



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

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JAN 06 2012

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

January 5, 2012

Ms. Nancy Miller
Miller & Owen
428 J Street
Sacramento, CA 95814

Re: City of Folsom Annexation Application – Williamson Act

Dear Ms. Miller:

You asked for confirmation about the City's intention to succeed to any Williamson Act contracts in place on the land within the City of Folsom's SOI. It is the City's intention and desire to succeed to any Williamson Act contract in place in the annexation area. We request that LAFCo indicate our consent and intent to succeed to the contract(s) and if a condition is required we are amenable to such a condition.

Should you have any questions, please contact David Miller or me directly. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Palmer", written over a horizontal line.

Evert W. Palmer
City Manager

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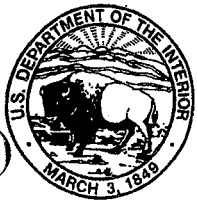
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United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

IN REPLY
REFER TO:

MP-400
WTR-1.10

NOV 9 2011

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NOV 09 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

Mr. Donald Lockhart, AICP
Assistant Executive Officer
Sacramento Local Agency
Formation Commission
1112 I Street, Suite 100
Sacramento, CA 95814

Subject: City of Folsom Annexation of the Sphere of Influence

Dear Mr. Lockhart:

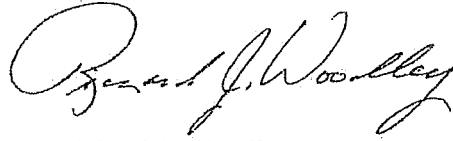
This is in response to your letter of October 20, 2011, regarding an application from the city of Folsom (City) requesting approval of annexation of territory within the approved Sphere of Influence.

In its Draft Environmental Impact Statement/ Environmental Impact Report (DEIS/DEIR), the City identified a potential supply of water which would result from the assignment of water from Natomas Central Mutual Water Company (Natomas), a Sacramento River Settlement contractor of the Bureau of Reclamation, on the Sacramento River. Reclamation commented on the DEIS/DEIR during the public comment period and noted the DEIS/DEIR neither provided any environmental analysis associated with the assignment of Central Valley Project (Project) water from Natomas to the City, nor identified any alternative water supplies.

Reclamation has a pending request from Natomas to permanently assign 8,000 acre-feet of Project water to the City. As clarification, the water proposed for assignment is water diverted under permits held by Reclamation and included within the terms of a contract with Natomas as part of its Sacramento River Settlement contract. By the terms of that contract, any assignment of water under the contract is subject to the approval of Reclamation and such approval has not been granted, nor is it imminent. While no decision has been made relative to the request for assignment, such approval is neither guaranteed nor assured.

Although there has been no decision relative to the request for a permanent assignment of water from Natomas to the City, please feel free to contact me at 916-978-5201, at any time relative to the status of Reclamation's determination.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard J. Woodley".

Richard J. Woodley
Resources Division Manager



Sacramento Public Library

828 I Street, Sacramento, CA 95814

www.saclibrary.org

Rivkah K. Sass
Library Director

October 18, 2011

Peter Brundage, Executive Director
Sacramento Local Agency Formation Commission
Sacramento LAFCo
1112 I Street, Suite 100
Sacramento, CA 95814-2836

RE: City of Folsom Annexation Application

Dear Mr. Brundage:

The Sacramento Public Library has met with representatives of the City of Folsom and have discussed the current application for annexation of the City of Folsom Sphere of Influence property. The project area includes approximately 3,500 acres of land located south of Highway 50 between Prairie City Road, the El Dorado County border and White Rock Road. In our discussions, we have come to agreement on the impact of this annexation on the Sacramento Public Library services. In response to LAFCo's request from a "Affected Agency/Interested Party" and based upon these discussions, the following represents the Sacramento Public Library's reply to LAFCo regarding the City of Folsom's annexation:

1. If the Sacramento Public Library provides service currently, what is the cost of doing so:

Residents of this area are served by the Rancho Cordova Branch of the Sacramento Public Library. The Library does not currently provide services through a facility located in the area identified within the annexation application, and currently incurs no cost direct for services within the project area.

2. How much revenue loss would occur of the annexation would detach territory from the Sacramento Public Library?

The proposed application, including the detachment of the Sacramento Public Library, would only incur a loss of revenue when the area was developed. Since we do not currently provide services to the project area, but could lose future tax revenue, the Sacramento Public Library and the City of Folsom will develop an agreement that protects the property tax revenues currently received by the Library.

3. *What official position, if any, has the Sacramento Public Library taken on the proposal?*

Sacramento Public Library has not officially taken a position on the annexation proposal; however, the Sacramento Public Library worked with the City of Folsom in the assessment of services necessary for the project area.

4. *If the proposal includes a detachment from the Sacramento Public Library,*
a. *How will it affect our ability to continue services in the rest of our service area?*

b. *How will it affect our financing and operation?*

If the project area is detached from the Sacramento Public Library and the City has agreed to maintain the current revenue as stated above, Sacramento Public Library foresees no impacts to the remaining service area and no impacts to our financing and operation levels as a result of this detachment.

We hope that this information is helpful. Sacramento Public Library does not foresee any adverse financial or operational impacts if LAFCo approves the City's proposal. Please contact me at (916) 264-2830 if you have any questions regarding this letter.

Sincerely,
Sacramento Public Library



Rivkah K. Sass | Library Director

Municipal Services Agency
Robert B. Leonard, Administrator

Department of Transportation
Michael J. Penrose, Director



County Executive
Bradley J. Hudson

County of Sacramento

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OCT 31 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION
October 27, 2011

Donald J. Lockhart
Sacramento LAFCo
1112 I street Suite 100
Sacramento CA, 95814-2836

Subject: Appendix to the City of Folsom Bikeway Master Plan / Sacramento County Bicycle Master Plan

Dear Mr. Lockhart:

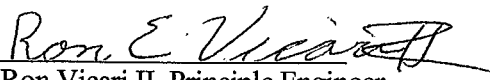
We have reviewed the Appendix to the City of Folsom Bikeway Master Plan (FBMP) to see if it meets the condition of the Folsom Sphere of Influence Amendment. Specifically, that the update incorporate bikeway designations for Prairie City Road and White Rock Road to be equivalent, or better, than those contained in the Sacramento City/County Bikeway Master Plan (SCCBMP). The SCCBMP was replaced on April 27, 2011, by amendment to the General Plan with the Sacramento County Bicycle Master Plan (SCBMP).

The FBMP designations for Prairie City Road are equivalent to the SCBMP.

The FBMP designations for White Rock Road are not equivalent or better than the SCBMP. The SCBMP designates both Class 2 bike lanes and a parallel Class 1 bike path for White Rock Road and the FBMP only designates a parallel Class 1 bike path.

For those portions of White Rock Road which may someday become a six lane or more controlled access expressway the elimination of bike lanes with a parallel class 1 bike path may be appropriate at that time. However, for arterials and thoroughfares it is county standard to include Class 2 bike lanes and is so designated on the SCBMP, as well as a parallel Class 1 bike path.

If you need additional information or would like to discuss further please call me at (916) 591-2257.


Ron Vicari II, Principle Engineer
Department of Transportation, Planning and Programs
RV/dhk

Cc: Michael J. Penrose, Director
Dan Shoeman, Chief of Planning and Design

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Operations & Maintenance: 4100 Traffic Way, Sacramento, CA 95827 . Phone: 916-875-5123 . Fax: 916-875-5363
www.sacdot.com



0000 12 100

Brundage. Peter

From: David Miller [dmiller@folsom.ca.us]
Friday, November 04, 2011 3:35 PM
Brundage. Peter
Cc: Robert Goss; Kenneth Payne; Evert W. Palmer; Richard Lorenz
Subject: FW: Send data from LAFCO-Tosh5520C 11/03/2011 16:27

Peter:

Looks like the County comments on the Bikeway Plan for the SOI are not a problem because they neglected to read all of the text in the Specific Plan which explains that the Class II bike trail does appear along White Rock Road. The symbol on the graphic needs to be corrected.

David E. Miller, AICP
Community Development Housing & Redevelopment Director
City of Folsom
916.355.7224

-----Original Message-----

From: Robert Goss
Sent: Friday, November 04, 2011 2:31 PM
To: David Miller
Cc: Kenneth Payne; Evert W. Palmer; Richard Lorenz
Subject: RE: Send data from LAFCO-Tosh5520C 11/03/2011 16:27

David,
The County is "technically" correct, but ultimately wrong. I knew what the problem was as I read the letter. The Bikeway Master Plan Appendix (SOI) shows all the Class I and Class II bike facilities. On White Rock Road, the master plan graphic indicates a Class I facility which is accurate. It does not show a Class II facility which is inaccurate. We should have had a double symbol on the plan because White Rock Road will have both Class I and Class II facilities. If you look on page 7-18 of the Specific Plan (Figure 7.7), you can clearly see the dimension and labeling of a separated Class I facility, and Class II Bike Lanes included in the pavement section for White Rock Road.

...a minor error. The Specific Plan has it covered, but it should also be mentioned in the Bikeway Master Plan. We can pick up the detail when we do our next city-wide bikeway master plan. When we do that, the SOI will be part of the comprehensive plan, not an "appendix."

Robert

-----Original Message-----

From: David Miller
Sent: Thursday, November 03, 2011 4:37 PM
To: Robert Goss
Subject: FW: Send data from LAFCO-Tosh5520C 11/03/2011 16:27

Robert:

What is your take on this? It looks like Sac. Co. is saying that your Bikeway Master Plan and the SOI Bikeways Plan is inadequate to their standards.

David E. Miller, AICP
Community Development Housing & Redevelopment Director City of Folsom
916.355.7224





Municipal Services Agency
Robert B. Leonard, Administrator

Bradley J. Hudson,
County Executive

Department of Water Resources
Michael L. Peterson, Director

County of Sacramento

October 3, 2011

Peter Brundage
Sacramento Local Agency Formation Commission
1112 I Street
Sacramento, CA 95814

**Subject: City of Folsom, Annexation of the Sphere of Influence South of Highway 50
(LAFCo 04-11)**

Dear Mr. Brundage:

Thank you for your letter dated August 30, 2011, requesting comments for the subject LAFCo application for the City of Folsom's Annexation of the Sphere of Influence (SOI) South of Highway 50. The Sacramento County Department of Water Resources has prepared the comments below on behalf of the Sacramento County Water Agency (SCWA) and the Sacramento County Stormwater Utility (SWU).

Sacramento County Water Agency

Water Supply

The Folsom SOI proposes water supplies from Natomas Central Mutual Water Company (NCMWC) delivered via Freeport Regional Water Authority (FRWA) pipeline capacity. The SOI points to a Memorandum of Understanding (MOU) between Folsom and SCWA to describe a level of commitment between the two agencies regarding the purchase of capacity in the FRWA facilities. This MOU is described in the *Folsom Plan Area – Master Services Element (Section 5.0, Page 23)* with the following language:

The City-SCWA MOU commits each party to try to find a mutually agreeable solution to the issue of system capacity in the FRWA facilities so that the City of Folsom can use some of that capacity to deliver Sacramento River water to the Folsom SPA.

- SCWA would like to clarify that the Folsom-SCWA MOU does not create a binding commitment from either party for the provision of water to the SOI but rather is intended

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only to frame future potential negotiations between the two entities on the subject of the purchase of capacity in the FRWA facilities.

- Furthermore, SCWA has requested previously that sufficient information be provided to describe all costs related to water supply for the SOI, including the provision of replacement capacity to SCWA to offset capacity that may be purchased by Folsom. Per the Folsom-SCWA MOU, this will be required as an essential part of any future negotiation of a formal water supply agreement between SCWA and Folsom. However, providing this information now will help demonstrate that these costs can be supported by the SOI and help provide assurance to SCWA that the terms and conditions outlined in the Folsom-SCWA MOU can be met in the future.

Zone 13

The area encompassed by the SOI lies within Zone 13 of SCWA. Activities funded by Zone 13 consist of developing comprehensive long-range engineering plans in connection with projects beneficial to properties within the Zone. These include local, state, and federal projects and activities related to flood control, water resource management, water supply development, water conservation, and drainage water quality.

- Approval of this annexation should include the condition that the SOI area will remain within Zone 13 of the SCWA and will be assessed related fees, and receive associated benefits, in accordance with appropriate actions taken by the SCWA Board of Directors.

Sacramento County Stormwater Utility/SCWA Zone 12

The Folsom SOI is not within the Sacramento County Stormwater Utility/SCWA Zone 12, which defines where the County provides drainage and flood control services. However, the Alder Creek watershed does flow from the Folsom SOI into the County (at Prairie City Road). Development within the SOI has the potential to impact the geomorphology, hydraulics and water quality of Alder Creek downstream of Prairie City Road. Additionally, there is an existing dam on Alder Creek located downstream of Prairie City Road, within the County, that was once part of the active gold-mining activities that historically occurred here. The dam is currently owned by the City of Folsom on an isolated parcel with the County. While the Folsom SOI Master Services Element describes how the City will be required to address geomorphology, peak flow increases, low impact development standards, stormwater quality and other stormwater concerns, it is imperative that the City-owned dam located downstream on Alder Creek be addressed as part of this project.

- Approval of this annexation should include a requirement that the SOI perform an analysis of the existing stability of the Alder Creek dam and which considers the ramifications of sediment flow, increased runoff, stormwater quality, and other stormwater impacts from the Folsom SOI on the stability of the dam.

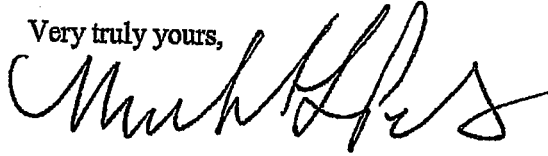
City of Folsom, Annexation of the Sphere of Influence (SOI) South of Highway 50 (LAFCo 04-11)

October 3, 2011

Page 3

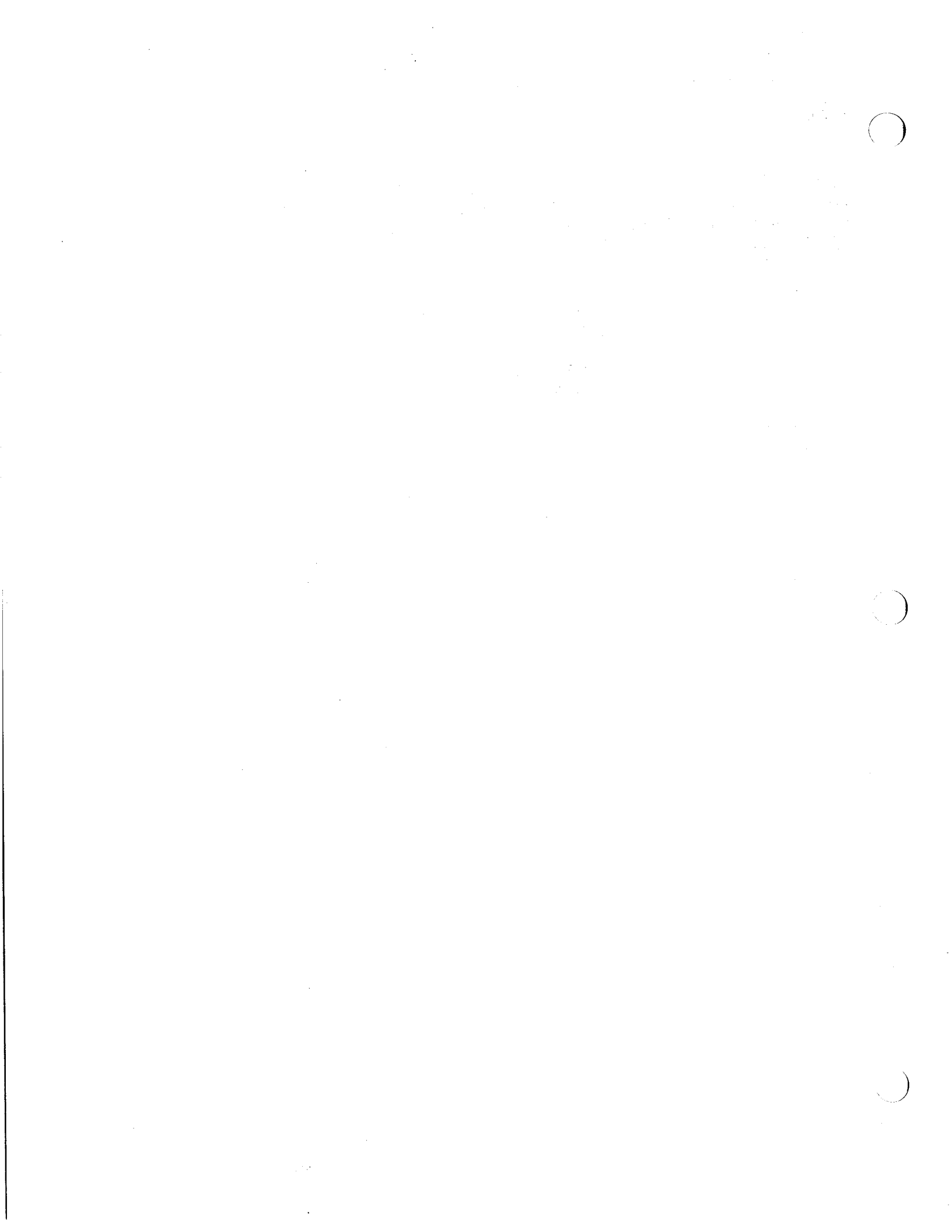
Thank you for the opportunity to comment. Should you require additional information regarding the SCWA comments, please feel free to contact Ms. Kerry Schmitz at (916)-874- 4681. Should you require additional information regarding the SWU comments, please feel free to contact Ms. Cecilia Jensen at (916)-875-3077.

Very truly yours,



Michael L. Peterson
Director

cc: Rob Leonard
H. Niederberger/K. Schmitz/C. Jensen



Brundage. Peter

From: Peterson. Michael (MSA)
Sent: Friday, November 04, 2011 1:02 PM
To: Brundage. Peter
Subject: Follow up to two prior comments on Folsom SOI Annexation
Peter,

As I mentioned yesterday, Water Supply Costs/MOU related comments that we had are being addressed/clarified in a draft agreement (which also includes Transportation issues). That agreement would run in parallel with, and provide background for, the Board to approve a Tax Sharing Agreement. This separate agreement is being lead by Troy Givans, but I am not aware if the 7th floor has discussed it with Folsom yet as it is still being drafted, or if you've already talked to Troy about it since our meeting.

However, I separately want to clarify a couple of our other comments we made earlier on the SOI app. These were the two minor issues in our set of water comments and they have been clarified with Folsom staff since our original letter. In terms of formal process, would it be appropriate for a memo from us (either DWR or County/SCWA) to LAFCo to go out to clarify the status of these two minor issues? I just figured I'd take them out of the discussion now.

Zone 13

The SCWA rescinds the prior comment requesting that the SOI area remain within Zone 13 and agree that this inclusion could result in duplicative services. SCWA would support detachment of the SOI from Zone 13 and such detachment would have no significant impact so the services and operations of Zone 13.

Stormwater/Zone 12-Folsom SOI Alder Creek Dam Impacts Analysis

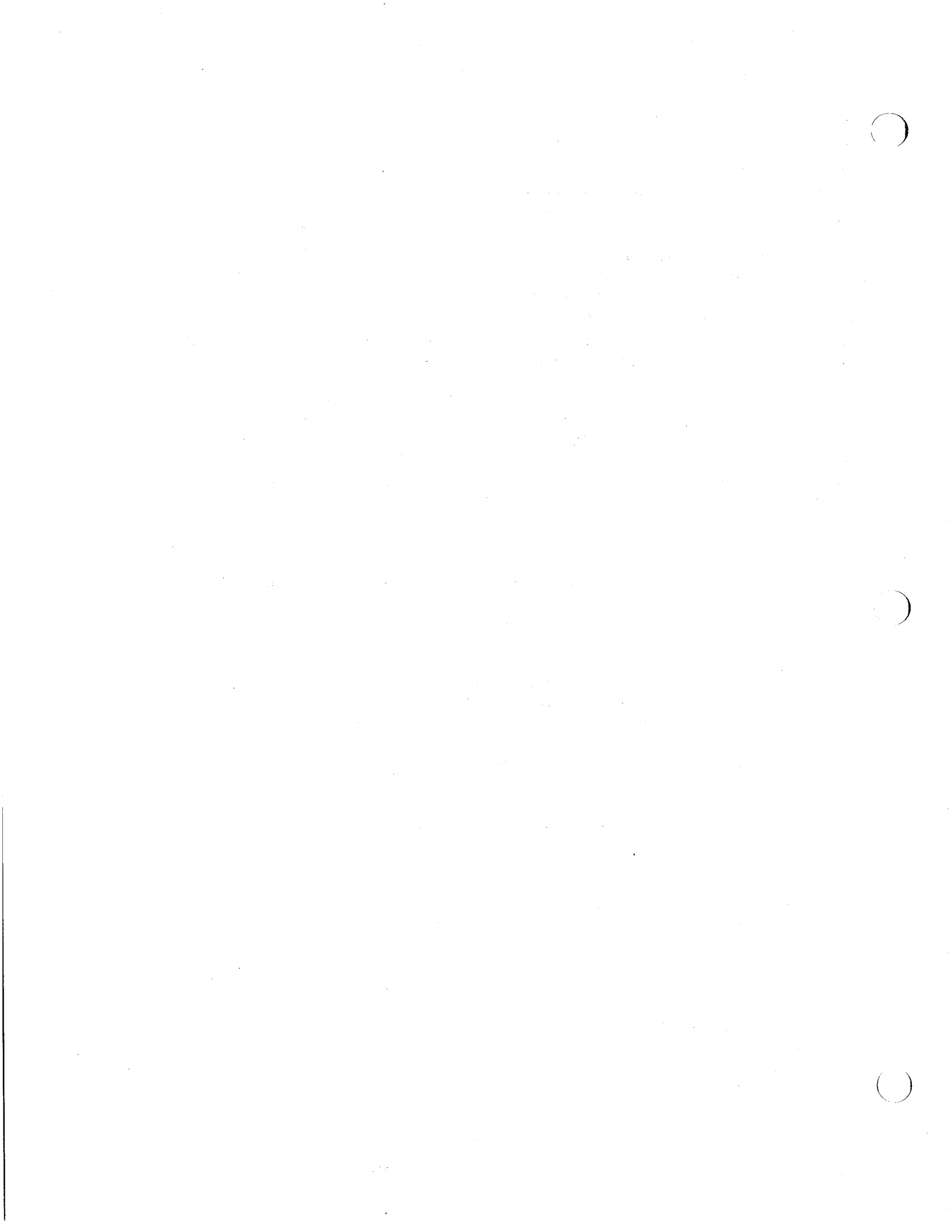
Water Resources would like to clarify that the intent of our comment was that the **development projects in the SOI** should be conditioned by the City to include analysis of the existing stability of the Alder Creek dam, as part of detailed drainage master planning for the SOI, and which considers the ramifications of sediment flow, increased runoff, stormwater quality, and other stormwater impacts from the Folsom SOI on the stability of the dam. The intent was not to ask that such study be performed by the City prior to LAFCo approving the Annexation of the Folsom SOI.

Thanks.

And I was supposed to tell you congratulations for winning the Sacramento County Employee Golf Club Championship.....(heard it from Don Thomas).

Michael L. Peterson, Director
Sacramento County Department of Water Resources
827 7th Street, Room 301
Phone: (916) 874-8913 Fax: (916) 874-8693
petersonmi@saccounty.net

11/15/2011





Natomas Central Mutual Water Company
1112 I Street, Suite 100
Sacramento, CA 95814
916.442.1234

916.442.1234
1112 I Street, Suite 100
Sacramento, CA 95814

September 29, 2011

Mr. Peter Brundage
Executive Officer
Sacramento LAFCO
1112 I Street, Suite 100
Sacramento, CA. 95814

RE. City of Folsom- Annexation of the Sphere of Influence South of Hwy 50(LAFC 04-11)

Dear Mr. Brundage,

The Board of Directors of the Natomas Central Mutual Water Company voted (with one member recusing himself) to approve the sale of up to 15,000 acre-feet of Natomas' Central Valley Project Water entitlements to serve the city of Folsom. The Board has adjusted the amount to 10,000 acre-feet, the Board's approval followed a district engineer's report that determined "the transfer of 10,000 acre-feet of project water should not impair NCMWC's ability to continue to provide sufficient water for irrigation" or otherwise meet its obligations to shareholders.

In addition, the sale of available contract water at a price of \$4,000 per acre-foot which would be \$32 million to \$40 million, it is the intent of the current Board to use the proceeds to reduce shareholder costs, it could also:

- ◆ Generate up to \$500,000 a year in savings from reduced contract water costs and reduced electrical pumping costs to help pay for existing infrastructure needs, including deferred maintenance
- ◆ Reduce the need for future special assessments
- ◆ Protect the Company's water rights and supply
- ◆ Ensure surface water supplies remain in the Sacramento region
- ◆ Provide funding for long-range planning to meet the company's obligations under the Water Forum agreement

Natomas Central Mutual Water Company held three workshops which were conducted to brief shareholders on the sale,

The Board of Directors of the Natomas Central Mutual Water Company remain committed to supporting this annexation.

If you have any questions please don't hesitate to contact Dee Swearingen at 916-419-5936 or members of the Board of Directors.

Sincerely,

A handwritten signature in black ink, appearing to read "Dee E Swearingen", written over a horizontal line.

Dee E Swearingen
General Manager
Natomas Central Mutual Water Company

Brundage. Peter

From: Thorpe. Diane
Sent: Monday, October 03, 2011 1:53 PM
To: Lockhart. Don; Brundage. Peter
Subject: FW: City of Folsom - Annexation of the Sphere of Influence South of Highway 50 (LAFC 04-11)
Attachments: 2011090813012974.pdf

From: Kennedy, Donald [mailto:DLKn@pge.com]
Sent: Monday, October 03, 2011 1:13 PM
To: Thorpe. Diane
Subject: City of Folsom - Annexation of the Sphere of Influence South of Highway 50 (LAFC 04-11)

Ms. Thorpe,

Thank you for giving PG&E the opportunity to comment on the City of Folsom - Annexation of the Sphere of Influence south of Highway 50 (LAFC 04-11). PG&E has the following comments to offer.

We would like to note that continued development will have a cumulative impact on PG&E's gas system and may require on-site and off-site additions and improvements to the facilities which supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas transmission or distribution facility does not necessarily mean the facility has capacity to connect new loads. Expansion of distribution and transmission lines and related facilities is a necessary consequence of growth and development. Upgrades or additional load on the gas system could include facilities such as regulator stations, odorizer stations, valve lots, distribution and transmission lines.

We would like to recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve those developments, any possible relocations, and any potential environmental issues associated with extending utility service to the proposed project. This will assure the projects compliance with CEQA and reduce potential delays to the project schedule.

PG&E remains committed in providing timely, reliable and cost effective gas service to the area. We would also appreciate being copied on future correspondence regarding this subject as the project develops.

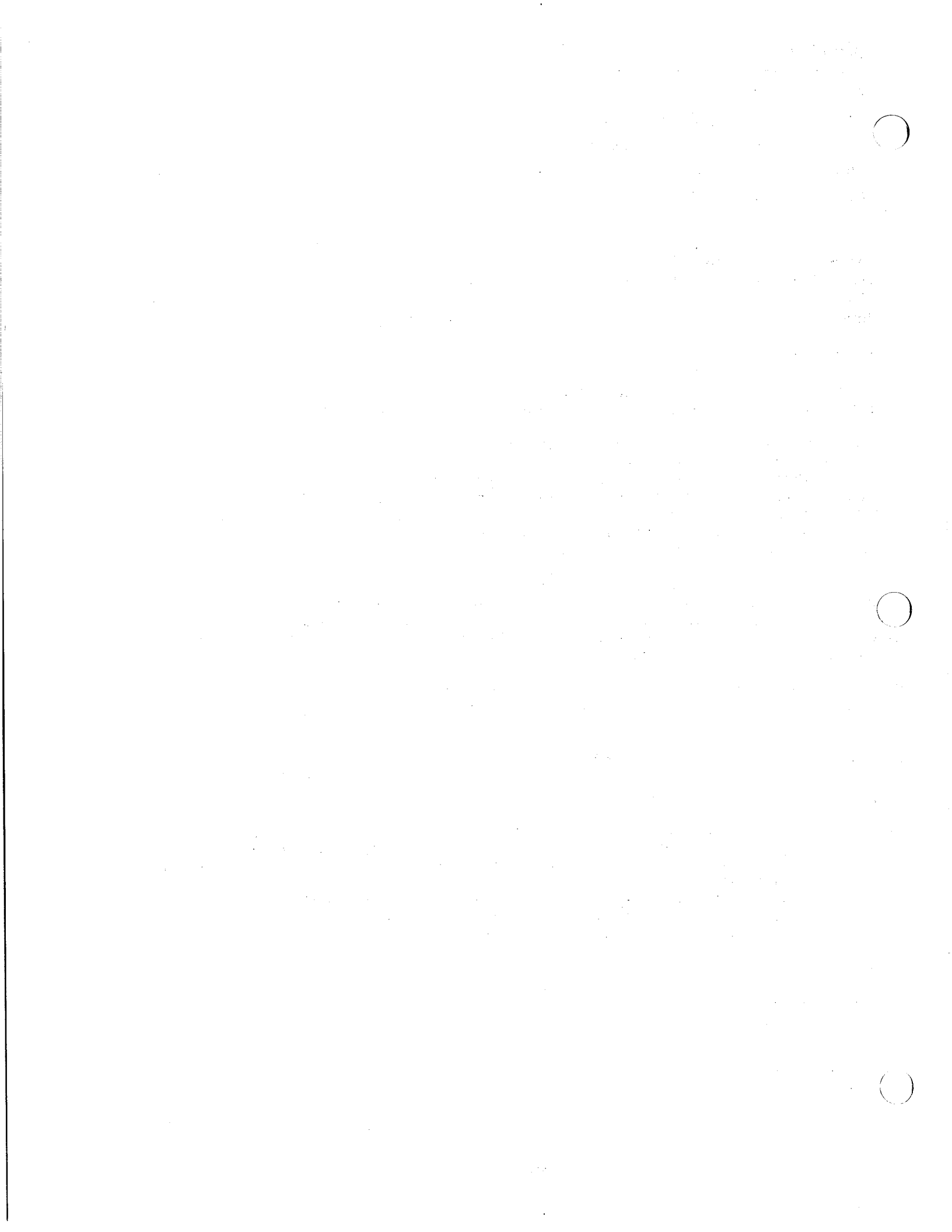
Gas service may be available to the area if desired. The project proponent should contact PG&E's Service Planning Department at (800) 743-5000 as soon as possible to coordinate construction with their project so as not to delay the project.

The California Constitution vests in the California Public Utilities Commission (CPUC) exclusive power and sole authority with respect to the regulation of privately owned or investor owned public utilities such as PG&E. This exclusive power extends to all aspects of the location, design, construction, maintenance and operation of public utility facilities. Nevertheless, the CPUC has provisions for regulated utilities to work closely with local governments and give due consideration to their concerns. PG&E must balance our commitment to provide due consideration to local concerns with our obligation to provide the public with a safe, reliable, cost-effective energy supply in compliance with the rules and tariffs of the CPUC.

Thanks,

Donny Kennedy
Pacific Gas & Electric Company
343 Sacramento Street
Auburn, CA 95603
Internal: (8) 732-5089
Internal: (530) 889-5089

10/3/2011





City Office
 Sacramento, CA 95811
 Tel: (916) 876-9999
 Fax: (916) 876-9999

September 7, 2011
 Peter Brundage, Executive Officer
 Sacramento Local Agency Formation Commission
 1112 I Street, Suite 100
 Sacramento, CA 95814

Subject: City of Folsom – Annexation of the Sphere of Influence South of Hwy 50 (LAFC 04-11)

Regional Wastewater
 District
 1112 I Street, Suite 100
 Sacramento, CA 95811
 Tel: (916) 876-9999
 Fax: (916) 876-9999

Board of Directors
 presenting:

County of Sacramento

County of Colusa

City of Citrus Heights

City of Elk Grove

City of Folsom

City of Rancho Cordova

City of Sacramento

City of West Sacramento

Dear Mr. Brundage:

Sacramento Regional County Sanitation District (SRCSD) has received the application for the City of Folsom, Annexation of the Sphere of Influence South of Highway 50 and has the following comments:

Local sewer service for this area will be provided by the City of Folsom. Conveyance from the local trunk lines to the Sacramento Regional Wastewater Treatment Plant (SRWTP) will be provided by SRCSD interceptor pipelines.

The SRCSD interceptor sewer system was designed using predicted wastewater flows that are dependent on land use information provided by each land use authority and in this case, the City of Folsom. Sewer studies will need to be completed to fully evaluate future sanitary sewer needs for this area. Development of the subject area will require payment of sewer impact fees. SRCSD impact fees shall be paid prior to the issuance of building permits.

SRCSD is not a land-use authority. Projects identified within SRCSD planning documents are a direct result of growth projections and potential growth inducements that are considered by land-use authorities. Impacts associated with providing and expanding sanitary sewer conveyance and treatment must also be considered by the land-use authority and included within their environmental impact report.

A certificate of compliance must be obtained from SRCSD before permit issuance. This certification must include a payment receipt of sewer impact fees paid or a letter indicating the reason for exemption. Any additions or corrections to the project will require an amendment to the Certificate of Compliance.

SRCSD has analyzed the expected demands on both the sanitary sewer and wastewater treatment systems and have adequate capacity to provide sanitary sewer service with no negative impacts to existing SRCSD customers.

If you have any questions regarding these comments, please contact me at (916) 876-9994.

Sincerely,

Sarena Moore
 SRCSD
 Policy and Planning

cc: Prabhakar Somavarapu, Dave Ocenosak, Michael Meyer SRCSD Development Services SASD Development Services

Dean
 District Engineer

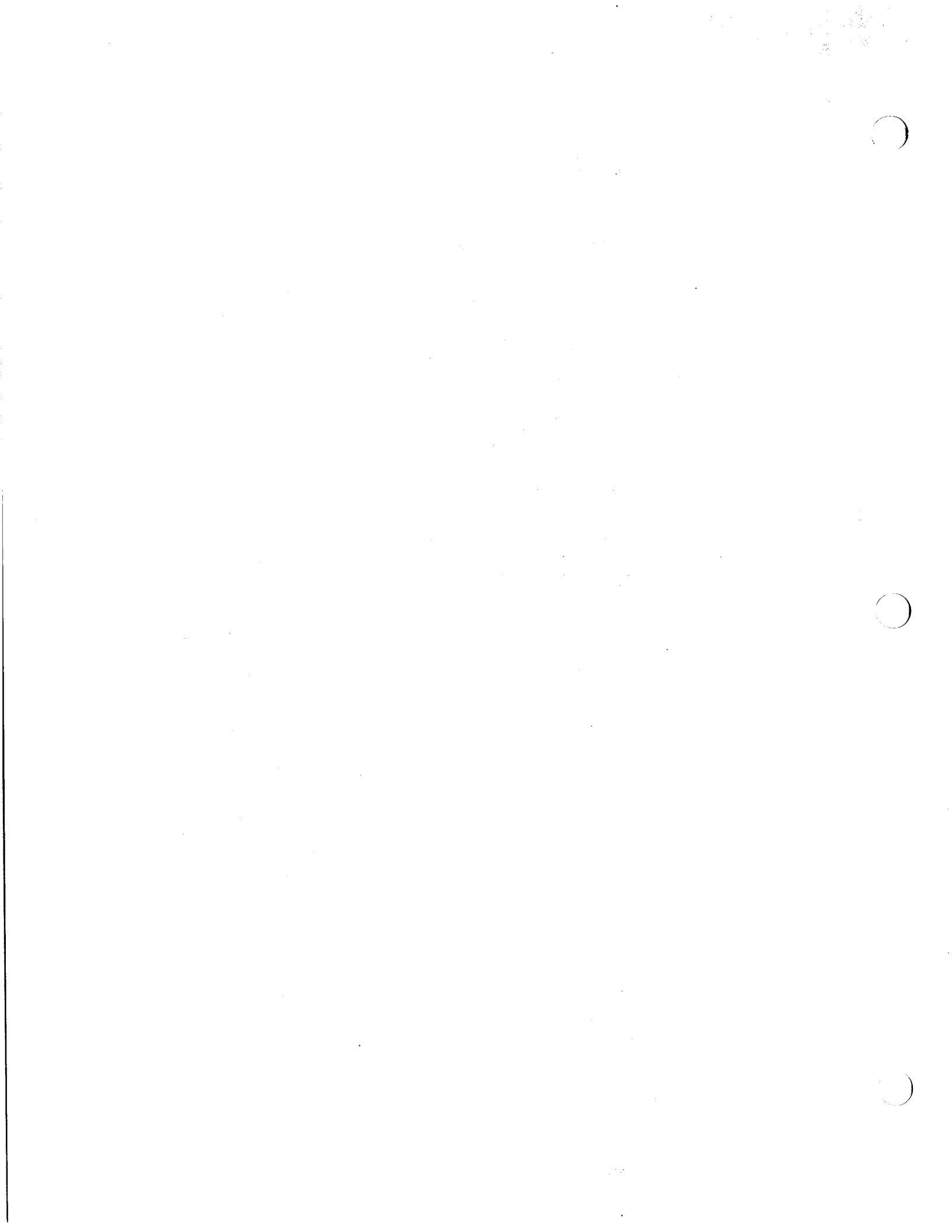
Robles
 Director of Operations

Somavarapu
 Director of Policy & Planning

Stoyanowski
 Director of Internal Services

Maestretti
 Chief Financial Officer

Goss
 Manager



SACRAMENTO-YOLO
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& VECTOR
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DISTRICT

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SACRAMENTO LOCAL AGENCY
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MAILING ADDRESS
SACRAMENTO COUNTY
1631 BOND ROAD
WILK GROVE, CA 95624
YOLO COUNTY
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LIGHTtheBITE.net

September 20, 2011

Mr. Peter Brundage
Executive Officer
Sacramento Local Agency Formation Commission
1112 I Street, Suite 100
Sacramento, CA 95814

RE: City of Folsom – Annexation of the Sphere of Influence South
of HWY 50

Dear Mr. Brundage:

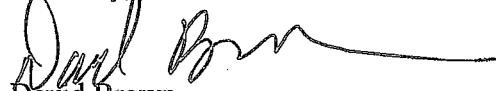
Thank you for the opportunity to provide comments on the proposed City of Folsom-Annexation of the Sphere of Influence south of HWY 50. The District is taking a neutral position on this proposal, and believes it *should not* have significant impacts on our organization.

However, to ensure that no significant impacts to our district occurs upon approval of the proposal, the District requires we be consulted on services that may result in mosquito production, including but not limited to storm water drainage proposals, wetland construction/mitigation projects, or any other project from this proposal being approved that may result in water being present for more than 4 days.

We look forward to working with the City of Folsom to ensure this proposed project does not result in an increase in mosquitoes and mosquito-borne diseases.

Please contact me at 916-685-1022 x5590 if you have any questions.

Sincerely,



David Brown
Manager



Larry J. Norris – *President*
Division 5

George W. Osborne – *Director*
Division 1

John T. Caser – *Director*
Division 1



El Dorado Irrigation District

Bill George – *Vice President*
Division 3

George A. Wheeldon – *Director*
Division 4

Jim Abercrombie
General Manager

Thomas D. Cumpston
General Counsel

In reply refer to: L2011-026 and M0911028

September 9, 2011

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SEP 14 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

Peter Brundage
Executive Officer
Sacramento Local Agency Formation Commission
1112 I Street, Suite 100
Sacramento, CA 95814

Re: City of Folsom – Annexation of the Sphere of Influence South of Hwy 50

Dear Peter:

In response to your memorandum dated August 30, 2011, to “Affected Agency/Interested Party” regarding the above-referenced subject, the following represents El Dorado Irrigation District’s replies.

1. If EID provides service currently, what is the cost of doing so?

We do not currently provide service to the portion of EID’s service area contained within the application.

2. How much revenue loss would occur if the annexation would detach territory from EID?

The proposal will not detach territory from EID, per condition 16 of LAFCO Resolution No. 1196 which approved placing the project lands within Folsom’s sphere of influence. Therefore, there would be no revenue loss.

3. What official position, if any, has EID taken on the proposal?

EID has taken no official position on the annexation proposal; however, EID has cooperated with Folsom in the preparation and approval of a Water Supply Assessment for the project.

Peter Brundage
September 9, 2011
L2011-026 and M0911028


Page 2

4. If the proposal includes a detachment from EID,
 - a. How will it affect our ability to continue services in the rest of our service area?
 - b. How will it affect our financing and operation?

As stated in the answer to question 2, above, the proposal does not include any detachment from EID.

For all of these reasons, EID does not foresee any adverse financial or operational impacts if LAFCO approves the proposal.

Sincerely,



Jim Abercrombie
General Manager

JA:TC:pj

cc: Kenneth V. Payne, City of Folsom, Chief Environmental/Water Resources Development

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Rancho Cordova Area
11336 Trade Center Drive
Rancho Cordova, CA 95742
(916) 464-2090
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



September 14, 2011

File No.: 260.12331

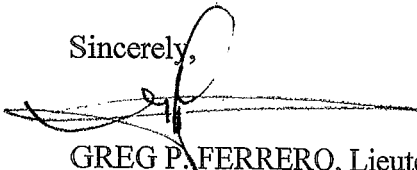
Mr. Peter Brundage
Sacramento Local Agency Formation Commission
1112 I Street, Suite 100
Sacramento, CA 95814

Mr. Brundage:

I recently had the opportunity to review the City of Folsom – Annexation South of Hwy. 50 (L AFC 04-11) plan. The CHP Rancho Cordova Area takes a neutral position on this proposed annexation. Although the planned annexation will reduce the CHP's area of responsibility in Sacramento County, it will increase traffic on county roads and the US-50 freeway system. The increase in traffic will be caused by the added population and shopping outlets proposed by this plan in the City of Folsom.

The proposed annexation should not have a negative affect on our agency's ability to provide services to the public in eastern Sacramento County or the City of Folsom. If you have any questions, please feel free to contact me directly.

Sincerely,

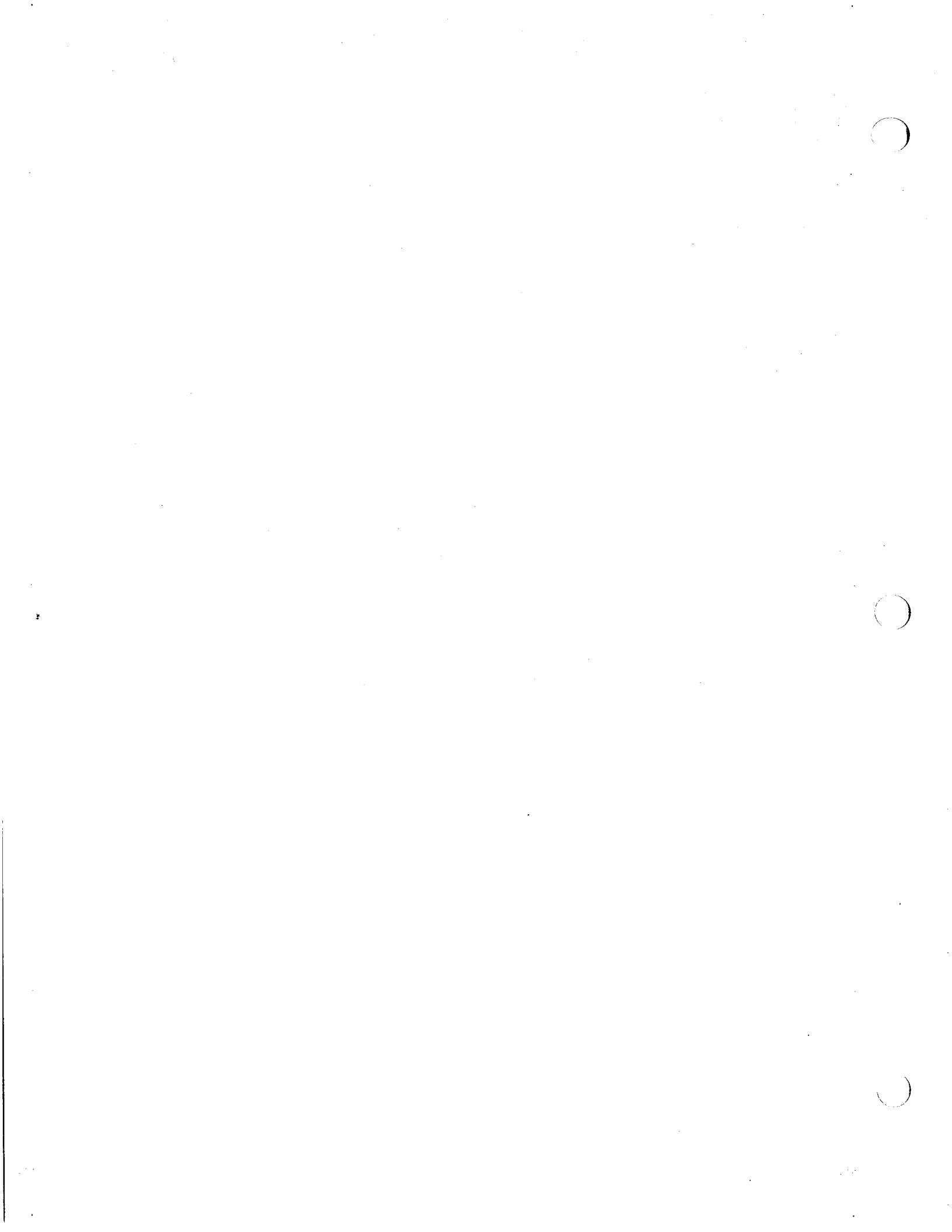

GREG P. FERRERO, Lieutenant
Commander
Rancho Cordova Area

cc. Valley Division

Safety, Service, and Security



An Internationally Accredited Agency



The logo for the Sacramento Transportation Authority (STA) features the letters "STA" in a bold, white, sans-serif font, set against a black rectangular background.

Sacramento Transportation Authority

431 I Street, Suite 106
Sacramento, CA 95814

(916) 323-0080 Telephone
(916) 323-0850 Fax

Email: info@sacta.org
Web: sacta.org

September 8, 2011

Peter Brundage
Executive Officer
Sacramento Local Agency Formation Commission
1112 I Street, Suite 100
Sacramento, CA 95814

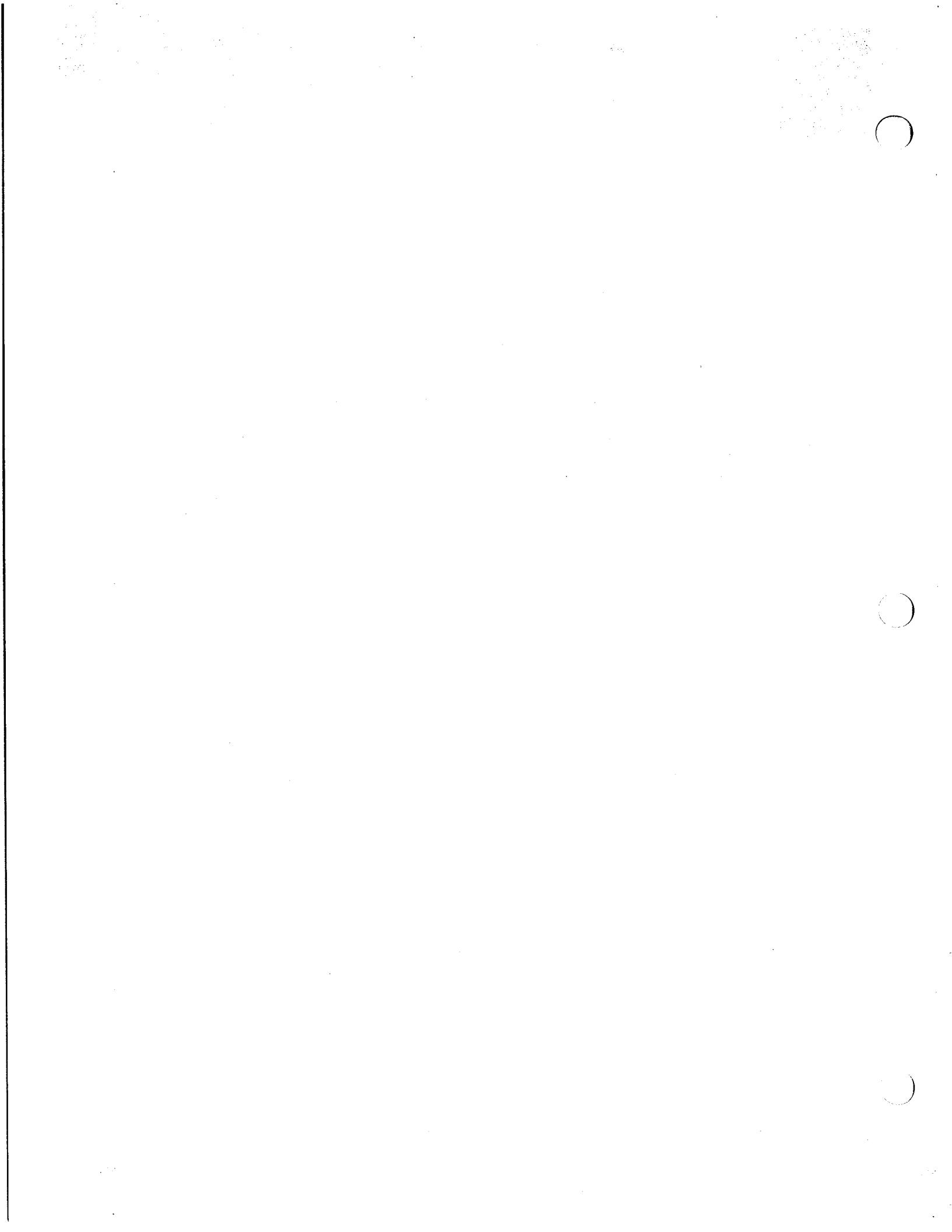
Subj: City of Folsom – Annexation of the Sphere of Influence South of Hwy 50 (LAFC 04-11)

We have reviewed the associated application materials and determined that the proposal will not affect the organization or operation of the Sacramento Transportation Authority (STA). The STA Governing Board will take no official position on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian A. Williams", is written over a circular stamp.

Brian A. Williams
Executive Director





SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT
The Power To Do More

P.O. Box 15830, Sacramento, CA 95852-1830; 1-888-742-SMUD (7683)

October 3, 2011
GM 11-187

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OCT 04 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

Donald J. Lockhart, Assistant Executive Officer
Sacramento LAFCo
1112 I Street, Suite 100
Sacramento, CA 95814

Re: City of Folsom – Annexation of the Sphere of Influence South of Highway 50
(LAFC 04-11)

Dear Mr. Lockhart:

Thank you for the opportunity to provide a statement regarding proposed annexation of the Folsom Sphere of Influence south of highway 50. The Sacramento Municipal Utility District (SMUD) does not have an official position regarding the annexation of the of the sphere of influence area. The SOI is within SMUD's service area, but the proposal does not propose the detachment of SMUD's service territory.

As stated in the letter sent by SMUD on July 13, 2009 to the City of Folsom Planning Department for the Draft Environmental Impact Report / Environmental Impact Statement, SMUD will need to upgrade and install certain facilities in order to support the new electrical loads created by development in the SOI area. A copy of the July 13 letter, with the EIR/EIS response, is attached for your reference.

If you would like any additional information regarding this matter, please contact SMUD's Local Government Relations Manager Steve Johns at (916) 732-6370 or sjohns3@smud.org.

Sincerely,

John DiStasio
General Manager & Chief Executive Officer

Attachment

John DiStasio, General Manager & Chief Executive Officer

DISTRICT HEADQUARTERS • 6201 S Street, Sacramento CA 95817-1899



SMUD-1

P.O. Box 15830, Sacramento, CA 95852-1830; 1-888-742-SMUD (7683)

July 13, 2009

Handwritten: LITG
AV
Energy EDE

CITY OF FOLSOM
PLANNING DEPARTMENT
ATTN: Gail Furness De Pardo
50 NATOMA STREET
FOLSOM, CA 95630

And

US Army Corps of Engineers
Attn: Lisa Gibson
1325 J Street, Room 1480
Sacramento, CA 95814-2922

Subject: Draft Environmental Impact Report/Draft Environmental Impact Statement for the Folsom South of US Highway 50 Specific Plan, Folsom, Sacramento County, CA.

Ms. Gail Furness De Pardo and Ms. Lisa Gibson,

The previously prepared letter that was sent to the City of Folsom on May 11, 2009 remains up to date and correct. For your reference the exact same information is repeated below:

The Folsom South of US Highway 50 Specific Plan Project will have a significant impact on SMUD's electrical facilities and will require new electrical substations and power lines in the area bounded by Prairie City Road (Western Boundary), US Highway 50 (Northern Boundary), the Sacramento County Line (Eastern Boundary), and White Rock Road (Southern Boundary). The existing facilities within the project boundaries are inadequate to serve the future load. A minimum of 3 distribution substations and new overhead 69kV lines will be required to serve future demand based on the Specific Plan Land Uses shown in Table 1 and the Conceptual Land Use Plan shown in Exhibit 3 on pages 6 and 7, respectively, of the Notice of Preparation document prepared by EDAW.

Please note the following:

Estimated electrical demand based on proposed September 2008 Land Uses:

102 MVA

Existing 230 kV and 69 kV routes within the area:

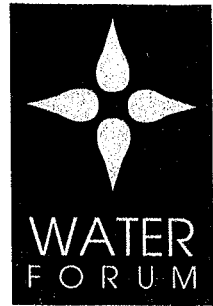
1. Overhead double circuit 230 kV line within the transmission line corridor through the western portion of the specific plan between Highway 50 and White Rock Road.

September 12, 2011

RECEIVED

OCT 19 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION



Sacramento City-County
Office of Metropolitan
Water Planning

Don Lockhart AICP,
Assistant Executive Officer
Sacramento Local Agency Formation Commission

Re: City of Folsom Folsom Proposed Annexation (LAF#04-11)

Dear Mr. Lockhart,

This letter responds to your request of September 8, 2011 for Water Forum review of the adequacy of compliance with Condition 11a (water supply sufficiency) related to the Sphere of Influence Amendment for the City of Folsom.

The Water Forum Agreement was signed in 2000 by water purveyors, environmentalists, agriculturalists, business leaders, and city and county governments in Sacramento, El Dorado and Placer counties (<http://www.waterforum.org/agreement.cfm>). The Agreement seeks to provide reliable water supplies to this region and protect public trust assets in the lower American River. Although the Agreement stipulates water allotments through 2030 for the region's purveyors, including the City of Folsom, the Agreement was intentionally neutral on the subject of water supply to the proposed Folsom Sphere of Influence development. The agreement stated:

"The Water Forum recognizes that the City of Folsom has applied to include the area south of Highway 50 into its sphere of influence. It is agreed that if the Local Agency Formation Commission (LAFCO) grants Folsom's application, the Water Forum Successor Effort will consider the question of whether there can be agreement on a mutually acceptable water supply for development in that area.

Water Forum signatories retain their ability to support or oppose Folsom's LAFCO application on any grounds including water supply. Nothing in the Water Forum Agreement provides support for an expanded water service area for that area south of Highway 50. Regardless of support or opposition by other Water Forum signatories, if the City of Folsom were to serve the south of Highway 50 area with any of the surface or groundwater resources covered under the Water Forum Agreement then all of the City's obligations under the Water Forum Agreement will apply to that area."

Accordingly, it is not appropriate for the Water Forum to comment on the issue of water supply adequacy, nor for staff to evaluate the issue prior to LAFCo approval.

If you have further questions on this topic, please don't hesitate to contact me.

Best regards,

Tom Gohring
Executive Director

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100
100
100
100





FCUSD

October 7, 2011

Peter Brundage, Executive Director
Sacramento Local Agency Formation Commission
Sacramento LAFCo
1112 I Street, Suite 100
Sacramento, CA 95814-2836

RE: City of Folsom Annexation Application

Dear Mr. Brundage:

Staff from Folsom Cordova Unified School District (FCUSD) have met with representatives of the City of Folsom and have discussed the current application for annexation of the City of Folsom Sphere of Influence property. This approximate 3,500 acres of land is located south of Highway 50 between Prairie City Road, the El Dorado County border and White Rock Road. In those discussions, we have come to agreement on the impact of this annexation within our district boundaries. In response to LAFCo's request from an "Affected Agency/Interested Party" and based upon these discussions, the following represents FCUSD's replies regarding the City of Folsom's annexation:

1. If FCUSD provides service currently, what is the cost of doing so?
FCUSD currently provides services to the area identified within the annexation application, and we have agreed that to retain our service boundaries within the annexation area, there would be no change in the property tax distribution that we currently receive.
2. How much revenue loss would occur and would the annexation detach territory from FCUSD?
The proposed application will not detach territory from FCUSD. As stated above, FCUSD currently provides services in the area identified within the annexation application. With no detachment and no change in the property tax distribution currently received, FCUSD does not foresee a revenue loss.
3. What official position, if any, has FCUSD taken on the proposal?
FCUSD has not officially taken a position on the annexation proposal; however, FCUSD has cooperated with the City of Folsom in the assessment of services necessary for the project area.



FCUSD

Page 2
Peter Brundage, LAFCo

4. If the proposal includes a detachment from FCUSD, how will it affect the ability to continue services in the rest of the service area, and how will it affect financing and operations?

FCUSD and the City of Folsom have agreed that there is no detachment for the service area.

We hope this information is helpful. FCUSD does not foresee any adverse financial or operational impacts if LAFCo approves the City's proposal. Please contact me at 916-355-1100, extension 107, if you have any questions regarding this letter.

Sincerely,

Deborah Bettencourt
Superintendent

c: Kerry Miller, City Manager, City of Folsom

LOS RIOS

COMMUNITY
COLLEGE
DISTRICT



October 17, 2011

Mr. Peter Brundage
Executive Director
Sacramento Local Agency Formation Commission
Sacramento LAFCo
1121 I Street, Suite 100
Sacramento, CA 95814-2836

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OCT 20 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

American River College
Cosummes River College
Folsom Lake College
Sacramento City College

1919 Spanos Court
Sacramento, CA 95825
Phone: 916 568-3021
Fax: 916 568-3023
www.losrios.edu

Dear Mr. Brundage:

Staff from the Los Rios Community College District (LRCCD) have recently met with representatives of the City of Folsom and have discussed the current application for annexation of the City of Folsom Sphere of Influence property, approximately 3,500 acres of land located south of Highway 50 between Prairie City Road, the El Dorado County border and White Rock Road.

In response to LAFCo's request to this annexation proposal from an "Affected Agency/Interested Party" we offer the following:

The LRCCD does not typically take a position on annexation issues that have no significant impact on the District. The project, as outlined above, does not appear to have an adverse impact upon Los Rios. Community Colleges in California are not funded solely on tax base, and are there no restrictions on student attendance outside of District boundaries. As a result we do not believe there will be any material impact on District finances. Further, the District does not attempt to direct growth, but rather responds to growth. The District, therefore, takes a 'neutral' position regarding this project.

Again, we appreciate the opportunity to comment on the proposed annexation and hope that our response is helpful to you in making your final determination. If you have any questions or require additional information regarding this matter please feel free to contact our office at (916) 568-3058.

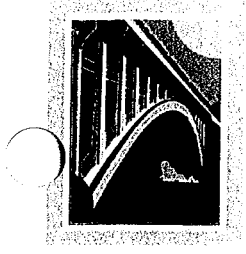
Sincerely,

Jon Sharpe
Deputy Chancellor

cc: Evert Palmer, City Manager, Folsom City Manager
Brice W. Harris, Chancellor, Los Rios Community College District
Thelma Scott-Skillman, President, Folsom Lake College

113 13 1





Community Development Department
50 Natoma Street
Folsom, CA 95630

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JAN 21 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

January 14, 2011

Chairperson Steve Cohn
Commission Members
1112 I Street, Suite 100
Sacramento, CA 95814

RE: January 7, 2011 Letter from Sacramento Housing Alliance

Dear Chairperson and Commission Members:

This letter is provided to you to clarify that the City's Housing Element is certified by the State Department of Housing and Community Development and to clarify any misconceptions that the January 7, 2011, letter from the Sacramento Housing Alliance may have presented. The Folsom City Council did not take action to repeal the Inclusionary Ordinance on January 11, 2011, they took action to sunset the Ordinance. The significance of this distinction is that all projects approved under the Inclusionary Ordinance between 2002 up to the effective date of this sunset ordinance continue to be committed to the numbers of affordable housing units their discretionary approvals require. The sunset provision affects new residential housing projects approved after the effective date of the ordinance.

The City Council determined that inclusionary housing was ineffective in the current economy as the City produced only 23 housing units in 2010. Given the depressed housing market, there are no new residential projects producing new housing of 10 units or more, so the inclusionary ordinance is failing to produce any new affordable housing units. The Inclusionary Zoning Ordinance constitutes an impediment to the production of any housing units given the market sales prices and cost to product new housing today. Our Inclusionary Zoning Ordinance adds a minimum cost of \$26,000 per single-family dwelling.

The City has chosen to concentrate our considerable resources on producing rental housing in projects that are 100% affordable (as opposed to 15% affordable) to low and very low income families. In 2010, the City partnered with Mercy and Transitional Living and Community Support to produce 18 units of housing affordable to low and very low income families, while only 23 market rate units received building permits from the City of Folsom. We are currently providing over \$9.3 million dollars in land and cash contributions to two projects that are 100% affordable to low and very low income families. The first is the Forestwood project of 55 rental units on Greenback Lane in Folsom in a partnership with USA Properties. The second is the Sibley Street project in Folsom partnering with St. Antone Partners on an 82 unit rental project, 100% affordable to low and very low income families. These two projects will be built in the next two years while the residential economy remains anemic. If we were to rely solely on inclusionary housing few, if any, affordable units would be constructed.

The City has committed nearly all of its 20% set aside funds from the Redevelopment Agency toward 100% affordable rental projects. The City also has a requirement for all new commercial development to pay \$1.20 per square foot into our Housing Trust Fund which is being used to subsidize 100% low and very low income affordable rental projects. We are providing over \$1.5 million from this account toward affordable housing.

Because the Sacramento Housing Alliance opposed the City's sunseting of the Inclusionary Zoning Ordinance, they have chosen to try to obstruct the City's annexation of the South of Highway 50 Sphere of Influence Area which we will bring to LAFCo for annexation in August 2011. This annexation area is subject to a Specific Plan which has a full affordable housing strategy to address affordable housing. The City of Folsom is in complete compliance with the requirements under our Regional Housing Needs Allocation and has zoned adequate acres of residential and at sufficient densities to comply with these requirements. There is no basis for the Alliance's opposition. The contention that "...it is clear that the City did not meet the regional housing needs for low and very-low income households..." is completely untrue, and we have a certified Housing Element to verify to that fact. The City of Folsom will house 3-4 times more low and very low income families by dedicating all of our affordable housing resources toward 100% affordable rental projects, rather than funding inclusionary projects. This is effective stewardship of the public trust.

It is unfortunate that the Sacramento Housing Alliance is misleading LAFCo regarding the City of Folsom's status as having a certified Housing Element that complies with state law. It is also unfortunate that the Housing Alliance does not appreciate the aggressive and practical success of the City's affordable housing strategy. The City will demonstrate in our LAFCo application that we are in full compliance with state law with a certified 2009 Housing Element.

Sincerely,



David E. Miller, AICP
Community Development Director

cc: Folsom City Council
Kerry Miller, City Manager
Ron Maertz, Environmental Council of Sacramento
Shamus Roller, Sacramento Housing Alliance
Peter Brundage, LAFCo



Sent Via U.S. Mail and facsimile (916)854-9097

January 7, 2011

Chairperson Steve Cohn
Commission Members
1112 I Street, Suite 100
Sacramento, California 95814

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JAN 10 2011

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

RE: Folsom Annexation Approval Conditions

Dear Chairperson and Commission Members:

We are writing to bring your attention to the proposed action of the Folsom City Council to repeal the City's inclusionary housing ordinance, which we understand is planned for the January 11, 2011 City Council meeting. This action, if taken, will greatly jeopardize the City's ability to comply with the conditions for the Sacramento Local Agency Formation Commission (LAFCo) imposed as part of Folsom's annexation of land south of Highway 50.

As the Commission is aware, the 2001 approval of Folsom's Sphere of Influence Amendment contained numerous conditions and terms that must be satisfied prior to Folsom annexing the land south of Highway 50 in their Sphere of Influence. In particular, we are concerned with the City's continued lack of progress to meet condition 1(b):

Obtain a determination of substantial compliance from the California Department of Housing and Community Development (HCD) consistent with Government Code section 65585 (d) or (h). The City of Folsom shall establish in its approved Housing Element that it has or will meet its regional share housing needs for all income levels for the second and third housing element revision, as defined in Government Code section 65588.

Although it is clear that the City did not meet the regional housing needs for low and very-low income households in the second housing element revision and by its own projections will not meet its regional housing needs for neither low nor very-low income households – almost 2,000 units – for the third revision, the City has made progress toward that goal through a number of housing programs. The most productive program has been the City's inclusionary housing ordinance which has produced 264 units since

its adoption in 2002. The ordinance is also projected to produce more than 400 units of affordable housing before the end of the planning period in 2013 – if it remains in effect.

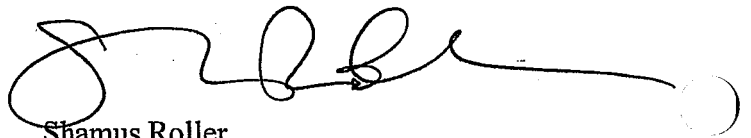
If the City repeals the inclusionary housing ordinance, not only will Folsom not meet the specific condition LAFCo adopted in approving the SOI amendment but the City will lose the only real tool the City has to help it meet the condition. In other words, the City will guarantee that it cannot satisfy the condition the Commission imposed on the City for its proposed annexation and will eliminate the most effective mechanism the City has to show its efforts to satisfy condition 1(b).

We wanted to bring this proposed action to the attention of LAFCo while there is still time for the City to reconsider its proposed repeal of the ordinance and avert any possible delay to the future of the annexation due to the City's failure to comply with condition 1(b).

Sincerely,



Ron Maertz
Co-Chair Land Use Committee
Environmental Council of Sacramento



Shamus Roller
Executive Director
Sacramento Housing Alliance

cc: Peter Brundage, LAFCo
Folsom City Council

October 3, 2011

ATTN: Peter Brundage, Executive Officer
Sacramento LAFCo
1112 I Street, Suite 100
Sacramento, CA 95814
Sent via U.S. mail and facsimile to (916) 874-2939

RE: Comments on City of Folsom Annexation of the Sphere of Influence South of Hwy 50 (LAFC 04-11)

Dear LAFCo Chairperson and Commission Members:

We submit these comments on behalf of the Sacramento Housing Alliance (SHA) in response to the August 30, 2011 request for comments by the Sacramento Local Agency Formation Commission (LAFCo) in regards to the City of Folsom's application to begin the process for the annexation of the Folsom Plan Area located south of Highway 50. The City of Folsom has failed to comply with an essential condition previously imposed by LAFCo and has likewise failed in its commitment to the greater Sacramento region to meet its fair share of the regional housing needs for all income levels. Until it does so, the annexation process should be halted.

A. Failure to Comply with the Condition on the Sphere of Influence Annexation Amendment

Pursuant to Government Code section 56001, the California Legislature has declared that "providing housing for persons and families of all incomes is an important factor in promoting orderly development." (Gov't Code § 56001.) Accordingly, it has determined the modification of local boundaries must reflect this policy and that preference is to be granted to localities "which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible." (*Id.*)

In proper recognition of this legislative mandate, LAFCo imposed condition 1(b) in its 2001 approval of the City of Folsom's Sphere of Influence Amendment. That condition requires the City to:

[o]btain a determination of substantial compliance from the California Department of Housing and Community Development (HCD) consistent with Government Code section 65585(d) or (h). The City of Folsom shall establish in its approved Housing Element that *it has or will meet its regional share housing needs for all income levels* for the second and third housing element revision, as defined in Government Code section 65588. (LAFCo Resolution No. 1196, Condition 1(b) [emphasis added].)

The City has not met this obligation. Although the City's Housing Elements for the second and third housing element revisions were ultimately approved by the Department of Housing and Community Development (HCD), the City has engaged in measures over the course of the past year which bring it further from meeting its current or future share of regional housing needs.

As an initial matter, the City's Housing Element for the third housing element revision covering the 2006-2013 planning period contains quantified objectives that are 1,734 units short of meeting its RHNA allocation of 2,649 for lower and moderate income households.

More importantly, after obtaining HCD approval of its current Housing Element, the City adopted an ordinance in early 2011 sunsetting its inclusionary zoning ordinance, its single strongest tool for developing affordable housing. The inclusionary zoning ordinance was a program stemming from the City's 2002 Housing Element, a program that the current element projected as capable of producing 405 affordable housing units, representing 44 percent of the City's total quantified objectives for the current planning period. No other program within the Housing Element is expected to produce more units than the inclusionary zoning ordinance. Further, the ordinance has a strong history of producing units. It was implemented in 2002 as part of the settlement of an earlier lawsuit against the City after HCD determined that the City's Housing Element adopted in 1992 was out of compliance with state law and after the City subsequently failed to revise its Housing Element to bring it into compliance. After a prolonged period of failing to provide for the housing needs of lower income residents, however, the inclusionary zoning ordinance has resulted in the production of 264 units since 2002.

To date, the City has failed to replace this affordable housing program despite proposals of its own staff prior to its sunset. It also has failed to consider alternative measures to repealing its inclusionary zoning ordinance in order to address the impact of such repeal on development and the City's ability to meet either its share of regional housing needs or even its own quantified objectives. Instead, the City has adamantly refused to consider modifying the inclusionary zoning ordinance or instituting a replacement program, simply expecting instead that the region trust it to meet its affordable housing obligations on an *ad hoc* project by project basis.

As a result, the City has failed to demonstrate that it has or will meet the condition imposed by LAFCo. Its current Housing Element fails to include tangible programs that demonstrate the City "has or will meet its regional share housing needs for all income levels."

B. The Specific Plan for the Proposed Annexation Lacks Adequate Affordable Housing Sites, Incentives, and Transfer Policies

Moreover, the City's Folsom Plan Area Specific Plan (Plan) for the land south of Highway 50 does not properly plan for affordable housing in its sites, incentives, or transfer policies. Attached and incorporated fully herein in Appendix A and B are copies of our comment letters detailing these concerns to the City's Planning Commission in May 2011 and the City Council in June 2011.

Specifically, the Plan projects that only 19% of the total units expected will be suitable for affordable housing without providing any information about the methodology used to arrive at this percentage. It also fails to explain the considerable deficiency of a "19% projected affordability" when: (1) over 50% of the City's RHNA is allocated to the needs of the very low and low income population; (2) the City itself acknowledges that it already suffers a deficiency of housing affordable to employees in its sizable retail sector; (3) the proposed annexation will significantly contribute to additional housing needs for this sector; and (4) the City has "sunsetting" the inclusionary zoning ordinance without adopting any affordable housing program to replace it. While the RHNA allocation for the next planning period will

It be made until 2012, the current economic climate strongly suggests that even more very low and low income housing will be needed in the future than are currently needed.

Further, the purported “incentives” for the development of affordable housing contained within the Specific Plan are inadequate and illusory. For example, the asserted potential use of redevelopment set aside funds for the First-Time Homebuyer Program are misleading. The currently undeveloped Plan Area is, of course, not within a redevelopment project area. The use of affordable housing funds belonging to another project area is not permitted absent special findings by the Redevelopment Agency that the use of such funds in the annexed area would benefit the project area(s) that generated those funds. Moreover, the continued receipt of tax increment targeted for new affordable housing in *any* local jurisdiction is in serious question as a result of the recent enactment of ABx1 26 and ABx1 27. The City’s reliance on the Section 8 voucher program to assist in developing affordable housing in the annexed area is equally misplaced because of the severely restricted availability of such vouchers. Although the City could potentially increase voucher use in the annexed area by including provisions in development agreements that prohibit discrimination against families using Section 8 vouchers, the City has failed to consider such concept.

C. Problematic “Staging” of Development Agreements May Foreclose Affordable Housing Restrictions.

Finally, the City has elected to “delay” any affordable housing restrictions that could be imposed by way of development agreements and has quite possibly foreclosed its ability to impose such restrictions in the future. Specifically, the City has approved a “Folsom South Tier 1 Development Agreement” that immediately vests certain rights in the developer and that delays any affordable housing conditions for a “future Tier 2 agreement.” Attached and fully incorporated herein at Appendix C please see our comment letter to the Folsom City Council in June 2011 addressing significant concerns with the proposed Tier 1 agreement.

Our primary concern with the Tier 1 agreement is that certain important development rights vest upon its execution. Those rights may seriously impede the City’s ability to address any affordable housing conditions in the future. Although the agreement purports to retain rights with respect to affordable housing, as a practical matter, those rights would be illusory because the rights that vest as a result of the Tier 1 agreement specify permitted uses, densities, intensity of uses, and the maximum height and size of buildings. To the extent the City enters into such Tier 1 agreements, it may well lose its ability to change “residential” sites to “mixed use,” rezone single family residential sites to permit higher density multifamily sites, and the like. This would significantly restrict the City’s ability to identify sufficient affordable housing sites to meet future regional housing needs.

Moreover, the Tier 1 agreement “caps” the number of residential units that can be developed in order to ensure that the “growth cap” imposed by the Specific Plan is not exceeded. This means that the currently planned higher density multifamily sites may well not be enough to meet future regional housing needs. Thus, the Tier 1 agreement the City has approved seriously restricts its ability to address housing needs in the future.

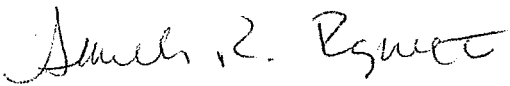
sum, neither the City’s past nor present history demonstrate that it can be entrusted in isolation to best accommodate” families of all income levels efficiently. It has failed to demonstrate compliance

with the affordable housing condition properly imposed by LAFCo. And, rather than expanding its tools and mechanisms to meet its fair share of affordable housing needs in the region, it has diminished them.

For these reasons, we urge LAFCo to halt the City of Folsom's process for the annexation of the Folsom Plan Area and ensure enforcement of the condition it properly imposed on Folsom nearly a decade ago.

Thank you for your consideration of these comments. If you have any questions or concerns, please contact me at (916) 551-2171 or sropelato@lsnc.net or Mona Tawatao at (916) 551-2184 or mtawatao@lsnc.net.

Sincerely,



Sarah R. Ropelato
Staff Attorney

CITY OF FOLSOM
Office of the City Attorney

9 Natoma Street
Folsom, California 95630



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

Bruce C. Cline
City Attorney

Steven Wang
Assistant City Attorney

October 13, 2011

Peter Brundage, Executive Officer
Sacramento Local Agency Formation Commission
1112 I Street, Suite 100
Sacramento, CA 95814

RE: Legal Services of Northern California (LSNC) Correspondence dated 10/03/11

Dear Mr. Brundage:

The City of Folsom takes this opportunity to address issues in a letter you received from Legal Services of Northern California (LSNC) dated October 3, 2011. The City of Folsom is not only fully compliant with respect to its Housing Element, the City has addressed affordable housing in the proposed annexation area through the Development Agreement and Specific Plan. Additionally, the City has continued to demonstrate its commitment to affordable housing through many actions during this Housing Element cycle and on many important affordable housing projects in our community over the last several years, and continuing. LSNC disagrees with the City's approach to affordable housing, in that the City sunsetted its Inclusionary Ordinance. While they may have a different approach, the City's approach is legal and we believe our approach a much more effective way to produce actual units affordable to people in our community.

It is important to first note what the LAFCO Resolution No. 1196 states about the City's Housing Element. Section 1(b) provides that the City must:

"Obtain a determination of substantial compliance from the California Department of Housing and Community Development (HCD) consistent with Government Code section 655859(d) or (h). The City of Folsom will establish in its approved Housing Element that it has or will meet its regional share of housing needs for all income levels for the second and third housing element revisions, as defined in Government Code Section 65588".

The City of Folsom has a certified Housing Element and is in full compliance with Section 1(b) above. As such, the City has met the condition contained in Resolution No. 1196. The City has met the legal requirement and regardless of LSNC's concern about how the City chooses to approach affordable housing, the City is legally compliant. As outlined below, the City has a demonstrated commitment to affordable housing and will continue to do so in the annexed area.

To address the points raised by LSNC, the City provides the following information:

1. Failure to Comply with the Condition on the Sphere of Influence Annexation Amendment (LSNC Oct. 3, 2011 letter to LAFCo, p.1).

LSNC states that the City of Folsom failed to obtain a determination of substantial compliance from the California Department of Housing and Community Development consistent with Government Code section 65585(d) or (h). This is incorrect as the City is fully compliant. On August 10, 2009, Kerry Miller, City Manager, City of Folsom, received a letter from Kathy Creswell, Deputy Director the California Department of Housing and Community Development, approving the City of Folsom Housing Element, meeting all of HCDA's certification requirements under state law. The letter is attached.

2. The Specific Plan for the Proposed Annexation Lacks Adequate Affordable Housing Sites, Incentives, and Transfer Policies (LSNC Oct. 3, 2011 letter to LAFCo, p.2).

Government Code Section 65581(2) states: *It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs.*

Furthermore Government Code Section 65584(a)(2) states: *While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.*

The City's primary responsibility is to make adequate sites available to accommodate the RHNA. The City has proven that it has made adequate sites available to meet the 2006-2013 RHNA in the approved 2009 City of Folsom Housing Element. RHNA numbers are not concluded for the City or its annexed area and will not be until 2012. The City has provided expressly for RHNA numbers in the SOI through the Development Agreement and the Specific Plan. While a Development Agreement vests rights, the City has specifically provided that:

"no vested rights exist with respect to the following issues..." "A. Affordable Housing – The City retains all rights and authority and does not vest any rights with respect to Affordable Housing. At the time of adoption of this Agreement, the City's RHNA numbers for the Plan Area have not been provided. As such the City retains all rights to modify the land plan, rezone properties, adopt ordinances and adopt programs in its housing element to further the goals of affordable housing in any future Housing Element and to assure there is adequately zoned land to meet the RHNA allocation for the Plan Area...."

The Specific Plan further provided that no vested rights exist as articulated above.

The City has evaluated many options for the existing City and the annexation area with respect to affordable housing. Its housing consultant, Mintier Harnish, produced an analysis of the RHNA for the 2013-2021 planning period for the City of Folsom Community Development

Department and concluded that there is capacity for over 1,900 Multifamily High Density (MHD) units in the SOI area, and together with vacant MHD zoned parcels in the existing city limits, equaling 900 units, there is a capacity for 2,800 MHD units, which exceeds even the highest RHNA allocation of 2,420 affordable units (Methodology A) for the 2013-2021 RHNA planning period.

3. The City Lawfully Sunsetting the Inclusionary Ordinance.

The City of Folsom clearly articulated in its Housing Element that it would evaluate the Inclusionary program to determine if it was a constraint on housing. The City did precisely what it said it would do in the Housing Element and concluded that inclusionary housing was not the way the City wanted to accomplish affordable housing. LSNC objects to the City sunsetting its Inclusionary Ordinance. LSNC does not address the lawful, valid and practical reasons that the Inclusionary Housing Ordinance was sunsetted in the first place and it further ignores the City's substantial efforts to increase affordable housing. In October 2009 Court of Appeal decision in *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*, 175 Cal.App.4th 1396 (2009) held that a rental inclusionary housing condition on a project mandating certain below market rents, or payment of an in-lieu fee, was preempted by the Costa-Hawkins Act and void because it impaired a landlord's right to establish rental rates. *Id.* at 1410-1412. In other words, mandatory rental inclusionary programs are not lawful.

Following *Palmer*, the City re-evaluated the legality and continued viability of the Inclusionary Housing Ordinance and determined that it "can act as a constraint to the production of moderate rate housing for lower density residential products." The City elected to consider other affordable housing strategies to secure more affordable units that are economically responsive to the housing market. The City believes that the Inclusionary Housing Ordinance did impose a constraint to housing development by imposing an additional duty and cost on developers, thus "disincentivizing" development (particularly in this down economy). The City, however, continues to pursue several other programs under its Housing Element that foster affordable housing.

LSNC attempts to make an issue that the City's Housing Element covering the 2006-2013 planning period contains quantified objectives that are "1,734 units short of meeting its RHNA allocation ... for lower and moderate income households." This argument ignores the fact that this very Housing Element has been found by HCD to be in "fully compliance with the State housing element law (Article 10.6 of the Government Code.)" by HCD's August 10, 2009 certification of the Housing Element. In doing so, HCD commended the City's efforts in creating high-density housing opportunities. HCD's certification of the Housing Element creates a presumption of validity. Cal. Gov't Code 65589.3.

More importantly, LSNC's letter apparently misconstrues the term "quantified objectives" to argue to LAFCO that such objectives with respect to affordable housing constitute mandates imposed upon the City by RHNA and HCD. They do not. These objectives are not mandates to produce the identified units. As specifically stated in the Housing Element, and as provided by state housing law, the forecasted unit productions are the "*maximum*" number of units that might be produced from a particular program. Cal. Gov't Code § 65583(b)(2). Indeed, the

Housing Element itself contemplates adjustment of its quantified objectives for affordable housing "following review of the [Inclusionary Housing] Ordinance under 19i."¹

Here, the express purpose of the ordinance sunsetting the inclusionary ordinance is to "assist in alleviating some of the financial impediments to the development of residential housing for all income levels currently facing the real estate development industry in a down economy", Ordinance No. 1140 (Section 1). While the City could, perhaps, have retained the for-sale component of the Inclusionary Housing Ordinance, it properly exercised its discretion in deciding to sunset the for-sale component of the Ordinance in order to help foster housing development in the City.² Ironically, LSNC's quest to retain the Inclusionary Housing Ordinance, if successful, would likely have the effect of diminished high-density rental development, diverting affordable housing funds to single-family projects, thus impairing (not fostering) affordable housing, and as outlined in section 10 below, the City has continued to develop affordable housing, putting real units on the ground.

4. Problematic "Staging" of Development Agreements May Foreclose Affordable Housing Restrictions (LSNC Oct. 3, 2011 letter to LAFCo, p.3).

The Tier 1 Development Agreement approved by the Folsom City Council on July 12, 2011, includes the exhibit of the Specific Plan and land use map for the SOI which depict the land uses and housing units evaluated in the Mintier Harnish analysis of the 2013-2021 RHNA numbers, proving that adequate sites are available for affordable housing. Furthermore, as articulated above, the Tier 1 Development Agreement specifically provides for the City of Folsom to adjust any land uses, adopt ordinances and policies/programs to meet future Housing Element requirements for zoning to comply with any future RHNA requirements for high density residential zoning. There are no vested rights protecting landowners in the SOI from general plan amendments and rezoning initiated by the City of Folsom, required to meet RHNA requirements. Any growth caps necessary in the SOI due to water supply limitations do not affect the distribution of residential zoning districts in densities sufficient to meet the 2013-2021 RHNA requirements.

5. Failure to Meet Condition of Annexation (LSNC May 18, 2011 letter to Folsom Planning Commission, p. 1).

This allegation assumes that the City of Folsom does not have a Housing Element that has been approved by the California Department of Housing and Community Development, which is clearly false. On August 10, 2009, Kerry Miller, City Manager, City of Folsom, received a letter from Kathy Creswell, Deputy Director the California Department of Housing and Community Development, approving the City of Folsom Housing Element, meeting all of HCDA's certification requirements under state law.

¹ See also Cal. Gov't Code section 65583(b) (a Housing Element is to provide "a statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing" but "it is recognized that the total housing needs identified...may exceed available resources...Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.").

² Because the Inclusionary Housing Ordinance was sunsetted rather than repealed, prior housing development projects already approved continued to be subject to the Inclusionary Housing Ordinance's requirements.

6. Adequacy of Affordable Housing Sites in Plan Area (LSNC May 18, 2011 letter to Folsom Planning Commission, p. 2).

See response under number 2 above.

7. The Plan Should Have Stronger Affordable Housing Incentives (LSNC May 18, 2011 letter to Folsom Planning Commission, p. 2).

The City of Folsom 2008 Housing Element has an extensive list of affordable housing incentives ranging from RDA and City subsidies, to density bonuses and several other incentives to encourage the production of affordable housing. The California Department of Housing and Community Development accepted these incentives as adequate to meet the requirements of housing element state law and approved the City's Housing Element. The 2013 Housing Element will comply with similar and expanded incentives and must meet state requirements for approval.

8. The Plan's Residential Units Transfer Policy is Problematic (LSNC May 18, 2011 letter to Folsom Planning Commission, p. 3).

Several policies in the Folsom Plan Area Specific Plan ensure that higher density residential sites are preserved throughout the development of the Specific Plan.

Policy 18.1 *The City shall ensure that sufficient land is designated and zoned in a range of residential densities to accommodate the City's regional share of housing.*

Policy 18.2 *The City shall encourage home builders to develop their projects on multifamily-designated land at the high end of the applicable density range.*

Policy 18.3 *The City shall designate future sites for higher-density housing near transit stops, commercial services, and schools, when feasible.*

Policies 19.1-19.8 all encourage the development of affordable housing and provide incentives and public funding to ensure that affordable housing is built. Several of these measures deal with density bonuses and maintaining high density in projects.

9. There Are No Zones Designated for Emergency or Transitional Housing (LSNC May 18, 2011 letter to Folsom Planning Commission, p. 3).

The FMC currently permits transition and emergency housing in the R-3 and R-4 multifamily zoning districts. The equivalent zoning district in the Folsom Plan Area Specific Plan is the SP-MHD, multifamily high density zoning district. The City Council amended the FPASP on June 14, 2011, to add transition housing and emergency shelter housing as permitted uses under the SP-MHD zoning category. The final document for the FPASP will show these uses in the zoning tables for the SP-MHD zoning.

10. The City has a Demonstrated Commitment to the Production of Affordable Housing in Folsom.

The City of Folsom has made significant commitments toward the production of 100% low and very low income rental units in the following projects:

The Forestwood Project by USA Homes on Greenback Avenue is a joint venture public-private project that received significant subsidy from the Folsom RDA and will produce 55 units of low and very low income rental apartments and is currently under construction. The City has committed over \$3,500,000.00 toward this project.

The Granite House apartment project, located on RDA-owned property on Sibley Street is an 80-unit 100% low and very low income rental project approved by the City Planning Commission and awaiting a Disposition and Development Agreement approval by the City Council and RDA Board. The current legal status of all RDA's has prevented the final approval of a DDA on this project, however, the City is committed and eager to see this project proceed. The RDA and City have committed \$4.6 million toward this project, including the 3.8 acre site. Once the current litigation between the CRA and State of California is concluded, the DDA for this project will be approved by the RDA and City Council and the project will move forward.

The Lewis Properties Parkshore project has committed through a Memorandum of Understanding between the City, RDA and Lewis Properties to sell a 3-acre site zoned for high density residential use to the City/RDA for the purpose of constructing a 60-unit 100% low and very low income rental residential project. While under no legal requirement to do so, the City obtained the commitment from this developer to once the litigation between the CRA and State of California is concluded, the DA or Owner Participation Agreement for this project will be approved by the RDA and City Council and the project will move forward.

St. Anton has proposed to purchase a 4-acre site in the Parkway which is deed restricted to affordable housing and will propose a public-private joint venture with the City/RDA to build a 100% low and very low income rental project on this property. This project is projected to be approved in FY2012-13. This will bring the City/RDA's commitment to 100% affordable housing multifamily rental projects to a total of 275 units. Parenthetically, that would require approval of 1,834 market rate dwelling units under our old inclusionary ordinance. Last year the City did not approve any new housing units that would have been subject to the Inclusionary Ordinance and issued only 235 building permits for previously-approved projects.

Additionally, the City has a Housing Trust Fund Fee of \$1.20 per square foot of commercial development and this fee will continue to apply in the annexation area and generate funds for affordable housing.

11. Redevelopment Agency Commitments Under AB1X 26/27; and Litigation Impediment.

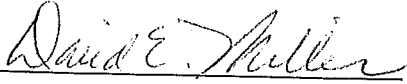
The Folsom RDA has committed to opt-in under AB1X 27, thus keeping the Folsom RDA in existence in the future. In March, 2011, the RDA issued bonds to produce \$9 million in affordable housing funds to protect this money for future affordable housing projects. The four projects mentioned under paragraph 9 above are all partially funded by either RDA 20% housing set aside fund or the City's Housing Trust Fund. This represents a commitment of approximately \$15 million toward 100% affordable multi-family rental production. Thus, the City/RDA have committed to keep the RDA in business to continue to produce affordable housing in the future and to commit the entire 20% housing set aside fund to projects to be built in the next 4-5 years.

Conclusion

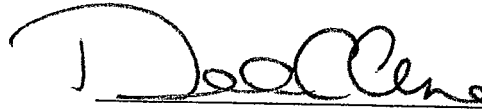
The City has demonstrated its continued commitment to affordable housing by investing several million dollars in affordable housing projects and continues to pursue others. The City has provided very clear language that the owners of the annexation area are not vested with respect to affordable housing and the City has broad rights to address this issue. The City has a valid housing element. While LSNC does not like the City's approach of sunseting the Inclusionary Ordinance, the City's approach, as indicated, is creating affordable housing and will continue to do so as the next phase of our City is developed.

The City will be happy to address any questions you or the Commissioners may have on this subject.

Respectfully Submitted,



David Miller, Community Development
Director



Bruce C. Cline, City Attorney

CC/clg
Attachments



**SUMMARY RESPONSES TO LEGAL SERVICES OF NORTHERN
CALIFORNIA'S OPPOSITION TO THE FOLSOM SOI PLAN AREA
ANNEXATION**

1. Failure to Comply with the Condition on the Sphere of Influence Annexation Amendment (LSNA Oct. 3, 2011 letter to LAFCo, p.1)

LSNA claims that the City of Folsom failed to obtain a determination of substantial compliance from the California Department of Housing and Community Development consistent with Government Code section 65585(d) or (h). On August 10, 2009, Kerry Miller, City Manager, City of Folsom, received a letter from Kathy Creswell, Deputy Director the California Department of Housing and Community Development, approving the City of Folsom Housing Element, meeting all of HCDA's certification requirements under state law.

2. The Specific Plan for the Proposed Annexation Lacks Adequate Affordable Housing Sites, Incentives, and Transfer Policies (LSNA Oct. 3, 2011 letter to LAFCo, p.2)

Government Code Section 65581(2) states: *It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs.*

Furthermore Government Code Section 65584(a)(2) states: *While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.*

The law recognizes that cities have limited resources to facilitate the construction of affordable housing and that there are other factors outside the City's control that may make the actual construction of housing less than the RHNA. The City's main responsibility is to make adequate sites available to accommodate the RHNA. The City has proven that it has made adequate sites available to meet the 2006-2013 RHNA in the approved 2009 City of Folsom Housing Element.

Mintier Harnish produced an analysis of the RHNA for the 2013-2021 planning period for the City of Folsom Community Development Department and concluded that there is capacity for over 1,900 Multifamily High Density (MHD) units in the SOI area, and

together with vacant MHD zoned parcels in the existing city limits, equaling 900 units, there is a capacity for 2,800 MHD units, which exceeds even the highest RHNA allocation of 2,420 affordable units (Methodology A) for the 2013-2021 RHNA planning period.

3. Problematic "Staging" of Development Agreements May Foreclose Affordable Housing Restrictions (LSNA Oct. 3, 2011 letter to LAFCo, p.3)

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This allegation assumes that the City of Folsom does not have a Housing Element that has been approved by the California Department of Housing and Community Development, which is clearly false. On August 10, 2009, Kerry Miller, City Manager, City of Folsom, received a letter from Kathy Creswell, Deputy Director the California Department of Housing and Community Development, approving the City of Folsom Housing Element, meeting all of HCDA's certification requirements under state law.

5. Adequacy of affordable housing sites in Plan area (LSNA May 18, 2011 letter to Folsom Planning Commission, p. 2).

See response under number 2 above.

6. The Plan should have stronger affordable housing incentives. (LSNA May 18, 2011 letter to Folsom Planning Commission, p. 2).

The City of Folsom 2008 Housing Element has an extensive list of affordable housing incentives ranging from RDA and City subsidies, to density bonuses and several other incentives to encourage the production of affordable housing. The California Department of Housing and Community Development accepted these incentives as adequate to meet the requirements of housing element state law and approved the City's Housing Element. The 2013 Housing Element will comply with similar and expanded incentives and must meet state requirements for approval.

7. The Plan's residential units transfer policy is problematic (LSNA May 18, 2011 letter to Folsom Planning Commission, p. 3).

Several policies in the Folsom Plan Are Specific Plan ensure that higher density residential sites are preserved throughout the development of the Specific Plan.

Policy 18.1 *The City shall ensure that sufficient land is designated and zoned in a range of residential densities to accommodate the City's regional share of housing.*

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Policy 18.3 *The City shall designate future sites for higher-density housing near transit stops, commercial services, and schools, when feasible.*

Policies 19.1-19.8 all encourage the development of affordable housing and provide incentives and public funding to ensure that affordable housing is built. Several of these measures deal with density bonuses and maintaining high density in projects.

8. There are no zones designated for emergency or transitional housing (LSNA May 18, 2011 letter to Folsom Planning Commission, p. 3).

The FMC currently permits transition and emergency housing in the R-3 and R-4 multi family zoning districts. The equivalent zoning district in the Folsom Plan Are Specific Plan is the SP-MHD, multi family high density zoning district. The City Council amended the FPASP on June 14, 2011, to add transition housing and emergency shelter housing as permitted uses under the SP-MHD zoning category. The final document for the FPASP will show these uses in the zoning tables for the SP-MHD zoning.

9. Additional Commitment Toward the Production of Affordable Housing in Folsom.

The City of Folsom has made significant commitments toward the production of 100% low and very low income rental projects in the city.

The Forestwood Project by USA Homes on Greenback Avenue is a joint venture public-private project that received significant subsidy from the Folsom RDA and will produce

55 units of low and very low income rental apartments and is currently under construction.

The Granite House apartment project, located on RDA-owned property on Sibley Avenue is an 80 unit 100% low and very low income rental project approved by the City Planning Commission and awaiting a Disposition and Development Agreement approval by the City Council and RDA Board. The RDA and City have committed \$4.6 million toward this project, including the 3.8 acre site. Once the current litigation between the CRA and State of California is concluded the DDA for this project will be approved by the RDA and City Council and the project will move forward.

The Lewis Properties Parkshore project has committed through a Memorandum of Understanding between the City, RDA and Lewis Properties to sell a 3 acre site zoned for high density residential use to the City/RDA for the purpose of constructing a 60 unit 100% low and very low income rental residential project. Once the litigation between the CRA and State of California is concluded the DA or Owner Participation Agreement for this project will be approved by the RDA and City Council and the project will move forward.

St. Anton has proposed to purchase a 4 acre site in the Parkway which is deed restricted to affordable housing and will propose a public-private joint venture with the City/RDA to build a 100% low and very low income rental project on this property. This project is projected to be approved in FY2012-13. This will bring the City/RDA's commitment to 100% affordable housing multi-family rental projects to a total of 275 units.

Parenthetically, that would require approval of 1,834 dwelling units under our old inclusionary ordinance. Last year we didn't approve any new housing units and issued only 235 building permits for previously-approved projects.

10. Redevelopment Agency Commitments under AB1X26/27; and Litigation Impediment.

The Folsom RDA has committed to pay the state ransom under AB1X26, thus keeping the Folsom RDA in existence in the future. In March, 2011, the RDA issued bonds to produce \$9 million in affordable housing funds to protect this money for future affordable housing projects. The four projects mentioned under paragraph 9 above are all partially funded by either RDA 20% housing set aside funds or the City's Housing Trust Fund. This represents a commitment of approximately \$15 million toward 100% affordable multi-family rental production. Thus, the City/RDA have committed to keep the RDA in business to continue to produce affordable housing in the future and to commit the entire 20% housing set aside fund to projects to be built in the next 4-5 years.



Minutes
Natomas Central Mutual Water Company
ANNUAL MEETING OF SHAREHOLDERS
Held at
Four Points by Sheraton
4900 Duckhorn Drive, Sacramento, California, 95834
December 14, 2007

Directors in Attendance: Dan Spangler, Jim Sopwith, Mark Enes, Rod Rosa,
Doug Ose, Clark Whitten and Troy Estacio
Natomas Staff Present: Dee Swearingen, General Manager; Belan Wagner and
Mina Yang, General Counsel; David Fisher,
Controller/Office Manager; Joyce Seibel, Office Assistant;
Fred Schantz, Assistant General Manager;

I. CALL TO ORDER

Pursuant to prior notice, a special meeting of shareholders of the Natomas Central Mutual Water Company was called to order by President Dan Spangler at 10:07 am. President Spangler welcomed all those in attendance.

II. ITEMS SCHEDULED FOR DISCUSSION

A. CALL FOR FINAL PROXY/BALLOTS

B. DETERMINATION OF STOCKHOLDER QUORUM

President Spangler asked Mr. Fisher if there was a quorum of shareholders present, either in person or by proxy. Mr. Fisher responded in the affirmative that a quorum was present. Of the 31,410 shares held by stockholders, 26,343 shares (83.9%) were represented at the meeting.

C. APPOINTMENT OF COUNTING COMMITTEE

President Spangler appointed Mr. David Fisher, Natomas Staff; Director Rod Rosa, Board Member; and Ms. Minna Yang, General Counsel as the December 14, 2007 Special Shareholder Counting Committee.

III. ITEMS SCHEDULED FOR ACTION

A. APPROVAL OF THE FOLSOM WATER SALE

Proposed Folsom Water Sale (as presented on the ballot)

"I hereby vote as indicated below with respect to the sale of a minimum of 8,000 acre-feet ("af") of Natomas' Central Valley Project Water entitlements to South Folsom Properties, LLC, a California limited liability company ("SFP"), and up to an additional 2,000 af at the option of the Board of Directors for a total maximum of 10,000 af."

IV. ANNOUNCEMENT OF VOTING RESULTS

President Spangler asked Mr. Fisher for the results of the Folsom Water Sale Shareholder Vote. Mr. Fisher announced the following:

For:	15,777	59.9%
Against:	10,547	40%
Abstain	19	.1%

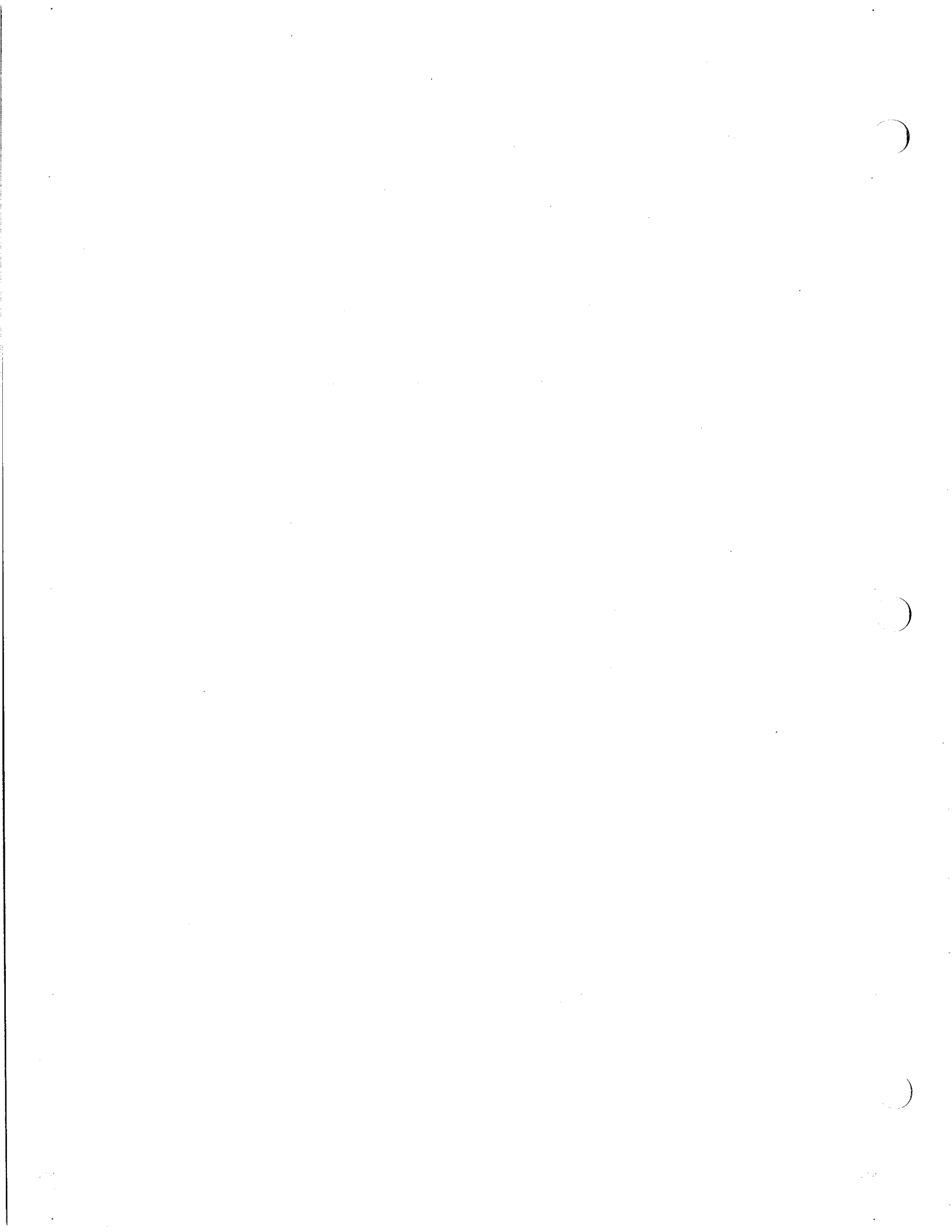
The Folsom Water Sale was approved by a majority vote of the Shareholders.

V. ADJOURNMENT

There being no further business, President Spangler adjourned the meeting at 11:15 a.m.

Respectfully submitted,

Dee Swearingen
General Manager
Natomas Central Mutual Water Company



Folsom Plan Area Annexation

City of Folsom, California

Informational Packet For Local Area Formation Commission (LACFo)

Folsom Plan Area Annexation

City of Folsom, California

Land Use

Affordable Housing

- 1) The Northern California Legal Aid Society has filed suit against the City alleging that the City does not have an adequate Housing Element and claiming that the City "sunsetted" its Inclusionary Housing Ordinance.

The City's position is that the suit has no merit as its Housing Element is approved by the California State Department of Housing and Community Development (letter documenting this fact). The Inclusionary Zoning Ordinance was sunsetted because it constituted a major impediment to the production of both market rate and affordable housing. The City calculated that this Ordinance adds \$25,000-\$26,000 to the cost of a market rate unit. In this market, this added cost will stop the production of market rate units which are necessary to fund inclusionary units.

- 2) The City has implemented many of its proposed actions from the 2009 Housing Element and during 2011 approved and helped to fund a 66 unit, 100% affordable rental housing project in partnership with USA Housing.
- 3) In 2011, the City negotiated a Disposition and Development Agreement with St. Anton, an affordable housing company, for development of 80 rental units, 100% affordable to low and very low income families on City-owned land. Once the State's lawsuit with the CRA has been settled, assuming it will allow the continuance of redevelopment in California, the City/RDA will take action on the DDA with St. Anton. The City Planning Commission has already approved this project for construction.

This project is a private/public partnership which will use 20% Housing Set Aside funds to write down the rental rates of the units.

Land Use

- Affordable Housing
- South Sacramento County Habitat Conservation Plan
- School Impacts
- Williamson Act

- 4) During 2011, the City negotiated a Memorandum of Understanding with Lewis Properties to enable the City RDA to purchase a 3+ acre site in the new Parkshore Drive project proposed by Lewis Properties for construction of a 100% affordable (to low and very low income families) rental project of 60 units. Once the State's lawsuit with the CRA has been settled, assuming it will allow the continuance of redevelopment in California, the City/RDA will take action on a proposed Owner Participation Agreement between the RDA and Lewis to allow the RDA to purchase this site for affordable housing.

This project is a private/public partnership which will use 20% Housing Set Aside funds to write down the rental rates of the units.

- 5) During 2011 the City has been working with St. Anton to enable development of another multi-family, deed restricted site in the Parkway (formerly owned by Parker Development Co., for a 100% affordable rental housing project, targeted for low and very low income families, and including 80 units. The City will negotiate a public/private partnership fashioned after the other 100% affordable housing projects, using the RDA 20% Housing Set Aside funds to write down the rental rates of the units.

The above-listed projects total 286 new rental units, 100% affordable to low and very low income families, created through public/private partnerships between the City/RDA and private affordable housing developers, which will exhaust the full bonded commitment of 20% Housing Set Aside RDA funds.

South Sacramento County Habitat Conservation Plan

The City of Folsom coordinated with the member agencies of the South Sacramento County Habitat Conservation Plan (SSCHCP) during drafting of the HCP to negotiate removing the South of Highway 50 SOI annexation area from the boundaries of the SSCHCP, as all member agencies and the City recognized the SOI annexation as a "reasonably foreseeable project" under CEQA.

The City further negotiated language into the SSCHCP to enable use of the HCP for mitigation for environmental impacts from development of the SOI, which will enhance the HCP as a mitigation bank. Water supply transmission facilities providing water to the Folsom annexation area from the Freeport diversion structure located along the Sacramento River pass

through the SSCHCP area and all impact issues were coordinated with the member agencies of the SSCHCP and proper mitigation is included in the EIR/BIS for the Folsom Specific Plan Area.

Prior to adoption of the SSCHCP by member agencies the City of Folsom provided their approval of the language in the document and fully support the SSCHCP.

School Impacts

The SOI landowners, City of Folsom and the Folsom Cordova Unified School District (FCUSD) have planned for the need for five new elementary schools, one new middle school and one new high school to serve the SOI's estimated population of approximately 26,000 persons. School siting was planned in accordance with all California Department of Education criteria as outlined in the School Site Selection and Approval Guide and School Site Analysis and Development.

Funding for the capital facilities has been estimated by the FCUSD, and the landowners and voters committed to a \$750 million general obligation bond (Measure M, April 2007) to fund the planned schools. Funding for schools is shared with 50% from the FCUSD and 50% from the State of California. In addition to this funding commitment, developers agreed to a Level II fee (CA Gov. Code Section 65995.5) above the statutory fee (Education Code Section 17620), amounting to \$6.99/SF for residential development and \$0.47/SF for commercial/industrial construction. These fees are adjusted annually.

Landowners and the City of Folsom have agreed to use Mellow-Roos Community Facility District funding for any additional school funding shortfall. The City and School District have planned the Specific Plan to include a large neighborhood park to be located adjacent to each elementary school, to enable the joint use of facilities, and to buffer the schools from immediate adjacency to residential development.

Measure W, passed by Folsom voters in 2004 amended the Folsom City Charter to require the funding and construction of all necessary school facilities in the Folsom Plan Area (FPA), by new development so that Folsom residents north of Highway U.S. 50 are not required to pay for the construction of new school facilities serving the SPA and existing schools are not overcrowded by development of the SPA.

Williamson Act

Approximately 1,530 acres of the FPA consists of agricultural lands under existing Williamson Act contracts that are in the process of nonrenewal. Notices of nonrenewal were filed on these parcels in 2004 and 2006; as a result, these existing contracts will expire in 2014 and 2016, respectively. None of the land proposed for the U.S. 50 interchange improvements, sewer force main, detention basin, or the two roadway connections into El Dorado Hills are held under Williamson Act contracts. The table below and map on the next page show the acreages and locations of these parcels. The City intends to assume the contracts and administer their expiration.

Table 3A.10-1

Williamson Act Contracts in the SPA

<u>Contract Number</u>	<u>Nonrenewal Date</u>	<u>APN</u>	<u>Acreage</u>
74-AP-029	2006	072 0060 045	821.3
74-AP-029	2006	072 0060 048	164.6
84-AP-001	2004	072 0060 072	96.9
73-AP-019	2004	072 0060 073 ¹	82.5
84-AP-001		072 0060 074	447.2
		<u>2004</u>	
Total ²			1,530 —

Notes: AP = Assessor's Parcel; APN = Assessor's Parcel Number

¹ This APN corresponds to the former Sacramento Country Day School property located in the southeast portion of the SPA along White Rock Road. The Sacramento Country Day School withdrew its application to construct a campus in the SPA. Although it is assumed that school development would eventually occur on that parcel, there is currently no application; therefore, it is assumed this contract would be terminated through nonrenewal expiration and there would not be a filing for early cancellation.

² Excludes the 80-acre former Sacramento Country Day School property.

Conversion of Important Farmland to nonagricultural uses—
 The Sacramento County Important Farmland map designates the SPA and off-site U.S. 50 interchange improvements, the sewer force main, and the detention basin as Grazing Land and Urban and Built-Up Land. The two roadway extensions from the Folsom Heights property into El Dorado Hills are designated by the El Dorado County Important Farmland Map as Grazing Land and Urban and Built-Up Land. These farmland designations are not considered Important Farmland under CEQA (California Public Resources Code Sections 21060.1 and 21095 and State CEQA Guidelines Appendix G). Thus, there would be no impact related to the conversion of Important Farmland or changes which result in the conversion of

Important Farmland, and this issue is not evaluated further in this EIR/EIS.

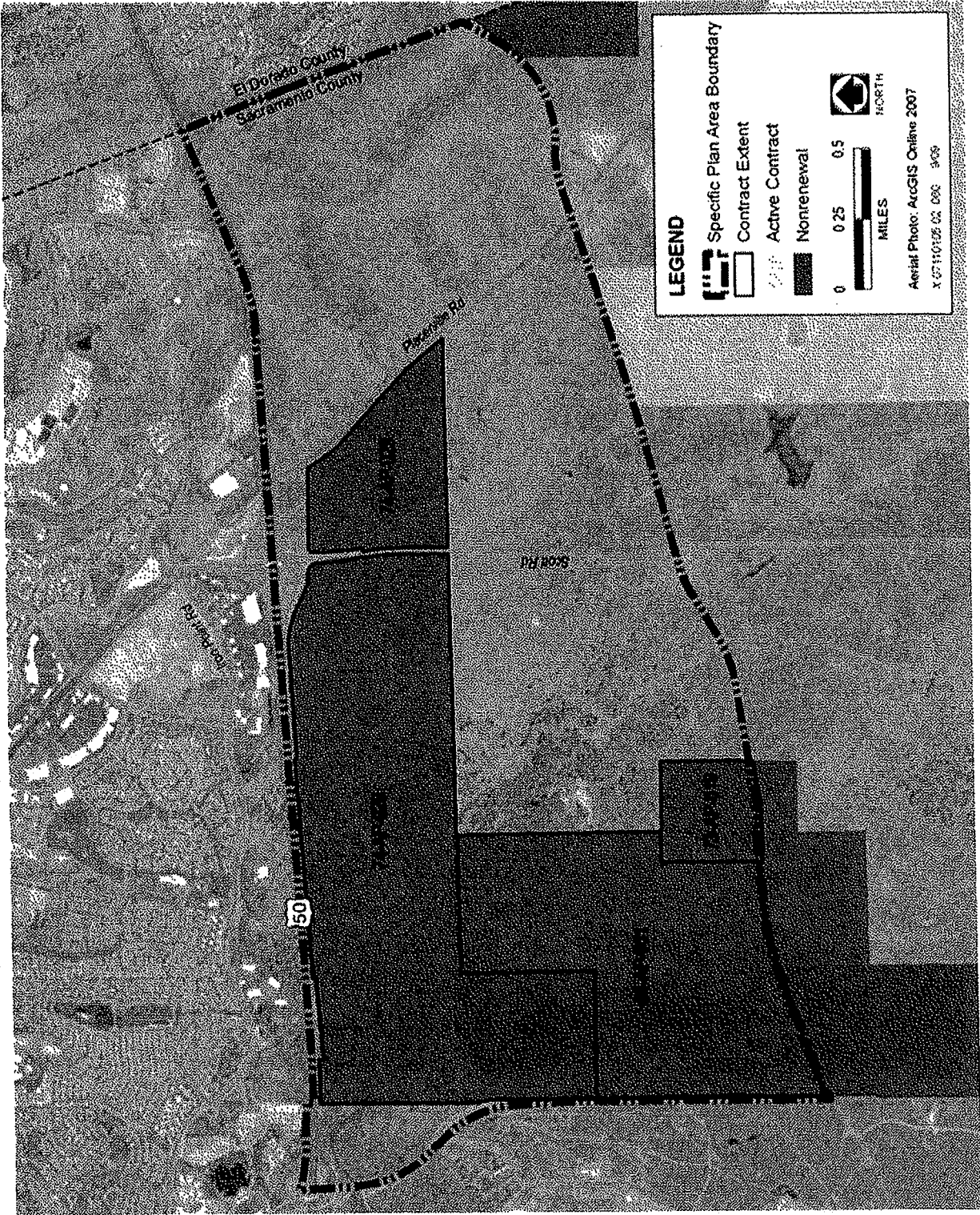
The City provided a covenant to be recorded against all property owners located within a mile of County agriculturally zoned land advising them that that agricultural uses, odors, dust and other agricultural activities will occur on County agricultural land. This addresses the County's Right To Farm Ordinance.

References:

1. HCP
 - a. Section 3A.03 Biological Resources
2. Williamson Act
 - a. Map
 - b. Letter from the City of Folsom to assume contracts
 - c. Contracts

Attachment 1

- Map
- Letter to assume Contracts
- Contracts



Folsom Plan Area Annexation

RESOLUTION NO. 8926

A RESOLUTION REQUESTING THE SACRAMENTO LOCAL AREA FORMATION COMMISSION (LAFCo) TO INCLUDE A REQUIREMENT FOR AN AVIGATION EASEMENT WITH ITS APPROVAL OF THE ANNEXATION OF THE FOLSOM PLAN AREA PROJECT AREA

WHEREAS, the County of Sacramento (County) operates Sacramento Mather Airport (Airport), a general aviation airport for the region; and

WHEREAS, the City of Folsom (City) has filed an application with the LAFCo, entitled "City of Folsom - Annexation of the Sphere of Influence South of Hwy 50 (LAFCo 04-11)," requesting its approval of the annexation of approximately 3600 acres of real property to the City of Folsom (Annexation Area); and

WHEREAS, County has expressed concern pertaining to noise emanating from aircraft flying to and from the Airport in proximity to the Annexation Area; and

WHEREAS, the City entered into a Tier 1 Development Agreement with the then current owners of the property in the Annexation Area; and

WHEREAS, the City approved a Specific Plan for the Annexation Area; and

WHEREAS, the Tier 1 Development Agreement and the Specific Plan require the owners of the property in the Annexation Area to record an Avigation Easement on properties in the Annexation Area in a form satisfactory to the City; and

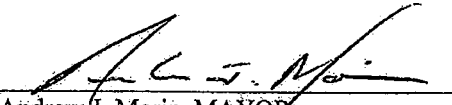
WHEREAS, as development progresses in the Annexation Area certain lands will be dedicated to the City for public purposes; and

WHEREAS, it is the City's request LAFCo to include in a condition of approval of the annexation that an Avigation Easement shall be recorded against property in the Annexation Area prior to development and that such Avigation Easement shall be substantially in the form provided in Exhibit 1 to this Resolution or as later modified by the City;

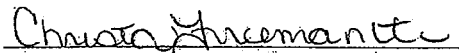
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to request that LAFCo include in its annexation approval that an Avigation Easement substantially in the form provided in Exhibit 1 to this Resolution or as later modified by the City be recorded prior to development of the Annexation Area.

PASSED AND ADOPTED this 8th day of November 2011, by the following roll-call vote:

AYES:	Council Member(s):	Howell, Sheldon, Starsky, Morin
NOES:	Council Member(s):	None
ABSENT:	Council Member(s):	Miklos
ABSTAIN:	Council Member(s):	None


Andrew J. Morin, MAYOR

ATTEST:


Christa Freemantle, CITY CLERK

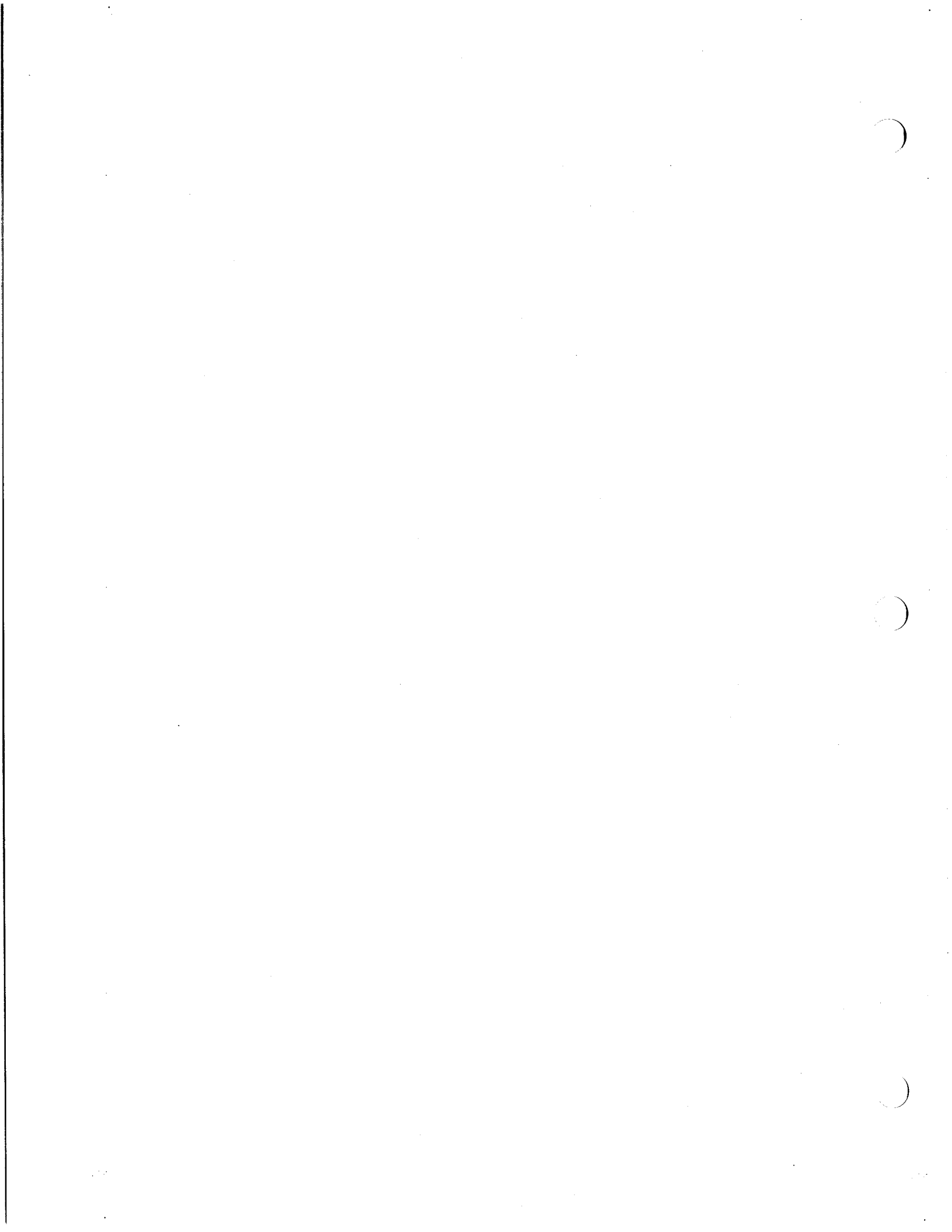
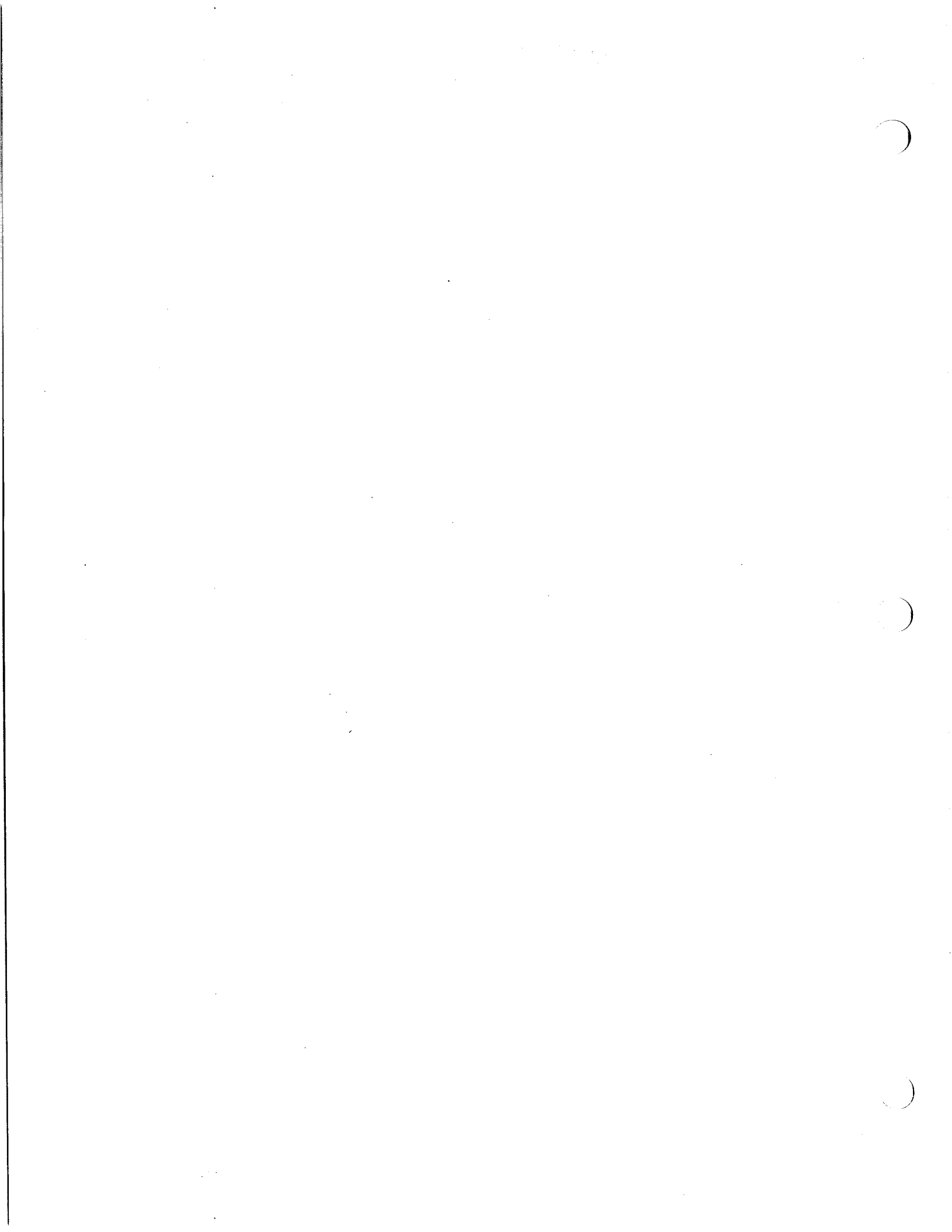


EXHIBIT 1



FOR THE BENEFIT OF THE CITY OF FOLSOM
PURSUANT TO GOVERNMENT CODE §6103

RECORDING REQUESTED BY CITY CLERK

WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF FOLSOM
50 NATOMA STREET
FOLSOM, CALIFORNIA 95630

GRANT OF AVIGATION EASEMENT

The Grant of Avigation Easement (herein collectively referred to as "Avigation Easement"), is made on _____, 2011, by and between _____, (herein referred to as "Grantor"), the County of Sacramento, a Political Subdivision of the State of California, acting by and through its Board of Supervisors and the City of Folsom, a municipal corporation, acting by and through its City Council (herein collectively referred to as "Grantees") with reference to the following facts:

A. Grantor owns real property in Sacramento County, California ("Grantor's Property"). The legal description for Grantor's Property is attached as Exhibit "A". Grantor's Property includes the air space above it. An application to annex Grantor's Property to the City of Folsom is pending with the Sacramento Local Agency Formation Commission ("LAFCO") and when complete, the Grantor's Property will be in the City of Folsom city limits.

B. The County of Sacramento owns and operates Sacramento Mather Airport in Sacramento County, California (the "Airport").

C. The Airport is a General Aviation airport for the region and also has various other aviation and related activity. Grantors and Grantees recognize and understand that the Airport will grow and traffic will increase over time.

D. Grantor has requested and received certain land use approvals including a Specific Plan and a Tier 1 Development Agreement. The land use approval requires Grantor to record an Avigation Easement on its property pending with the City of Folsom and to enter into an amendment to its Development Agreement (the "Tier 2 Development Agreement") to address rights and obligations for future development of Grantor's Property. This Avigation Easement is a negotiated term of the Tier 1 Development Agreement between the City of Folsom and all landowners in the Folsom Sphere of Influence to which the annexation application applies.

E. Grantor has requested and in consideration for the land use approval, Grantor has agreed to grant the County of Sacramento and the City of Folsom the Avigation Easement described below.

NOW, THEREFORE, the parties agree as follows:

Section 1. Grant of Avigation Easement

A. For valuable consideration, Grantor grants to the County of Sacramento and the City of Folsom a perpetual, nonexclusive, assignable Avigation Easement in and over Grantor's Property for noise and other negative impacts resulting from aircraft flying to and from, and other operations at the Airport ("Airport Operations") and a right-of-way for the free and unrestricted passage of aircraft of any and all kinds now or hereafter known in, through, across and about the airspace beginning at an altitude of one thousand (1000) feet above the top of the highest obstacle on Grantor's Property (hereinafter "Permitted Airspace"). This Avigation Easement specifically permits the imposition of light, smoke, air currents, electronic or other emissions, vibrations, discomfort, inconvenience, and interference with use and enjoyment resulting from Airport Operations producing noise. This Avigation Easement is fully effective as of the date set forth above.

B. Such Avigation Easement and right-of-way includes, but is not limited to:

1. The Avigation Easement and right-of-way is for the use and benefit of the public and includes the continuing right to fly, or cause or permit the flight by any and all persons, of aircraft, of any and all kinds now or hereafter known, in, through, across or about any portion of the Permitted Airspace; and
2. The right to cause or create, permit or allow to be caused or created within all space above the existing surface of said Grantor's Property and any and all airspace laterally adjacent to said Grantor's Property, such noise, vibration, current and other effects of air, illumination and fuel consumption as may be inherent in, or may arise or occur from Airport Operations, or during the operation of aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight in air within the Permitted Airspace; and
3. Nothing in this easement is intended to or shall it be interpreted to alter noise standards and methods of measurements or permit noise or vibration in excess of the standards utilized by the Federal Aviation Administration.
4. A continuing right to clear, and keep clear the Permitted Airspace and extending upwards thereafter (as necessary for air transportation or air operation purposes) of any portions of building, structures, or improvements of any and all kinds, and of trees or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees or other things which extend into or above said Airspace and the right to cut to those portions of any trees which extend into or above the Airspace; and
5. The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures or other

improvements, and trees or other objects, which extend into or above the Permitted Airspace; and

6. The right to ingress to, passage within, and egress from the hereinabove described Grantor's Property for the purposes described in subparagraphs "4" and "5" above.

C. Grantor, on behalf of itself, its successors and assigns, hereby covenants with the County of Sacramento and the City of Folsom and for the direct benefit of the real property constituting Sacramento Mather Airport as follows:

1. That Grantor, its successors and assigns will not construct, install, permit or allow any building, structure, improvement, tree, or other object on the Grantor's Property described herein, to extend into or above the Permitted Airspace, or to obstruct or interfere with the use of the Avigation Easement and right-of-way herein granted.

2. Nothing in the Avigation Easement is intended to nor shall it affect Grantor's land use rights or require any additional land use review beyond that ordinarily required in the land use entitlement process.

D. The Avigation Easement and right-of-way granted herein shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the Sacramento Mather Airport, and shall further be deemed in gross, being conveyed to the Grantees for the benefit of the Grantees and any and all members of the general public who may use said Avigation Easement or right-of-way or derive benefit from the taking off from, landing upon or operating such aircraft in or about the said Sacramento Mather Airport, or in otherwise flying through said Permitted Airspace.

E. This Avigation Easement shall not operate to deprive the Grantor, its successors or assigns, of any rights, which it may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft or any other rights, claims or causes of action that are not inconsistent with the Avigation Easement granted herein.

F. These covenants and agreement run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the Grantor, and for the purpose of this instrument, the Grantor's Property as described in Exhibit "A" is the servient tenement and said Sacramento Mather Airport is the dominant tenement.

Section 2. Release

Grantor releases the City of Folsom, the County of Sacramento and Airport operators and aircraft operators using the Airport from any claims, losses, liabilities or expenses (collectively, "Losses") arising from the impositions permitted by this Avigation Easement, as well as from noise and other negative impacts resulting from Airport Operations prior to the date of this Avigation Easement. This Release covers all past, present and future Losses, whether

known or unknown. This Release includes damages for physical or emotional injuries, nuisance or any taking of Grantor's Property. Grantor specifically waives application of California Civil Code, Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Grantor shall not sue for damages in connection with Losses released by this Avigation Easement, nor seek to enjoin the impositions permitted by this Avigation Easement. The County of Sacramento will not have to set aside buffer lands, re-route air traffic, erect sound or other barriers, establish curfews, relocate Airport Operations or take other measures to eliminate or lessen the impositions permitted by this Avigation Easement. Flights paths may be altered or modified from time to time by the Federal Aviation Administration or the County of Sacramento to fly over Grantor's Property.

Section 3. Continuous Benefits and Burdens

This Avigation Easement burdens the Grantors' Property for the benefit of the Airport. It runs with the land under California Civil Code Section 1468. The benefits and burdens created by this instrument apply to and bind the parties' successors, heirs and assigns.

Grantor agrees that in any marketing material regarding transfers, in whole or in part, of the Grantor's Property, this Avigation Easement and the terms thereof shall be disclosed. In addition, Grantor agrees that it will inform all interested parties including, but not limited to, those holding liens or encumbrances on all or a portion of the Property, about this Avigation Easement and shall provide a copy of this Avigation Easement if they so request.

Section 4. Recordation

The County of Sacramento shall record this document in the Official Records of Sacramento County.

GRANTOR: _____

Dated: _____ By: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California }
County of Sacramento }

On _____, before me, _____, Notary Public,

Personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the forgoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE _____

PLACE NOTARY SEAL ABOVE

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____ None

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within deed, the provisions of which are incorporated by this reference as though fully set forth in this Certification, to the County of Sacramento, a political subdivision of the State of California, is hereby accepted by the undersigned officer pursuant to authority conferred by Resolution No. 2011-0011 of the Board of Supervisors of said County adopted on January 11, 2011, and the Grantee consents to recordation thereof by its duly authorized officer.

Director of General Services

Date

**CITY OF FOLSOM
CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in the real property conveyed by the within Deed, the provisions of which are incorporated by this reference as though fully set forth in this Certification, to the City of Folsom, a political subdivision of the State of California, is hereby accepted by the undersigned officer pursuant to authority conferred by Resolution No. 2435 of the City Council of said City adopted on July 18, 1988, and the grantee consents to recordation thereof by its duly authorized officer.

Signature & Date: _____

Evert W. Palmer
City of Folsom
City Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California }
County of Sacramento }

On _____, before me, _____, Notary

Public, personally appeared Evert W. Palmer

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the forgoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE _____

PLACE NOTARY SEAL ABOVE

EXHIBIT "A"
LEGAL DESCRIPTION

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
OFFICE OF THE DIRECTOR**

1800 Third Street, Room, 450
Sacramento, CA 95811
(916) 445-4775
Fax (916) 324-5107
www.hcd.ca.gov



May 8, 2008

Mr. Dennis M. Rogers, Senior Vice-President
Governmental and Public Affairs
North State Building Industry Association
1536 Eureka Road
Roseville, CA 95661

Dear Mr. Rogers:

Thank you for your recent inquiry regarding inclusionary zoning ordinances. The Department is pleased to provide information on the requirements of State law and Department policy. In particular, you requested clarification on whether State housing element or other law requires the adoption of local inclusionary ordinances. In short, neither State law nor Department policy requires the adoption of any local inclusionary ordinance in order to secure approval of a jurisdiction's housing element. State law does require incentives for voluntary inclusionary development (State density bonus law), pronounces housing element law neutral relative to enactment of mandatory local inclusionary provisions, and circumscribes the responsibilities of local governments which do enact inclusionary policies. The relevant sections of the Government Code are described below.

Government Code Section 65915-17, State density bonus law, requires local governments to make incentives available to residential developers that voluntarily propose to reserve specified portions of a proposed development for occupancy by low- or moderate-income households, and indicates that local governments are not to undermine implementation of this provision. Every local government is required to adopt an ordinance establishing how it will implement State density bonus law, including setting forth the incentives the local government will provide.

State housing element law requires jurisdictions to plan for their existing and projected housing needs, identify adequate sites to accommodate their share of the regional housing need, and, among other things, analyze local policies, regulations or requirements that have the potential to constrain the development, maintenance or improvement of housing for all income level. The law also requires programs to "assist in the development of adequate housing to meet the needs of low- and moderate-income households".

Many local governments adopt mandatory inclusionary programs as one component of a comprehensive affordable housing strategy and have demonstrated success in increasing the supply of housing affordable to low- and moderate-income households. However, some inclusionary programs may have the potential to negatively impact the overall development of housing. As a result, local governments must analyze mandatory inclusionary policies as potential governmental constraints on housing production when adopting or updating their housing elements, in the same way that other land-use regulations must be evaluated as potential constraints.

For example, local governments must analyze whether inclusionary programs result in cost shifting where the cost of subsidizing the affordable units is underwritten by the purchasers of market-rate units in the form of higher prices. Such increases can be a barrier to some potential homebuyers who already struggle to qualify for a mortgage, and earn too much to qualify for government assistance. Local governments must also analyze their inclusionary policies to evaluate whether sufficient regulatory and financial incentives are offered to facilitate compliance with the requirements.

In addition, it is important to note that the adoption of mandatory inclusionary zoning programs do not address housing element adequate sites requirements to accommodate the regional housing need for lower-income households. Inclusionary programs are not a substitute for designating sufficient sites with appropriate zoning, densities and development standards as required by Government Code Section 65583(c)(1).

Finally, Government Code Section 65589.8 specifies that nothing in housing element law shall be construed to expand or contract the authority of a local government to adopt an ordinance, charter amendment, or policy requiring that any housing development contain a fixed percentage of affordable housing units. It further states that a local government which adopts such a requirement shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

California has been for many years in the midst of a severe housing crisis; there are simply not enough homes for the number of residents who need them. Continued undersupply of housing threatens the State's economic recovery, its environment, and the quality of life for all residents. Effectively addressing this crisis demands the involvement and cooperation of all levels of government and the private sector. Both the public and private sector must reexamine existing policies, programs and develop new strategies to ensure they operate most effectively and provide an adequate housing supply for all Californians. The Department is committed to working with its public and private sector partners in this effort for the benefit of California's growing population.

Mr. Dennis M. Rogers, Senior Vice-President
Page 3

I hope this responds to your inquiry. If you need additional information, please call me at (916) 445-4775 or Cathy Creswell, Deputy Director, Division of Housing Policy Development, at (916) 323-3177.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn L. Jacobs". The signature is written in a cursive style with a long horizontal stroke at the end.

Lynn L. Jacobs
Director

