


**EXECUTIVE OFFICER'S REPORT**  
*To The Imperial*  
**Local Agency Formation Commission**

**TO:**

Commissioner	<b>DAVID WEST</b> (Chair)	[Public]	Commissioner	<b>MICHAEL KELLEY</b>	[Supervisor]
Commissioner	<b>JASON JACKSON</b>	[City]	Commissioner	<b>RAY CASTILLO</b>	[Supervisor]
Commissioner	<b>MARIA NAVA-FROELICH</b>	[City]			[City]
	(Vice-Chair)				
	Alt Commissioner	<b>LUIS PLANCARTE</b>		[Supervisor]	
	Alt Commissioner	<b>JIM PREDMORE</b>		[City]	
	Alt Commissioner	<b>RALPH MENVIELLE</b>		[Public]	

**REPORT DATE:** March 1, 2017

**FROM:** Jurg Heuberger, Executive Officer 

**PROJECT:** Miller-Burson EC 8-04/Grizzle EC 1-16

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**HEARING DATE:** March 23, 2017 **TIME:** 08:40

**AGENDA ITEM NO:** 9

**HEARING LOCATION:** El Centro City Council Chambers, 1275 Main Street, El Centro, CA

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**RECOMMENDATION(S) BY THE EXECUTIVE OFFICER**

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- OPTION #1:** Approve the Annexation of the project as presented by the Executive Officer.
- OPTION #2:** Approve the Annexation of the project with modification following the hearing.
- OPTION #3:** Continue the Annexation of the project for not to exceed 70 days with instructions
- OPTION #4:** Deny the Annexation as presented.

# Project Data:

## DATA & FACTS:

Project ID	EC 8-04/EC 1-16	EL CENTRO
Project Name:	Miller-Burson/Grizzle	
Applicant/Proponent:	Grizzle/ Development Design & Engineering, Inc.	
Application Type:	Petition	
Application Filed:	February 6, 2005/Transferred to Grizzle October 2016	EXHIBIT "A"
Certificate of Filing:	June 6, 2005	EXHIBIT "B"
Area/Size:	159.92 AC (per application filed) [please refer to application and map for accuracy]	
Location/Legal:	See attached map and legal description	EXHIBIT "C"
Proposed Project:	Annexation to El Centro	

## TAX AGREEMENT:

Board of Supervisors Action:	November 15, 2011 Minute Order #39	EXHIBIT "D"
City Resolution:	#11-153 dated December 6, 2011	EXHIBIT "E"
Tax Split:	Auditor-Controller Letter dated September 1, 2011	EXHIBIT "F"

## CEQA:

Lead Agency:	City of El Centro	
Documentation:	Environmental Impact Report - SCH # 2006081078	EXHIBIT "G"

## CHRONOLOGY:

LAFCO:	Chronologic index of all document in the file.	EXHIBIT "H"
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## ANALYSIS

### Abbreviation INDEX for Projects:

Miller Burson	=	MB
Lotus Ranch	=	LR
Lotus Drive	=	LD

### HISTORY:

This project Miller Burson (MB) along with the Lotus Ranch (LR) project located contiguous at the southeast corner were both submitted to LAFCO in early 2005, (MB 2/1/2005 & LR 3/31/2005).

Given the location of the two projects (see attached maps), it was determined that an area due east of the MB project site and due north of the LR project site, known as the Lotus Drive (LD) area would create an island.

Given the requirements of the Cortese Knox Hertzberg Reorganization Act of 2000 also referenced as LAFCO Law, the Executive Officer advised both applicants as well as the City of El Centro, that LAFCO could not allow the creation of a new island, particularly given the extensive efforts this LAFCO had made in eliminating islands throughout the County.

Both applicants as well as the City were also advised that neither of these applications would be processed by LAFCO unless and until the LD area was addressed both by the City in its land use process as well as the applicants by including the area within one or both applications.

The MB project proceeded through the City's land use process ahead of the LR project and ultimately received approvals by the City. The MB developer insisted that the MB project should be annexed as it was contiguous to the City along Ross Rd. and that since the LR project was not yet approved by the City, and further that the LR would be the project that essentially would create an island, therefore the MB project should be allowed to annex.

The Executive Officer again advised that since both projects were being processed concurrently by the City they would also be processed concurrently by the LAFCO and both would be taken to hearing at the same time in order not to create either a real or perceived unfair determination by the Commission.

The developer of the MB project apparently met with the residents of the LD area and ultimately allegedly agreed to certain improvements be made to the LD area. Additionally, the City's approved tract map included specific conditions relative to the LD area. LAFCO was never a party to any of these discussions with the City or the residents.

Ultimately the residents of the LD area provided a list of conditions that they felt either should be part of the approval by both the City and LAFCO.

Due to the economic downturn, the LR project terminated the processing of the application through the City and both the MB and the LR projects were placed on hold by LAFCO. Over the years repeated requests for status or possible termination of projects were met by requests to keep the applications active.

In late 2014 LAFCO was informed through a notice of preparation for an EIR by the City that the LR project was once again being started. In the meantime, the MB project ownership changed and the new owner met with LAFCO to discuss possible annexation of the project. This new owner was also advised of the prior history and that both projects would end up at the Commission at the same time to avoid issues or disputes over the creation of an island. The new owner agreed to this and assured LAFCO that he would be proceeding with the existing approvals previously obtained through the City.

#### **LD RESIDENT REQUEST:**

The Lotus Drive residents provided a letter (EXHIBIT "I") outlining conditions that they felt needed to be included with both projects in order for them to consent or at least not object to their area being annexed to the City. This list was entirely related to land use and therefore beyond the jurisdiction of LAFCO. This letter was made available to the City. EXHIBIT "I"

The two projects were initially scheduled to appear before LAFCO in December of 2016, and based on discussions with the residents it was made clear that LAFCO not only could but would face potential litigation. As a result, and in an effort to reach some type of resolution between the residents, the developers and the City, the LAFCO EO at the December LAFCO meeting asked that the City of El Centro provide a written position on the issues in the letter. In no way did the EO or the Commission give direction as to how the issues in the letter should be addressed only that the City take a formal position one way or the other.

#### **ISLAND:**

The issue of "island" has been a major discussion point with the proposed projects.

Unfortunately, the CKH does not have a specific definition for an island. Rather it is addressed in several sections;

**Section 56744, states in part:** "Unless otherwise determined by the commission pursuant to subdivision (m) of Section 56375, territory shall not be incorporated into, or annexed to, a city pursuant to this division if, as a result of that incorporation or annexation, unincorporated territory is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.

**Section 56375 defines it in part as follows:**

“....The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

8(B)(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

**PROJECT:**

**I: Project Description:**

This project is the annexation of about 160 acres to the City of El Centro for the development of a single family subdivision. The project is located south of Ross Rd., east of Austin Rd., north of Interstate 8 and west of what is known as the Lotus Subdivision.

The project abuts the City of El Centro on the north boundary along Ross Rd., however to the east, west and south it is surrounded by unincorporated land predominately farming on the west and south. On the east as noted is the unincorporated area of the Lotus Subdivision, a previously approved project by the County.

See detailed project description within the environmental impact report.

**II: City Council Approvals:**

- 1) **RESOLUTION 09-02:** *Dated May 20, 2009, by the El Centro City Council amending the zoning map of the City of El Centro pertaining to approved zone change* **EXHIBIT "J"**
- 2) **RESOLUTION 09-30:** *Dated May 6, 2009, by the El Centro City Council adopting the Final Environmental Impact Report, Change of Zone, and Tentative Subdivision Map.* **EXHIBIT "K"**
- 3) **RESOLUTION 09-31:** *Dated May 6, 2009, by the El Centro City Council approving the Miller Burson tentative subdivision map.* **EXHIBIT "L"**
- 4) **RESOLUTION 11-143:** *Dated November 1, 2011, by the El Centro City Council approving transfer of property tax and other revenues between the City of El Centro and the County of Imperial.* **EXHIBIT "M"**

- 5) **RESOLUTION 11-153:** *Dated December 6, 2011, by the El Centro City Council approving a tax and fiscal impact agreement with the County of Imperial.* **EXHIBIT "N"**

**III: County Land Use:**

- 1) *County General Plan:* Under the County's General Plan, the area being proposed for annexation is shown to be Urban for the future expansion of El Centro.
- 2) *County Zoning:* A-1-U (Light Agriculture)
- 3) *Surrounding Land Uses:* The project is contiguous to the City of El Centro at the north side, is bordered on the east by an un-incorporated residential area known as the Lotus Subdivision and is open agriculture to the south & west.

**IV: Sphere of Influence:**

**EXHIBIT "O"**

The proposed project is within the boundary limits of the current Sphere of Influence for the City of El Centro.

**V: CEQA:**

Environmental Impact Report prepared by Michael Brandman Associates SCH #2006081078

**VI: State Law:**

**Cortese/Knox/Hertzberg Reorganization Act of 2000:**

Government Code Section 56668 specifically requires that certain factors be considered in the review of any proposal, and shall include but not be limited to Items A through P.

- (A) *Population, 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.*

**Comment:** The proposed project as identified in the staff analysis and EIR prepared by the City of El Centro is for the development of a residential subdivision, creating approximately 485 new homes, along with an elementary school and park.

This project would therefore have the potential to add 1566 new people at a density of 10 people per acre. The assessed value of adjacent homes is generally about \$250,000 to \$400,000 and the natural boundary of the project is; Ross Rd. on the north, Austin Rd. & Austin Canal on the west and Interstate 8 on the south. At the southwest corner of the project site it is expected that a new interchange between Austin Rd. & I-8 will need to be constructed in the future. Of concern is the area known as the Lotus Subdivision, which is an un-incorporated development immediately east of the proposed project. The Lotus Subdivision could become an Island if land to the south were to be annexed and at this time another project known as the Lotus Ranch Project is in fact also being considered for annexation. Therefore, the Lotus Subdivision must be annexed as part of this annexation OR the Lotus Ranch Annexation.

LAFCO cannot under current law allow the creation of new Islands, therefore when both of these projects were being proposed, LAFCO advised the City that the two projects must address this issue and one or both must include the Lotus Subdivision. LAFCO further recommended to the City that the first of the two projects to be approved by the City would need to include the Lotus Subdivision, however any impacts

created by the two projects in including the Lotus Subdivision needed to be mitigated by an agreement between the two projects and so reflected in the conditions of approval by the City.

(B) *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.*

*'Services,' as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.*

**Comment:** The change will result in the need for significant new infrastructure and the project will use a substantial amounts of capacity from the city in services. If annexed this area will receive all of the services normally provided by the City, which therefore represents an impact to the City which has been addressed in the CEQA documentation.

This project and/or the project to the south (Lotus Ranch) will require the annexation of an existing developed area known as the Lotus Subdivision, which if not included would create an island. This area therefore will also become, at some time, subject to receiving City services.

The City through the environmental analysis has considered the range of services that the Lotus Subdivision as well as this project will require and has also demonstrated the capacity to service them.

This project as well as the Lotus Ranch project may significantly impact the adjacent Lotus Subdivision area, insofar as that subdivision will be incorporated into the City and the residents will have to conform to City requirements at some time to be determined by the City. The City has approved a resolution 17-13 which is attached as EXHIBIT "P", that addresses most of the relevant conditions. **EXHIBIT "P"**

(C) *The effect of the proposed action and of alternative actions, on adjacent area, on mutual social and economic interests, and on the local governmental structure of the County.*

**Comment:** The proposed project will affect the adjacent areas in a number of ways, not the least of which is traffic, light and noise. While the project is generally consistent with the County and City General Plans, it will not be a significant economic boost to the City.

This project will affect traffic, presumably mitigated with the conditions of the City's approval, and it will impact specific services such as sewer and water, again, presumably adequately mitigated through conditions.

This as well as the Lotus Ranch Project will affect the Austin Rd. interchange on Interstate 8, and further the need for that interchange as well as Austin Rd. to be improved in the future, therefore both projects must support by fair share contributions.

(D) *The conformity of both the proposed and its anticipated effect with both the adopted Commission policies on providing planned, orderly, efficient pattern of urban development, and the policies and priorities set forth in Section 56377.*

**Comment:** The proposed project is consistent with the majority of growth related policies adopted by the Commission. This project by itself technically does not create an island if one desires to assume (a) that the Lotus Subdivision is included and; (b) and/or one were to assume the Lotus Subdivision were not to be included that the area south were not to be annexed. Given however that this project encircles an adjacent unincorporated area and essentially land locks that area to the extent that residents can only exit through the city and since it is known that the Lotus Ranch to the south is also a project to be annexed, it has the general appearance of an island being created, unless included as part of either project.

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

**Comment:** This project will remove a specific amount of agricultural land and when viewed from a cumulative perspective, it does become part of a greater problem for which no solutions have been devised by either the County or the City. The difference here is that this area is within a defined "urban boundary."

(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 of corridors of unincorporated territory and other similar matters affecting the proposed boundaries.*

**Comment:** If this project did not include the adjacent Lotus Subdivision, it essentially creates, or at least in part, contributes to the formation of a new island. The applicant has argued that it is not an island in that the area south is still contiguous to unincorporated land. That is a faulty argument. Concurrent to this project another project was/has been processed by the City, located due south of this project which will in total create a definite island. Therefore, this project bears an indirect responsibility to resolve the "island" prohibition, or in the alternative the City could or should have required the Lotus Ranch to include the Lotus Subdivision whereby LAFCO could have attached the Lotus Subdivision to either project. At this time however, there is no written agreement by the applicant and the adjacent owners; nor a written agreement between the developers

(G) *A regional transportation plan adopted pursuant to Section 65080, and consistency with City and County General and Specific Plans.*

**Comment:** The project in and of itself may be considered consistent, however there are certain transportation issues that the Executive Officer believes have not been fully in that the City, the County and Caltrans should acknowledge that all projects within a given range bear a direct responsibility for the Austin Rd./I-8 intersection.

(H) *The Sphere of Influence for any local agency, which may be applicable to the proposal being reviewed.*

**Comment:** This area is within the City of El Centro's Sphere of Influence.

(I) *The comments of any affected local agencies.*

**Comment:** No significant adverse comments have been received for this project by any responsible agency.

(J) *The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.*

**Comment:** The City has indicated that it has adequate capacity to service this project area; however, solving the adjacent unincorporated areas services has not been resolved to the Executive Officers understanding or satisfaction.

(K) *Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.*

**Comment:** The project as analyzed by the City of El Centro indicates that the City does have adequate water for this project.

(L) *The extent to which the proposal will affect a city or cities and the county in achieving their respective far 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.*

**Comment:** This project may be consistent with the City's General Plan however the City should provide a certification to LAFCO that it is in conformity and compliance with this mandate, and specifically with the Housing Element of the General Plan.

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

**Comment:** Please see attached. The adjacent land owners of the area, known as the Lotus Subdivision, or Lotus Drive (LD) which is also referred to herein as the adjacent unincorporated area have significant comments and concerns which LAFCO cannot ignore and which must be resolved at least addressed or responded to in written form by the City. The LD residents submitted a request attached as an Exhibit.

EXHIBIT "Q"



(N) Any information relating to existing land use designations.

**Comment:** N/A

(O) *The extent to which the proposal will promote environmental justice. As used in this subdivision, "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.*

**Comment:** The proposed project is essentially a residential subdivision and to the knowledge of LAFCO has not imposed conditions or proposed development standards that adversely affect any group of individuals. Does it create an opportunity for low income residents; does it create public facilities' or create public services that create an unfair aspect to any group of people, most likely not.

## **VII: Summary Analysis:**

This project (Miller Burson/Grizzle) along with the project south (Lotus Ranch) together have both been approved for land use entitlements by the City. Together these two projects surround an area known as the Lotus Subdivision, a subdivision approved years ago by the County. The Lotus Subdivision is a longitudinal area starting at Ross Rd. in the direction of an abutting to the I-8. The residential lots are all what is commonly known as "large lots" ie. 1 AC or more and all are served by individual services, such as sewer, water etc. Water to this area is from the Imperial Irrigation District (IID) in what is locally known as canal or irrigation water meaning it is not provided in treated potable form.

If both of these projects were to be annexed without including this area, it would form an Island under the definition of CKH and that is no longer an allowable option to LAFCO. At the insistence of LAFCO early on the City was asked to include this area in one or both of the projects, with the stipulation that the first project to come to the Commission, would have to include the area in its annexation map. At the time of the request it was not known which of the two projects would be ready for annexation first. It could have been Lotus Ranch, but it turned out to be Miller Burson. Hence the City did include the area in the approval of conditions to Miller Burson. What was not fully addressed however is how the alleged impacts to the Lotus Subdivision would be dealt with. There were many meetings and many verbal assurances. The City to our knowledge did not address any of the concerns raised by the residents except for including a requirement in the Miller Burson conditions for sewer and water to be provided by the developer who would be reimbursed 50% by person or parties unknown.

There were discussions that some of the requirements that the Lotus Subdivision Residents could ultimately face could be deferred until some later time, but again to our knowledge there are not written agreements by the City.

There were also discussions by the residents and developers on what they would provide, but again we have no written documentation to that effect.

Lastly while the Miller Burson project includes the Lotus Subdivision as part of its annexation map, should this project not be completed before the Lotus Ranch Subdivision is started, there are no provisions to tie the Lotus Subdivision to this project, hence future disputes could arise.

## **VIII: Public Notice:**

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section 56660 and 56661. Notice was issued in the form of a publication in the IV Press at least twenty-one (21) days prior to said hearing, and posted on our webpage. In addition, direct mail notices were at least sent to all property owners within 300 ft in the incorporated territory and within ½ mile of the unincorporated areas. In fact, two separate notices were provided, one being the general notice and one specifically

to each property owner within the Lotus Subdivision, advising them that should LAFCO approve this project their land would be within the City of El Centro.

**IX: Report:**

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the applicant, the County Counsel, County Executive Office, County Public Works, Imperial Irrigation District, City of El Centro, El Centro Regional Medical Center, and the Applicant.

**X: Conflict of Interest Statement:**

To date March 1, 2017 no Commissioner except for David West, has indicated that there is any conflict of interest with regard to this project, although some Commissioners reported communications with the Applicant, Proponent or Opponent. **The Commissioners will be asked to declare any communication, known generally as “ex parte” communication that they may have had during and prior to the public hearing.** . The Executive Officer does not have any known conflict of interest, does not own any property within the project area, but does own a home within an older section of the City of El Centro.

**XI: Clarification of CKH conditions applicable to this annexation:**

- a) Gov. Code 56895: Reconsideration: this section allows for any person or agency to request a reconsideration of the decision made by the Commission, if such a request is received by the Executive Officer with 30 days of the initial decision by the Commission. If such a request is received the Executive Office has to follow the procedures within this section to schedule the hearing.
- b) Gov. Code 57076: Landowner-voter districts: the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take on the following actions:
  - a) Terminate proceedings if a majority protest exists in accordance with Section 57078
  - b) Order the change of organization or reorganization subject to an election within the affected territory if written protest have been filed and not withdrawn represent either of the following:
    - (1) Twenty-five percent or more of the number of owners of land who also own 25 percent or more of the assessed value of land within the territory.
    - (2) Twenty-five percent or more of the voting power of landowner voters entitled to vote as a result of owning property within the territory.
  - c) Order the change of organization or reorganization without an election if written protests have been and filed and not withdrawn by less than 25 percent of the number of owners of land who own less than 25 of the assessed value of land within the affected territory
- c) Gov. Code 57078: Majority protest: In the case of any reorganization or change or organization, a majority protest shall be deemed to exist and the proposed change of organization shall be terminated if the commission finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent any of the following
  - (a) In the case of uninhabited territory, landowners owning 50 percent or more of the assessed value of land within the territory.
  - (b) In the case of inhabited territory, 50 percent or more of the voting power of the voters entitled to a vote as a result of owning land within the district.

# EXECUTIVE OFFICERS RECOMMENDATION

## RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action:

NOTE: In the event that the Commission decides to render a decision that adds or deletes conditions or in some way alters the project as presented, it may be necessary to make findings. This may require that the item be continued until findings can be drafted for review and adoption by the Commission.

### Option #1:

- 1: Certify the Environmental Impact Report (SCH # 2006081078) as prepared by the City of El Centro and Certified by El Centro in (May 6, 2009).
- 2: Make the finding that this project with the conditions imposed herein (or as modified) is in substantial compliance with the provisions of the Cortese/Knox/Hertzberg Reorganization Act of 2000 and the Imperial County LAFCO Policy, and Procedures.
- 3: Make the findings pursuant to Gov. Code Section 56375 that:
  - a) The project has been pre-zoned under the City of El Centro's current zoning Ordinance.
  - b) The project is prohibited per section 56375 (e) from being "re-zoned" for a period of two years following annexation.
  - c) The project is contiguous to the City, does not create an island, and is a logical extension of the City within the sphere of Influence, and or urban area plan.
  - d) The protest proceedings pursuant to Part 4 commencing with Section 57000 are hereby initiated, and are in compliance with the resolution of approval by the Commission.
- 4: Approve the **Annexation**/subject to all of the following conditions:
  - A. Authorize the Executive Officer to forward the Resolution of approval to the City of El Centro, as an information item and for compliance with all relevant conditions imposed herein. (*Pursuant to the Cortese/Knox/Hertzberg Reorganization Act of 2000, enacted through AB 2838, a conducting authority process, i.e. the City being the Conducting Authority, no longer exists and the LAFCO has been delegated the Conducting Authority Process*).
  - B: Pursuant to Cortese-Knox-Hertzberg, authorize the Executive Officer to record the annexation with the County Recorder and the State Board of Equalization, **ONLY** upon compliance by the applicant and the City, with all applicable conditions, payment of requisite fees, and receipt of all documents necessary and required from the proponents, the City and/or other agencies.
  - C: The Annexation boundary shall be as per map and legal description (**EXHIBIT – C**) attached hereto. The annexation shall include all contiguous Roads; Road Right of Ways; Canals, Canal Right of Ways; and Public Easements. The final annexation map shall be prepared by a California Licensed Engineer licensed to practice in the Category of work to be performed. Said final map shall be reviewed by the Surveyor of the County of Imperial and the Public Works Director of the City of El Centro to assure that the map complies with the correct boundary and surveying requirements, as well as legal descriptions. Project shall not record until both County and City Public Works Directors have provided a letter stating compliance.

- D: The City of El Centro shall transmit to the Executive Officer certified copies of all approvals given or required to be given by the City of El Centro in approving the land use projects reported herein, including tax agreements unless that information has already been submitted.
- E: The City of El Centro shall within 90 days of the hearing by LAFCO, approving the annexation, submit to the LAFCO a full City Boundary Map depicting the new annexation as part of the overall City Boundary. This City Boundary map shall be signed by a licensed Engineer and shall be submitted as follows;
- a) A digital copy in AutoCAD 2009 or later format
  - b) A 24" x 36" or larger copy
  - c) A 18" x 24" copy.
- F: Upon receipt of the City Boundary Map required in condition E, the Executive Officer shall transmit said map to all affected public agencies, including but not limited to law enforcement, Assessor, etc.
- G: The applicant (petitioner) and/or the City as appropriate shall provide to LAFCO the following items in order to complete the processing of the annexation.
- 1: Eight (8) copies of the Annexation maps and legal descriptions prepared by the licensed engineer, and one "Mylar" copy meeting the size established by the County Recorder's office.
  - 2) Check made payable to the State Board of Equalization as required by Statute.
  - 3) Check payable to LAFCO as determined by the Executive Officer to fully offset the cost of processing the application, including all costs incurred by County or City departments charged with the responsibility to review any portion of this project.
  - 4) A letter from the Petitioners agreeing to the terms and conditions of the LAFCO and waiving all rights to an appeal, or reconsideration of the LAFCO decision, unless petitioner can show that a technical error occurred that would have or could have altered the decision of the LAFCO.
- H: The annexation shall not be recorded until all conditions have been completed and all costs paid in full.
- I: The City of El Centro shall not change any of the zone(s) within the boundary of the project annexation area for a period of two years from the date of recordation, subject to the Government Code Section in the Cortese/Knox/Hertzberg Reorganization Act of 2000. The City shall notify the LAFCO and the County of any proposed change of zone within the boundary area at least 90 days prior to any such Council Hearing, if such is requested prior to the termination of 24 months from recordation. If the City does change the zone or the envisioned land use analyzed within this land use process, in the future and it affects any tax split agreements with other agencies, then the City shall be required to make the appropriate adjustments, with County.
- J: The City shall not enter this property into any type of "redevelopment" program or such other program that would adversely change the Fiscal impacts or in any way affect any fiscal impacts or tax sharing agreements with other agencies. If the City, following annexation and after recordation, does change the project so as to change the Fiscal information/outcome upon which LAFCO and/or other agencies relied, the City shall be required to fund any deficit that may occur as a result of their change.
- K: All conditions of approval made by or given by the City as evidenced by the Resolutions or Ordinances adopted by the City shall be part of the Conditions of LAFCO in this annexation as if written herein.
- L: The City shall require all IID canals and drains that are within or contiguous to the project, to be undergrounded (or eliminated), except for the Canals or drains identified by the IID as not feasible, such as the Central Main Canal. Applicant and/or IID shall provide to LAFCO assurance acceptance to the Executive Officer which may include bonds or other certificates that said condition shall be complied with. If the IID

determines that a canal shall not be undergrounded, it must do so in writing to LAFCO, stating the reasons for its decision and accepting full responsibility in the event a safety issue shown in the EIR as a possibility occurs.

- M: The annexation shall not record until the City provides to LAFCO a hard copy as well as a digital copy of the "mitigation" measures that will be required to be implemented for this project. These mitigation measures will be made a part of the Resolution of approval by LAFCO and to the extent applicable will be required to be implemented or bonded for as appropriate.
- N: The annexation shall not record until the City provides to LAFCO a certified statement from the City Engineer that the City has the capacity to provide sewer and water services to this project.
- O: The annexation shall not record until the City of El Centro provides documentation satisfactory to LAFCO on how, when and at what cost the minimum infrastructure would be provided to the Lotus Subdivision meeting City standards. Included herein that the proposed resolution is equitable to the residents and the two developments that had the potential to create the island area.
- P: The City shall provide evidence to LAFCO the following items have been completed! This should be provided as they occur. (Refer to the attached City Resolution 09-31 to match the identified conditions that are addressed below.)
- a) # 3: (Forrester Rd & I-8): the developer shall provide a bond or other surety acceptable to the Imperial County Public Works Dept. to ICPW prior to the recordation of any portion of the Tract Map. The City shall not issue or record such a map until it has written consent from the County. *(Reason: the condition sets forth a requirement for improvements outside the City limits/jurisdiction and should this improvement be required prior to the City's specified time limit; the fair share contribution needs to be available to the proper jurisdiction).*
- b) #4: (Forrester Rd. & Ross Rd.): the developer shall provide a bond or other surety acceptable to the Imperial County Public Works Dept. to ICPW prior to the recordation of any portion of the Tract Map. The City shall not issue or record such a map until it has written consent from the County. *(Reason: the condition sets forth a requirement for improvements outside the City limits/jurisdiction and should this improvement be required prior to the City's specified time limit; the fair share contribution needs to be available to the proper jurisdiction).*
- c) #5: (Forrester Rd. & I-8): for the widening of Forrester Rd., the developer shall provide a bond or other surety acceptable to the Imperial County Public Works Dept. to ICPW prior to the recordation of any portion of the Tract Map. The City shall not issue or record such a map until it has written consent from the County. *(Reason: the condition sets forth a requirement for improvements outside the City limits/jurisdiction and should this improvement be required prior to the City's specified time limit; the fair share contribution needs to be available to the proper jurisdiction).*
- d) #12: (Austin Rd. widening & interchange): the developer shall provide (a) an irrevocable offer of Right-of-way for Austin Rd. to the County of Imperial Public Works Dept. (ICPW) and the Imperial Irrigation District necessary for the future widening of the Austin Rd. to meet the County of Imperials designated standard for Austin Rd. in their current General Plan prior to the recordation of the annexation. (b) the developer shall provide a fair share payment or a bond or other surety for the improvements required to widen Austin Rd., and provide for an appropriate interchange, to the County ICPW prior to the first building permit being issued by the City. The developer shall enter into a signed contract with County PW guaranteeing that the surety will be provided to them prior to the recordation of the annexation.
- e) #13: (Ross Rd & Austin Rd.): the developer shall provide the required surety to and naming both the City and the County (ICPW) for this improvement prior to the first certificate of occupancy being issued. This shall include all necessary improvement at Ross and Austin to effect a properly designed intersection and therefore may require adjustments to the Central Main. Prior to the recordation of this

*annexation, the developer shall submit a letter from the IID to LAFCO, the City and the County ICPW, indicating the types of improvements that would be required to accommodate this intersection and the cost estimate shall be so reflected in the bond.*

**Option # 2:** Approve the Annexation of the project with modification following the hearing.

**Option # 3:** Continue this item for 70 days and direct that the Applicant and the adjacent developer to the south develop a satisfactory resolution to the unincorporated area issues. Further that this resolution be sent to the City of El Centro and require the City to enter into a binding agreement with both developers for the enforcement of the terms of the resolution that are satisfactory to LAFCO, which may require bonding or other surety. (The City of El Centro has the legal land use regulatory authority to enforce such agreement and it should not be LAFCO that is placed in a mitigation enforcement role.)

**Option # 4:** Deny the Annexation as presented.

### **LAFCO Policy:**

The proposed annexation application appears to be consistent with the Cortese/Knox/Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the City has (according to the Service Area Plan and/or its resolution of application and resolutions of approval) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the area.

***NOTE: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD. Information about the project may also be found on the LAFCO web page at [www.iclafco.com](http://www.iclafco.com).***

cc:

County Board of Supervisors  
Ralph Cordova, County Executive Officer  
County Assessor  
Raymond Loera, Sheriff  
Imperial Irrigation District, General Manager  
Tony Rohoutas, Fire/OES  
County Counsel  
Jim Minnick, Planning Director/County  
EC 8-04/EC 1-16, Miller-Burson

Applicant  
Douglas R. Newland, Auditor – Controller  
County Public Works Director  
APCD  
County Office of Education  
City of El Centro

### **ATTACHMENTS:**

EXHIBIT A – Application  
EXHIBIT B – Certificate of Filing  
EXHIBIT C – Legal Description & Map  
EXHIBIT D – Minute Order #39  
EXHIBIT E – City Resolution #11-153  
EXHIBIT F – Auditor-Controller Letter  
EXHIBIT G – Environmental Impact Report  
EXHIBIT H – Chronologic Index  
EXHIBIT I – Lotus Drive Conditions Letter  
EXHIBIT J – City Resolution #09-02  
EXHIBIT K – City Resolution #09-30  
EXHIBIT L- City Resolution #09-31  
EXHIBIT M- City Resolution #11-143  
EXHIBIT N- City Resolution #11-153  
EXHIBIT O- Sphere of Influence Map  
EXHIBIT P- City Resolution #17-13  
EXHIBIT Q- Lotus Drive Conditions Letter