

EXHIBIT O

RESOLUTION NO. 17-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CENTRO PROVIDING WRITTEN CLARIFICATION OF THE CITY'S POSITION REGARDING RESPONSIBILITIES OF THE LOTUS RANCH AND MILLER BURSON DEVELOPMENTS AND THE LOTUS RD. RESIDENTS AS IT RELATES TO ANNEXATION (EC 8-04)

WHEREAS, the purpose of this resolution is to provide clarification to the Lotus Rd. residents of the City's requirements upon annexation and to assist the developers of Lotus Ranch and Miller-Burson; and

WHEREAS, the Lotus Ranch Tentative Subdivision Map proposes the division of 213+ acres of land in order to create approximately 574 single-family residential lots, a 10.8-acre park, a 8.13 acre school site, and 16.5 acres of retention basins on property generally located at the southwest corner of Interstate 8 and La Brucherie Avenue, further identified by APN 052-280-012 and 052-380-030 (hereafter "Lotus Ranch"); and

WHEREAS, the Lotus Ranch (EC 3-05) developer filed an application for annexation on March 29, 2005, which annexation is pending before LAFCO on March 23, 2017; and

WHEREAS, the Miller-Burson Tentative Subdivision Map proposes the division of 160 acres of land in order to create 485 single-family residential lots, two detention basins, two public parks, and a school site on property generally located south of Ross Avenue, east of Austin Road, north of Interstate 8 and west of the Lotus Drain, further described as APN 052-280-008 (hereafter "Miller-Burson"); and

WHEREAS, the Miller-Burson Tentative Subdivision Map as a part of the project includes the annexation of the unincorporated Lotus Avenue Subdivision, an area of 29 residences bordered on the south by Interstate 8 (sometimes referred to as Lotus Lane and hereafter "Lotus Rd." and the Lotus Rd. annexation); and

WHEREAS, the Miller-Burson (EC 8-04) developer filed an application for annexation on October 16, 2016, which annexation is pending before the Local Agency Formation Commission (LAFCO) on March 23, 2017; and

WHEREAS, City representatives have met with the two developers involved, a portion of the Lotus Rd. residents, with Imperial Irrigation District (IID) and with the LAFCO Executive Officer and have devoted a large amount of time to trying to resolve the competing interests of all parties so that all three annexations may move forward on March 23, 2017;

WHEREAS, as set out in the staff report, the City provides written clarification on the following points; (i) what, if any, responsibility does the Lotus Ranch developer (or a "future developer" after Miller-Burson) have for certain costs of water and sewer lines to the Lotus Rd. residents pursuant to Condition 40 of the Miller-Burson Tentative Subdivision Map; (ii) the continued receipt of raw water and specifically Condition 41 of the Miller-Burson Tentative Subdivision Map; (iii) the legal non-confirming status of the Lotus Rd. residences upon

annexation; and (iv) the City's responses to the requirements placed upon their annexation by the Lotus Rd. residents, specifically including those responses regarding the continuation of raw water now provided by Imperial Irrigation District.

NOW, THEREFORE, the City Council of the City of El Centro finds as follows:

1. Miller-Burson Conditions Nos. 40 and 41. These two conditions of approval for the Miller-Burson Tentative Subdivision Map address improvements for the Lotus Rd. residents. These conditions were added at the explicit request of the former developer of the Miller Burson property based upon a list of requirements from the Lotus Rd. residents in order to avoid a protest of the Miller-Burson annexation. These conditions are not mitigation measures included under the Miller-Burson Environmental Impact Report (SCH No. 2006081078).

A. Condition No. 40 provides as follows. There has been substantial controversy regarding the application of the final sentence, bolded below.

*Condition No. 40, "The Developer shall install water and sewer utility lines, laterals [to the property line], and fire hydrants within Lotus Lane from Ross Avenue to Interstate 8 in accordance with City Standards. The installation of the water and sewer utilities shall be completed prior to the issuance of the 240th building permit or within 2 (two) years of commencement of development, whichever comes first. **The developer shall be reimbursed up to 50% of the cost of installation of said utilities by future developments.**"*

The City legally cannot enforce the reimbursement of the Miller-Burson developer against the Lotus Ranch developer (were that to be deemed a future development) or other future developers because the water and sewer lines and fire hydrants to be constructed serve only the 29 residences along Lotus Rd. Given the location of Lotus Rd. the proposed water and sewer lines benefit only that area. Therefore, to enforce Condition No. 40 would violate the Uniform Mitigation Fee Act (Govt. Code Section 66000) that generally authorizes fees on new development only in proportion to the benefits received, called "nexus" and "rough proportionality."

Therefore, the City has identified two possible interpretations: (i) remove the entire condition and collect all costs for water and sewer lines and fire hydrants from the residents pursuant to the City's past practice; (ii) interpret the condition so that the Miller-Burson developer pays 50% of those costs and the residents reimburse the developer for the other 50% of those costs. The City has determined to proceed with the second interpretation which provides the residents with a substantial benefit and is consistent with the City's policy that residents bear the cost of the extension of water and sewer lines to their property, including laterals, sewer and water capacity fees.

Reading Condition 40 as written, the Miller-Burson developer will be reimbursed for one-half the cost of the improvements from the residents who benefit from those improvements. The City has several ways to apportion such costs and provide for payment over time. One is to use that allowed by current ordinances where a resident enters into a 10-year loan agreement with the City; the other is for the City to form a benefit assessment district pursuant to the approval provisions of state law.

B. Condition No. 41 - Raw Water line: Condition No. 41, reads as follows and also is intended for the benefit of the Lotus Rd. residents:

Condition No. 41, "The Developer shall post a bond or other surety to mitigate the cost of establishing a raw water connection for the Lotus Lane residents at such time the Lotus Canal is abandoned by the Imperial Irrigation District."

Lotus Rd. residents presently receive raw water from IID through a private pipe from the Lotus Canal. The requirement of annexation by some Lotus Rd. residents was to provide a back-up connection to the Evergreen Canal that could be utilized in the event the Lotus Canal connections were abandoned. However, in a meeting with IID, also attended by the LAFCO Executive Officer, IID staff confirmed that annexation to the City does not affect the continued receipt of raw water from the Lotus Canal. The Lotus Rd. area would be treated by IID in the same way as the other areas of the City receiving raw water. IID staff further indicated that IID does not foresee terminating the connections between Lotus Rd. residents and the Lotus Canal. The proposed back-up to the Evergreen Canal is not feasible because there cannot be two separate raw water sources at the same time and it is unknown if the Evergreen Canal will gravity flows to the Lotus Rd. subdivision or if it has sufficient capacity to serve the Lotus Rd. residences.

While the City understands and supports the residents' desire to continue to receive raw water, the City has been advised that the provision of raw water remains solely within the jurisdiction of IID.

Therefore, the requirements of Condition 41 have been met to the extent possible. Otherwise, the condition cannot be enforced because the provision of raw water lies wholly within the jurisdiction of IID. Notwithstanding, the City will continue to be in contact with IID regarding this issue, as it is regarding the other areas of the City where raw water continues to be provided.

2. Clarification on the Responsibilities of Residents Upon Annexation and the City's Position Regarding the Legal Nonconforming Status of Lotus Rd. Properties: As presented at the City's January 30, 2017 meeting with a portion of the Lotus Rd. residents, the City confirms the status of the Lotus Rd. residences upon annexation as legal nonconforming uses as follows: The City will treat the Lotus Rd. residential and related property as a legal non-conforming use as long as (i) the Lotus Rd. property is in compliance with current County ordinances at the time of annexation; and (ii) there is not replacement of an entire residence (except for an exception for destruction caused by natural disasters). This treatment is consistent with that for similar annexations of County areas.

- i. The City, upon annexation of Lotus Rd., will allow all legally permissible uses under the County of Imperial's current land use and zoning ordinances, specifically, Chapter 7 of Title 9 (Land Use Code) attached as **Exhibit A**.
- ii. Legal nonconforming uses may continue until such time as the use is abandoned or terminated, or ceases to exist and shall be treated as a legal non-conforming use which continues unless abandoned for 180 consecutive days pursuant to Division 6 (Nonconforming Lots, Buildings, and Uses) of the City Code, attached as **Exhibit B**.

- iii. Upon annexation, the land use designation for Lotus Avenue will be RR, Rural Residential. The rural residential land designation is intended to provide for large lot residential uses. Single family dwellings at a density of two (2) dwelling units per acre are allowed in this zone in compliance with City Code requirements.
- iv. The City will not require any further improvements, including but not limited to sidewalks, curbing or gutters. The requirement of providing such improvements (curb, gutter, and sidewalks) will be triggered upon the construction of a new dwelling unit.
- v. No street lights or private alleyway improvements shall be required from the subdivision property owners.
- vi. The City will not require street rehabilitation as a condition of annexation. Lotus Rd. will enter into the City's Pavement Management System Program and receive maintenance in the same timing and schedule as other City streets.
- vii. Annexation will not change the present delivery of raw water, as the Lotus Rd. residents have separate sources of potable water that meet current Imperial Irrigation District requirements.
- viii. Residents will not be required to connect to City water or sewer system upon annexation.

As it relates to sewer collection services, existing Lotus Rd. may continue to use Onsite Wastewater Treatment Systems (i.e. septic system and appurtenant facilities). The properties shall not be required to connect to the City's sewer collection system until such a time sewer pipelines are available within two-hundred feet (200') of the nearest property line as measured along the usual or most feasible route of access.

3. City's Responses to the Requests Placed Upon the Annexation by the Lotus Rd. Residents. On November 15, 2016 the Lotus Avenue Landowner's Association re-submitted a 2007 letter to the LAFCO Executive Officer requiring certain infrastructure improvements and payments as a condition of annexation of Lotus Rd. along with the Lotus Ranch and/or Miller-Burson development. Pursuant to the letter received, and based upon the points in this Resolution, the City responds in a letter attached as **Exhibit C**.

4. The City urges that the annexations move forward for approval by LAFCO on March 23, 2017.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of El Centro, California, held on the 21st day of February, 2017.

CITY OF EL CENTRO

By 
Alex Cardenas, Mayor

ATTEST:

By *L. Diane Caldwell*
L. Diane Caldwell, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

By *Elizabeth L. Martyn*
Elizabeth L. Martyn, City Attorney

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) ss
CITY OF EL CENTRO)

I, L. Diane Caldwell, City Clerk of the City of El Centro, California, do hereby certify that the foregoing Resolution No. 17-13 was duly and regularly adopted at a regular meeting of the City Council of the City of El Centro, California held on the 21st day of Feb. , 2017 by the following vote:

AYES: Jackson, Silva, Cardenas, Viegas-Walker, Garcia
NOES: None
ABSENT: None
ABSTAINED: None

By *L. Diane Caldwell*
L. Diane Caldwell, City Clerk

EXHIBIT A

Chapter 7 - A-1 (LIMITED AGRICULTURE) (WITHIN URBAN BOUNDARIES ONLY)

Sections:

90507.00 - Purpose and application.

The purpose of the A-1 designation is to designate areas and allow uses that are suitable for larger residential living environments. The uses are generally limited to those typical of and compatible with quiet residential neighborhoods. The minimum lot size shall be one-half acre (net), unless required to be larger by other regulatory requirements, such as health and safety standards. The minimum lot size in the A-1 zone may be reduced if public infrastructure including sewer and potable water are available from either a district or a city. The A-1 designation is only allowed within urban designated areas as reflected on the land use diagram of the county general plan.

Comment. The acreage here needs to be net vs. gross due to the fact that the absolute minimum amount of land needed for sewage disposal is twenty thousand (20,000) square feet of usable land, and the county already has numerous locations where this creates problems.

(Prior code § 90507.00)

90507.01 - Permitted uses in the A-1 zone.

The following uses and other uses determined to be similar are permitted in this zone:

- A. Accessory agricultural building, structures, and uses, including farm buildings, housing of agricultural workers, garages and implement shelter, provided no livestock or any building or enclosure used in connection with livestock shall be located nearer than one hundred (100) feet to the front lot line, nor nearer than fifty (50) feet to any existing dwelling on any contiguous property, or to any public park or school.
- B. Agricultural accessory structure(s) (including cargo containers).
- C. Agricultural crops, private greenhouses and horticultural collections, flowers and vegetable gardens, fruit trees, nut trees, vines and nurseries for producing trees, vines and horticultural stock.
- D. Agricultural uses (light farming only).
- E. Apiaries.
- F. Breeding and raising of animals pursuant to the requirements of this chapter.
- G. Crop and tree farming, pasturing and grazing, provided, however, that not to exceed one horse, mule, or cow; five hogs, goats, sheep or other similar livestock be permitted for each one-half acre of the area of the parcel of land upon which the same are kept (except suckling animals), except that the pasturing of livestock to feed on vegetable matter grown on said premises may be permitted. Feeding of garbage, (cooked or raw), shall not be permitted, nor shall a "feed lot" style operation be allowed. Other animals similar to those listed by example and having similar impact may be allowed at the same ratio of the "similar" animal.
- H. Daycare home for less than five people.
- I. Employee housing.

- J. Growing of agricultural crops for domestic use of the resident occupant.
- K. Hatching, raising and fattening of chickens, turkeys or other fowl or poultry and rabbits, fish or frogs for domestic or commercial use provided that no commercial poultry pen or coop or commercial rabbitry shall be maintained within fifty (50) feet of any dwelling or other building used for human habitation. There shall be no killing or dressing of any such animals or poultry on the premises for commercial purposes.
- L. Home occupation limited to Division 4, Chapter 4 (home occupation permit required).
- M. Keeping of horses and other large animals on lots having an area of one acre or more, providing that the number of horses on any one lot or parcel shall not exceed one horse for every three-quarters acre, or keeping of farm animals under recognized youth programs. The keeping of such animals shall conform to all other provisions of law governing same, and no horses, nor any stable, barn or corral shall be kept or maintained within fifty (50) feet of any dwelling or other building used for human habitation, or within one hundred (100) feet of the front lot line of the lot upon which is located or within one hundred (100) feet of any public park, school, hospital, or similar institution.
- N. Mobile home or recreational vehicle, temporary during construction of a single-family dwelling.
- O. Park or playground (public).
- P. Preschool, elementary school, junior high school, senior high school, college or university.
- Q. Public buildings.
- R. Public swimming pool (public).
- S. Residential accessory structures.
- T. Residential care facilities serving six or fewer people.
- U. Signs advertising the products produced or sold locally or identifying the premises or occupants.
- V. Single-family dwelling (conventional or manufactured).
- W. Solar energy extraction generation provided that it is for on-site consumption only.
- X. Storage of agricultural products.
- Y. Storage of products for use on the premises.
- Z. Transitional housing (as defined in Section 50675.2 of the Health and Safety Code).
- AA. The keeping of poultry, rabbits and similar small animals.
- BB. Wind driven electrical generator for on-site consumption.
- CC. The sale of agricultural, horticultural or farming products grown or produced on the premises of the owners.

(Ord. 1415, § 186, 2006)

(Ord. No. 1487, §§ 27, 28, 7-2-13; Ord. No. 1504, §§ 21, 22, 12-9-14)

90507.02 - Uses permitted with a conditional use permit.

The following uses and all other determined to be similar are permitted in the A-1 zone, subject to securing a conditional use permit from the planning and development services department:

- A. Additional, one single-family dwelling (manufactured, mobile or conventional);
- B. Animal shelters;
- C. Birds, including show or racing pigeons, and other small fowl not in excess of twenty-five (25) per one-half acre;
- D. Cemeteries, mausoleums, columbariums;
- E. Church;
- F. Club or lodge;
- G. Communication towers; including radio, television, cellular, digital, along with the necessary support equipment such as receivers, transmitters, antennas, satellite dishes, relays, etc. (subject to requirements of this zone and Division 24; Section 92401 "Communications Facilities Ordinance" et al);
- H. Community care facility;
- I. Community center;
- J. Community recreational facility;
- K. Construction office/yard, temporary only;
- L. Country club;
- M. Emergency shelters;
- N. Equestrian establishment;
- O. Facilities for abused people;
- P. Fish, frog and shrimp farms;
- Q. Golf course, golf driving range;
- R. Gun club;
- S. Heliports;
- T. Library, museum;
- U. Mineral exploration;
- V. Mineral extraction;
- W. Mortuaries;
- X. Oil, gas and geothermal exploration;
- Y. Potable water treatment and wastewater treatment plant;
- Z. Preschool, elementary school, junior high school, senior high school, college or university;
- AA. Public agency or public utility building or structure;
- BB. Race track or test track, including automobile, bicycle, horse or motorcycle;
- CC. Recreational vehicle park;
- DD. Recreational, entertainment and tourism facilities;
- EE. Rehabilitation facility;
- FF. Resource extraction;

- GG. Resource extraction energy development;
- HH. Rest home; retirement home;
- II. Sanitarium;
- JJ. Scale repair facility;
- KK. Second residential unit pursuant to sections;
- LL. Senior citizen center;
- MM. Solar energy generation at more than ten (10) kilowatts;
- NN. Sports arena (indoor);
- OO. Sports arena (outdoor);
- PP. Surface mining operations;
- QQ. Tennis or swim club;
- RR. Trade fairs and exhibits, temporary not to exceed ten (10) days' duration;
- SS. Transportation facilities;
- TT. Utility and communication facilities;
- UU. Utility substations not specifically exempted by other statutes.

(Ord. 1431, § 3, 2008)

(Ord. No. 1487, §§ 27, 28, 7-2-13)

90507.02 - Uses permitted with a conditional use permit.

The following uses and all others determined to be similar are permitted in the A-1 zone, subject to securing a conditional use permit from the planning and development services department:

- A. Additional, one single-family dwelling (manufactured, mobile or conventional);
- B. Animal shelters;
- C. Birds, including show or racing pigeons, and other small fowl not in excess of twenty-five (25) per half acre;
- D. Cemeteries, mausoleums, columbariums;
- E. Church;
- F. Club or lodge;
- G. Communication towers, including radio, television, cellular, digital, along with the necessary support equipment such as receivers, transmitters, antennas, satellite dishes, relays, etc. (subject to requirements of this zone and Division 24, Section 92401 "Communications Facilities Ordinance" et al.);
- H. Community care facility;
- I. Community center;
- J. Community recreational facility;
- K. Construction office/yard, temporary only;

- L. Country club;
- M. Emergency shelters;
- N. Equestrian establishment;
- O. Facilities for abused people;
- P. Fish, frog and shrimp farms;
- Q. Golf course, golf driving range;
- R. Gun club;
- S. Heliports;
- T. Library, museum;
- U. Mineral exploration;
- V. Mineral extraction;
- W. Mortuaries;
- X. Oil, gas and geothermal exploration;
- Y. Potable water treatment and wastewater treatment plant;
- Z. Preschool, elementary school, junior high school, senior high school, college or university;
- AA. Public agency or public utility building or structure;
- BB. Race track or test track, including automobile, bicycle, horse or motorcycle;
- CC. Recreational vehicle park;
- DD. Recreational, entertainment and tourism facilities;
- EE. Rehabilitation facility;
- FF. Resource extraction;
- GG. Resource extraction energy development;
- HH. Rest home, retirement home;
- II. Sanitarium;
- JJ. Scale repair facility;
- KK. Second residential unit pursuant to sections;
- LL. Senior citizen center;
- MM. Solar energy generation at more than ten (10) kilowatts;
- NN. Sports arena (indoor);
- OO. Sports arena (outdoor);
- PP. Surface mining operations;
- QQ. Tennis or swim club;
- RR. Trade fairs and exhibits, temporary not to exceed ten (10) days' duration;
- SS. Transitional housing;
- TT. Transportation facilities;

- UU. Utility and communication facilities;
- VV. Utility substations not specifically exempted by other statutes;
- WW. Wind-driven electrical generation at less than five kilowatts.

(Ord. 1431 § 3, 2008)

90507.03 - Prohibited uses.

All other uses not permitted by Section 90507.01 or 90507.04 are strictly prohibited.

(Prior code § 90507.03)

90507.04 - Minimum lot size.

Except as otherwise provided, no portion of any lot within the A-1 zone shall be less than one-half acre (net), except in the case of a conveyance to or from a governmental agency, public entity, public utility or community water company or water district, for public purposes, public utility purposes or for rights-of-way, provided such governmental use occupies the parcel.

(Prior code § 90507.04)

90507.05 - Yards and setbacks.

The following yard and setback requirements shall apply in the A-1 zone:

- A. Front Yard. Except as otherwise provided, the front yard minimum setback for all buildings shall be as follows:
 - 1. Twenty-five (25) feet from the edge of right-of-way; or
 - 2. Sixty (60) feet from the legal center line of any existing or proposed county road. In no case shall the minimum setback be less than twenty-five (25) feet from the edge of right-of-way as established by the county.
- B. Side Yard. There shall be a side yard on each side of any building of not less than five feet, except that on the street side of a corner lot, the building shall be set back at least fifteen (15) feet from the edge of right-of-way/property line.
- C. Rear Yard. There shall be a rear yard setback of not less than five feet, except in the case of a through lot, the designated rear yard shall be equal to the front yard setback.
- D. Height Limit. Height limits in any district shall be as follows:
 - 1. Residential buildings shall not exceed three stories or forty (40) feet.
 - 2. Detached accessory structures shall not exceed two stories or thirty (30) feet.
 - 3. Radio and television antennae, chimneys and other similar structures shall not exceed sixty (60) feet.

(Prior code § 90507.05)

90507.06 - Minimum distance between structures.

The following requirements apply to the minimum distance separation between structures in the A-1 zone.

- A. There shall be a minimum distance of ten (10) feet between residential buildings/structures.
- B. There shall be a minimum distance of ten (10) feet between residential buildings and any accessory building. However, there shall be a minimum of thirty (30) feet between any residential building and an accessory structure used to house animals, including pens, coops and other structures. Structures used to house animals shall be a minimum of one hundred (100) feet from any public park, school, hospital or similar institution, and a minimum of thirty (30) feet from any adjacent residential structure.

(Prior code § 90507.06)

90507.07 - Parking.

Off-street parking in the A-1 zone shall be provided in accordance with the standards contained in Chapter 90402.

(Prior code § 90507.07)

90507.08 - Signs.

The following signs shall be permitted in the A-1 zone; however, all signs shall be subject to Section 90401 as applicable:

- A. Temporary real estate signs not exceeding twenty (20) sq. ft., and advertising the property for sale or lease, and meeting requirements of Division 4, Chapter 1;
- B. Temporary construction signs related to construction on the property, meeting requirements of Division 4, Chapter 1;
- C. Temporary political, religious, civic and campaigning signs not to exceed three months, meeting requirements of Division 4, Chapter 1;
- D. Signs approved in conjunction with a conditional use permit approved for the site;
- E. Temporary agricultural signs as allowed by Section 90401.10.

(Ord. 1415 § 190, 2006)

90507.09 - Landscaping.

Landscaping for nonresidential development shall be the same as the M-1 zone (excluding crop and tree farming). Landscaping for residential development shall be the same as the R-1 zone.

(Ord. 1415 § 192, 2006)

90507.10 - Special review procedure and development standards.

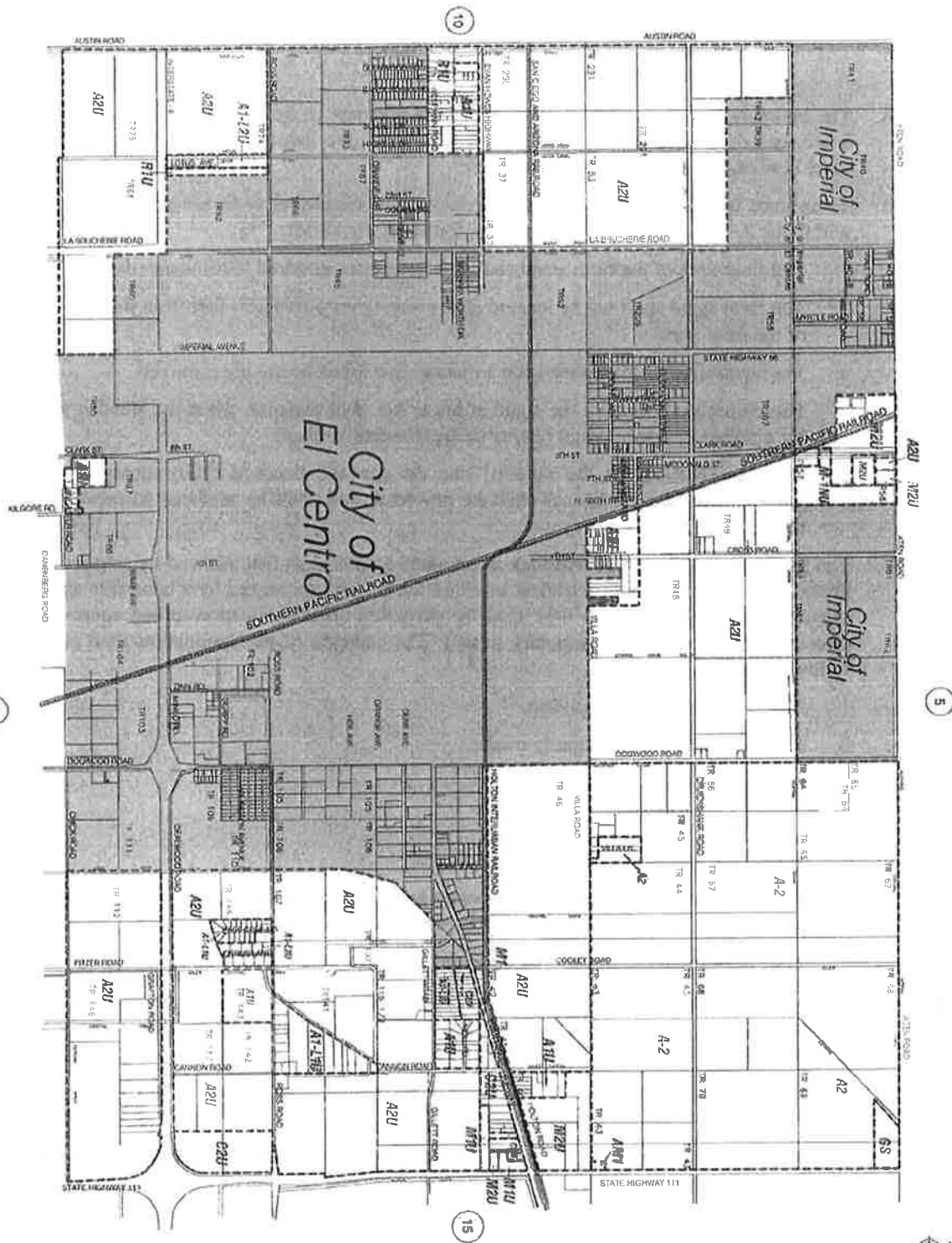
The following special review procedures and development standards shall apply in the A-1 zone:

- A. The breeding and raising of livestock permitted pursuant to this section shall be limited to one horse, one donkey, one mule, one cow, one buffalo, one llama, five goats, five sheep, or five other similar size animals per one-half acre.
- B. Temporary farm stand for the sale of agriculture, horticultural or farming products, permitted within the A-1 zone shall comply with the following standards:
 - 1. The floor area of the farm stand shall not exceed six hundred (600) square feet.
 - 2. The farm stand shall not be located closer than twenty-five (25) feet from the driveway line of the front yard.
 - 3. The stand shall be erected in such a manner that it can be readily removed.
 - 4. The owner shall remove the stand at his or her own expense, when the stand is not in use for a period of one hundred twenty (120) consecutive days.
 - 5. Customer parking, at the ratio of one car per one hundred (100) square feet, with a minimum of two car spaces shall be provided, and shall be surfaced to prevent fugitive dust emissions.
- C. The breeding and raising of livestock in numbers greater than that allowed by subsection A, by minors in conjunction with a student oriented fair project sponsored by a bona fide agricultural organization, such as FFA or 4-H, shall be permitted upon application to and approval by the director of planning for a temporary permit. The contents of the application shall contain the following information:
 - 1. Name and address of applicant.
 - 2. Name and address of properly owner.
 - 3. Assessor's parcel number.
 - 4. Legal description of the property.
 - 5. Name of organization sponsoring applicant.
 - 6. Plot plan showing location of proposed pens, coops, or areas for raising of animals, and principal residential structures, both on site and immediate adjacent to subject site.
 - 7. The signature of the owner of the real property.
- D. Temporary Visitors Use. While the use of recreational vehicles (R.V.s) is not allowed as temporary or permanent residential dwellings, the incidental and occasional utilization of an R.V. may be allowed under the following conditions:
 - 1. An R.V. may be connected to utilities and occupied for a period not to exceed two weeks annually per Title 12, Section 04 et al.
 - 2. The R.V. connections are installed to meet applicable Health and Safety Code Regulations, and has been approved by planning and development services department.
 - 3. The R.V. connections are for the primary use and are not independent service connections.
 - 4. The R.V. is not allowed in or upon any public street or right-of-way or setback area.

(Ord. 1415, § 194, 2006; prior code § 90507.10)

(Ord. No. 1487, §§ 29, 30, 7-2-13)

Urban Area



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12

10

15



NOTE: Efforts have been made to insure zoning accuracy; however, this map may be revised at any time. Therefore this map is generally accurate, for zoning information only! Neither the County of Imperial nor the Planning/Building Department are responsible for erroneous information or improper use of this map.
 Adopted by M. O. # 19 (a) on Mar. 31, 1998 effective July 1, 1996.

Director _____

EL CENTRO AREA

Title 9 Division 25 Section 92501.00

MAP 1

Revision Dates:	
March 8, 2002	Map Correction
April 1, 2003	Map Correction
Sept. 12, 2004	Map Correction
Dec. 21, 2005	Map Correction
Dec 21, 2005	Map Correction
Feb 25, 2008	Map Correction

EXHIBIT B

DIVISION 6. - NONCONFORMING LOTS, BUILDINGS, AND USES

Sec. 29-232. - Purpose and intent.

Where buildings, uses or lots which were lawful prior to the adoption of, revision or amendment to this chapter, but which fails by reason to such adoption, revision or amendment, to conform to the present requirements of this chapter, it is the purpose and intent of this division to declare such buildings, uses and lots to be nonconforming and to limit their enlargement, re-establishment after abandonment, or restoration after destruction, for the purpose of protecting the public health, safety, and general welfare.

Sec. 29-233. - Continuance and maintenance.

- (a) A use lawfully occupying a structure or a site, that does not conform with the provisions of this chapter regarding use, property development standards, or performance standards for the zone in which the use is located shall be deemed to be a nonconforming use and may be continued, except as otherwise provided in this division.
- (b) A structure, lawfully occupying a site, that does not conform with the property development standards for front yard, side yards, rear yard, height, coverage, or distances between structures, for the zone in which the structure is located shall be deemed to be a nonconforming structure and may be used and maintained, except as otherwise provided in this division.
- (c) Routine maintenance and repairs may be performed on a structure or site when the use or structure has been deemed to be nonconforming.
- (d) An existing legal lot shall not be deemed nonconforming if it does not meet the minimum lot width, depth or lot size for the zone in which it is located.

Sec. 29-234. - Alterations and additions to nonconforming uses and structures.

- (a) No structure, the use of which is nonconforming, shall be moved, altered, or enlarged unless required by law, or unless the moving, alteration, or enlargement will result in the elimination of the nonconformity, except as otherwise provided in this division.
- (b) No nonconforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site or another structure or site which it did not occupy at the time it became a nonconforming use, nor in such a way as to displace any conforming use occupying a structure or site, except as provided in this division.
- (c) No nonconforming structure shall be altered or reconstructed so as to extend or increase the discrepancy between existing conditions and the property development standards for the zone in which the structure is located. No nonconforming structure shall be moved or enlarged unless the new location or enlargement shall conform to the property development standards for the zone in which the structure is located.
- (d) No use which fails to meet the performance standards of the zone in which it is located shall be enlarged or extended nor shall have equipment replaced that results in failure to meet performance standards unless the enlargement, extension, or replacement will result in elimination of the nonconformity with performance standards.

Sec. 29-235. - Discontinuance of a nonconforming use.

Whenever a nonconforming use has been discontinued or changed to a conforming use for a continuous period of one hundred eighty (180) calendar days or more, the nonconforming use shall not be reestablished, and the use of the structure or site thereafter shall be in conformity with the regulations for the zone in which it is located. Discontinuance shall include cessation of a use regardless of intent to resume the use, unless the community development director is notified in writing of the intent to resume and has approved a schedule for resumption of said use.

(Ord. No. 13-16, § 28, 4-2-13)

Sec. 29-236. - Restoration of a damaged structure.

- (a) Whenever a structure which does not comply with the property development standards for front yards, side yards, rear yards, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the performance standards for the zone in which it is located, is destroyed by fire, flood, wind, earthquake, war, riot, or other calamity, to the extent of fifty (50) percent or less, the structure may be restored to its original or conforming dimensions and the nonconforming use may be resumed, provided that restoration does not result in a greater degree of nonconformity than existed prior to destruction and is started within one (1) year and diligently pursued to completion. When such destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the property development standards for the zone in which it is located; the nonconforming use shall not be resumed.
- (b) The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the assistant community development director and shall be based on the minimum cost of construction in compliance with the Uniform Building Code.

(Ord. No. 13-16, § 29, 4-2-13)

Sec. 29-237. - Change to another nonconforming use.

A conditional use permit may be granted by the planning commission for conversion of a nonconforming use to another nonconforming use provided that the commission finds that the proposed nonconforming use will not have a greater adverse impact on the surrounding area than the existing or former nonconforming use.

Sec. 29-238. - Elimination of nonconforming uses.

Except as otherwise permitted by this chapter, nonconforming uses shall be discontinued and removed from their sites, altered to conform, or altered as prescribed to decrease the degree of nonconformity within the time period specified as follows:

- (1) *Commercial and manufacturing uses in residential zones.* In residential zones, commercial and manufacturing uses shall be discontinued or altered as prescribed, as follows:
 - a. Type 1 and 2 construction (as defined in the Building Code): twenty (20) years.
 - b. Type 3 and 4 construction (as defined in the Building Code): fifteen (15) years.
 - c. Type 5 construction (as defined in the Building Code): ten (10) years.

- d. When said nonconforming use is removed from the land, at or before the end of the amortization period, every future building and use shall be in conformity with the provisions of this chapter.
 - e. The prescribed time period shall apply regardless of any change in the existing commercial or manufacturing use except pursuant to a conditional use permit in accordance with Article V, division 6 of this chapter.
- (2) *Open uses.* A nonconforming use of land in any zone where no buildings are involved, or the only buildings employed are accessory or incidental to such use shall, when deemed by the council to be detrimental to the public health, safety and welfare, be completely terminated or so altered so as to be in conformity with the provisions of the zone within five (5) years.
 - (3) *Nonconforming off-street parking and loading facilities.* Existing buildings with off-street parking or loading facilities not in conformance with the provisions of this chapter may expand or add facilities, provided the requirements for off-street parking and loading space are complied with for such expansion or added facilities.
 - (4) *Nonconforming outdoor storage.* Existing uses involving outside storage not conforming to the provisions of this chapter shall within two (2) years be brought into conformity with the requirements of this chapter, provided that if the uses on the premises are expanded or the building so altered as to require a building permit, the owner shall comply with the applicable provisions at that time.
 - (5) *Nonconformity with performance standards.* The use of land, buildings or structures that do not meet the standards of performance for said use or the standards for equipment employed in the operation of said use as required by this chapter shall be brought into conformity with said standards within a period of one (1) year.
 - (6) *By order of city council.* In any zone, any nonconforming use or structure may be ordered terminated by the city council within a period of time less than specified above upon a finding that such use constitutes a nuisance or a danger to the public health, safety or general welfare that necessitates a lesser amortization period.



EXHIBIT C

February 16, 2017

Lotus Avenue Landowner's Association
1723 Lotus Avenue
El Centro, CA 92243

RE: Annexation of Lotus Avenue Properties

Dear Lotus Avenue Landowner's Association,

The City of El Centro has reviewed your letter addressed to the Local Agency Formation Commission Executive Officer, Jurg Heuberger, dated November 15, 2016. The following is the City's response to your inquiries. To facilitate review, the City of El Centro's responses have been *italicized*.

1. Our properties must continue to receive raw (untreated) irrigation water from the Imperial Irrigation District or other public entity which is established by the City or developers for continuance of raw irrigation water deliveries. The developers shall pay any and all costs for the raw water delivery system to the current LALA point of connection to the Lotus Canal. Should the delivery system be privatized (other than as supplied and maintained by the IID); the developers shall establish and provide an entity to fund and maintain the delivery system for raw water to the LALA connection point. The LALA shall continue to receive water at the connection point at the standard rate that IID provides raw water to other rural residences. This provision shall be acted upon prior to any relocation, abandonment or change in ownership of the Lotus Canal.

In a meeting with IID, also attended by the LAFCO Executive Officer, IID staff confirmed that annexation to the City does not affect the continued receipt of raw water from the Lotus Canal. The Lotus Rd. area would be treated by IID in the same way as the other areas of the City receiving raw water. IID staff further indicated that IID does not foresee terminating the connections between Lotus Rd. residents and the Lotus Canal. The proposed back-up to the Evergreen Canal is not feasible because there cannot be two separate raw water sources at the same

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time and it is unknown if the Evergreen Canal will gravity flow to the Lotus Rd. subdivision or if it has sufficient capacity to serve the Lotus Rd. residences. While the City understands and supports the residents' desire to continue to receive raw water, the City has been advised that the provision of raw water remains solely within the jurisdiction of IID.

2. The developers shall install a sewer main in Lotus Avenue to the City of El Centro standards. A 4-inch diameter lateral shall be extended to 5.0 feet behind the front property line of each residence to a depth of 5.0 feet at the location designated by each homeowner. This provision shall be completed prior to issuance of any occupancy permit (other than up to 4 model homes) for the first phase of development.

Responding to Requests Nos. 2-6, the City has reviewed and analyzed Condition No. 40 of the Miller-Burson conditions of approval, which provides as follows:

Condition No. 40, "The Developer shall install water and sewer utility lines, laterals [to the property line], and fire hydrants within Lotus Lane from Ross Avenue to Interstate 8 in accordance with City Standards. The installation of the water and sewer utilities shall be completed prior to the issuance of the 240th building permit or within 2 (two) years of commencement of development, whichever comes first. The developer shall be reimbursed up to 50% of the cost of installation of said utilities by future developments."

The City legally cannot enforce the reimbursement of the Miller-Burson developer against the Lotus Ranch developer (were that to be deemed a future development) or other future developers because the water and sewer lines and fire hydrants to be constructed serve only the 29 residences along Lotus Rd. Given the location of Lotus Rd. the proposed water and sewer lines benefit only that area. Therefore, to enforce Condition No. 40 would violate the Uniform Mitigation Fee Act (Govt. Code Section 66000) that generally authorizes fees on new development only in proportion to the benefits received, called "nexus" and "rough proportionality."

Therefore, the City has identified two possible interpretations: (i) remove the entire condition and collect all costs for water and sewer lines and fire hydrants from the residents pursuant to the City's past practice; (ii) interpret the condition so that the Miller-Burson developer pays 50% of those costs and the residents reimburse the developer for the other 50% of those costs. The City has determined to proceed with the second interpretation which provides the residents with a substantial benefit and is consistent with the City's policy that residents bear the cost of the extension of water and sewer lines to their property, including laterals, sewer and water capacity fees.

Reading Condition 40 as written, the Miller-Burson developer will be reimbursed for one-half the cost of the improvements from the residents who

benefit from those improvements. The City has several ways to apportion such costs and provide for payment over time. One is to use that allowed by current ordinances where a resident enters into a 10-year loan agreement with the City; the other is for the City to form a benefit assessment district pursuant to the approval provisions of state law.

3. The developers shall pay for all sewer capacity fees to the City of El Centro for each residential connection. This provision shall occur as stated in Item 2.

Refer to the City's response under Comment No. 2.

4. The developers shall install water main and fire hydrants in Lotus Avenue to City of El Centro standards. A 1-inch diameter copper water service shall be installed to each lot, including a 3/4-inch water meter in a concrete water meter box with 10 foot of 1-inch diameter K-copper stub-out at the location designated by each homeowner. This provision shall occur as stated in Item 2.

Refer to the City's response under Item No. 2.

5. The developers shall pay for any and all water capacity fees to the City of El Centro for each residential connection. This provision shall occur as stated in Item 2.

Refer to the City's response under Item No. 2.

6. The developers shall pay each landowner a fee of \$2,000.00 to be used for extension of water and sewer services to the new service laterals and for septic tank abandonment. This provision shall occur as stated in Item 2.

Refer to the City's response under Item No. 2.

7. The developers shall provide new concrete curb and gutter in Lotus Avenue to City of El Centro standards at locations where no curb and gutter currently exist. This provision shall occur as stated in Item 2.

The City cannot condition the Miller-Burson development to provide street improvements within the Lotus Rd. development. To condition such improvements would violate the Uniform Mitigation Fee Act (Govt. Code Section 66000) as there is no "nexus" between the Lotus Rd. street improvements and the Miller-Burson development. The City will seek grants or other sources of funding for such improvements to the extent those may be available. In the interim, the City will not require any further improvements from the residents, including but not limited to sidewalks, curbing or gutters. The requirement of providing such improvements (curb, gutter, and sidewalks) will be triggered upon the construction of a new dwelling unit.

8. The developers shall repair pavements in Lotus Avenue at all water and water trench and lateral locations and shall overlay entire street width with new asphaltic concrete pavement. New pavement structure section shall be placed to City of El Centro standards to extend pavement to newly placed curb and gutter. This provision shall occur as stated in Item 2.

Refer to the City's response under Item No. 7.

9. The developers shall provide full width pavements with curb, gutter, sidewalks, street lights and all other required improvements to City of El Centro standards in Ocotillo Drive, including any and all drainage facilities required by the City.

Refer to the City's response under Item No. 7.

10. The developers shall acquire right-of-way for Ross Avenue widening from landowner at southwest corner of Ross and Lotus Avenue, which shall include fees to construct new 6-foot high block wall, including restoration of landscaping and landscape irrigation systems.

Refer to the City's response under Item No. 7.

11. The developers shall install full width street improvements, including curbs, gutter, sidewalks, street lights and all other required improvements to City of El Centro standards in Ross Avenue, including any and all drainage facilities required by the City.

Refer to the City's response under Item No. 7.

12. The developers shall cause the City of El Centro to adopt a resolution that exempts the 30 lots of the LALA from the requirement of installation of street lights or alley pavement in the future. The street light and alley improvements shall not be required for any home remodels, additions or building additions to any and all of the LALA improvements. This provision shall occur prior to LAFCO approval of annexation of former Miller-Burson or Lotus Ranch Subdivisions.

No street lights or private alleyway improvements shall be required from the subdivision property owners.

13. The developers shall pay any and all annexation fees required for the LALA area to LAFCO. The LAFCO Executive Director has advised the City that the cost of annexation is up to \$250,000 when environmental review and LAFCO fees are included. In this case, however, the annexation will occur without that cost, which otherwise would be paid by the residents.

Since the Lotus Rd. area is included in the Miller-Burson LAFCO annexation application, no annexation fees are required from the Lotus Rd. residents.

Sincerely,

EL CENTRO COMMUNITY DEVELOPMENT DEPARTMENT

A handwritten signature in cursive script, reading "Norma M. Villicaña", written over a horizontal line.

Norma M. Villicaña, AICP
Community Development Director

Cc: Jurg Heuberger, Local Agency Formation Commission