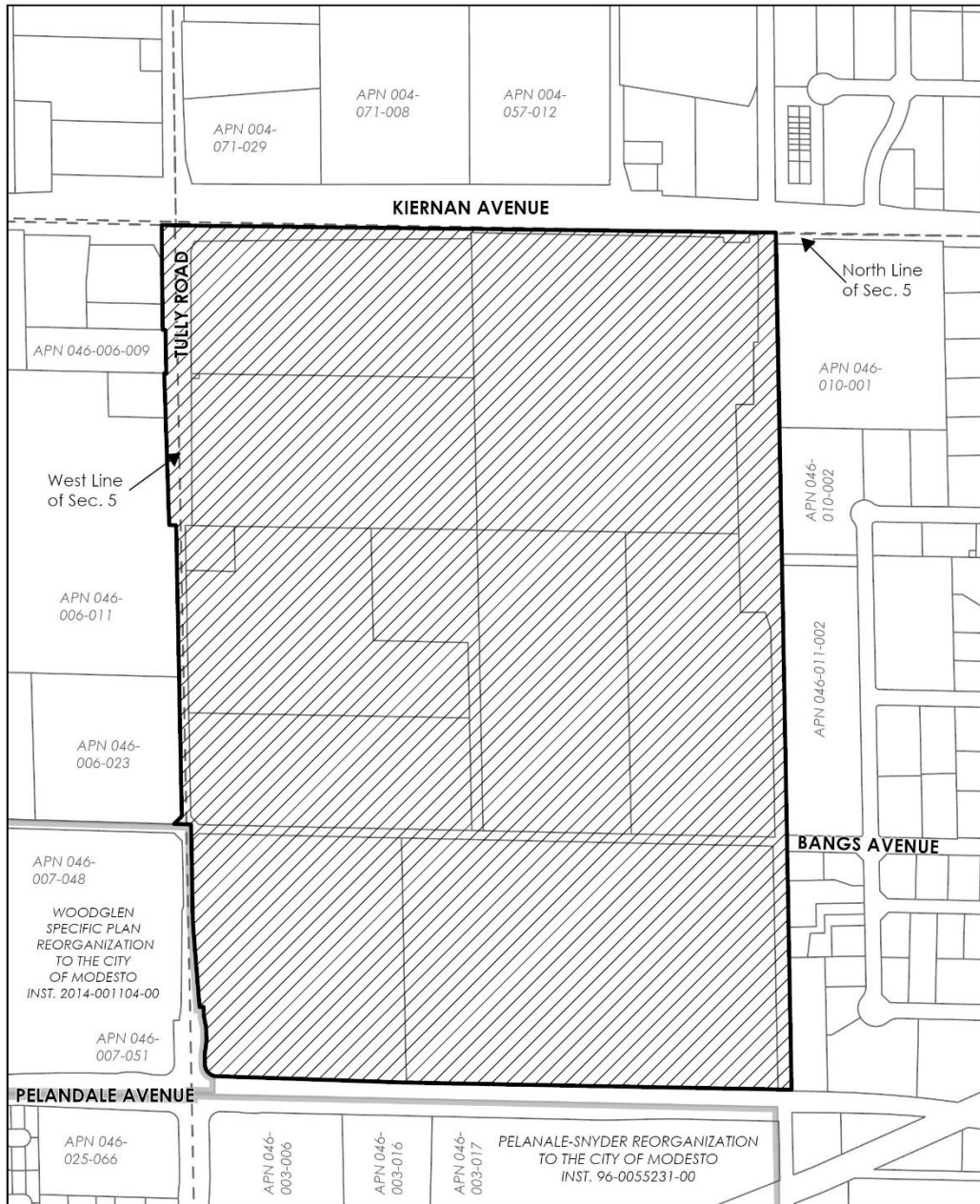
Beginning at the Northwest corner of Section 5 of Township 3 South, Range 9 East, thence east along the northerly line of said Section 5 a distance of 2625 feet; thence South 1° 39' 47" East a distance of 2686 feet; thence North 89° 13' 27" West a distance of 2612 feet; thence North 1° 2' 2" West a distance of 2671 feet to the Point of Beginning.

ALSO INCLUDING all of the right-of-way of Tully Road and the right-of-way of the former Tidewater Railroad/future Virginia Trail Corridor, all being immediately adjacent to the above descriptions.

233 acres, more or less.

EXHIBIT "B"

FOUNDERS POINT EAST REORGANIZATION TO THE CITY OF MODESTO



**FOUNDERS POINT EAST SPECIFIC PLAN
REORGANIZATION TO THE CITY OF MODESTO**

Being a portion of the West 1/2 of Section 5
Township 3 South, Range 9 East
Mount Diablo Base and Meridian

233 Acres, more or less.

*Approx. 220 acres for the area
of the Specific Plan and approx.
13 acres of adjacent right-of-way.*



EXHIBIT “C”

**FOUNDERS POINT EAST REORGANIZATION TO THE CITY OF MODESTO
PLAN FOR SERVICES**

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Founders Point East Reorganization.

- A. The project site is part of the Planned Urbanizing Area, as described in the Modesto Urban Area General Plan, adopted March 5, 2019. As part of the approval, community facilities and services were analyzed in detail in Initial Study Environmental Checklist (C&ED No. 2024-14). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services.
1. Traffic and Circulation: The bulk of the external roadway network is already constructed. The annexation area is bordered by Pelandale Avenue to the south, Kiernan Avenue to the north, Tully Road to the west, and the former Tidewater Railroad/future Virginia Trail Corridor to the east. Pelandale Avenue is a Class-B Expressway with six lanes and a center median. Kiernan Avenue is also California State Highway CA-219, a six-lane highway with a center median. Tully Road is a Minor Arterial street currently comprised of two lanes with left and right turn lanes at the intersections of Kiernan Avenue and Pelandale Avenue, and is designated to be a four-lane Minor Arterial street in the Circulation Element of the General Plan. The applicant or developer will be required to dedicate and construct any necessary roadway improvements along those project frontages upon development.
 2. Waste Water Collection: Upon reorganization, the site will annex to Modesto’s Sewer District No. 1. Sewer service will be provided to the subject site from existing lines in Bangs Avenue, Tully Road and Pelandale Avenue to the west and south of the site. The City does not anticipate a substantial demand for service at this site.
 3. Water Delivery: There is an adequate quantity of water to serve the commercial, industrial and residential development expected to occur on the property. The site will be served from existing lines in Tully Road, adjacent to the site.
 4. Storm Water Drainage: Storm water drainage for this project must be contained on site, as the City does not have a positive storm

drain system serving the area. Prior to the approval of any development, the City must approve the storm water drainage system to ensure its adequacy. The storm water drainage system will be constructed by the applicant at the applicant's expense.

5. Solid Waste Disposal: Weekly pickup will be extended to the annexation area upon the effective date of annexation.
6. Fire Protection: Currently, the annexation area is served by the Salida Fire Protection District. Upon reorganization, Fire Protection will be provided by the City of Modesto Fire Department and the Salida Fire Protection District per an agreement between the City of Modesto and Salida Fire enacted in 2022. No detachment from the Salida Fire Protection District is proposed with the reorganization. Unless the Local Agency Formation Commission (LAFCO) approves detachment of the annexation area from the Salida Protection District, both agencies will be jointly responsible for fire suppression and prevention as provided by the abovementioned Agreement.

Primary service will be provided from City of Modesto Fire Station No. 11 located 0.50 miles away at 4225 Carver Road, and the Salida Fire Protection District station located approximately four miles away at 4820 Broadway Avenue, Salida. Secondary service would be feasible and available from Modesto Fire Station No. 5 at 200 West Briggsmore Avenue and Modesto Fire Station No. 6 located at the corner of Standiford Avenue and Hahn Drive.

7. Police Protection: The Modesto Police Department is able to provide adequate service to the subject site without additional staffing, as industrial property does not require substantial additional policing.

B. Level and range of services

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

C. When can services be provided?

The above-described services can be provided upon the effective date of annexation.

D. Improvements required as a condition of reorganization

No improvements are required as a condition of reorganization. The following improvements will be required as a condition of development:

- Prior to issuance of a building permit, the applicant(s) shall construct roadway improvements to the satisfaction of the City Engineer.
- Prior to approval of development, the City must approve the storm water drainage system.

E. How will services be financed?

Services will be financed through City fees and the establishment of a new Community Facilities District for the Specific Plan.