

**MODESTO CITY COUNCIL
RESOLUTION NO. 2025-250**

**RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION FOR
THE GENERAL PLAN AMENDMENT, FOUNDERS POINT EAST SPECIFIC
PLAN, PREZONE AND APPLICATION FOR THE REORGANIZATION OF
FOUNDERS POINT EAST SPECIFIC PLAN TO THE CITY OF MODESTO**

WHEREAS, on April 11, 2024 Fitzpatrick Land Development LLC. applied for an amendment to the City of Modesto Urban Area General Plan to change the land use designation of approximately 70 acres from Business Park (BP) to Residential (R), properties located north of Pelandale Avenue, south of Bangs Avenue, between Tully Road to the west and the former Tidewater Railroad /future Virginia Trail Corridor to the east, within the Kiernan-McHenry Comprehensive Planning District (CPD), and

WHEREAS, said application was made concurrently with a proposed new Specific Plan document “Founders Point East” to allow for the development of the 70 acres within the Kiernan-McHenry Comprehensive Planning District (CPD) (Project ID SPL-24-001) together with prezone of the area to Prezone Specific Plan (P-SP) Zone and annexation of the 70 acres (Project ID PRZ-24-001 and ANX-24-001), and

WHEREAS the application was amended to include properties to the north of the site into the proposed Specific Plan, prezone and annexation area, approximately 150 acres 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, with development policies for the future development of business park uses within the 150 acres in accordance to the General Plan, and

WHEREAS, together with the inclusion of the 150 acres, the Specific Plan, prezone and annexation area is to be a combined area of approximately 220 acres, all

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, and the Specific Plan document composed to allow for business park uses on the 150 acres north of Bangs Avenue and residential uses on the 70 acres south of Bangs Avenue, and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Negative Declaration provides for a lead agency to prepare an Initial Study on any proposed project to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, the City's Community & Economic Development Department has prepared an Initial Study/Mitigated Negative Declaration, Environmental Assessment No. EA/C&ED 2024-14 as provided for by CEQA, and

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

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

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

WHEREAS, said matter was considered by the Planning Commission at a duly noticed public hearing which was held on May 5, 2025, whereupon the Planning Commission considered the Initial Study/Mitigated Negative Declaration and

recommended that the City Council adopt the Initial Study/Mitigated Negative Declaration on a 5-1 vote, and

WHEREAS, on May 20, 2025, during the appeal period, the Salida Fire District submitted an appeal to the project. After subsequent discussions with the District, the District requested the City add the following language to the CEQA Mitigated Negative Declaration: “As a condition of approval, the Project will be required to enter into the District’s Community Facilities District and pay all applicable taxes. Those taxes will mitigate the described project’s impacts on the fire and emergency response services that are funded by the District.” In a letter dated June 20, 2025, the District agreed to formally withdraw their appeal if the language was included. This language has been added to the document for Council’s approval under this Resolution. The District’s appeal is formally withdrawn with the adoption of this Resolution, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on June 24, 2025, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered Environmental Assessment No. EA/C&ED 2024-14 and the associated Mitigation Monitoring and Reporting Plan (MMRP), copies of which are on file with the Community and Economic Development Department, Third Floor, 1010 Tenth Street, Modesto, California, and are **attached** hereto as **Exhibit “A”** and **Exhibit “B”** and incorporated herein as reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The Initial Study/Mitigated Negative Declaration prepared for the proposed project shows there is not substantial evidence, in light of the whole record before the City, that while the project may have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made or agreed to by the project proponent.
2. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.
3. The Initial Study/Mitigated Negative Declaration, EA/C&ED 2024-14, provides the substantial evidence to support findings 1-2, noted above.

BE IT FURTHER RESOLVED that 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.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2025, by Vice-Mayor Bavaro, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


DIANE NAYARES-PEREZ, CMC,
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
JOSE M. SANCHEZ, City Attorney

EXHIBIT A

INITIAL STUDY

EA/C&ED NO. 2024-14

<https://www.modestogov.com/DocumentCenter/View/23899/Final-Mitigated-Negative-Declaration-Founders-Point-East>

1123

<https://www.modestogov.com/DocumentCenter/View/23679/Founders-Point-Specific-Plan-Detailed-Report-Appendix-A>

95

<https://www.modestogov.com/DocumentCenter/View/23680/Founders-Point-East-Traffic-Impact-Analysis-Appendix-B>

911

EXHIBIT B

MITIGATION MONITORING AND REPORTING PROGRAM

EA/C&ED NO. 2024-14

<https://www.modestogov.com/DocumentCenter/View/24005/Founders-Point-East-Specific-Plan-Mitigation-Monitoring-Program>

Potentially
Significant
Impact

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with
Mitigation

Less Than
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II. AGRICULTURE AND FOREST RESOURCES:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

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b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

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c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

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d) Result in the loss of forest land or conversion of forest land to non-forest use?

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e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

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Discussion

a) The project site is semi-developed with a new warehouse/distribution center, recreational vehicle storage facilities, business park-manufacturing uses and the newly constructed

campus of the Holy Family Catholic Church. Undeveloped areas are currently in use as almond orchards.

According to the most recent data from the CA Dept of Conservation Farmland Monitoring and Mapping Program (FMMP), the area is comprised of Prime Farmland, Grazing Land, Rural Residential Land, and Urban/Built-Up Land. Approximately 147 acres of the project area is categorized as Prime Farmland. The loss of Important Farmland as classified under the FMMP is considered a potentially significant environmental impact. Per Stanislaus LAFCo Agricultural Preservation policy, mitigation measures such as 1:1 farmland conservation would reduce impacts to **less than significant** with mitigation. In compliance with the policies adopted by the Stanislaus LAFCo Agricultural Preservation policy, and supported by the Modesto General Plan Chapter VII, Section D (Agriculture Resource Policies), the project will support, and fully fund, the acquisition of prime agricultural land at a ratio of 1:1.

Mitigation Measure(s)

Mitigation Measure AG-1: *Prior to the issuance of grading permits, the Project applicant shall secure permanent protection of offsite farmland based on a 1:1 ratio to the amount of gross Farmland converted because of development, consistent with the requirements of the Stanislaus County Local Agency Formation Commission (LAFCo) Agricultural Preservation policy. The acreage requiring agricultural mitigation shall be equal to the portion of the site dedicated to residential uses which would be subject to the discretionary development entitlement for lands designated as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland. Permanent preservation shall consist of the purchase of agricultural conservation easements granted in perpetuity from willing seller(s), enforceable deed restrictions, purchase of banked mitigation credits, or other conservation mechanisms acceptable to the City.*

The permanent protection of farmland shall be accomplished by either: (1) the landowner/developer working directly with an established farmland trust or similar organization, and providing certification satisfactory to the City that such lands have been permanently preserved at the specified ratio; or (2) working with a qualified land trust or similar organization, to establish a fee for agricultural land conservation easements.

- b) There are five Williamson Act contracts on properties within the project area, which are proposed for annexation and development. Annexation of land under a contract would be a conflict, unless the contract was cancelled, expired, or determined to be "null and void." The City of Modesto filed a protest to the Stanislaus County LAFCo for these Williamson Act contracts pursuant to Section 51243.5 of the Government Code and was upheld by LAFCO. Therefore, the City will not succeed those contracts and upon annexation, the contracts will be terminated. This outcome would ensure that there is no possibility of a conflict between the annexation and the contracts. For these reasons, implementation of the proposed Project would have a **less than significant** impact relative to this topic.
- c) The Project site is not forest land (as defined in Public Resources Code section 1222(g)) or timberland (as defined in Public Resources Code section 4526). The proposed Project would not conflict with existing zoning for, or cause rezoning of, forest land or timberland. Implementation of the proposed Project would have no impact relative to this issue. Therefore, implementation of the proposed Project would have **no impact** relative to this issue.
- d) See item C above. Implementation of the proposed Project would have **no impact** relative to this issue.
- e) The Project site does not contain forest land, and there is no forest land in the vicinity of the Project site. The Project site would result in a conversion of the farmland to non-farmland.

This impact has already been considered with the approval and the certification of the UAGP DEIR. The proposed Project does not involve any other changes in the existing environment not disclosed under the previous responses which, due to their location or nature, could result in conversion of farmland, to non-agricultural use, or conversion of forest land to non-forest use. Implementation of the proposed Project would have a **less than significant** impact relative to this issue.

**FOUNDERS POINT EAST
PROJECT MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Transportation and Circulation				
<p>1. Development of the project shall incorporate the following mitigation measures:</p> <ul style="list-style-type: none"> The Project Applicant shall implement the Transportation Demand Management (TDM) strategies listed in Table 4 (TDM Measures and VMT Reduction) of the Founders Point East Transportation Impact Study to reduce daily home-based work vehicle miles traveled (VMT) per employee. These measures shall be designed to achieve a minimum 4.9% reduction in VMT per employee, consistent with the study's findings. 	Project Developers	Project Developers shall be responsible for any required road improvement plans and construction of roadway and frontage improvements upon development within the Specific Plan.	City Engineer shall review and approve road improvement plans. Developer shall construct improvements. Engineering Services Department shall inspect and accept improvements.	All improvements shall be completed prior to recordation of any subsequent subdivision map or issuance of a building permit.
Noise				
<p>1. Development of the project shall incorporate the following mitigation measures:</p> <ul style="list-style-type: none"> NOI-3: The following shall be incorporated into the design: All north-facing second-floor windows of residences proposed adjacent to where industrial development would occur in the future, shall have a minimum Sound Transmission Class (STC) rating of 32. 	Project Developers	Project developers shall demonstrate provision of windows with Sound Transmission Class (STC) rating of 32 for north-facing second story windows of new residences prior to issuance of a building permit for each residence.	Chief Building Official or designee shall review and approve building permit applications. Developer shall construct improvements. Building Safety Division shall inspect and accept improvements.	Improvements shall be completed prior to issuance of a Certificate of Occupancy.
Air Quality				
<p>1. Development of the project shall incorporate the following mitigation measures:</p>				

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> AIR-1. Prior to the approval of individual projects, at the time of site plan development, each project applicant shall measure their individual projects' TAC emissions (for both construction and operational phases) with their Air District's 'Prioritization Calculator', a calculator that screens individual projects for the potential need for an HRA. For individual projects that do not screen out of this calculator, a full air toxics Health Risk Assessment (for each relevant project) is required to be prepared by the project applicant(s). The intent is that each individual project would demonstrate that the individual project does not exceed the applicable SJVAPCD health risk thresholds. If any of the SJVAPCD health risk thresholds for an individual project is exceeded, the project applicant shall develop additional mitigation to ensure that the individual project does not exceed the applicable SJVAPCD health risk thresholds. 	Project Developers	Project Developers shall review SJVAPCD regulations and submit any required compliance plan to the City of Modesto's Community and Economic Development Department. The compliance plan shall be incorporated in construction contracts and implemented by developers. If necessary, developer shall provide an HRA	Project Developers shall provide draft compliance plan and/or HRA to the Community and Economic Development Department for review and approval prior to commencement of any development within the Specific Plan.	Compliance plan shall be submitted to and approved by the Community and Economic Development Department prior to the issuance of a grading or building permit, whichever occurs first, for any development within the Specific Plan.
Geology and Soils				
<p>1. Development of the project shall incorporate the following mitigation measures:</p> <ul style="list-style-type: none"> GEO-4: Prior to the development of the project site, a subsurface geotechnical investigation must be performed to identify onsite soil conditions and identify any site-specific engineering measures to be implemented during the construction of building foundations and subsurface utilities. The results of the subsurface geotechnical investigation shall be reflected on the Improvements Plans, subject to review and approval by the City's Building Safety and Fire Prevention Division. 	Project Developers	Project developers shall conduct a geotechnical investigation and provide results to the Chief Building Official and Fire Prevention Division.	The results of the subsurface geotechnical investigation shall be reflected on the Improvements Plans, subject to review and approval by the City's Building Safety and Fire Prevention Division.	Prior to issuance of a grading permit for any development within the Specific Plan.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> GEO-5. Expansive materials and potentially weak and compressible fills at the site shall be evaluated by a Geotechnical Engineer during the grading plan stage of development. If highly expansive or compressible materials are encountered, special foundation designs and reinforcement, removal and replacement with soil with low to non-expansive characteristics, compaction strategies, or soil treatment options to lower the expansion potential shall be incorporated through requirements imposed by the City's Development Services Department. 	Project Developers	Project developers shall conduct a geotechnical investigation and provide results to the Chief Building Official and Fire Prevention Division.	If highly expansive or compressible materials are encountered, special foundation designs and reinforcement, removal and replacement of soil or soil treatment shall be incorporated through requirements imposed by the City's Development Services Department, to the satisfaction of the Chief Building Official and Fire Prevention Division.	Prior to issuance of a grading permit for any development within the Specific Plan.
<ul style="list-style-type: none"> GEO-6. If paleontological resources are discovered during the course of construction, work shall be halted immediately within 50 meters (165 feet) of the discovery, the City of Modesto or Stanislaus County shall be notified, and a qualified paleontologist shall be retained to determine the significance of the discovery. If the paleontological resource is considered significant, it should be excavated by a qualified paleontologist and given to a local agency, State University, or other applicable institution, where they could be curated and displayed for public education purposes. 	Project Developers	Project developers shall notify the County and City if paleontological resources are discovered.	A qualified paleontologist shall be retained to determine significance of discovery and conduct excavation if necessary.	At all phases of construction.
Agriculture and Forest Resources				

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p>1. Development of the project shall incorporate the following mitigation measures:</p> <ul style="list-style-type: none"> AG-1: Prior to the issuance of grading permits, the Project applicant shall secure permanent protection of offsite farmland based on a 1:1 ratio to the amount of gross Farmland converted because of development, consistent with the requirements of the Stanislaus County Local Agency Formation Commission (LAFCo) Agricultural Preservation policy. The acreage requiring agricultural mitigation shall be equal to the portion of the site dedicated to residential uses which would be subject to the discretionary development entitlement and lands designated as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland. Permanent preservation shall consist of the purchase of agricultural conservation easements granted in perpetuity from willing seller(s), enforceable deed restrictions, purchase of banked mitigation credits, or other conservation mechanisms acceptable to the City. 	Project Developers	Project Developers shall work with the City or in consultation with an established farmland trust.	City of Modesto Community and Economic Development Department	Prior to recordation of a final map for any new residential development within the Specific Plan, or prior to issuance of a building permit for any residential development within the Specific Plan.
<ul style="list-style-type: none"> AG-1: (continued) The permanent protection of farmland shall be accomplished by either: (1) the landowner/developer working directly with an established farmland trust or similar organization, and providing certification satisfactory to the City that such lands have been permanently preserved at the specified ratio; or (2) working with a qualified land trust or similar organization, to establish a fee for agricultural land conservation easements. 	Project Developers	Project Developers shall work with the City or in consultation with an established farmland trust.	City of Modesto Community and Economic Development Department	Prior to recordation of a final map for any new residential development within the Specific Plan, or prior to issuance of a building permit for any residential development within the Specific Plan.

City Resolution 2025-250 Links:

Exhibit A:

Final Initial Study & Mitigated Negative Declaration:

<https://www.modestogov.com/DocumentCenter/View/23899/Final-Mitigated-Negative-Declaration-Founders-Point-East?bidId=>

Founders Pointe Specific Plan Detailed Report Appendix

<https://www.modestogov.com/DocumentCenter/View/23679/Founders-Point-Specific-Plan-Detailed-Report-Appendix-A?bidId=>

Founders Point East Traffic Impact Analysis Appendix B

<https://www.modestogov.com/DocumentCenter/View/23680/Founders-Point-East-Traffic-Impact-Analysis-Appendix-B?bidId=>

Exhibit B:

Mitigation Monitoring & Reporting Program:

<https://www.modestogov.com/DocumentCenter/View/24005/Founders-Point-East-Specific-Plan-Mitigation-Monitoring-Program?bidId=>