

PLANNING COMMISSION
RESOLUTION NO. 2020-19

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 32.88 ACRES LOCATED EAST OF LODI AVENUE AND NORTH OF WHITMORE AVENUE FOR ANNEXATION TO THE CITY OF MODESTO (G3 ENTERPRISES, INC., AND DOT CALIFORNIA 2019, LLC)-- UNINHABITED)

WHEREAS, G3 Enterprises and DOT California 2019, LLC, ("Applicant"), represents the property owners of approximately 32.88 acres of real property, located east of Lodi Avenue and north of Whitmore Avenue ("Property"); and

WHEREAS, the City has received a request from the Applicant to initiate reorganization of the Property and adjacent right-of-way on Whitmore Avenue, a total of approximately 32.88 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 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 Property to be annexed is within Stanislaus County, 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 Property proposed to be annexed is uninhabited as defined by Government Code Section 56079.5 (fewer than 12 registered voters), and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein; and

WHEREAS, the Property is not subject to a Williamson Act contract; and

WHEREAS, the Property is 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 5, 1983; and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq; 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, a public hearing was held by the Planning Commission on December 7, 2020, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, Environmental Assessment No. EA/C&ED 2020-18, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2014042081) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required.

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

1. The requested reorganization will result in an orderly and logical addition of land to the City.
2. The Property is located within Stanislaus County, within the City's adopted Sphere of Influence, is contiguous to the existing City limits, and can be most efficiently served with City services.
3. The Property proposed to be annexed to the City of Modesto is uninhabited as defined by Government Code Section 56079.5 (fewer than twelve registered voters) and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein.
4. The Property is covered by the Master Tax Sharing Agreement for the sharing of property tax, sales tax, business, and mil tax, and utility tax for the Property which was entered into between the County of Stanislaus and City of Modesto and which was approved April 5, 1983.
5. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
6. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
7. No new or additional mitigation measures or alternatives are required.
8. The subsequent project is within the scope of the project covered by the Master EIR.
9. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

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 December 7, 2020, by Commissioner Shanks, who moved its adoption, which motion was seconded by Commissioner Vohra and carried by the following vote:

Ayes:	Morad, Pollard, Shanks, Smith, Vohra, Birring
Noes:	None
Absent:	None
Recused:	None

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

Steve Mitchell, Secretary

Attachments: Exhibit "A" Legal Description
Exhibit "B" Annexation Proposal Map
Exhibit "C" Plan for Services

EXHIBIT "A"

Legal Description: Whitmore-Lodi Annexation

All of the Real Property as described in the Grant Deed recorded as DOC-2020-0068632-00, Stanislaus County Records, shown as PARCEL NO. 2 on Sheet 2 of 2 of EXHIBIT "C" of the Certificate of Lot Line Adjustment recorded as DOC-2017-0090151-00, Stanislaus County Records, together with a portion of the Real Property designated "1" in the Grant Deed (Correcting) recorded as DOC-2019-0036251-00, Stanislaus County Records and shown as PARCEL NO. 1 on said sheet 2 of 2 of EXHIBIT "C", lying in the West half of Section 9, Township 4 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, more particularly described as follows:

BEGINNING at the Southwest corner of the Whitmore No. 1 Addition to the City of Modesto by Instrument No. 73-55823, Stanislaus County Records, being the intersection of the southerly extension of the West line of the Map of Whitmore Industrial Park No. 1 filed in Volume 27 of Maps at Page 49, Stanislaus County Records, with the South line of said Section 9, said South line being the centerline of Whitmore Avenue as shown on said Map and also being the North line of the West landing Specific Plan Reorganization to the City of Ceres recorded as DOC-2012-0048746-00, Stanislaus County recorded as; thence commencing the following six courses:

1. North 89°51'00" West, 760.98 feet, along said South line of the intersection of said South line with the Southerly extension of the West line of Lodi Avenue as shown on the Parcel Map filed in Book 42 of Parcel maps at Page 24, Stanislaus County Recorders; thence,
2. North 0°00'20" West, 950.07 feet, along said West line of the Lodi Avenue to the Northwest corner of said Lodi Avenue; thence,
3. South 89°50'04" East, 60.00 feet, along the North line of said Lodi Avenue to the Northeast corner of said Lodi Avenue being the southeastern most corner of PARCEL B as shown on said Parcel Map; thence,
4. North 0°00'20" West, 1010.54 feet, along the East line of said PARCEL B also being the West line of said PARCEL NO. 1, to the Northeast corner of said PARCEL B also being the Northwest corner of said PARCEL NO. 1, said corner lying on a south line of the Glenn Avenue Industrial Park Reorganization to the City of Modesto recorded as DOC-2005-0042056, Stanislaus County Records; thence,
5. South 89°50'38" East, 701.92 feet, along last said South line being the North line of said PARCEL NO. 1 to the Northwest corner of said Whitmore No. 1 Addition to the City of Modesto; thence,
6. South 0°01'19" West, 1960.51 feet, along the West line of said Whitmore No.1 Addition to the City of Modesto to the Point of Beginning.

Containing 32.88 Acres, more or less.

APNs 086-013-017 and 086-013-018

EXHIBIT "B"

Whitmore-Lodi Annexation

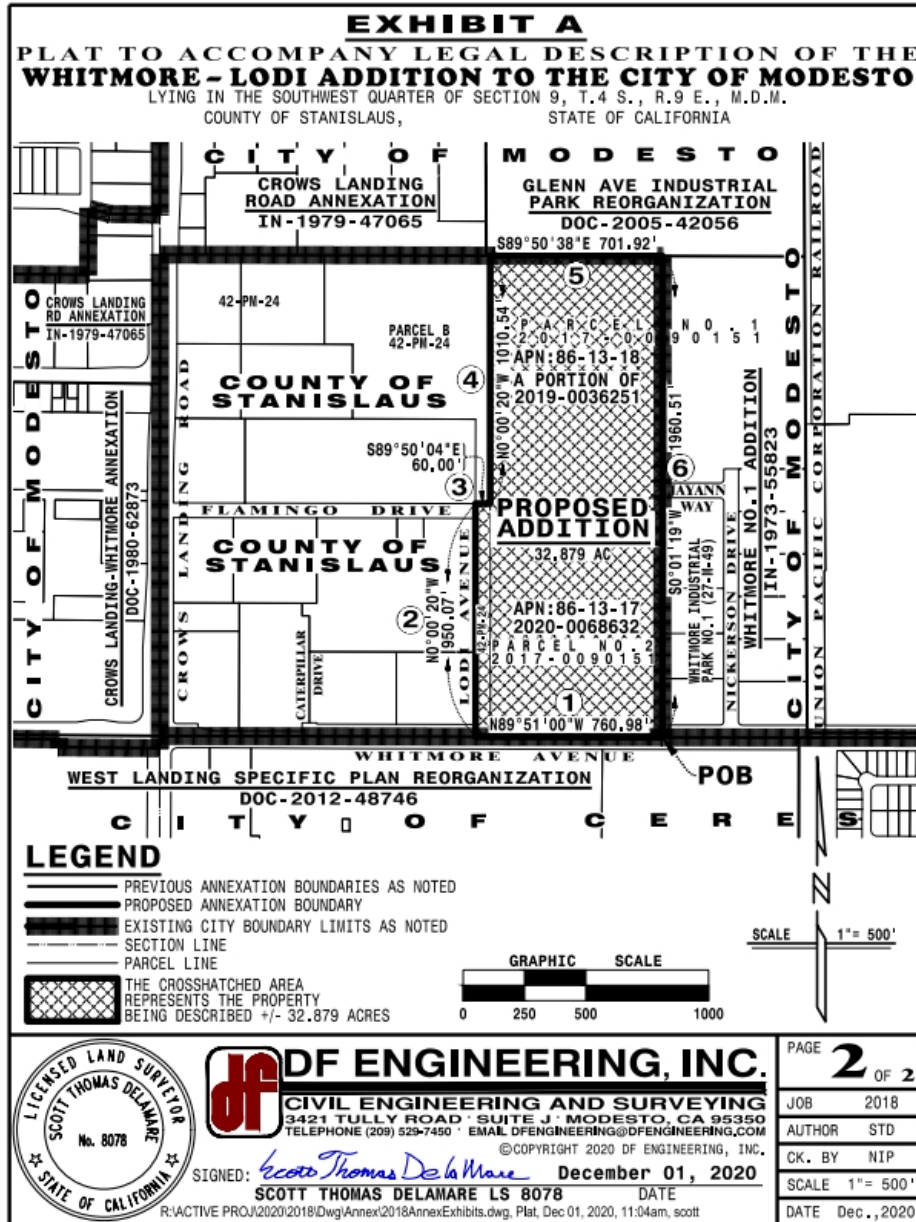


EXHIBIT "C"

WHITMORE-LODI ANNEXATION TO THE CITY OF MODESTO PLAN FOR SERVICES

Background:

The Whitmore-Lodi Reorganization area consists of two parcels located east of Crows Landing Road and north of Whitmore Avenue. Both parcels, totaling about 32.88 acres, are privately owned and are currently being farmed. Including adjacent rights-of-way on Whitmore and Lodi Avenues, the annexation area is approximately 32.88 acres total.

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Whitmore-Lodi Reorganization to the City of Modesto:

- A. The project site is part of the Baseline Developed 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. 2020-18). 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. Whitmore Avenue is a two-lane road in the project vicinity and is planned as a four-lane minor arterial. Lodi Avenue is planned as a two-lane road. Flamingo Drive will connect with Jayann Way as a two-lane road. The applicant or developer must dedicate and construct roadway improvements along the project frontages of both Whitmore and Lodi Avenues and extension of Jayann Way to City standards.
 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 an existing line in Lodi Avenue adjacent to 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 industrial development expected to occur on the property. The site will be served from existing lines in Flamingo Drive and Whitmore Avenue, 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 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: Upon reorganization, there will be no change in fire protection service. The site is currently served by the Industrial Fire Protection District, and future service will continue through the Industrial Fire Protection District.
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.