

**EXECUTIVE OFFICER'S AGENDA REPORT  
SEPTEMBER 26, 2018**

**LAFCO APPLICATION NO. 2018-04 &  
SPHERE OF INFLUENCE MODIFICATION NO. 2018-05  
119 G STREET CHANGE OF ORGANIZATION TO THE  
STANISLAUS CONSOLIDATED FIRE PROTECTION DISTRICT**

**PROPOSAL**

The project proposes to amend the sphere of influence and annex a .32-acre parcel into the Stanislaus Consolidated Fire Protection District (FPD).

1. Applicant: City of Modesto, as an affected agency
2. Location: The project area is located at 119 G Street in the unincorporated town of Empire. The site is located south of Yosemite Boulevard (Highway 132) and east of Santa Fe Avenue. (See map and legal description in Exhibit A for more detail.)
3. Parcels Involved and Acreage: The project includes Assessor's Parcel Number (APN) 133-016-007 totaling approximately .32 acres.
4. Reason for Request: The property is a former well site that was recently sold and detached from the City of Modesto. It is currently outside both the City and Stanislaus Consolidated FPD's boundaries. Annexation is intended to provide continued fire service to the site. The City adopted Resolution No. 2018-159 (attached as Exhibit B), confirming the City detachment and requesting the parcel be returned to the District's jurisdiction



*Note: Stanislaus Consolidated FPD's boundary is currently coterminous with its SOI.*

**ENVIRONMENTAL REVIEW**

The City of Modesto as "Lead Agency" under the California Environmental Quality Act (CEQA) has deemed the project exempt based on Government Code Section 15061(b)(3). LAFCO, as a Responsible Agency, must consider the environmental determination provided by the City of Modesto. The proposed annexation will not result in a change of land use under the current zoning, which is under Stanislaus County jurisdiction.

**BACKGROUND**

The property at 119 G Street was originally annexed into the City of Modesto in 2000 along with several other well sites pursuant to Government Code section 56742, which allows for non-contiguous annexations of city-owned properties when used for city purposes. At the time of annexation, the site simultaneously detached from the Stanislaus Consolidated Fire Protection District.

Recently, the City sold the property. Upon sale of the property, the following Government Code section applies:

*56742(e) When any or all of the territory annexed to a city pursuant to this section is sold by the city, all of the territory that is no longer owned by the city shall cease to be part of that city.*

Therefore, the territory has effectively reverted to unincorporated status and detached from the City. With the property now unincorporated, the City of Modesto has requested that the site be annexed back into the Stanislaus Consolidated Fire Protection District.

### **FACTORS**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires several factors to be considered by a LAFCO when evaluating a proposal. The following discussion pertains to the factors and determinations, as set forth in Government Code Section 56668, 56668.3 and 56425:

- a. *Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.***

The proposed annexation will return the property back to the Stanislaus Consolidated Fire Protection District for fire protection services. The property is currently vacant and located in a developed area consisting of mostly commercial buildings, and single-family and multi-family homes. The annexation of the property will not induce any further growth and any development of the property will be considered infill.

- b. *The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.***

The proposed annexation will provide fire protection services to the project site. The site is within the Empire Sanitary District boundaries for sewer service and water is provided to the area by the City of Modesto (formerly Del Este Water Company). Currently there are no plans to develop the site. However, should the property owner decide to develop the site, service providers are present.

- c. *The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.***

The proposed annexation will provide fire protection services to the site from the Stanislaus Consolidated Fire Protection District, which currently serves all the surrounding parcels and area. The proposed annexation will not have an effect on adjacent areas, social and economic interests, or local governmental structure.

As outlined in Section 56425, the Commission must make a determination related to present and probable need for services related to sewers, water, and fire protection from a city or special district of any disadvantaged unincorporated communities (DUC) within the existing sphere of influence. Based on annual median household income, the unincorporated town of Empire is identified as a DUC as defined in Section 56033.5 of the Cortese-Knox-Hertzberg Act.

The proposed project will provide fire protection services to the site from the Stanislaus Consolidated Fire Protection District. The District also provides services to the surrounding area including the unincorporated town of Empire. Additional services such as water and sewer services are provided through the City of Modesto, Empire Sanitary District, or by way of private systems within the DUC.

- d. ***The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.***

Section 56377 requires the Commission to consider LAFCO policies and priorities that would guide development away from the existing prime agricultural lands and consider development of existing vacant or nonprime agricultural land for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency before any expansion of boundaries. The proposed annexation area has been determined to have no impact to agricultural lands. Based on its location and the proximity to existing development in and around the area, the annexation is considered infill and consistent with Commission policies for providing planned, orderly, and efficient patterns of urban development.

- e. ***The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.***

The proposal will not result in the loss of agricultural land and will not affect the physical and economic integrity of agricultural land. As a result of the detachment from the City of Modesto, the land was reverted to its previous zoning of H-1 (Highway Frontage) in the Stanislaus County Zoning Ordinance. The site is surrounded by commercial, single-family and multi-family homes.

- f. ***The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting proposed boundaries.***

The project site, in and of itself, is an island, as it is surrounded entirely by the District. Annexation will eliminate the island within the District.

- g. ***A regional transportation plan adopted pursuant to Section 65080***

The Regional Transportation Plan (RTP) is prepared and adopted by the Stanislaus Association of Governments (StanCOG) and is intended to determine the transportation needs of the region as well as the strategies for investing in the region's transportation system. The annexation will not change traffic or transportation routes for the area as the

use of the property will remain the same.

**h. *The proposal's consistency with city or county general and specific plans***

The proposal is consistent with the Stanislaus County General Plan's "Commercial" land use designation and H-1 (Highway Frontage) Zoning District. The project site is vacant and there are currently no plans to develop the parcel.

**i. *The sphere of influence of any local agency, which may be applicable to the proposal being reviewed.***

The project site is not currently within the Sphere of Influence of the District. Thus, the application also requests to simultaneously amend its Sphere of Influence to include the site. When amending a sphere, the Commission considers factors as outlined in Government Code §56425, including agricultural and open space, need for public facilities, capacity of services, economic interests in the area and service needs of disadvantaged unincorporated communities. These are similar to the factors discussed in this section of the report related to Government Code §56668 and §56668.3. Staff has determined that given the small size of the proposal and its intent to return the area to the fire district, that the sphere amendment is consistent with Government Code §56425 and the Commission's policies.

**j. *The comments of any affected local agency or other public agency.***

All affected agencies and jurisdictions have been notified pursuant to State law requirements and the Commission adopted policies. To date, no comments have been received related to the proposed project.

**k. *The ability of the receiving entity to provide services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.***

The parcel is approximately .32 acres in size and is surrounded by the Stanislaus Consolidated Fire Protection District. There will not be a significant impact to the District's operating revenue which is funded by property taxes and assessments.

**l. *Timely availability of water supplies adequate for projected needs as specified in Government Code Section 65352.5.***

The site is currently served by the City of Modesto (formerly Del Este Water Co.) for water services. The proposed project will provide fire protection services to the site and will not impact water supplies.

**m. *The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.***

The project site is currently vacant and is zoned (Highway Frontage) under the Stanislaus County Zoning Ordinance. According to the Zoning Ordinance, the H-1 zone allows for one

single family home or one apartment if it is accessory to a permitted commercial use. A duplex is allowed if a use permit is first obtained. These potential units would contribute to the County's overall Regional Housing Needs Assessment.

***n. Any information or comments from the landowner or owners, voters, or residents of the affected territory.***

Staff has not received any comments as of the drafting of this report.

***o. Any information relating to existing land use designations.***

As mentioned previously, the project site is zoned H-1 (Highway Frontage) in the Stanislaus County Zoning Ordinance. The site is currently vacant. The proposed project will provide fire protection services to the site for existing and any future uses on site.

***p. The extent to which the proposal will promote environmental justice.***

As defined by Government Code §56668, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. Staff has determined that approval of the proposal would not result in the unfair treatment of any person based on race, culture or income with respect to the provision of services within the proposal area.

## **DISCUSSION**

Based on the information provided, annexation of 119 G Street can be considered a logical extension of the District's boundaries. As the proposal would return jurisdiction of fire services to the District, Staff has determined that the proposed sphere amendment and annexation are consistent with Government Code and LAFCO policies.

### **Waiver of Conducting Authority Proceedings**

Pursuant to Government Code Section 56663, the Commission may waive conducting authority proceedings entirely when the following conditions apply:

1. Landowners and registered voters within the affected territory have been notified via mail pursuant to section 56157 of the Cortese/Knox/Hertzberg (CKH) Act.
2. The mailed notice discloses that unless written opposition to the proposal is received prior to the commission proceedings that the commission intends to waive the protest proceedings.
3. No written opposition to the proposal from landowners or registered voters is received.

As all the above conditions for the waiver of conducting authority proceedings have been met, the Commission may waive the conducting authority proceedings in their entirety.

**ALTERNATIVES FOR COMMISSION ACTION**

Following consideration of this report and any testimony or additional materials that are submitted at the public hearing for this proposal, the Commission may take one of the following actions:

- Option 1**      APPROVE the proposal, as submitted by the applicant.
- Option 2**      DENY the proposal.
- Option 3**      CONTINUE this proposal to a future meeting for additional information.

**STAFF RECOMMENDATION**

Approve Option 1. Based on the information and discussion contained in this staff report, and the evidence presented, it is recommended that the Commission adopt attached Resolution No. 2018-15, which:

- a. Certifies, as a Responsible Agency under CEQA, that the Commission has considered the environmental documentation prepared by the City of Modesto as Lead Agency;
- b. Finds the proposal to be consistent with State law and the Commission's adopted Policies and Procedures;
- c. Waives protest proceedings pursuant to Government Code Section 56663; and,
- d. Approves LAFCO Application 2018-04 & Sphere of Influence Modification No. 2018-05 – 119 G Street Change of Organization to the Stanislaus Consolidated Fire Protection District.

Respectfully submitted,

*Javier Camarena*

Javier Camarena  
Assistant Executive Officer

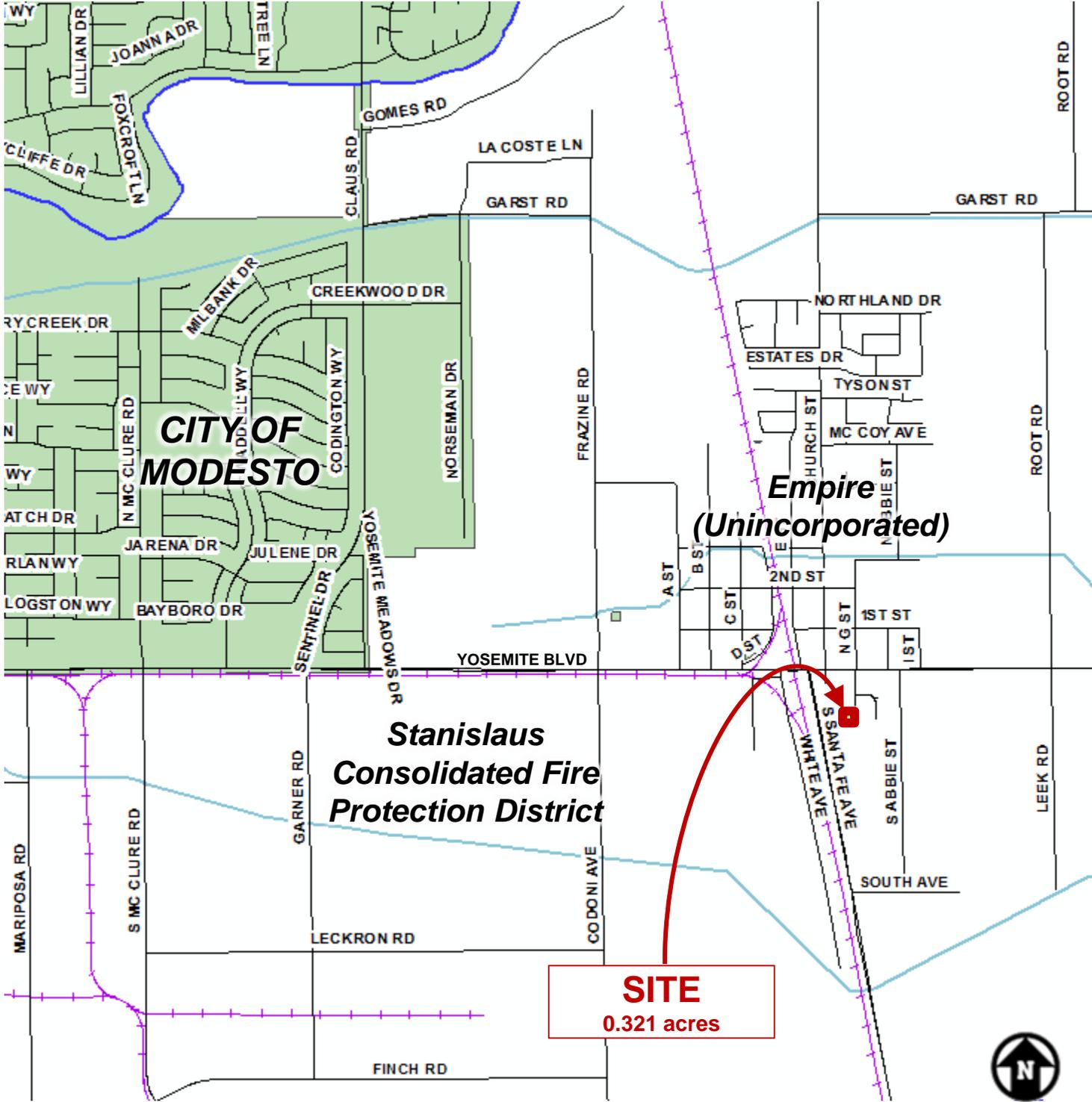
Attachments - Exhibit A: Maps and Legal Description  
Exhibit B: City of Modesto Resolution No. 2018-159  
Exhibit C: LAFCO Resolution No. 2018-15

**EXHIBIT A**

**Maps and Legal Description**

# 119 G Street Change of Organization to the Stanislaus Consolidated Fire Protection District

## VICINITY MAP



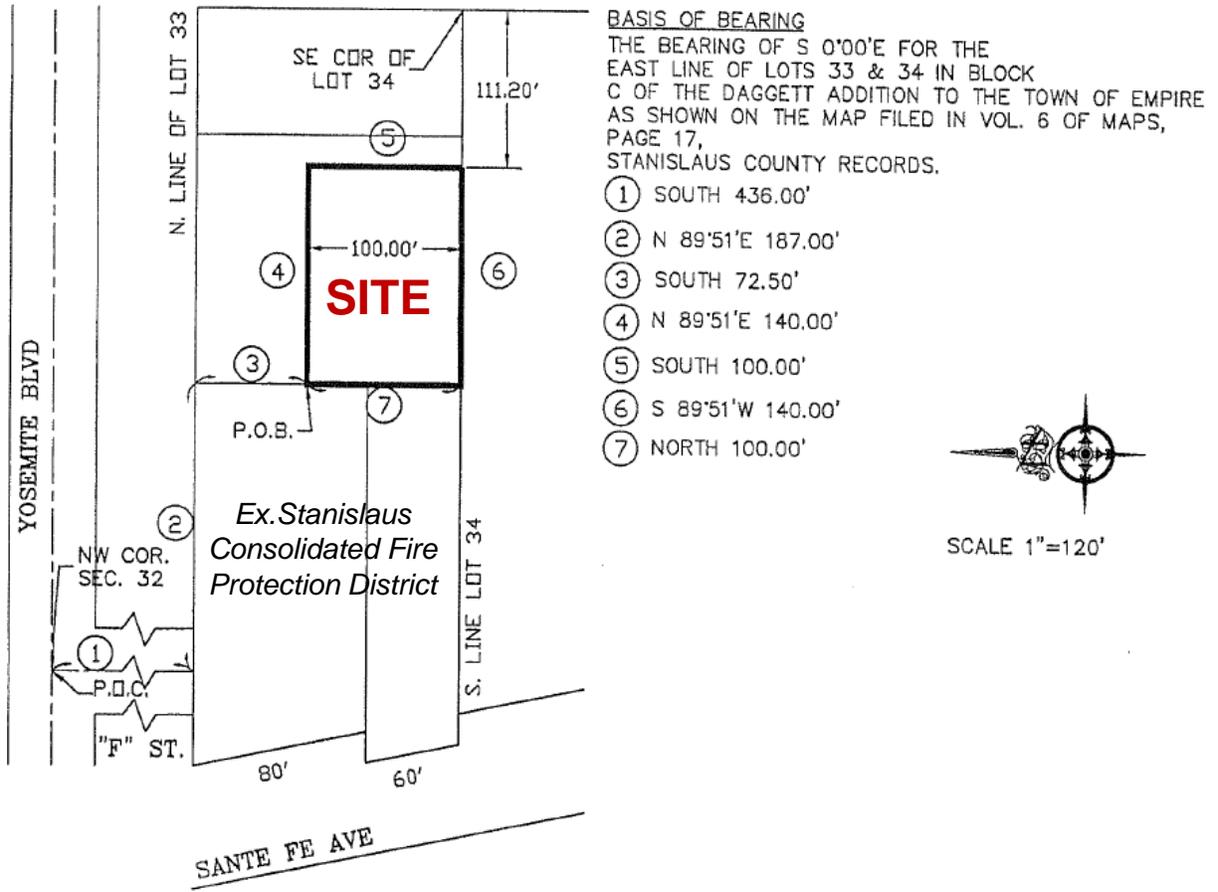
## 119 G Street Change of Organization to the Stanislaus Consolidated Fire Protection District

All that real property in the State of California, County of Stanislaus, being a portion of the Northwest quarter of Section 32, Township 3 South, Range 10 East, Mount Diablo Base and Meridian, also being a portion of Lots 33 and 34 in Block C of the DAGGETT ADDITION TO THE TOWN OF EMPIRE, as per map filed January 5, 1912 in Volume 6 of Maps, Page 17, Stanislaus County Records, described as follows:

Commencing at the Northwest section corner of said Section 32, said point being on the centerline of a 90.00 foot public road known as Yosemite Boulevard;

1. thence along the West section line of Section 32, South, 436.00 feet, more or less, to a point on the Northern line of said Lot 33;
2. thence along said Northern line, North 89° 51' East, 187.00 feet, more or less, to its intersection with a line which is parallel with and 251.20 feet, measured at right angles, Westerly from the Eastern line of said Lots 33 and 34;
3. thence along said parallel line, South, 72.50 feet, more or less, to a point on a line which is parallel with and 100.00 feet, measured at right angles, Northerly from the Southern line of Lot 34, and the true point of beginning of this description;
4. thence along said last mentioned parallel line, North 89° 51' East, 140.00 feet, to a point on a line which is parallel with and 111.20 feet, measured at right angles, Westerly from said Eastern line of Lots 34 and 33;
5. thence along said last mentioned parallel line, South, 100.00 feet, to said Southern line of Lot 34;
6. thence along the Southern line of Lot 34, South 89° 51' West, 140.00 feet, to a point on said first mentioned parallel line;
7. thence along this first mentioned parallel line, North, 100.00 feet, to the point of beginning, containing 0.321 Acres, more or less.

# 119 G Street Change of Organization to the Stanislaus Consolidated Fire Protection District



**APN 133-016-007**

.321 ACRES

SEC.32,T.3S. R.10E., MDB&M

**EXHIBIT B**

**City of Modesto Resolution No. 2018-159**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2018-159**

**RESOLUTION CONFIRMING DETACHMENT OF A NON-CONTIGUOUS CITY PROPERTY LOCATED AT 119 G STREET IN EMPIRE (APN 133-016-007), REVERTING THE PROPERTY BACK TO UNINCORPORATED STATUS WITHIN THE COUNTY OF STANISLAUS AND AUTHORIZING APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX THE TERRITORY BACK TO THE STANISLAUS CONSOLIDATED FIRE PROTECTION DISTRICT AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS REQUIRED FOR CITY DETACHMENT AND APPLICATION FOR ANNEXATION TO THE STANISLAUS CONSOLIDATED FIRE PROTECTION DISTRICT**

WHEREAS, the City of Modesto owns real property on 119 G Street in Empire (APN 133-016-007), and

WHEREAS, this property was purchased by the City from the Del Este Water Company in 1995 for Well Site No. 311, and

WHEREAS, the property was approved for non-contiguous annexation into the City of Modesto's boundaries by the Stanislaus Local Agency Formation Commission Resolution 2000-09, effective August 22, 2000, and included simultaneous detachment from the Stanislaus Consolidated Fire Protection District, and

WHEREAS, Well Site No. 311 was abandoned and destroyed in accordance with the Modesto Municipal Code and California Well Standards, and

WHEREAS, the property is now surplus and sold by the City, and

WHEREAS, Government Code Section 56742(g) requires the City of Modesto to adopt a resolution confirming the detachment of the non-contiguous property, and

WHEREAS, detachment of the property from the City also necessitates an application to annex the territory back to the jurisdiction of the Stanislaus Consolidated Fire Protection District, and

WHEREAS, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the Government Code, the City of Modesto, as an affected agency, may initiate proceedings with the Stanislaus Local Agency Formation Commission, for the annexation of the territory to the Stanislaus Consolidated Fire Protection District, and

WHEREAS, the detachment of territory from the City and annexation to the Stanislaus Consolidated Fire Protection District are considered exempt from the California Environmental Quality Act under the General Rule, Section 15061(b)(3) as it can be seen with certainty that there will not be a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes and confirms the detachment of the property from the City limits upon sale of the property.

BE IT FUTHER RESOLVED by authorizing the Interim City Manager, or his designee, to execute any and all necessary documents required for City detachment and application for annexation to the Stanislaus Consolidated Fire Protection District.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of April, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal, Ridenour

ATTEST:   
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
ADAM U. LINDGREN, City Attorney

**EXHIBIT C**

**LAFCO Resolution No. 2018-15**

**STANISLAUS COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**RESOLUTION**

**DATE:** September 26, 2018

**NO.** 2018-15

**SUBJECT:** LAFCO Application No. 2018-04 & Sphere of Influence Modification No. 2018-05: 119 G Street Change of Organization to the Stanislaus Consolidated Fire Protection District

On the motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and approved by the following vote:

Ayes: Commissioners:  
Noes: Commissioners:  
Absent: Commissioners:  
Ineligible: Commissioners:

**THE FOLLOWING RESOLUTION WAS ADOPTED:**

**WHEREAS**, a proposal was initiated by Resolution of Application from the City of Modesto; to modify the Sphere of Influence and annex approximately .32 acres to the Stanislaus Consolidated Fire Protection District;

**WHEREAS**, there are less than 12 registered voters within the area and it is thus considered uninhabited;

**WHEREAS**, the above-referenced proposal has been filed with the Executive Officer of the Stanislaus Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code);

**WHEREAS**, the purpose of the proposal is to allow the District to provide fire protection services to the subject territory;

**WHEREAS**, proceedings for adoption and amendment of a Sphere of Influence and change of organization are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act, Section 56000 et seq. of the Government Code;

**WHEREAS**, the District has established a special tax that will be applied to the subject territory and will also receive funding pursuant to a tax sharing agreement with Stanislaus County;

**WHEREAS**, in the form and manner provided by law pursuant to Government Code Sections 56153 and 56157, the Executive Officer has given notice of the public hearing by the Commission on this matter;

**WHEREAS**, the Commission has conducted a public hearing to consider the proposal on September 26, 2018, and notice of said hearing was given at the time and in the form and manner provided by law;

**WHEREAS**, the Commission has, in evaluating the proposal, considered the report submitted by the Executive Officer, the factors and determinations in Government Code Section 56668, 56668.3 and 56425, and testimony and evidence presented at the meeting held on September 26, 2018.

**NOW, THEREFORE, BE IT RESOLVED** that the Commission:

1. Finds this proposal to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines.
2. Determines that the sphere of influence for the Stanislaus Consolidated Fire Protection District will include the territory and be coterminous with its approved boundaries.
3. Designates the proposal as the 119 G Street Change of Organization to the Stanislaus Consolidated Fire Protection District.
4. Finds the proposal to be consistent with State law and the Commission's adopted Policies and Procedures.
5. Approves the proposal subject to the following terms and conditions:
  - (a) The Applicant shall pay the required State Board of Equalization fees and submit a map and legal description prepared to the requirements of the State Board of Equalization and accepted to form by the Executive Officer.
  - (b) The Applicant agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers and employees from any claim, action or proceeding against LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this proposal or any action relating to or arising out of such approval, and provide for reimbursement or assumption of all legal costs in connection with that approval.
  - (c) In accordance with Government Code Sections 56886(t) and 57330, the subject territory shall be subject to the levying and collection of all previously authorized charges, fees, assessments and taxes of the Stanislaus Consolidated Fire Protection District.
  - (d) The effective date of the annexation shall be the date of recordation of the Certificate of Completion.
6. Adopts the Sphere of Influence modification contingent upon completion of the annexation.

7. Waives the protest proceedings pursuant to Government Code Section 56663 and orders the change of organization subject to the requirements of Government Code Section 57200 et. seq.
8. Authorizes and directs the Executive Officer to prepare and execute a Certificate of Completion in accordance with Government Code Section 57203, upon receipt of a map and legal description prepared pursuant to the requirements of the State Board of Equalization and accepted to form by the Executive Officer, subject to the specified terms and conditions.

**ATTEST:**

\_\_\_\_\_  
Sara Lytle-Pinhey  
Executive Officer