



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

Agenda

City Council Regular Meeting

City Council Chambers | 50 Natoma Street, Folsom CA 95630

March 08, 2022

6:30 PM

Welcome to Your City Council Meeting

We welcome your interest and involvement in the city’s legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

Participation

If you would like to provide comments to the City Council, please:




- Fill out a blue speaker request form, located at the back table.
- Submit the form to the City Clerk before the item begins.
- When it’s your turn, the City Clerk will call your name and invite you to the podium.
- Speakers have three minutes, unless the presiding officer (usually the mayor) changes that time.

Reasonable Accommodations

In compliance with the Americans with Disabilities Act, if you are a person with a disability and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk’s Office at (916) 461-6035, (916) 355-7328 (fax) or CityClerkDept@folsom.ca.us. Requests must be made as early as possible and at least two full business days before the start of the meeting.

How to Watch

The City of Folsom provides three ways to watch a City Council meeting:

In Person	Online	On TV
		
City Council meetings take place at City Hall, 50 Natoma Street	Watch the livestream and replay past meetings on the city website, www.folsom.ca.us	Watch live and replays of meetings on Sac Metro Cable TV, Channel 14

More information about City Council meetings is available at the end of this agenda



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

City Council Regular Meeting

Folsom City Council Chambers
50 Natoma Street, Folsom, CA
www.folsom.ca.us

Tuesday, March 08, 2022 6:30 PM

Kerri Howell, Mayor

Rosario Rodriguez, Vice Mayor
YK Chalamcherla, Councilmember

Sarah Aquino, Councilmember
Mike Kozlowski, Councilmember

REGULAR CITY COUNCIL AGENDA

Members of the public wishing to participate in this meeting via teleconference may participate either online or by telephone via WebEx.

Meeting Number: 2559 173 4474

Meeting Password: 03 08 2022

Join the meeting by WebEx online:

<https://cityoffolsom.my.webex.com/cityoffolsom.my/j.php?MTID=m1490042ef006a671a46f6993751f3510>

To make a public comment using the WebEx online platform, please use the “raise hand” feature at the bottom center of the screen. Please make sure to enable audio controls once access has been given by the City Clerk to speak. Please wait to be called upon by the City Clerk.

Join the meeting by WebEx telephone: Dial 1-415-655-0001

*To make a public comment by phone, please press *3 to raise your hand. Please make sure to enable audio controls by pressing *6 once access has been given by the City Clerk to speak. Please wait to be called upon by the City Clerk.*

Verbal comments via virtual meeting must adhere to the principles of the three-minute speaking time permitted for public comment at City Council meetings.

CALL TO ORDER

ROLL CALL:

Councilmembers: Aquino, Chalamcherla, Kozlowski, Rodriguez, Howell

The City Council has adopted a policy that no new item will begin after 10:30 p.m. Therefore, if you are here for an item that has not been heard by 10:30 p.m., you may leave, as the item will be continued to a future Council Meeting.

PLEDGE OF ALLEGIANCE

AGENDA UPDATE

BUSINESS FROM THE FLOOR:

Members of the public are entitled to address the City Council concerning any item within the Folsom City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.

SCHEDULED PRESENTATIONS:

1. Proclamation of the Mayor of the City of Folsom Proclaiming the Month of March 2022 as American Red Cross Month in the City of Folsom

CONSENT CALENDAR:

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. City Councilmembers may pull an item for discussion.

2. Approval of February 15, 2022 Special Meeting Minutes
3. Resolution No. 10804 – A Resolution Establishing a Landmark Tree Designation for an Interior Live Oak Tree on the California Independent System Operator Corporation Property, Immediately South of the Iron Point Road/Outcropping Way Intersection
4. Resolution No. 10813 - A Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Agreement (Contract No. 173-21 14-092) with Water Works Engineers, LLC for Fixed Network and Water Consumption Database As-Needed Support
5. Resolution No. 10814 – A Resolution Authorizing the City Manager to Execute a Construction Agreement with Gabe Mendez, Inc. for the Scott Road Realignment Project, Project No. PW2201
6. Resolution No. 10815 – A Resolution Authorizing the City Manager to Execute an Engineering Consultant Agreement with Salaber Associates, Inc. for the Scott Road Realignment Project, Project No. PW2201
7. Resolution No. 10816 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Pedestrian/Bike Bridge with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital SouthEast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046)
8. Resolution No. 10817 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Oil Index Increase with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital Southeast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046)
9. Resolution No. 10818 – A Resolution of the City of Folsom Opposing California Statewide Initiative No. 21-0042A1 Related to Tax Measures

PUBLIC HEARING:

- [10.](#) Public Hearing No. 5 Under the California Voting Rights Act - Ordinance No. 1324 - An Ordinance of the City of Folsom Establishing a By-District Election Process in Five Council Districts Pursuant to California Elections Code Section 10010 and Adding New Sections to Chapter 2.06 of the Folsom Municipal Code to Provide for City Council Election Districts (Introduction and First Reading)
- [11.](#) Ordinance No. 1325 - An Ordinance Repealing and Re-Enacting Chapter 17.61 of the Folsom Municipal Code Pertaining to Home Occupations (Introduction and First Reading)

NEW BUSINESS:

- [12.](#) Consideration of Letter in Response to Demand Letter Received from Scott Rafferty Regarding Alleged Non-Compliance with the Brown Act

CITY MANAGER REPORTS:

COUNCIL COMMENTS:

ADJOURNMENT

NOTICE: *Members of the public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address Council on an issue, which is on this agenda, please complete a blue speaker request card, and deliver it to a staff member at the table on the left side of the Council Chambers prior to discussion of the item. When your name is called, stand to be recognized by the Mayor and then proceed to the podium. If you wish to address the City Council on any other item of interest to the public, when the Mayor asks if there is any "Business from the Floor," follow the same procedure described above. Please limit your comments to three minutes or less.*

NOTICE REGARDING CHALLENGES TO DECISIONS: *Pursuant to all applicable laws and regulations, including without limitation, California Government Code Section 65009 and or California Public Resources Code Section 21177, if you wish to challenge in court any of the above decisions (regarding planning, zoning and/or environmental decisions), you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice/agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.*

As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council, and to enforce the rules of the Council.

PERSONS INTERESTED IN PROPOSING AN ITEM FOR THE CITY COUNCIL AGENDA SHOULD CONTACT A MEMBER OF THE CITY COUNCIL.

The meeting of the Folsom City Council is being telecast on Metro Cable TV, Channel 14, the Government Affairs Channel, and will be shown in its entirety on the Friday and Saturday following the meeting, both at 9 a.m. The City does not control scheduling of this telecast and persons interested in watching the televised meeting should confirm this schedule with Metro Cable TV, Channel 14. The City of Folsom provides live and archived webcasts of regular City Council meetings. The webcasts can be found on the online services page of the City's website www.folsom.ca.us.

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Any documents produced by the City and distributed to the City Council regarding any item on this agenda will be made available at the City Clerk's Counter at City Hall located at 50 Natoma Street, Folsom, California and at the Folsom Public Library located at 411 Stafford Street, Folsom, California during normal business hours.

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PROCLAMATION

OF THE MAYOR OF THE CITY OF FOLSOM
PROCLAIMING THE MONTH OF MARCH 2022

as

AMERICAN RED CROSS MONTH
in the City of Folsom

WHEREAS, in times of crisis, people in Folsom come together to care for one another. This humanitarian spirit is part of the foundation of our community and is exemplified by American Red Cross volunteers and donors; and

WHEREAS, in 1881, Clara Barton founded the American Red Cross, turning her steadfast dedication for helping others into a bold mission of preventing and alleviating people's suffering. Today, more than 140 years later, we honor the kindness and generosity of Red Cross volunteers here in Folsom, who continue to carry out Clara's lifesaving legacy. They join the millions of people across the United States who volunteer, give blood, donate financially or learn vital life-preserving skills through the Red Cross; and

WHEREAS, in Folsom, the contributions of local Red Cross volunteers give hope to the most vulnerable in their darkest hours — whether it's providing emergency shelter, food and comfort for families devastated by local disasters like home fires; donating essential blood for accident and burn victims, heart surgery and organ transplant patients, and those receiving treatment for leukemia, cancer or sickle cell disease; supporting service members and veterans, along with their families and caregivers, through the unique challenges of military life; helping to save the lives of others with first aid, CPR and other skills; or delivering international humanitarian aid; and

WHEREAS, Their work to prevent and alleviate human suffering is vital to strengthening our community's resilience. We dedicate this month of March to all those who continue to advance the noble legacy of American Red Cross founder Clara Barton, who lived by her words, "You must never think of anything except the need, and how to meet it." We ask others to join in this commitment to give back in our community; and

NOW, THEREFORE, I, KERRI M. HOWELL, Mayor of the City of Folsom, on behalf of the Folsom City Council, do hereby proclaim **March 2022 as Red Cross Month** and encourage community members to reach out and support their humanitarian mission.

PROCLAIMED this 8th day of March 2022.


 Kerri M. Howell, MAYOR

Attest:


 Christa Freemantle, CITY CLERK

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City Council Special Meeting Workshop

MINUTES

Tuesday, February 15, 2022 1:00 PM

In association with the Governor’s proclamation of a State of Emergency due to the coronavirus (COVID-19) public health emergency and Assembly Bill 361, the Sacramento County Health Order dated January 6, 2022 has ordered that all in-person council and commission public meetings be suspended, and that those meetings be conducted virtually.

CALL TO ORDER

The special City Council meeting was called to order at 1:02 p.m. with Mayor Kerri Howell presiding.

ROLL CALL:

Councilmembers Present: Mike Kozlowski, Councilmember
Rosario Rodriguez, Vice Mayor
Sarah Aquino, Councilmember
YK Chalamcherla, Councilmember
Kerri Howell, Mayor

Councilmembers Absent: None

Participating Staff: City Manager Elaine Andersen
City Attorney Steve Wang
City Clerk Christa Freemantle

ROLL CALL:

Councilmembers: Kozlowski, Rodriguez, Aquino, Chalamcherla, Howell

PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

AGENDA UPDATE

City Attorney Steve Wang announced that there was an additional information distributed to the Council and uploaded to the City’s website.

City Manager Elaine Andersen addressed concerns related to texts she shared from her phone during the February 8, 2022 City Council meeting. She shared who the texts were from and repeated their content. In response to her inquiry, City Attorney Steve Wang responded that no violation of the Brown Act had occurred.

PUBLIC HEARING:

1. Public Hearing No. 4 Under the California Voting Rights Act Regarding the Composition of the City's Voting Districts Pursuant to Elections Code Section 1001 (**Continued from February 8, 2022**)

City Attorney Steve Wang introduced the item and explained that the public hearing was continued so the City Council could further discuss the draft preferred maps identified at the February 8, 2022 City Council meeting. He introduced Doug Yoakam from National Demographics Corporation.

Mr. Yoakam showed the draft map as it was at the conclusion of the February 8 meeting and suggested changes.

The City Council discussed changes to the draft map while Mr. Yoakam showed the changes as they were suggested.

The public hearing was opened. The following speakers addressed the City Council:

1. Theresa Garcia
2. Bruce Cline
3. Scott Rafferty
4. Cheryl Davis
5. Barbara Leary
6. Bob Holderness
7. Robert Goss

There was more discussion from the City Council and editing of the draft map.

The following speakers addressed the City Council:

1. Peggy Blair
2. Bruce Cline
3. Robert Goss
4. Scott Rafferty

The City Council continued to discuss and edit the draft map.

The following speaker addressed the City Council:

1. Bob Holderness

The City Council continued to discuss and edit the draft map.

Motion by Councilmember Mike Kozlowski to consider two maps at the next City Council public hearing meeting on February 22, 2022.

The City Council discussed district sequencing in relation to which districts would be elected in election years 2022 and 2024.

The following speaker addressed the City Council:

- 1. Sharon Kindel

City Attorney Steve Wang clarified the timeline for the sequencing of the districts.

The City Council further discussed the sequencing.

Amended motion by Councilmember Mike Kozlowski, second by Vice Mayor Rosario Rodriguez to continue public hearing number 4 to the next City Council meeting on February 22, 2022, to include swapping the district numbers of 1 and 2 on preferred map 2, and to consider the two preferred maps and the sequencing for districts 1, 3 and 5 for the 2022 election and districts 2 and 4 for the 2024 election for both of the preferred maps.

Motion carried with the following roll call vote:

- AYES: Councilmember(s): Kozlowski, Rodriguez, Howell**
- NOES: Councilmember(s): Aquino, Chalamcherla**
- ABSENT: Councilmember(s): None**
- ABSTAIN: Councilmember(s): None**

City Manager Elaine Andersen announced that, beginning with the next City Council meeting and moving forward, meetings will be held in person.

ADJOURNMENT

The meeting was adjourned at 3:15 p.m.

SUBMITTED BY:

Christa Freemantle, City Clerk

ATTEST:

Kerri Howell, Mayor

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Folsom City Council Staff Report



MEETING DATE:	3/8/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10804 – A Resolution Establishing a Landmark Tree Designation for an Interior Live Oak Tree on the California Independent System Operator Corporation Property, Immediately South of the Iron Point Road/Outcropping Way Intersection
FROM:	Community Development Department

RECOMMENDATION / CITY COUNCIL ACTION

Adopt Resolution No. 10804 – A Resolution Establishing a Landmark Tree Designation for an Interior Live Oak Tree on the California Independent System Operator Corporation Property, Immediately South of the Iron Point Road/Outcropping Way Intersection

BACKGROUND / ISSUE

Trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time. Longstanding trees also contribute to the City of Folsom’s character and “Distinctive by Nature” adage. One of the ways in which the City of Folsom shows recognition for particularly noteworthy specimens is through a Landmark Tree Registry.

The California Independent System Operator Corporation (California ISO) has requested a landmark tree designation for a single interior live oak (*Quercus wislizeni*) on their property at 250 Outcropping Way. The parcel is owned by California ISO and has both M-1 (Light Industrial) and BP (Business and Professional Office) zoning and general plan designations. The subject oak has four main stems that measure 23”, 23”, 26”, 29” in diameter at standard height, totaling an aggregate trunk diameter of 101 inches and qualifying it as a heritage tree as defined in Section 12.16.020 of the Folsom Municipal Code. The tree stands approximately 40 feet tall and possesses a canopy spread of more than 75 feet. The arborist report included with the application estimates the age of the tree to be 150 years.

Due to the subject tree's age and remarkable size, the applicant believes this native oak is worthy of the City of Folsom Landmark Tree Registry and is deserving of the inspections and potential care that have been established for landmark trees in the City of Folsom Tree Preservation Ordinance.



The subject tree is located on the northern tip of the California ISO property, immediately south of the intersection of Iron Point Road and Outcropping Way.



Photograph of the subject tree dated October 14, 2020.

POLICY / RULE

Section 12.16.170 of the Folsom Municipal Code gives a private property owner or interested party the right to submit an application to the Community Development Department, requesting that the City Council establish by Resolution a tree or group of trees as a landmark tree(s). In order to designate a tree as a landmark tree, the City Council must find that the tree is a significant community benefit because it possesses one or more of the following attributes:

- 1) historical value,
- 2) outstanding habitat value,
- 3) unusual species, or
- 4) superior beauty.

ANALYSIS

Native oaks over six inches in diameter at standard height (54” above grade) are protected but are not required to receive regular inspections or care in Folsom. However, Section 12.16.170(B) of the FMC allows for landmark trees to receive annual evaluations by the City Arborist upon the request of the property owner as well as maintenance services if the City Arborist deems such actions appropriate. The City Arborist has determined that three of the four findings in Section 12.16.170(A)(2) apply to the California ISO interior live oak tree. The tree’s applicability for each attribute is summarized below:

Historical Value

‘Historical value’ is a clear factor to consider for a mature native oak. With a trunk diameter of more than double the qualifying measurement required to achieve Heritage Tree status, the subject oak tree is likely in excess of 150 years old and existed long before the establishment of the City of Folsom. The City Arborist believes this tree is among the oldest of its species in Folsom and the applicants would like to celebrate this arboricultural monument through the designation of Landmark Tree Status.

Outstanding Habitat Value

The design of the California ISO facility includes an undisturbed natural area immediately surrounding the subject oak, allowing for many of Folsom’s wildlife residents to take refuge in this tree. Interior live oak is a great food source, nesting site, and shelter for wildlife year-round. Additionally, this species is a host to several beneficial butterfly species such as California Sister (*Adelpha bredowii californica*), Dusky-Wing species (*Erynnis*), and Gold-Hunter’s Hairstreak (*Satyrium auretorum*), which play key roles as pollinators in the greater Sacramento region.

Unusual Species

Interior live oak is a common species in Folsom. However, very few members of this species have reached the size of the subject tree

Superior Beauty

The subject tree sports an open, picturesque crown when viewed from under the shade of its multiple large codominant stems. Higher up in the canopy, scaffold limbs extend out and divide into intricate branchlets that contribute to the trees rounded, dense silhouette. This form is typical of interior live oak; however, the exceptional size of this tree makes it a striking specimen in comparison to others of its species.

CONCLUSION

Given the attributes summarized herein of the subject tree, the City Arborist has determined that findings for a Landmark Tree designation have been met. As such, staff recommends that the City Council adopt resolution 10804 – A Resolution Establishing a Landmark Tree Designation for an Interior Live Oak Tree on the California Independent System Operator Corporation Property, Immediately South of the Iron Point Road/Outcropping Way Intersection.

FINANCIAL IMPACT

Upon the request of the property owner, the City Arborist may inspect a landmark tree and prepare a report on the health and recommendations for necessary maintenance. Maintenance activities for Landmark trees shall be funded by the City's Tree Planting and Replacement fund in accordance with FMC 12.16.160. There is no impact to the City's General Fund.

ENVIRONMENTAL REVIEW

Landmark Tree Classification is an administrative action and not considered a project under the California Environment Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3). As a result, the action is exempt from environmental review.

ATTACHMENTS

1. Resolution No. 10804 – A Resolution Establishing a Landmark Tree Designation for an Interior Live Oak Tree on the California Independent System Operator Corporation Property, Immediately South of the Iron Point Road/Outcropping Way Intersection
2. Application for Nomination of Landmark Tree
3. Arborist Report
4. Photographs
5. Tree Species Specifications
6. Landmark Tree Map

Submitted,



PAM JOHNS
Community Development Director

ATTACHMENT 1

**RESOLUTION NO. 10804 - A RESOLUTION ESTABLISHING A
LANDMARK TREE DESIGNATION FOR AN INTERIOR LIVE OAK
TREE ON THE CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION PROPERTY, IMMEDIATELY
SOUTH OF THE IRON POINT ROAD/OUTCROPPING WAY
INTERSECTION**

RESOLUTION NO. 10804

A RESOLUTION ESTABLISHING A LANDMARK TREE DESIGNATION FOR AN INTERIOR LIVE OAK TREE ON THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION PROPERTY, IMMEDIATELY SOUTH OF THE IRON POINT ROAD/OUTCROPPING WAY INTERSECTION

WHEREAS, Chapter 12.16 of the Folsom Municipal Code establishes standards and procedures for the protection of trees in Folsom; and

WHEREAS, Community Development has recommended that the interior live oak on the California ISO property on the southeast intersection of Iron Point Road and Outcropping Way qualifies for landmark tree status based on historical value, outstanding habitat, and superior beauty; and

WHEREAS, notice has been given at the time and in the manner required by City Code; and

WHEREAS, this project is exempt from environmental review pursuant to Section 15307 of the California Environmental Quality Act (CEQA)

WHEREAS, trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time including oxygen, filtration of air pollutants, essential shade, energy savings, reduced urban heat island effect, habitat for wildlife, and carbon sequestration; and

WHEREAS, the City Council on January 14, 2020 introduced and conducted first reading of the new Tree Preservation Ordinance, which emphasizes tree protection and preservation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom adopts Resolution No. 10804 to establish a Landmark Tree Designation for an Interior Live Oak Tree on the CalISO Property, Immediately South of the Iron Point Road/Outcropping Way Intersection.

PASSED AND ADOPTED this 8th day of March, 2022, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

ATTACHMENT 2

APPLICATION FOR NOMINATION OF A LANDMARK TREE

ATTACHMENT 3

ARBORIST REPORT

Interior Live Oak at CalISO

**Prepared for:
Mike Hayword
California Independent System Operators**

**Prepared by:
Jodi Carlson
Consulting Arborist
IL-9195AM
124 Ponderosa Ct
Folsom, CA**

December 29th, 2020

Jodi Carlson , Consulting Arborist
IL-9196AM

124 Ponderosa Ct, Folsom, CA 95630
email: jodianncarlson@gmail.com

December 29, 2020

Mike Hayward
California Independent System Operators
250 Outcropping Circle
Folsom, CA 95630

Subject: Interior Live Oak consider for Landmark Tree Status

Mr. Hayward:

Enclosed is a report based on my field investigation of the Interior live oak located at the southeast corner of Outcropping Drive and Iron Point Road. This report summarizes my observation and opinions pertaining to the condition of this tree as it is being considered for Landmark status

Please do not hesitate to contact me if you have any questions or if I may be of further service on this or other matters.

Sincerely,

Jodi Carlson
Certified Arborist
IL-9195AM
Consulting Arborist, Inc.

December 13, 2020

Jodi Carlson, Consulting Arborist, Inc.

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SUMMARY

I was contacted by Mike Hayword from CalISO to provide a report to be submitted to the City of Folsom for the purpose of having a tree on the property declared a Landmark tree. The City of Folsom requires an arborist report that provides an independent, objective opinion regarding the condition of the tree.

I visited the site on November 11th, 2020 and after an inspection I concluded that the tree does qualify for Landmark status based on its size, age, condition and species.

INTRODUCTION

Background

In early November, 2020 I was contacted by Mike Hayword to provide a report that would be used to submit an application for Landmark status of the subject tree. No history was given for the tree other than there has been occasional maintenance pruning.

Assignment

I was asked to provide an arborist report for the purpose of having the tree considered for Landmark status.

Limits of the assignment

This assignment was limited to a ground based visual inspection.

OBSERVATIONS

Site Visit

I visited the site on November 11, 2020 and met with Mike Hayward. I observed the conditions described below.

Site Location and Condition

The site is in Folsom, CA at the southeast corner of Outcropping Drive and Iron Point Road in front of CallISO a landscape area. The tree is located in a large planter with irrigated shrubs at the edge and outside the dripline of the tree. The surrounding groundcover is woodchip mulch and leaf litter. There is subsurface irrigation within the dripline of the tree.

Tree Description

The tree's scientific name is *Quercus wislizeni*. Its common name is interior live oak. The species is native to Folsom and is protected under Folsom Municipal Code 12.16 - Tree Preservation Ordinance.

The tree has four large main stems with diameters of 23", 23", 26" and 29". It is about 35-40 feet high. The canopy radius is 35 feet. The four stems spreading out make this an unusually large canopy.

There is one 12" burl on the southwest stem. Old cuts have minor decay. There is minor decay at the base where the four stems meet. There are remnants of a tree house. None of these things pose a significant risk.

The canopy of the tree appears healthy and vigorous. The tree's structure is very good without any significant defects. It appears to have been professionally pruned by qualified individuals.

DISCUSSION

This tree was well preserved when the land around it was developed and it has been well maintained since then. The condition in general is excellent. It is very large for its species making it a significant specimen. While there is little information available about how to determine the age of this species, it is probably around 125-150 years old. The tree's historical value and outstanding size are worth recognizing with the status of Landmark Tree.

APPENDIX A



ATTACHMENT 4

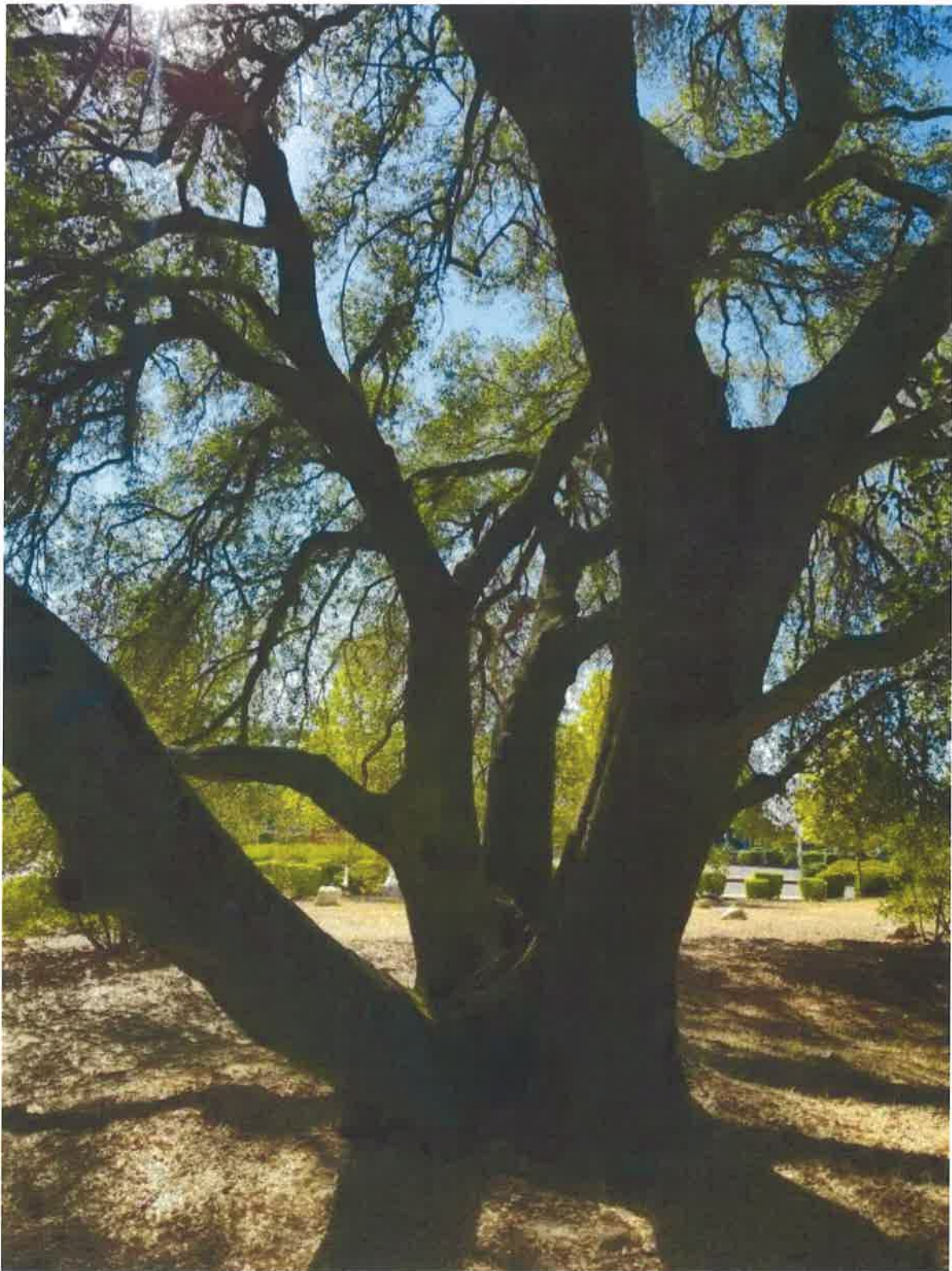
PHOTOGRAPHS



Historic aerial photograph, dated August 16, 1937



Historic aerial photograph, taken in 2016



Subject tree facing southeast



Subject tree facing west.



Subject tree facing southeast

ATTACHMENT 5

TREE SPECIFICATIONS



Interior Live Oak (*Quercus wislizeni*) is a native tree or shrub in the Fagaceae (Beech) family. Despite the common name it grows near the coast as well as in the Coast Ranges, central valley, and Sierra foothills. It tends to grow at elevations from sea level to 5,000 feet and is a major component of foothill woodland. This is a tall, broad tree with evergreen leaves. The leaves are thick, leathery, and may have either toothed or smooth margins. The long, narrow, pointed acorns sit deep in the cap; the take two years to mature. There are two recognized Varieties: Var. *frutescens* is a shrub form and is more common in the southern portion of the species' range, while var. *wislizeni* is the tree form. Due to its ultimate size, it requires a large garden but is a very rewarding tree to grow.

Plant Type

Tree, Shrub

Size

15 - 50 ft tall

10 - 50 ft wide

Growth Rate

Moderate

Dormancy

Evergreen

Flower Color

Cream, Green



Flowering Season

Winter, Spring

Wildlife Supported

Many insects are attracted to Oaks generally, including the following butterflies which use Oaks as host plant: California Sister, Propertius Duskywing, Mournful Duskywing, Golden Hairstreak, and Gold-Hunter's Hairstreak.

Butterflies & moths hosted (14 [confirmed](#) , 158 [likely](#) *)

- Mournful Duskywing (*Erynnis tristis*)
- Gold Hunter's Hairstreak (*Satyrrium auretteum*)
- Fruit-Tree Leafroller Moth (*Archips argyrospila*)
- Pacific Tent Caterpillar (*Malacosoma constricta*)
- Andromache Underwing moth (*Catocala Andromache*)
- *Caloptilia reticulata*
- *Chionodes chrysopyla*
- *Dyseriocrania auricyanea*

Landscaping Information

Sun

Full Sun, Part Shade

Moisture

Very Low, Low

Summer Irrigation

Max 1x / month once established

Cold Tolerance

Tolerates cold to 10° F

Soil Drainage

Fast, Medium, Slow

Soil Description

Tolerant of a variety of soils. Soil PH: 5.0 - 7.0

Common uses

Bank Stabilization, Deer Resistant, Bird Gardens, Butterfly Gardens

Companion Plants

This oak is compatible with a very wide ranges of native trees, shrubs, vines, perennial herbs and annuals wildflowers.

Propagation?

For propagating by seed: Fresh seeds sow in fall outdoors or stratify to hold for spring sowing. (USDA Forest Service 1974).

Natural Setting

Site Type

Hillsides, canyons and floodplains across most of California in locations where winters are wet but not freezing and summers are hot and dry.

Climate

Annual Precipitation: 5.0" - 91.9", Summer Precipitation: 0.15" - 3.16", Coldest Month: 24.6" - 55.2", Hottest Month: 45.5" - 84.1", Humidity: 0.10" - 35.01", Elevation: 7" - 11310"

ATTACHMENT 6
CURRENT LANDMARK TREE MAP

Folsom Landmark Tree Map

Reso No. 5485
Arizona Cypress at 409 Coloma Street

Reso No. 5487
Strawberry Tree at 606 Figueroa Street

Reso No. 5911
Oak grove along Folsom Boulevard

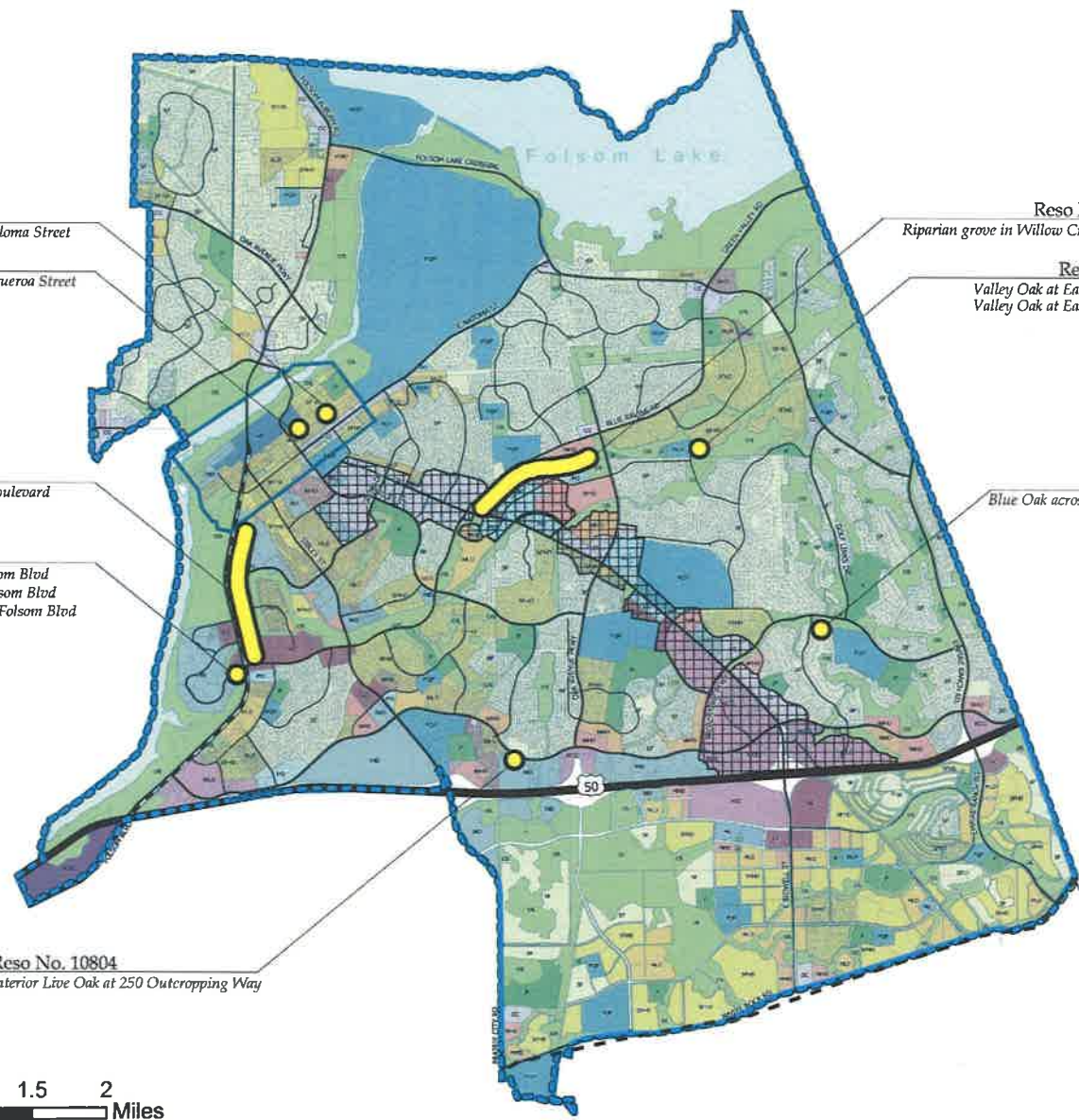
Reso No. 5062
Tulip Poplar at 13389 Folsom Blvd
London Plane at 13389 Folsom Blvd
Coastal Redwood at 13389 Folsom Blvd

Reso No. 10804
Interior Live Oak at 250 Outcropping Way

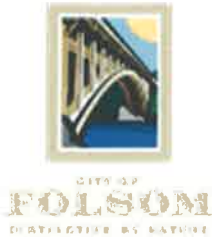
Reso No. 5910
Riparian grove in Willow Creek, Lot 10

Reso No. 5486
Valley Oak at East Prewett Park
Valley Oak at East Prewett Park

Reso No. 5909
Blue Oak across from 1782 Caversham Wy



Updated 2/25/2022



Folsom City Council Staff Report



MEETING DATE:	3/8/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10813 - A Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Agreement (Contract No. 173-21 14-092) with Water Works Engineers, LLC for Fixed Network and Water Consumption Database As-Needed Support
FROM:	Environmental and Water Resources Department

RECOMMENDATION / CITY COUNCIL ACTION

The Environmental and Water Resources Department recommends that the City Council pass and adopt Resolution No. 10813 - A Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Agreement (Contract No. 173-21 14-092) with Water Works Engineers, LLC for Fixed Network and Water Consumption Database As-Needed Support.

BACKGROUND / ISSUE

Water Works Engineers, LLC has continued to support the City of Folsom on an as-needed basis with ongoing development and modifications to its fixed network water meter data collection and billing system. The previous scope of work dating back to 2016 is now complete and the City desires to execute a new contract with Water Works Engineers, LLC for continued maintenance of the City’s Water Meter Database (WMDB).

As with any equipment or operations system, the City’s fixed network system and water consumption database requires maintenance and upgrades to be compatible with the water facility’s system improvements, technology upgrades and general operational requirements. Water Works Engineers, LLC has the expertise for continuing this support.

As part of a pilot program south of Highway 50 utilizing Badger water meters and Beacon Web Services, Water Works Engineers, LLC has been assisting the City with loading reads

from Badger Beacon into the existing WMDB on a monthly basis along with supporting the existing Zenner fixed network system north of Highway 50. The City would like to integrate the new Badger system with the City's existing WMDB so that reads can be uploaded and downloaded automatically on a daily basis.

This resolution will authorize the City Manager to execute Amendment No. 2 to the Agreement (Contract No. 173-21 14-092) with Water Works Engineers, LLC for Fixed Network and Water Consumption Database As-Needed Support.

POLICY / RULE

In accordance with Chapter 2.36 of the Folsom Municipal Code, supplies, equipment, services, and construction with a value of \$66,141 or greater shall be awarded by City Council.

ANALYSIS

In order to maintain the fixed network system and provide the necessary expertise, additional services are required by Water Works Engineers, LLC. The services anticipated to maintain the fixed network system include:

- Provide on-call technical support for water meter data transfer from the fixed network system to the water meter database.
- Provide on-call technical support for the monthly billing process interfacing with the City's financial software.
- Provide on-call technical support for automated data export from the City's water meter database to databases hosted by DropCountr and Water Systems Optimization.
- Develop a new application to allow Badger meter data to be downloaded into the WMDB on a daily basis.
- Develop a new application to allow the WMDB to upload meter data to Badger Beacon database on a daily basis.

Fixed network systems have complex software and hardware components that require management and modifications periodically. These upgrades and modifications require specially trained personnel to perform these functions. Rather than hire additional staff to perform these periodic specialty functions, the City proposes to continue to use Water Works Engineers, LLC for these on-call services.

Staff recommends amending the current Agreement with Water Works Engineers, LLC for \$43,123 increasing the total contract not-to-exceed amount to \$131,999.

This resolution will authorize the City Manager to execute Amendment No. 2 to the Agreement (Contract No. 173-21 14-092) with Water Works Engineers, LLC for Fixed Network and Water Consumption Database As-Needed Support.

FINANCIAL IMPACT

The amendment will cover a period of three years during FY 2021-22, FY 2022-23 and FY 2023-24. Staff is requesting an additional \$43,123 in order to execute Amendment No. 2 to the agreement with Water Works Engineers, LLC for a new total contract not-to-exceed amount of \$131,999. Sufficient funds have been budgeted and are available in the Water Operating Fund (Fund 520).

ENVIRONMENTAL REVIEW

This project is an operations and maintenance based project pertaining to existing infrastructure; and therefore, is categorically exempt from environmental review under the California Environmental Quality Act as noted in Title 14 – California Code of Regulations, Chapter 3 – Guidelines for Implementation of the California Environmental Quality Act, Article 19 – Categorical Exemptions, Section 15301 – Existing Facilities.

ATTACHMENT

Resolution No. 10813 - A Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Agreement (Contract No. 173-21 14-092) with Water Works Engineers, LLC for Fixed Network and Water Consumption Database As-Needed Support

Submitted,

Marcus Yasutake, Director
ENVIRONMENTAL AND WATER RESOURCES DEPARTMENT

RESOLUTION NO. 10813

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE AGREEMENT (CONTRACT NO. 173-21 14-092) WITH WATER WORKS ENGINEERS, LLC FOR FIXED NETWORK AND WATER CONSUMPTION DATABASE AS-NEEDED SUPPORT

WHEREAS, the Environmental and Water Resources Department currently utilizes a fixed network system (remote tower meter reading) to comply with California Water Code Section 526; and

WHEREAS, the City’s overall fixed network and database system needs to be maintained and upgraded to meet with technology and general operational requirements; and

WHEREAS, Water Works Engineers, LLC by reason of their past experience with performing these services for the City, and abilities for performing these types of services, is uniquely qualified and recommended to continue to perform the required services; and

WHEREAS, this project will increase the Fixed Network and Water Consumption Database As-needed Support project by \$43,123, bringing the total contract amount to \$131,999; and

WHEREAS, sufficient funds are budgeted and available in the Water Operating Fund (Fund 520) for the FY 2021-22, and will be included during the respective budget process in FY 2022-23 and FY 2023-24; and

WHEREAS, Amendment No. 2 will cover a period of three years during FY 2021-22, FY 2022-23, and FY 2023-24 and

WHEREAS, the agreement will be in a form acceptable to the City Attorney:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to Execute Amendment No.2 to the Agreement (Contract No. 173-21 14-092) with Water Works Engineers, LLC for Fixed Network and Water Consumption Database As-Needed Support for a not-to-exceed amount of \$43,123, increasing the total contract not-to-exceed amount to \$131,999.

PASSED AND ADOPTED this 8th day of March, 2022, by the following roll-call vote:

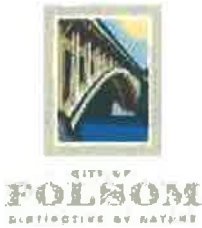
- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

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Folsom City Council Staff Report



MEETING DATE:	3/8/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10814 – A Resolution Authorizing the City Manager to Execute a Construction Agreement with Gabe Mendez, Inc. for the Scott Road Realignment Project, Project No. PW2201
FROM:	Public Works Department

RECOMMENDATION / CITY COUNCIL ACTION

The Public Works Department recommends that the City Council pass and adopt Resolution No. 10814 – A Resolution Authorizing the City Manager to Execute a Construction Agreement with Gabe Mendez, Inc. for the Scott Road Realignment Project, Project No. PW2201.

BACKGROUND / ISSUE

The Capital SouthEast Connector is a planned 34-mile limited-access roadway spanning from U.S. 50 at Silva Valley Parkway interchange in El Dorado County to Interstate 5 at the Hood-Franklin Interchange in Elk Grove. The Connector is planned to be constructed in segments as funding and priorities allow. Segment D3 referred to as the “Folsom segment,” includes the length of the Connector that borders the City of Folsom and Sacramento County from Prairie City Road to the El Dorado County Line. Segment E1 is the El Dorado County Segment that Segment D3 ties into.

Segment D3 has been further segmented into two additional segments: D3(A) and D3(B). Segment D3(A) will upgrade the existing White Rock Road to a four-lane expressway beginning near the intersection of Prairie City Road and continuing through the intersection of East Bidwell Street. The project entails constructing four lanes between these two major intersections, including a bridge over Alder Creek. The bridge also serves as a “wildlife crossing,” as contemplated in the South Sacramento Habitat Conservation Plan.

The project is a complete reconstruction that will create a new alignment of White Rock Road adjacent and immediately south of the existing White Rock Road. The existing White Rock Road will remain open to traffic during construction. Currently under construction, Segment D(3A) is expected to be complete by the Summer of 2022.

The City is currently managing the SouthEast Connector Segment D3(A) on behalf of the Capital SouthEast Connector Joint Powers Authority (JPA) and in collaboration with Sacramento County. The City will also manage the Scott Road Realignment on behalf of the JPA in collaboration with Sacramento County.

Within the D3(A) Segment, Scott Road currently ties into the Connector at a location where left turns will not be allowed from Scott Road or the Connector once construction of the segment is complete, in order to maintain the limited-access expressway objectives of the overall project. The Scott Road Realignment was originally included in the D3 Segment Project Plans but was removed due to budgetary limitations.

The Scott Road Realignment Project will intercept Scott Road at the southeast corner of the future City of Folsom Corporation Yard, follow the south border of the corporation yard property line and tie into the Prairie City Road/White Rock Road traffic signal. A three-leg traffic circle south of the Prairie City Road/White Rock Road traffic signal will control traffic from Scott Road, Prairie City Road and the Prairie City State Vehicular Recreation Area. Access to the future Corporation Yard will be installed when the improvements to the corporation yard are ready for construction

POLICY / RULE

Section 2.36.080 of the Folsom Municipal Code states, in part, that contracts for supplies, equipment, services, and construction with an estimated value of \$66,141 or greater shall be awarded by the City Council.

ANALYSIS

Public Works staff prepared the bid package, and the project was publicly advertised on January 11, 2022. On February 10, 2022, the Public Works Department received the following bids:

1. Gabe Mendez, Inc.	\$ 2,673,518
2. McGuire And Hester	\$ 2,688,351.60
3. Martin Brothers Construction	\$ 2,776,288.70
4. Western Engineering Contractors, Inc.	\$ 2,986,285
5. Central Valley Engineering & Asphalt, Inc.	\$ 3,103,069
6. A&E Arborists Tree Care, Inc.	\$ 3,489,284.30
7. All-American Construction, Inc.	\$ 3,530,277.15

The Engineer’s Estimate for this project was \$2,735,000. The Public Works Department has found the bids to be in order and recommends that the contract be awarded to the low bidder Gabe Mendez, Inc. staff will use the City’s standard agreement in a form acceptable to the City Attorney.

FINANCIAL IMPACT

The JPA will provide funding for the project in the amount of \$3,350,000 for both construction and construction management (resident engineer, inspection, and materials testing). It is anticipated that this amount will fully fund the project. The project budget for construction and construction engineering is as follows:

- Construction Estimate: \$2,940,870 including 10% Contingency
- Construction Engineering: \$409,000 (13.9% of Construction Cost)
- Total Project Budget: \$3,349,870

Per the terms of the Amendment, the JPA will reimburse the City for the costs related to the construction and construction management through monthly invoices submitted by the City to the JPA. Reimbursements by the JPA will be made within thirty days of receipt of an invoice from the City.

The Scott Road Realignment Project was not budgeted in the FY 2021-22 City Budget. An appropriation of funds in the amount of \$3,350,000 from the Transportation Improvement Fund (Fund 446) was made with Resolution No. 10732, Memorandum of Understanding Amendment No. 1 with SouthEast Connector Joint Powers Authority. All reimbursements received by the City from the JPA will be applied to the Transportation Improvement Fund (Fund 446).

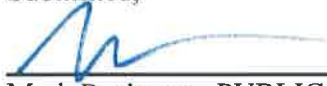
ENVIRONMENTAL REVIEW

In 2016 the JPA approved a California Environmental Quality Act (CEQA) Tiered Initial Study with Mitigated Negative Declaration for the Capital Southeast Connector Segment D3/E1 which includes the Scott Road Realignment Project. The project is not located in an environmentally sensitive area and would not result in potential impacts to the environment, including traffic, noise, air quality and water quality.

ATTACHMENT

Resolution No. 10814 – A Resolution Authorizing the City Manager to Execute a Construction Agreement with Gabe Mendez, Inc. for the Scott Road Realignment Project, Project No. PW2201

Submitted,



Mark Rackovan, PUBLIC WORKS DIRECTOR

RESOLUTION NO. 10814**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH GABE MENDEZ, INC. FOR THE SCOTT ROAD REALIGNMENT PROJECT, PROJECT NO. PW2201**

WHEREAS, the Capital SouthEast Connector Project is the Sacramento region's largest single transportation project, ultimately extending over 34 miles from Elk Grove to El Dorado County; and

WHEREAS, the City of Folsom is a Member Jurisdiction of the Capital SouthEast Connector Joint Powers Authority and will implement the Project; and

WHEREAS, the Capital SouthEast Connector Project has, to date, been funded primarily through a Sacramento County sales-tax measure approved in 2004 by 75 percent of voters; and

WHEREAS, the Capital SouthEast Connector Project has developed a program development budget that requires the use of Federal and State funds to advance the project towards timely construction; and

WHEREAS, the City of Folsom desires to construct the Capital SouthEast Connector Project Scott Road Realignment along the future City Corporation Yard; and

WHEREAS, the Capital SouthEast Connector Joint Powers Authority has funding to fully construct the Capital SouthEast Connector Project Scott Road Realignment and has requested that the City of Folsom manage the Scott Road Realignment Project; and

WHEREAS, the City of Folsom and Capital SouthEast Connector Joint Powers Authority and City of Folsom has executed Amendment No. 1 to the Memorandum of Understanding to realign Scott Road; and

WHEREAS, the First Amendment to the Memorandum of Understanding identifies responsibilities and financial transactions between the City of Folsom and Capital SouthEast Connector Joint Powers Authority; and

WHEREAS, the Capital SouthEast Connector Joint Powers Authority will reimburse the City of Folsom for the costs related to the construction and construction management through monthly invoices submitted by the City of Folsom to the Capital SouthEast Connector Joint Powers Authority; and

WHEREAS, reimbursements received from the Capital SouthEast Connector Joint Powers Authority will be applied to the Transportation Improvement Fund (Fund 446); and

WHEREAS, the bid package was publicly advertised on January 11, 2022, and on February 10, 2022 seven bids were received; and

WHEREAS, Gabe Mendez, Inc. submitted the lowest responsive and responsible bid in

the amount of \$2,673,518; and

WHEREAS, the project budget will include a 10% contingency in the amount of \$267,352 for a total project budget of \$2,940,870; and

WHEREAS, funds in the amount of \$2,940,870 have been appropriated and are available for the Scott Road Realignment Project, Project No. PW2201, utilizing Transportation Improvement funds (Fund 446); and

WHEREAS, the agreement will be in a form acceptable to the City Attorney:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute a Construction Agreement with Gabe Mendez, Inc. for the Scott Road Realignment Project, Project No. PW 2201 in the amount of \$2,673,518, with the budgeted amount to include a ten percent contingency for a total not-to-exceed amount of \$2,940,870.

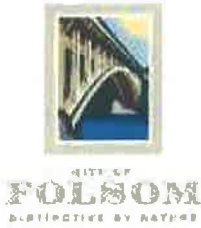
PASSED AND ADOPTED this 8th day of March 2022, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK



Folsom City Council Staff Report



MEETING DATE:	3/8/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10815 – A Resolution Authorizing the City Manager to Execute an Engineering Consultant Agreement with Salaber Associates, Inc. for the Scott Road Realignment Project, Project No. PW2201
FROM:	Public Works Department

RECOMMENDATION / CITY COUNCIL ACTION

The Public Works Department recommends that the City Council pass and adopt Resolution No. 10815 – A Resolution Authorizing the City Manager to Execute an Engineering Consultant Agreement with Salaber Associates, Inc. for the Scott Road Realignment Project, Project No. PW2201.

BACKGROUND / ISSUE

The Capital SouthEast Connector is a planned 34-mile limited-access roadway spanning from U.S. 50 at Silva Valley Parkway interchange in El Dorado County to Interstate 5 at the Hood-Franklin Interchange in Elk Grove. The Connector is planned to be constructed in segments as funding and priorities allow. Segment D3 referred to as the “Folsom segment,” includes the length of the Connector that borders the City of Folsom and Sacramento County from Prairie City Road to the El Dorado County Line. Segment E1 is the El Dorado County Segment that Segment D3 ties into.

Segment D3 has been further segmented into two additional segments: D3(A) and D3(B). Segment D3(A) will upgrade the existing White Rock Road to a four-lane expressway beginning near the intersection of Prairie City Road and continuing through the intersection of East Bidwell Street. The project entails constructing four lanes between these two major intersections, including a bridge over Alder Creek. The bridge also serves as a “wildlife crossing,” as contemplated in the South Sacramento Habitat Conservation Plan.

The project is a complete reconstruction that will create a new alignment of White Rock Road adjacent and immediately south of the existing White Rock Road. The existing White Rock Road will remain open to traffic during construction. Currently under construction, Segment D(3A) is expected to be complete by Summer of 2022.

The City is currently managing the SouthEast Connector Segment D3(A) on behalf of the Capital SouthEast Connector Joint Powers Authority (JPA) and in collaboration with Sacramento County. The City will also manage the Scott Road Realignment on behalf of the JPA in collaboration with Sacramento County.

Within the D3(A) Segment, Scott Road currently ties into the Connector at a location where left turns will not be allowed from Scott Road or the Connector once construction of the segment is complete, in order to maintain the limited-access expressway objectives of the overall project. The Scott Road Realignment was originally included in the D3 Segment Project Plans but was removed due to budgetary limitations.

The Scott Road Realignment Project will intercept Scott Road at the southeast corner of the future City of Folsom Corporation Yard, follow the south border of the corporation yard property line and tie into the Prairie City Road/White Rock Road traffic signal. A three-leg traffic circle south of the Prairie City Road/White Rock Road traffic signal will control traffic from Scott Road, Prairie City Road and the Prairie City State Vehicular Recreation Area. Access to the future Corporation Yard will be installed when the improvements to the corporation yard are ready for construction

POLICY / RULE

Section 2.36.080 of the Folsom Municipal Code states, in part, that contracts for supplies, equipment, services, and construction with an estimated value of \$66,141 or greater shall be awarded by the City Council.

ANALYSIS

Public Works staff prepared the RFP package, and the project was publicly advertised on January 11, 2022. On February 11, 2022, the Public Works Department received proposals from Salaber Associates, Inc. and WSP.

A review committee was formed from two Public Works Department staff and one JPA staff to review and interview the two proposing consultants. Each reviewer was given a scoring matrix, with the results of those reviews shown below. Salaber Associates, Inc. scored an average of 91 and WSP an average of 78 respectively for the proposal review.

	Reviewer A		Reviewer B		Reviewer C	
	Salabar	WSP	Salabar	WSP	Salabar	WSP
Understanding of Work (25 Points)	20	15	20	19	23	20
Experience with Similar Work (25 Points)	25	20	22	18	24	21
Project Team (30 Points)	30	20	30	24	28	25
Proposal Quality (20 Points)	15	20	19	18	18	15
Scoring Total (100 Points)	90	75	91	79	93	81

The panel members were unanimous in selecting Salaber Associates, Inc. after interviewing both firms. Salaber Associates, Inc. showed a greater understanding of the project and the coordination needs regarding Sacramento County and State Parks in both the proposal and interview. Salaber is currently providing construction engineering services on the SouthEast Connector D3(A) Segment.

Staff negotiated a fee with Salaber Associates of \$409,000 to provide the consultant services.

FINANCIAL IMPACT

The JPA will provide funding for the project in the amount of \$3,350,000 for both construction and construction management (resident engineer, inspection, and materials testing). It is anticipated that this amount will fully fund the project. The project budget for construction and construction engineering is as follows:

- Construction Estimate: \$2,940,870 including 10% Contingency
- Construction Engineering: \$409,000 (13.9% of Construction Cost)
- Total Project Budget: \$3,349,870

Per the terms of the Amendment, the JPA will reimburse the City for the costs related to the construction and construction management through monthly invoices submitted by the City to the JPA. Reimbursements by the JPA will be made within thirty days of receipt of an invoice from the City.

The Scott Road Realignment Project was not budgeted in the FY 2021-22 City Budget. An appropriation of funds in the amount of \$3,350,000 from the Transportation Improvement

Fund (Fund 446) was made with Resolution No. 10732, Memorandum of Understanding Amendment No. 1 with SouthEast Connector Joint Powers Authority. All reimbursements received by the City from the JPA will be credited to the Transportation Improvement Fund (Fund 446).

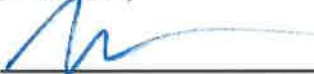
ENVIRONMENTAL REVIEW

In 2016 the JPA approved a California Environmental Quality Act (CEQA) Tiered Initial Study with Mitigated Negative Declaration for the Capital Southeast Connector Segment D3/E1 which includes the Scott Road Realignment Project. The project is not located in an environmentally sensitive area and would not result in potential impacts to the environment, including traffic, noise, air quality and water quality.

ATTACHMENTS

Resolution No. 10815 – A Resolution Authorizing the City Manager to Execute an Engineering Consultant Agreement with Salaber Associates, Inc. for the Scott Road Realignment Project, Project No. PW2201

Submitted,



Mark Rackovan, PUBLIC WORKS DIRECTOR

RESOLUTION NO. 10815**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENGINEERING CONSULTANT AGREEMENT WITH SALABER ASSOCIATES, INC. FOR THE SCOTT ROAD REALIGNMENT PROJECT, PROJECT NO. PW2201**

WHEREAS, the Capital SouthEast Connector Project is the Sacramento region's largest single transportation project, ultimately extending over 34 miles from Elk Grove to El Dorado County; and

WHEREAS, the City of Folsom is a Member Jurisdiction of the Capital SouthEast Connector Joint Powers Authority and will implement the Project; and

WHEREAS, the Capital SouthEast Connector Project has, to date, been funded primarily through a Sacramento County sales-tax measure approved in 2004 by 75 percent of voters; and

WHEREAS, the Capital SouthEast Connector Project has developed a program development budget that requires the use of Federal and State funds to advance the project towards timely construction; and

WHEREAS, the City of Folsom desires to construct the Capital SouthEast Connector Project Scott Road Realignment along the future City Corporation Yard; and

WHEREAS, the Capital SouthEast Connector Joint Powers Authority has funding to fully construct the Capital SouthEast Connector Project Scott Road Realignment and has requested that the City of Folsom manage the Scott Road Realignment Project; and

WHEREAS, the City of Folsom and Capital SouthEast Connector Joint Powers Authority and City of Folsom has executed Amendment No. 1 to the Memorandum of Understanding to realign Scott Road; and

WHEREAS, the First Amendment to the Memorandum of Understanding identifies responsibilities and financial transactions between the City of Folsom and Capital SouthEast Connector Joint Powers Authority; and

WHEREAS, the Capital SouthEast Connector Joint Powers Authority will reimburse the City of Folsom for the costs related to construction and construction management through monthly invoices submitted by the City of Folsom to the Capital SouthEast Connector Joint Powers Authority; and

WHEREAS, reimbursements received from the Capital SouthEast Connector Joint Powers Authority will be credited to the Transportation Improvement Fund (Fund 446); and

WHEREAS, the RFP package was publicly advertised on January 11, 2022, and on February 11, 2022, proposals were received from Salaber Associates, Inc. and WSP; and

WHEREAS, a review committee consisting of City of Folsom and Capital SouthEast

Connector Joint Powers Authority staff reviewed both proposals and interviewed both proposing engineering consultants; and

WHEREAS, Salaber Associates was selected to provide Construction Engineering Services including Construction Management, Inspection, Materials Testing, Environmental Compliance, and Certified Payroll Review, for a not to exceed amount of \$409,000; and

WHEREAS, funds in the amount of \$409,000 have been appropriated and are available for the Scott Road Realignment Project, Project No. PW2201, utilizing Transportation Improvement funds (Fund 446); and

WHEREAS, the agreement will be in a form acceptable to the City Attorney;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute an Engineering Consultant Agreement with Salaber Associates Inc. for the Scott Road Realignment Project, Project No. PW 2201 in the amount of \$409,000.

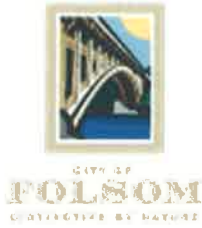
PASSED AND ADOPTED this 8th day of March 2022, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK



Folsom City Council Staff Report

MEETING DATE:	3/8/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10816 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Pedestrian/Bike Bridge with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital SouthEast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046)
FROM:	Public Works Department

RECOMMENDATION / CITY COUNCIL ACTION

The Public Works Department recommends that the City Council pass and adopt Resolution No. 10816 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Pedestrian/Bike Bridge with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital SouthEast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046).

BACKGROUND / ISSUE

The planned Capital SouthEast Connector is a 34-mile limited access roadway spanning from U.S. 50 at Silva Valley Parkway interchange in El Dorado County to Interstate 5 at the Hood-Franklin Interchange in Elk Grove. The Connector is planned to be constructed in segments as funding and priorities allow. Segment D3 includes the length of the Connector that borders the City of Folsom and Sacramento County from Prairie City Road to the El Dorado County Line. Segment E1 is the El Dorado County Segment that Segment D3 ties into.

Segment D3 has been further segmented into two additional segments: D3(A) and D3(B). Segment D3(A) will upgrade the existing White Rock Road to a four-lane expressway beginning near the intersection of Prairie City Road and continuing through the intersection of East Bidwell Street. The project involves constructing four lanes between these two major intersections, including a bridge over Alder Creek. The bridge also serves as a “wildlife crossing,” as contemplated in the South Sacramento Habitat Conservation Plan.

The project is a complete reconstruction that will create a new alignment of White Rock Road adjacent and immediately south of the existing White Rock Road. The existing White Rock Road will remain open to traffic during construction.

The City of Folsom is leading the construction of this project on behalf of the Capital SouthEast Connector Joint Powers Authority (JPA) and in collaboration with Sacramento County.

The City has secured State Transportation Block Grant Program (STBG) and SB1 funding from Sacramento Area Council of Governments (SACOG) in partnership with the JPA. A request for authorization to proceed with construction was submitted to Caltrans on May 15, 2020. The Authorization to Proceed (E-76) was received on June 25, 2020, and the subsequent Supplemental Agreement was received on August 8, 2020.

The project was initially designed to include a Class 1 Bike Trail and interconnection between traffic signals. These two items of work were removed from the project due to funding constraints. As staff looks for additional funding opportunities to complete the pedestrian/bike trail, it seems appropriate, at a minimum, to add back the pedestrian/bike bridge to the D3(A) Segment. The current project has a bridge subcontractor available to prepare the project for a prefabricated metal bridge. Completion of the bridge would allow the possibility of construction of the paved section of the trail if budget is available at the end of the project.

POLICY / RULE

Section 2.36.080 of the Folsom Municipal Code states, in part, that contracts for supplies, equipment, services, and construction with an estimated value of \$66,141 or greater shall be awarded by the City Council.

ANALYSIS

This project was publicly advertised on July 13, 2020, and bids were opened publicly on September 9, 2020, at 2:00 p.m. in the City Council Chamber.

Six bids were received with Goodfellow Brothers, LLC being the lowest responsive responsible bid as follows:

Contractor	Ranking	Bid Amount
Goodfellow Brothers, LLC	Lowest Responsive Responsible Bid	\$22,368,765.00

The lowest responsive responsible bid proposal provided by Goodfellow Brothers, LLC was reviewed by staff and found to be in good order.

FINANCIAL IMPACT

The Capital SouthEast Connector Segment D3(A) is eligible to receive funds from FAST Act funding based on a SACOG Regional Surface Transportation Program Grant and SB-1 Funding. Funding for construction and construction engineering is shown below:

Fund	Fund Type	Amount
FAST Act	Surface Transportation Block Grant to match SB-1 Funding 1 to 1 at \$10,000,000	\$15,000,000
SB1	Competitive	\$10,000,000
Local Transportation Fund (446)	To match Surface Transportation Block Grant of \$15,000,000 at 11.47%	\$1,720,500
Local Transportation Fund (446)	To Cover Balance of Project Funding	\$1,195,147
	Project Budget for Construction	\$27,915,396

The FAST Act funding requires a local match of 11.47%. The Transportation Fund (Fund 446) will be utilized to meet the required match of \$1,720,500. The SB1 funding requires a 100% match, of which \$10,000,000 of the FAST Act funding will be utilized as the match.

The agreement with Goodfellow previously approved is for \$22,368,765 with a budgeted contingency of \$2,236,876.50 (10%) for a total contract budget amount of \$24,605,641.50.

The contract costs for construction and construction management have been previously approved by City Council in separate resolutions as follows:

Company	Description	Cost
Goodfellow Brothers, LLC	Construction	\$22,368,765.00
	10% Contingency for Construction	\$2,236,876.50
Salaber Associates, Inc.	Construction Engineering, Inspection and Materials Testing	\$2,992,848.00
Dokken Engineering, Inc.	Design Support and Environmental Services	\$317,157.28
	Project Budget for Construction	\$27,915,647.78

The Contract Change Order for the Pedestrian/Bike Bridge will utilize the existing contingency in the amount of \$959,245. No adjustments to the project budget will be required.

ENVIRONMENTAL REVIEW

In 2016 the Capital SouthEast Connector JPA approved a California Environmental Quality Act (CEQA) Tiered Initial Study with Mitigated Negative Declaration for the Capital SouthEast Connector Segment D3/E1.


Caltrans approved the National Environmental Policy Act (NEPA) Categorical Exclusion for Segment D3/E1.

The project is not located in an environmentally sensitive area and would not result in potential impacts to the environment, including traffic, noise, air quality and water quality.

ATTACHMENT

Resolution No. 10816 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Pedestrian/Bike Bridge with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital SouthEast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046)

Submitted,



Mark Rackovan, PUBLIC WORKS DIRECTOR

RESOLUTION NO. 10816**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT CHANGE ORDER FOR THE PEDESTRIAN/BIKE BRIDGE WITH GOODFELLOW BROTHERS, LLC (CONTRACT NO. 174-21 20-060) FOR THE CAPITAL SOUTHEAST CONNECTOR SEGMENT D3(A), PROJECT NO. PW1607, FEDERAL PROJECT NO. 5288(046)**

WHEREAS, the Capital SouthEast Connector Project is the Sacramento region's largest single transportation project; and

WHEREAS, the City of Folsom is a Member Jurisdiction of the Capital SouthEast Connector Joint Powers Authority and will implement the Project; and

WHEREAS, the Capital SouthEast Connector Project has, to date, been funded primarily through a Sacramento County sales-tax measure approved in 2004 by 75 percent of voters; and

WHEREAS, the Capital SouthEast Connector Project has established a program development budget that requires the use of Federal and State funds to advance the project towards timely construction; and

WHEREAS, the City of Folsom desires to construct the Capital SouthEast Connector Project Segment D3(A) along the City's border to four lanes with two eight-foot shoulders; and

WHEREAS, the City of Folsom received Surface Transportation Block Grant Program funding, and is eligible for federal reimbursement, up to \$15,000,000; and

WHEREAS, the City of Folsom received SB-1 funding, and is eligible for state reimbursement up to \$10,000,000; and

WHEREAS, this project was publicly advertised on July 13, 2020, with six bids received on September 9, 2020, with Goodfellow Brothers, LLC being the lowest responsive responsible bidder; and

WHEREAS, the City of Folsom entered into a contract with Goodfellow Brothers, LLC for construction of the Capital SouthEast Connector Segment D3(A); and

WHEREAS, a Contract Change Order will be utilized to add a pedestrian/bike bridge for the future bike trail; and

WHEREAS, the cost of the pedestrian/bike bridge of \$959,245 is within the existing project budget contingency; and

WHEREAS, the agreement will be in a form acceptable to the City Attorney:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to Execute a Contract Change Order for the Pedestrian/Bike Bridge with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital SouthEast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046), in the amount of \$959,245.

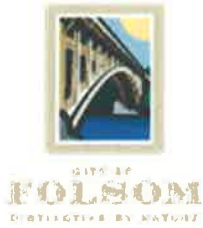
PASSED AND ADOPTED this 8th day of March 2022, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK



Folsom City Council Staff Report



MEETING DATE:	3/8/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10817 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Oil Index Increase with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital Southeast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046)
FROM:	Public Works Department

RECOMMENDATION / CITY COUNCIL ACTION

The Public Works Department recommends that the City Council pass and adopt Resolution No. 10817 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Oil Index Increase with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital Southeast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046).

BACKGROUND / ISSUE

The planned Capital Southeast Connector is a 34-mile limited access roadway spanning from U.S. 50 at Silva Valley Parkway interchange in El Dorado County to Interstate 5 at the Hood-Franklin Interchange in Elk Grove. The Connector is planned to be constructed in segments as funding and priorities allow. Segment D3 includes the length of the Connector that borders the City of Folsom and Sacramento County from Prairie City Road to the El Dorado County Line. Segment E1 is the El Dorado County Segment that Segment D3 ties into.

Segment D3 has been further segmented into two additional segments: D3(A) and D3(B). Segment D3(A) will upgrade the existing White Rock Road to a four-lane expressway beginning near the intersection of Prairie City Road and continuing through the intersection of East Bidwell Street. The project involves constructing four lanes between these two major intersections, including a bridge over Alder Creek. The bridge also serves as a “wildlife crossing,” as contemplated in the South Sacramento Habitat Conservation Plan.

The project is a complete reconstruction that will create a new alignment of White Rock Road adjacent and immediately south of the existing White Rock Road. The existing White Rock Road will remain open to traffic during construction. The project was initially designed to include a Class 1 Bike Trail and interconnection between traffic signals. These two items of work had been removed from the project due to funding constraints.

The City of Folsom is leading the construction of this project on behalf of the Capital Southeast Connector Joint Powers Authority (JPA) and in collaboration with Sacramento County.

The City has secured State Transportation Block Grant Program (STBG) and SB1 funding from Sacramento Area Council of Governments (SACOG) in partnership with the Capital Southeast Connector JPA. A request for authorization to proceed with construction was submitted to Caltrans on May 15, 2020. The Authorization to Proceed (E-76) was received on June 25, 2020, and the subsequent Supplemental Agreement was received on August 8, 2020.

Per contract Special Provision Section 9-1.07, payment adjustments for Price Index Fluctuations are allowed for asphalt binder oil based on the published Caltrans Statewide Crude Oil Price Index. At bid time the index was 227.8. The Southeast Connector paving dates from July through December shows the Oil Index range was 373.7 to 456.2 where the difference between the index at the time of paving compared to the index at the bid opening provides the value needed to calculate the compensation. The additional cost per this change order is \$354,766.26. It is expected that additional compensation will be required after the final paving is complete. In the event that the index is lower than the index on the day of bid opening the City would be due a credit.

POLICY / RULE

Section 2.36.080 of the Folsom Municipal Code states, in part, that contracts for supplies, equipment, services, and construction with an estimated value of \$66,141 or greater shall be awarded by the City Council.

ANALYSIS

This project was publicly advertised on July 13, 2020, and bids were opened publicly on September 9, 2020, at 2:00 p.m. in the City Council Chamber.

Six bids were received with Goodfellow Brothers, LLC being the lowest responsive responsible bid as follows:

Contractor	Ranking	Bid Amount
Goodfellow Brothers, LLC	Lowest Responsive Responsible Bid	\$22,368,765.00

The Lowest Responsive Responsible Bid Proposal provided by Goodfellow Brothers, LLC was reviewed by staff and found to be in good order.

FINANCIAL IMPACT

The Capital Southeast Connector Segment D3(A) is eligible to receive funds from FAST Act funding based on a SACOG Regional Surface Transportation Program Grant and SB-1 Funding. Funding for construction and construction engineering is shown below:

Fund	Fund Type	Amount
FAST Act	Surface Transportation Block Grant to match SB-1 Funding 1 to 1 at \$10,000,000	\$15,000,000
SB1	Competitive	\$10,000,000
Local Transportation Fund (446)	To match Surface Transportation Block Grant of \$15,000,000 at 11.47%	\$1,720,500
Local Transportation Fund (446)	To Cover Balance of Project Funding	\$1,195,147
	Project Budget for Construction	\$27,915,396

The FAST Act funding requires a local match of 11.47%. The Transportation Fund (Fund 446) will be utilized to meet the required match of \$1,720,500. The SB1 funding requires a 100% match, of which \$10,000,000 of the FAST Act funding will be utilized as the match.

The agreement with Goodfellow previously approved is in the amount of \$22,368,765 with a budgeted contingency of \$2,236,876.50 (10%) for a total contract budget amount of \$24,605,641.50.

The contract costs for construction and construction management have been previously approved by City Council in separate resolutions as follows:

Company	Description	Cost
Goodfellow Brothers, LLC	Construction	\$22,368,765.00
	10% Contingency for Construction	\$2,236,876.50
Salaber Associates, Inc.	Construction Engineering, Inspection and Materials Testing	\$2,992,848.00
Dokken Engineering, Inc.	Design Support and Environmental Services	\$317,157.28
	Project Budget for Construction	\$27,915,647.78

The Contract Change Order for the changes in the Oil Index will utilize the existing Contingency in the amount of \$354,766.26. The current contingency utilized including this request is \$1,828,652.78, leaving a balance of \$408,223.72. No adjustments to the project budget will be required.

ENVIRONMENTAL REVIEW

In 2016 the Capital Southeast Connector JPA approved a California Environmental Quality Act (CEQA) Tiered Initial Study with Mitigated Negative Declaration for the Capital Southeast Connector Segment D3/E1.

Caltrans approved the National Environmental Policy Act (NEPA) Categorical Exclusion for Segment D3/E1.

The project is not located in an environmentally sensitive area and would not result in potential impacts to the environment, including traffic, noise, air quality and water quality.

ATTACHMENT

Resolution No. 10817 - A Resolution Authorizing the City Manager to Execute a Contract Change Order for the Oil Index Increase with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital Southeast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046)

Submitted,



Mark Rackovan, PUBLIC WORKS DIRECTOR

RESOLUTION NO. 10817

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT CHANGE ORDER FOR THE OIL INDEX INCREASE WITH GOODFELLOW BROTHERS, LLC (CONTRACT NO. 174-21 20-060) FOR THE CAPITAL SOUTHEAST CONNECTOR SEGMENT D3(A), PROJECT NO. PW1607, FEDERAL PROJECT NO. 5288(046)

WHEREAS, the Capital SouthEast Connector Project is the Sacramento region's largest single transportation project; and

WHEREAS, the City of Folsom is a Member Jurisdiction of the Capital SouthEast Connector Joint Powers Authority and will implement the Project; and

WHEREAS, the Capital SouthEast Connector Project has, to date, been funded primarily through a Sacramento County sales-tax measure approved in 2004 by 75 percent of voters; and

WHEREAS, the Capital SouthEast Connector Project has established a program development budget that requires the use of Federal and State funds to advance the project towards timely construction; and

WHEREAS, the City of Folsom desires to construct the Capital SouthEast Connector Project Segment D3(A) along the City's border to four lanes with two eight-foot shoulders; and

WHEREAS, the City of Folsom received Surface Transportation Block Grant Program funding, and is eligible for federal reimbursement, up to \$15,000,000; and

WHEREAS, the City of Folsom received SB-1 funding, and is eligible for state reimbursement up to \$10,000,000; and

WHEREAS, this project was publicly advertised on July 13, 2020, with six bids received on September 9, 2020, with Goodfellow Brothers, LLC being the lowest responsive responsible bidder; and

WHEREAS, the City of Folsom entered into a contract with Goodfellow Brothers, LLC for construction of the Capital SouthEast Connector Segment D3(A); and

WHEREAS, a Contract Change Order will be utilized to compensate Goodfellow Brothers, LLC for adjustments in Caltrans Statewide Crude Oil Price Index; and

WHEREAS, the cost of changes to the Caltrans Statewide Crude Oil Price Index of \$354,766.26 is within the existing project budget contingency; and

WHEREAS, the agreement will be in a form acceptable to the City Attorney:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to Execute a Contract Change Order for the Oil Index Increase with Goodfellow Brothers, LLC (Contract No. 174-21 20-060) for the Capital SouthEast Connector Segment D3(A), Project No. PW1607, Federal Project No. 5288(046), in the amount of \$354,766.26.

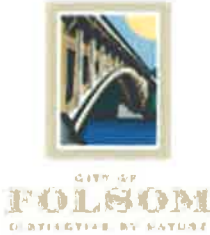
PASSED AND ADOPTED this 8th day of March 2022, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

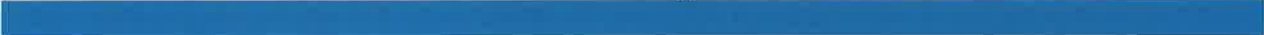
Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK



Folsom City Council Staff Report



MEETING DATE:	3/8/2022
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10818 – A Resolution of the City of Folsom Opposing California Statewide Initiative No. 21-0042A1 Related to Tax Measures
FROM:	City Clerk's Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends the City Council approve Resolution No. 10818 – A Resolution Opposing California Statewide Initiative No. 21-0042A1 Related to Tax Measures.

BACKGROUND / ISSUE

In 2018, the “Tax Fairness, Transparency and Accountability Act” was circulated to qualify for the November 2018 ballot. This initiative would have drastically limited local revenue authority. Through the successful work and advocacy of the League of California Cities and its coalition, the measure’s proponents withdrew the initiative from the ballot in June 2018.

On January 4, 2022, the California Business Roundtable filed the “Taxpayer Protection and Government Accountability Act”, now known as Initiative No. 21-0042A1. This measure is far more detrimental to cities than the measure filed in 2018, because it would decimate vital local and state services.

ANALYSIS

This initiative amends the State Constitution to change the rules for how state and local governments can impose taxes, fees, and other charges. The Initiative limits voters’ authority, adopts new and stricter rules for raising taxes and fees, and makes it more difficult to hold violators of state and local laws accountable.

According to the League of California Cities, this Initiative would:

1) Limit voter authority and accountability

- Limits voter input. Prohibits local voters from providing direction on how local tax dollars should be spent by prohibiting local advisory measures.
- Invalidates the Upland decision that allows a majority of local voters to pass special taxes. Taxes proposed by the Initiative are subject to the same rules as taxes placed on the ballot by a city council. All measures passed between January 2022 and November 2022 would be invalidated unless reenacted within 12 months.

2) Restrict local fee authority to provide local services

- Impacts franchise fees. Sets new standard for fees and charges paid for the use of local and state government property. The standard may significantly restrict the amount oil companies, utilities, gas companies, railroads, garbage companies, cable companies, and other corporations pay for the use of local public property. Rental and sale of local government property must be “reasonable” which must be proved by “clear and convincing evidence.”
- Except for licensing and other regulatory fees, fees and charges may not exceed the “actual cost” of providing the product or service for which the fee is charged. “Actual cost” is the “minimum amount necessary.” The burden to prove the fee or charge does not exceed “actual cost” is changed to “clear and convincing” evidence.

3) Restrict authority of state and local governments to issue fines and penalties for violations of law

- Requires voter approval of fines, penalties, and levies for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.

4) Restrict local tax authority to provide local services

- Requires voter approval to expand existing taxes (e.g., UUT, use tax, TOT) to new territory (e.g., annexation) or expanding the base (e.g., new utility service).
- City charters may not be amended to include a tax or fee.
- New taxes can be imposed only for a specific time period.
- Taxes adopted after Jan. 1, 2022, that do not comply with the new rules, are void unless reenacted.
- All state taxes require majority voter approval.
- Prohibits any surcharge on property tax rate and allocation of property tax to state.

The State Legislative Analyst’s Office estimates the initiative would have major fiscal effects of “lower or possibly substantially lower” state and local revenues. Initiative effects will depend upon future actions of voters, the Legislature, local governing bodies, and the courts.

This initiative has been cleared by the California Secretary of State for circulation, with a circulation deadline of August 2, 2022. Over 990,000 signatures are required in order to qualify for the ballot.

ATTACHMENTS

1. Resolution No. 10818 – A Resolution of the City of Folsom Opposing California Statewide Initiative No. 21-0042A1 Related to Tax Measures
2. League of California Cities Initiative 21-0042A1 Fact Sheet
3. Fiscal and Program Effects of Initiative 21-0042A1 on Local Governments

Submitted,

Christa Freemantle, CMC
City Clerk

ATTACHMENT 1

RESOLUTION NO. 10818

A RESOLUTION OF THE CITY OF FOLSOM OPPOSING CALIFORNIA STATEWIDE INITIATIVE NO. 21-0042A1 RELATED TO TAX MEASURES

WHEREAS, on January 4, 2022, the California Business Roundtable filed the “Taxpayer Protection and Government Accountability Act”, now known as Initiative No. 21-0042A1; and

WHEREAS, the measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources; and

WHEREAS, the measure includes undemocratic provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure, and would limit voter input by prohibiting local advisory measures where voters provide direction on how they want their local tax dollars spent; and

WHEREAS, the measure makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods; and

WHEREAS, the measure puts billions of dollars currently dedicated to state and local services at risk, and could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more; and

WHEREAS, the measure would also reduce funding for critical infrastructure like streets and roads, public transportation, drinking water, new schools, sanitation, and utilities.

THEREFORE, BE IT RESOLVED that the City of Folsom opposes the California Statewide Initiative no. 21-0042A1 related to tax measures.

PASSED AND ADOPTED on this 8th day of March, 2022, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

ATTACHMENT 2

Stop the Corporate Loopholes Scheme

Deceptive Proposition Allows Major Corporations to Avoid Paying their Fair Share and Evade Enforcement when they Violate Environmental, Health & Safety Laws

An association representing California's wealthiest corporations — including oil, insurance, banks and drug companies — is behind a deceptive proposition aimed for the November 2022 statewide ballot. Their measure would create major new loopholes that allow corporations to avoid paying their fair share for the impacts they have on our communities; while also allowing corporations to evade enforcement when they violate environmental, health, safety and other state and local laws. Here's why a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses **oppose** the Corporate Loophole Scheme:

Gives Wealthy Corporations a Major Loophole to Avoid Paying their Fair Share - Forcing Local Residents and Taxpayers to Pay More

- The measure creates new constitutional loopholes that **allow corporations to pay far less than their fair share for the impacts they have on our communities**, including local infrastructure, our environment, water quality, air quality, and natural resources – shifting the burden and making individual taxpayers pay more.

Allows Corporations to Dodge Enforcement When They Violate Environmental, Health, Public Safety and Other Laws

- The deceptive scheme creates new loopholes that makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods.

Jeopardizes Vital Local and State Services

- This far-reaching measure **puts at risk billions of dollars currently dedicated to critical state and local services**.
- It could **force cuts** to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services and more.
- It would also **reduce funding for critical infrastructure** like streets and roads, public transportation, drinking water, new schools, sanitation, utilities and more.

Opens the Door for Frivolous Lawsuits, Bureaucracy and Red Tape that Will Cost Taxpayers and Hurt Our Communities

- The measure will encourage **frivolous lawsuits, bureaucracy and red tape that will cost local taxpayers millions** — while significantly **delaying and stopping investments in infrastructure and vital services**.

Undermines Voter Rights, Transparency, and Accountability

- This misleading measure changes our constitution to make it more difficult for local voters to pass measures needed to fund local services and local infrastructure.
- It also includes a hidden provision that **would retroactively cancel measures that were passed by local voters** — effectively undermining the rights of voters to decide for themselves what their communities need.
- It would **limit voter input** by prohibiting local advisory measures, where voters provide direction to politicians on how they want their local tax dollars spent.

ATTACHMENT 3

Fiscal and Program Effects of Initiative 21-0042A1 on Local Governments

If Initiative 21-0042A1 is placed on the ballot and passed by voters, it will result in:

- Billions of local government fee and charge revenues placed at heightened legal peril. Related public service reductions across virtually every aspect of city, county, special district, and school services especially for transportation, and public facility use.
- Hundreds of millions of dollars of annual revenues from dozens of tax and bond measures approved by voters between January 1, 2022 and November 9, 2022 subject to additional voter approval if not in compliance with the initiative.
- Indeterminable legal and administrative burdens and costs on local government from new and more empowered legal challenges, and bureaucratic cost tracking requirements.
- The delay and deterrence of municipal annexations and associated impacts on housing and commercial development.
- Service and infrastructure impacts including in fire and emergency response, law enforcement, public health, drinking water, sewer sanitation, parks, libraries, public schools, affordable housing, homelessness prevention and mental health services.

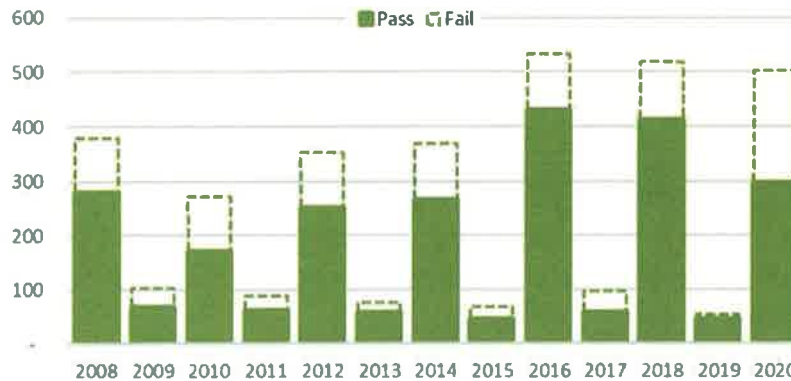
1. Local Government Taxes and Services Threatened

With regard to taxes, Initiative 21-0042A1:

- Prohibits advisory, non-binding measures as to use of tax proceeds on the same ballot.
 - Voters may be less informed and more likely to vote against measures.
- Eliminates the ability of special tax measures proposed by citizen initiative to be enacted by majority voter approval (*Upland*).
 - Because the case law regarding citizen initiative special taxes approved by majority vote (*Upland*) is so recent, it is unknown how common these sorts of measures might be in the future. This initiative would prohibit such measures after the effective date of the initiative. Any such measures adopted after January 1, 2022 through November 8, 2022 would be void after November 9, 2023.
- Requires that tax measures include a specific duration of time that the tax will be imposed. This seems to require that all tax increases or extensions contain a sunset (end date).
 - This would require additional tax measures to extend previously approved taxes at additional cost to taxpayers.
- Requires that a tax or bond measure adopted after January 1, 2022 and before the effective date of the initiative (November 9, 2022) that was not adopted in accordance with the measure be readopted in compliance with the measure or will be void twelve months after the effective date of the initiative (November 9, 2023).
 - If past election patterns are an indication, dozens of tax and bond measures approving hundreds of millions of annual revenues may not be in compliance and would be subject to reenactment. Most will be taxes without a specific end date. Because there is no regularly scheduled election within the 12 months following the effective date of the initiative, measures not in compliance would need to be placed on a special election ballot for approval before November 9, 2023 or the tax will be void after that date. General tax measures would require declaration of emergency and unanimous vote of the governing board.

- Requires voter approval to expand an existing tax to new territory (annexations). This would require additional tax measures and would deter annexations and land development in cities.
 - If a tax is "extended" to an annexed area without a vote after January 1, 2022, it will be void 12 months later until brought into compliance. Because there is no regularly scheduled election within the 12 months following the effective date of the initiative, such extensions for general taxes would, under current law, each require unanimous vote of the agency board to be placed on a special election ballot or would be void after November 9, 2023.

Local Tax and Bond Measures - California
 Cities, Counties, Special Districts, Schools



1.a. Number of Measures and Value of Local Taxes at Risk¹

In 2020, voters in California approved 293 local tax and bond measures for cities, counties, special districts and schools (95 in March and 198 in November). The approved measures enacted \$3.85 billion in new annual taxes including \$1.3 billion for cities, \$302 million for counties, \$208 million for special districts (fire, wastewater, open space and transit districts), and \$2.037 billion for schools (including for school bonds).

Most tax measures go to the ballot during a presidential or gubernatorial primary or general election in an even year. However, some tax measures are decided at other times. During 2019, there were 45 approved tax and bond measures (24 city, 14 special district, 7 school) adopting \$154.0 million in new annual taxes (\$124.0 million city, \$10.5 million special district and \$19.2 million school).

Most tax and bond measures comply with the new rules in Initiative 21-0042Amdt#1 except:

- Dozens of taxes would require end dates. This would require additional measures in future years to extend the taxes further. Very few extensions of existing local taxes fail.
- Majority vote general tax measures could not be accompanied on the same ballot with an advisory, non-binding measure as to use of tax proceeds.
- Special taxes placed on the ballot via citizen initiative would require two-thirds voter approval.

Bond measures have fixed terms. Historically, about 20 percent of other tax measures have included specific durations (i.e. sunsets). Advisory measures as to use of revenues are uncommon. I do not expect the provisions of 21-0042A1 to have any substantial effect on passage rates. However, some 2022 approved measures would likely have to put back on the ballot.

Based on history, a reasonable estimate of the annualized tax revenues estimated to be approved by

¹ Source: Compilation and summary of data from County elections offices.

voters in 2022 and placed at risk by this initiative is at least **\$1.5 billion, including \$1.0 billion from cities and \$500 million from counties and special districts.**²

1.b. Additional Costs and Public Service Effects of the Tax Provisions

In addition to service delays and disruption due to new tax revenues placed at greater legal risk, there will be substantial additional costs for legal defense. The deterrence of taxes for annexations will delay and deter municipal annexations.

2. “Exempt Charges” (fees and charges that are not taxes) and Services Threatened

With regard to fees and charges adopted after January 1, 2022, Initiative 21-0042A1:

- Subjects new fees and charges for a product or service to a new "actual cost" test defined as "(i) the minimum amount necessary to reimburse the government for the cost of providing the service to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In addition, subjects these same charges to a new, undefined, "reasonable" standard.
- Subjects fees and charges for entrance to local government property; and rental and sale of local government property to a new, undefined, "reasonable" test.
- Subjects a challenged fee or charge to new, higher burdens of proof if legally challenged.
- Prohibits a levy, charge or exaction regulating or related to vehicle miles traveled, imposed as a condition of property development or occupancy.

2.a. Value on New Local Government Fees and Charges at Risk³

Virtually every city, county, and special district must regularly (e.g., annually) adopt increases to fee rates and charges and revise rate schedules to accommodate new users and activities. Most of these would be subject to new standards and limitations under threat of legal challenge. Based on the current volume of fees and charges imposed by local agencies and increases in those fees simply to accommodate inflation, the amount of local government fee and charge revenue placed at risk is about **\$1 billion per year including those adopted since January 1, 2022. Of this \$1 billion, about \$570 million is for special districts, \$450 million is cities, and \$260 million is counties.**⁴

Major examples of affected fees and charges are:

1. Nuisance abatement charges - such as for weed, rubbish and general nuisance abatement to fund community safety, code enforcement, and neighborhood cleanup programs.
2. Commercial franchise fees.
3. Emergency response fees - such as in connection with DUI.
4. Advanced Life Support (ALS) transport charges.
5. Document processing and duplication fees.
6. Transit fees, tolls, parking fees, public airport and harbor use fees.
7. Facility use charges, fees for parks and recreation services, garbage disposal tipping fees.

In addition to fees and charges, the measure puts fines and penalties assessed for the violation of state and

² This does not include citizen initiative special tax approved by majority but not two-thirds. Because this approach is new, the number of these measures and amount of revenue involved cannot be estimated.

³ Source: California State Controller Annual Reports of Financial Transactions concerning cities, counties and special districts, summarized with an assumed growth due to fee rate increases (not population) of 2 percent annually.

⁴ School fees are also affected but the amount is negligible by comparison.

local law at risk, making them taxes subject to voter approval under certain circumstances.

2.b. Additional Costs and Public Service Effects of the Fee/Charge Provisions

In addition to service delays and disruptions due to fee and charge revenues placed at greater legal risk, there would be substantial additional costs for legal defense. The risk to fees and charges will make infrastructure financing more difficult and will deter new residential and commercial development.

mc

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Folsom City Council Staff Report

MEETING DATE:	3/8/2022
AGENDA SECTION:	Public Hearing
SUBJECT:	Public Hearing No. 5 Under the California Voting Rights Act a. Ordinance No. 1324 - An Ordinance of the City of Folsom Establishing a By-District Election Process in Five Council Districts Pursuant to California Elections Code Section 10010 and Adding New Sections to Chapter 2.06 of the Folsom Municipal Code to Provide for City Council Election Districts (Introduction and First Reading)
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council hold the last of five public hearings to: (1) receive community input on the “preferred” map selected by the City Council on February 22, 2022, (2) adopt a final district map by introducing and conducting first reading of Ordinance No. 1324, an Ordinance of the City of Folsom Establishing a By-District Election Process in Five Council Districts Pursuant to California Elections Code Section 10010 and Adding New Sections to Chapter 2.06 of the Folsom Municipal Code to Provide for City Council Election Districts.

BACKGROUND / ISSUE

On July 27, 2021, the City Council adopted a Resolution of Intention to transition from at-large to by-district elections. This is the last of five required public hearings to start the transition process.

POLICY / RULE

California Government Code Section 34886 authorizes the legislative body of a city to adopt an ordinance that requires the members of the legislative body to be elected “by district”. The change must be made in furtherance of the purposes of the California Voting Rights Act.

ANALYSIS

1. SUMMARY OF PAST PUBLIC HEARINGS

The process to transition to by-district election requires five public hearings where the community is invited to provide input regarding the composition of future City Council districts. Pursuant to California Elections Code Section 10010, the first two public hearings to inform the public about the districting process (held on September 14 and October 12, 2021) are required before any map of district boundaries for the proposed voting districts can be drawn. The Council reviewed proposed maps at the third public hearing on January 11, 2022 and identified 8 focus maps.

The City Council held the fourth public hearing on February 8, 2022, reviewed the focus maps, received public input and comments, worked on a draft “preferred” map with the City’s demographer and the public, and discussed election sequencing. The City Council voted to continue the fourth public hearing to February 15, 2022 to give the community an opportunity to provide further input on the draft “preferred” map.

At the February 15th meeting, the City Council received further public comments and, with the assistance of the City’s demographer, prepared two draft “preferred” maps with input from the City Council and the public. The City Council also discussed election sequencing in that members of the City Council from Council Districts 1, 3, and 5 shall be elected on a by-district basis beginning in 2022, and members of the City Council from Council Districts 2 and 4 shall be elected on a by-district basis beginning in 2024. At the end of the public hearing on February 15, 2022, the City Council voted to further continue the hearing to February 22, 2022 in order to solicit further community comments and feedback on the 2 draft “preferred” maps.

Following public comments and further discussions on February 22, 2022, the City Council selected “Preferred Map 2” as the final “preferred” map, and determined that members of the City Council from **Council Districts 1, 3, and 5** shall be elected on a by-district basis beginning with the General Municipal Election **in 2022**, and members of the City Council from **Council Districts 2 and 4** shall be elected on a by-district basis beginning with the General Municipal Election **in 2024**.

2. ELECTION SEQUENCING

As the City transitions from at-large to by-district elections, the City Council must set a “sequence of elections” as required by the Elections Code so that the terms of the Councilmembers remain staggered pursuant to the City Charter, with 3 Councilmembers

elected for a four-year term in 2022 and every 4 years thereafter, and 2 Councilmembers elected for a four-year term in 2024 and every 4 years thereafter.

Accordingly, when the City Council adopts a final district map, the Council will also have to identify which 3 Council Districts will be up for election in 2022 and which 2 Council Districts will be up for election in 2024. In determining the sequence of the district elections, the City Council is required to give special consideration to the purpose of the California Voting Rights Act (i.e., not to impair the ability of voters who are members of a race, color or language minority group to elect candidates of their choice or their ability to influence the outcome of an election) and shall take into account the preferences expressed by members of the districts.

In a Council District sequenced for election in 2022 or 2024 that has no currently serving Councilmember, any eligible registered voter in that Council District may run for election in that District.

A Councilmember whose term ends in 2022 residing in a Council District sequenced for the 2022 election can run for election in 2022 to represent that Council District. Similarly, a Councilmember whose term ends in 2024 residing in a Council District sequenced for the 2024 election can run for election in 2024 to represent that Council District.

A Councilmember whose term ends in 2022 residing in a Council District sequenced for the 2024 election will leave office at the end of his or her term in 2022, and can run for election when that District is up for election in 2024.

A Councilmember whose term ends in 2024 residing in a Council District sequenced for the 2022 election has the option to either serve out his or her term representing the City at-large until 2024, or run for election in 2022 to represent that Council District for a new four-year term. If the Councilmember chooses to run in 2022 and wins a new four-year term representing the District, a vacancy for the remaining two years of that Councilmember's at-large term will be filled by the City Council by appointment or special election.

3. MAPPING CRITERIA

Cities must comply with the following legally required criteria under federal and state law:

1. Each district must have substantially equal population as determined by the census.
2. Race cannot be the predominant factor or criteria when drawing districts.
3. Council districts shall not be adopted for the purpose of favoring or discriminating against a political party.
4. Incarcerated persons may not be counted toward a city's population, except if their last known place of residence is assigned to a census block in the city.

5. The districting plan must comply with the Federal Voting Rights Act, which prohibits districts from diluting minority voting rights and encourages a majority-minority district if the minority group is sufficiently large and such a district can be drawn without race being the predominant factor.
6. The City Council shall adopt district boundaries using the following criteria as set forth in the following order of priority:
 - A. To the extent practicable, council districts shall be geographically contiguous. Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous.
 - B. To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division. A “community of interest” is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation (e.g., school district boundaries, neighborhood boundaries, homeowners’ associations, retail/commercial districts, etc.). Communities of interest do not include relationships with political parties, incumbents, or political candidates.
 - C. Council district boundaries should be easily identifiable and understandable by residents. To the extent practicable, council districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the city.
 - D. To the extent practicable, and where it does not conflict with the preceding criteria, council districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.

4. FIFTH AND LAST PUBLIC HEARING

At this fifth and last public hearing, the City Council is requested to adopt “Preferred Map 2” as the final district map and to complete the transition process by introducing and conducting first reading of Ordinance No. 1324.

5. PUBLIC HEARING SCHEDULE

The City Council is the final decision-making body on adopting district boundaries. The required public hearings have been scheduled and held as follows:

Date	Meeting Type	Public Hearing	Item Topic at Meeting
9/14/2021	Public Hearing	1	Completed. Public input on composition of districts (before maps are drawn, hold 2 public hearings on composition of districts over period of no more than 30 days)
10/12/2021	Public Hearing	2	Completed. Continue to receive public input on composition of districts (must be held within 30 days of Public Hearing No. 1)
1/11/2022	Public Hearing	3	Completed. Discussion of proposed district maps. First draft of map must be published 7 days before Public Hearing No. 3
2/8/2022	Public Hearing	4	Completed. Public input and identify preferred District Map (hold 2 public hearings within 45 days of Public Hearing No. 3). Discuss sequence of elections
2/15/2022	Special Meeting – Continued Public Hearing	4	Completed. Public input and identify preferred District Map. Discuss sequence of elections
2/22/2022	Continued Public Hearing	4	Completed. Public input and identify preferred District Map. Discuss sequence of elections
3/8/2022	Public Hearing	5	Adoption of final District Map, transition to district elections Ordinance introduced
3/22/2022	Regular Meeting		Second reading of Ordinance (effective 30 days after)

To increase public awareness of the transition to district elections, the City has activated a variety of public communication channels to engage the Folsom community. Districting information is featured on the City's website and City newsletters. Numerous frequently asked questions have been posted on the dedicated districting webpages on the City's website.

FINANCIAL IMPACT

The services of a demographer are required to assist the City transition to a by-district election system under specific aggressive timelines as required by the California Elections Code. Staff anticipates the cost to be approximately \$40,000.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §15061(c)(3)), or is otherwise not considered a project as defined by Public Resources Code §21065 and CEQA Guidelines §15060(c)(3) and §15378. The Council's decision regarding by-district elections meets the above criteria and is not subject to CEQA. No environmental review is required.

ATTACHMENT

1. "Preferred Map 2" selected by the City Council on February 22, 2022 as the final "preferred" map
2. Ordinance No. 1324, an Ordinance of the City of Folsom Establishing a By-District Election Process in Five Council Districts Pursuant to California Elections Code Section 10010 and Adding New Sections to Chapter 2.06 of the Folsom Municipal Code to Provide for City Council Election Districts (Introduction and First Reading)









Respectfully submitted,

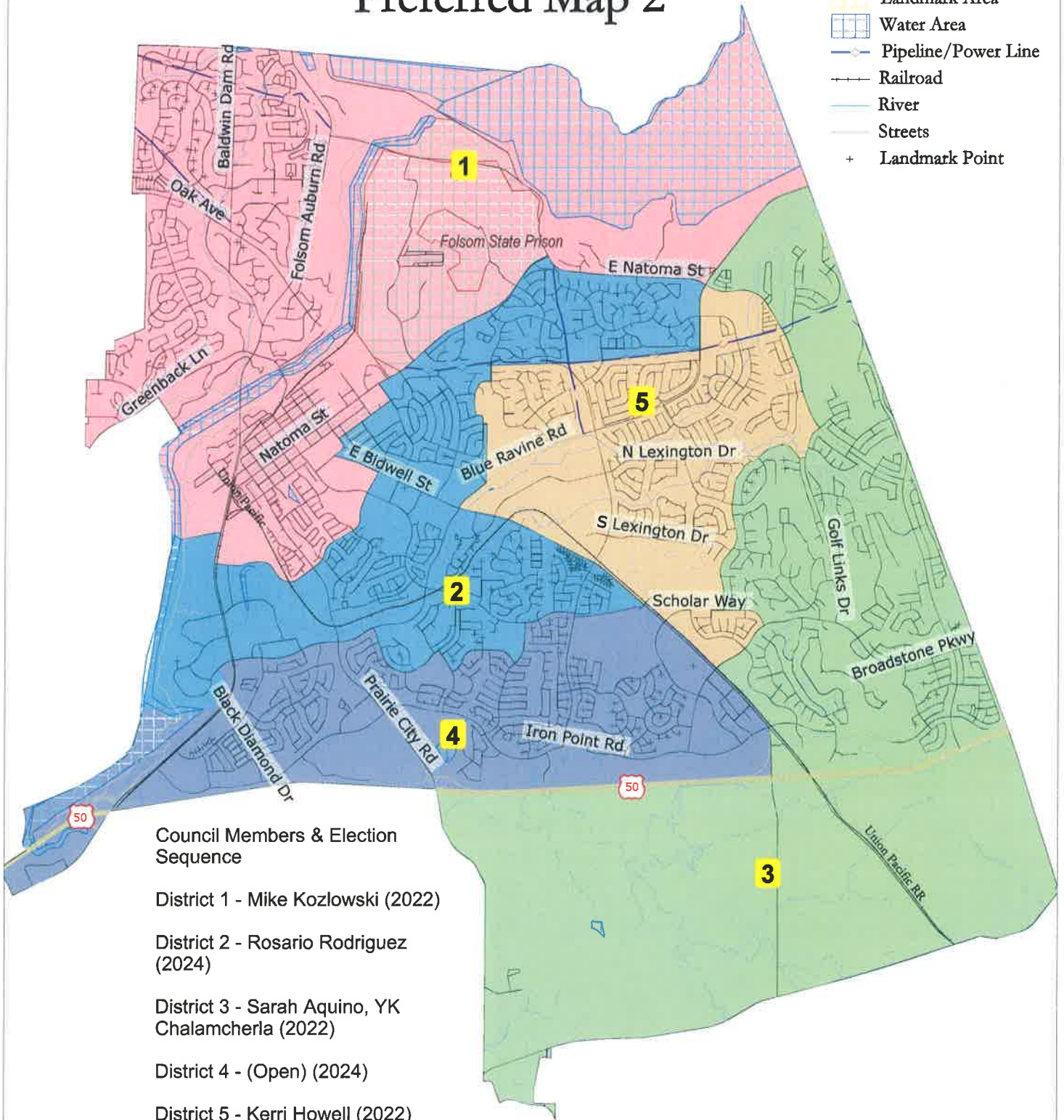
Steven Wang, City Attorney

ATTACHMENT 1

Folsom 2022 Districting

Preferred Map 2

- Map layers**
-  Preferred Map 2
 -  Landmark Area
 -  Water Area
 -  Pipeline/Power Line
 -  Railroad
 -  River
 -  Streets
 -  Landmark Point



◆2021 CALIPER

ATTACHMENT 2

ORDINANCE NO. 1324

AN ORDINANCE OF THE CITY OF FOLSOM ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FIVE COUNCIL DISTRICTS PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10010, AND ADDING NEW SECTIONS TO CHAPTER 2.06 OF THE FOLSOM MUNICIPAL CODE TO PROVIDE FOR CITY COUNCIL ELECTION DISTRICTS

WHEREAS, the City of Folsom currently elects its five City Councilmembers using an at-large election system; and

WHEREAS, in the at-large election system, candidates may reside in any part of the City and each City Councilmember is elected by the voters of the entire City; and

WHEREAS, in a by-district election system, a candidate for City Council must reside in the district which he or she wishes to represent, and only the voters of that district are entitled to vote to decide who their representative for that district will be; and

WHEREAS, on October 30, 2020, the City received a letter from attorney Scott Rafferty asserting that the City's at-large electoral system violated the California Voting Rights Act and threatening litigation if the City declined to adopt by-district elections; and

WHEREAS, while Mr. Rafferty's letter did not contain any evidence of a violation, the cost of defending against a claim under the California Voting Rights Act is extremely high, no public agency has ever successfully defended such a claim, and spending such an expense would severely burden the City's resources and curtail the City's ability to provide essential services to Folsom residents; and

WHEREAS, Section 34886 of the Government Code permits the City Council to adopt an ordinance to change the City's method of election to a "by-district" system without being required to submit the ordinance to the voters for approval, subject to certain conditions; and

WHEREAS, the City wishes to avoid litigation and to take advantage of the provisions of Government Code section 34886, and therefore, pursuant to California Government Code section 34886, it is declared that this change in the method of electing members of the Folsom City Council is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Elections Code sections 14025 *et. seq.*); and

WHEREAS, at its regular meeting on July 17, 2021, the City Council adopted Resolution No. 10575, a resolution of intent to transition to a by-district election system pursuant to Section 10010 of the Elections Code; and

WHEREAS, pursuant to Section 10010 of the Elections Code, a city that changes from an at-large method of election to a by-district method of election shall hold at least two public hearings over a period of no more than thirty days, at which the public is invited to provide input regarding

the composition of the districts before drawing a draft map or maps of the proposed boundaries of the districts; and

WHEREAS, before any maps of the proposed boundaries of the districts were considered, the City held public hearings on September 14, 2021, and October 12, 2021, at which time input from the public on the proposed composition of the districts were invited and heard; and

WHEREAS, on and prior to holding the third public hearing on January 11, 2022, pursuant to Section 10010 of the Elections Code, the City published and made available for public review draft maps for consideration by the City Council; and

WHEREAS, pursuant to Section 10010 of the Elections Code, the City held a third public hearing on January 11, 2022, at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

WHEREAS, after the close of the public hearing on January 11, 2022, the City Council provided input as to the draft maps, published and made available for public review eight “focus” draft maps selected by the City Council for further consideration pursuant to Section 10010 of the Elections Code; and

WHEREAS, pursuant to Section 10010 of the Elections Code, the City held a fourth public hearing on February 8, 2022, where the public provided input regarding the content of the “focus” maps, and the City Council worked on a “preferred” map with the City’s demographer and discussed the potential sequence of elections; and

WHEREAS, at the end of the public hearing on February 8, 2022, the City Council voted to continue the hearing to February 15, 2022, in order to solicit further community comments and feedback on the draft “preferred” map prepared by the City’s demographer with input from the City Council and the public on February 8, 2022; and

WHEREAS, at the continued public hearing on February 15, 2022, the City Council selected two draft “preferred” maps prepared by the City’s demographer with input from the City Council and the public (“Preferred Map 1” and “Preferred Map 2”), and voted to further continue the hearing to February 22, 2022, in order to solicit further community comments and feedback on the two draft “preferred” maps; and

WHEREAS, following public comments and further discussions, the City Council at the end of the continued fourth public hearing on February 22, 2022, selected “Preferred Map 2” as the final “preferred” map; and

WHEREAS, pursuant to Section 10010 of the Elections Code, the City held a fifth public hearing on March 8, 2022, where the public provided input prior to the City Council adopting a final district map and considering an ordinance that would establish a by-district election system; and

WHEREAS, it is the position of the City Council that map “Preferred Map 2”, attached hereto as Exhibit A, will serve the best interests of the City of Folsom and be consistent with the California Voting Rights Act and applicable laws; and

WHEREAS, map identified as “Preferred Map 2”, attached hereto as Exhibit A, is selected and adopted by the City Council as the final district map in the creating of a by-district election system in the City of Folsom.

NOW, THEREFORE, the City Council of the City of Folsom does hereby ordain as follows:

SECTION 1 PURPOSE

The purpose of this Ordinance is to enact, pursuant to Government Code Section 34886, an ordinance providing for the by-district election process to elect members of the Folsom City Council in five (5) single-member districts pursuant to California Elections Code Section 10010.

SECTION 2 DECLARATION

Pursuant to Government Code section 34886, it is declared that this change in the method of electing members of the City Council of the City of Folsom is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Elections Code Sections 14025 *et seq.*)

SECTION 3 CITY COUNCIL DISTRICTS

The City of Folsom is hereby divided into five (5) City Council Districts with the boundaries of the districts as shown in Exhibit A attached hereto and incorporated herein by reference.

SECTION 4 ADDITION TO CODE

Sections 2.06.090, 2.06.100, and 2.06.110 are hereby added to the Folsom Municipal Code to read as follows:

2.06.090 City council by-district electoral system.

Pursuant to Government Code Section 34886 and the schedule established in Section 2.06.100 of this Chapter, commencing with the November 2022, General Municipal Election, each member of the Folsom City Council shall be elected by district in five (5) single-member districts. The City’s by-district electoral system shall be conducted in accordance with California Government Code Section 34871(a).

2.06.100 Establishment of city council electoral districts.

A. Pursuant to Section 2.06.090 of this Chapter, members of the Folsom City Council from Council Districts 1, 2, and 3 shall be elected on a by-district basis as that term is defined in Government Code Section 34871(a), beginning with the General Municipal Election in November 2022 and every four years thereafter, as such Council Districts may be amended from time to time pursuant to applicable law.

B. Pursuant to Section 2.06.090 of this Chapter, members of the Folsom City Council from Council Districts 2 and 4 shall be elected on a by-district basis as that term is defined in Government Code Section 34871(a), beginning with the General Municipal Election in November 2024 and every four years thereafter, as such Council Districts may be amended from time to time pursuant to applicable law.

C. Except as provided in subsection (E) below, all candidates for the City Council and all appointed and elected Councilmembers shall fully comply with applicable law including but not limited to Government Code Section 34882 and Elections Code Section 10227. Termination of residency in a Council District by a Councilmember shall create an immediate vacancy for that Council District unless a substitute residence within that district is established within thirty (30) calendar days after the termination of residency.

C. Only the registered voters residing in the Council District may vote for candidates running for City Council in that District.

E. Notwithstanding any other provision of this Section, each of the Councilmembers in office at the time this Chapter takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is qualified. Vacancies in Councilmember offices elected at-large at the time this Chapter takes effect may be filled by the City Council from the City at-large pursuant to applicable law until the expiration of that at-large term. At the end of the term of each Councilmember, that member's successor shall be elected on a by-district basis in the Council Districts established herein and as subsequently reapportioned as provided by law. A vacancy in a Councilmember office elected by-district shall be filled by a person qualified to hold the office in that vacant Council District pursuant to applicable law.

2.06.110 Map of council districts.

The City Clerk shall maintain a map of the City showing the current boundaries and numbers of each Council District as they are established and may be amended from time to time by ordinance of the City Council. The map of the initial Council Districts is attached hereto as Exhibit A and incorporated herein by reference.

SECTION 5 SCOPE

Except as set forth in this Ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 6 NO MANDATORY DUTY OF CARE

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 7 SEVERABILITY

If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

SECTION 8 EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This Ordinance was introduced and the title thereof read at the regular meeting of the City Council on March 8, 2022, and the second reading occurred at the regular meeting of the City Council on March 22, 2022.

On a motion by Council Member _____ seconded by Council Member _____, the foregoing Ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 22nd day of March, 2022 by the following roll-call vote:

AYES: Councilmember(s):

NOES: Councilmember(s):

ABSENT: Councilmember(s):

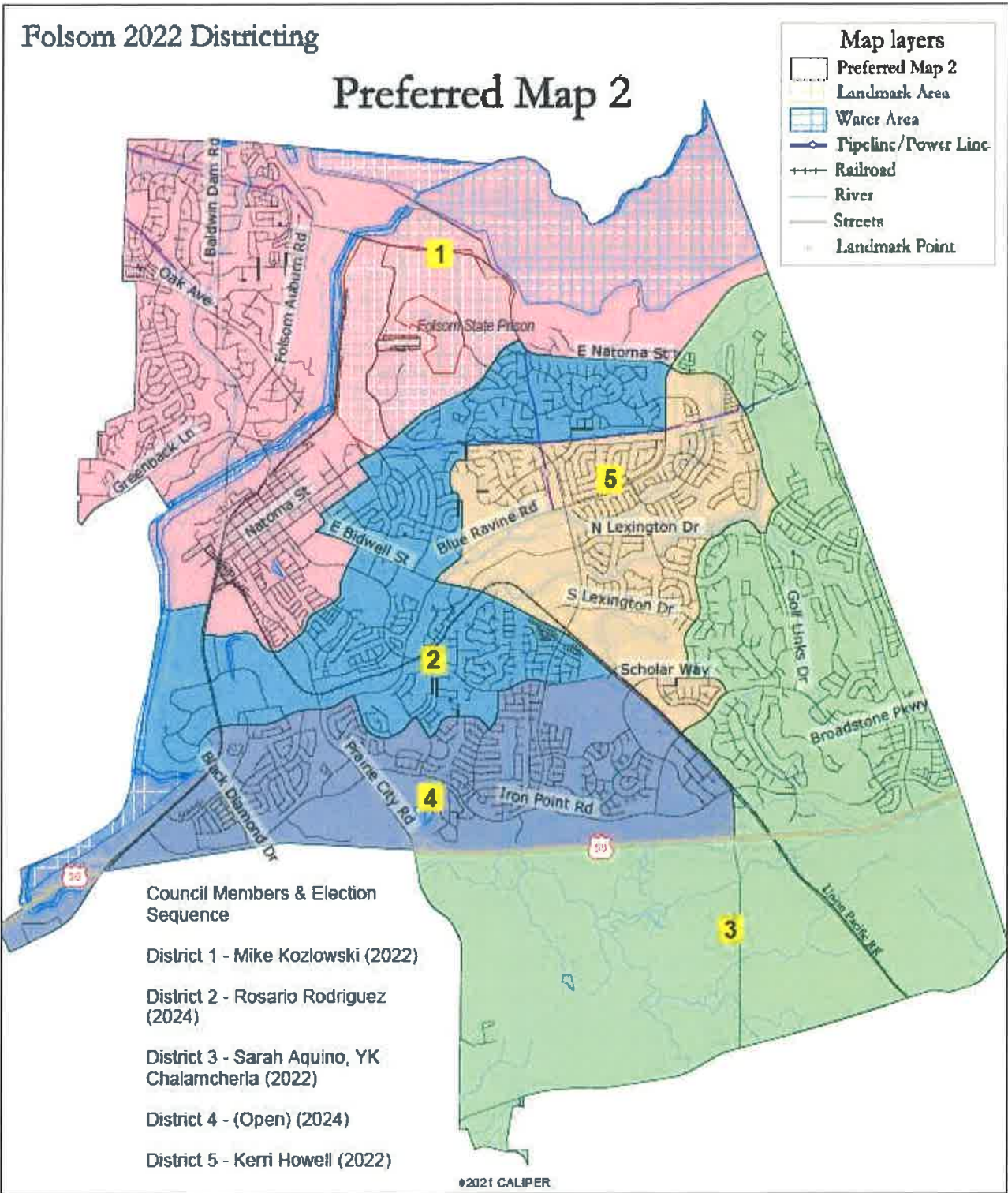
ABSTAIN: Councilmember(s):

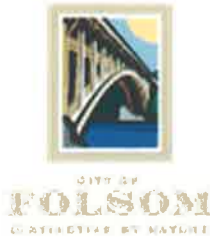
Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

EXHIBIT A





Folsom City Council Staff Report



MEETING DATE:	3/8/2022
AGENDA SECTION:	Public Hearing
SUBJECT:	Ordinance No. 1325 - An Ordinance Repealing and Re-Enacting Chapter 17.61 of the Folsom Municipal Code Pertaining to Home Occupations (Introduction and First Reading)
FROM:	Community Development Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council introduce and conduct the first reading of Ordinance No. 1325 - An Ordinance Repealing and Re-Enacting Chapter 17.61 of the Folsom Municipal Code Pertaining to Home Occupations.

BACKGROUND / ISSUE

Issue: A home occupation is any business-related use within a residential structure or accessory structure that is secondary to the residential use. Considering the ongoing COVID-19-related restrictions during the pandemic, which have had a disproportionate impact on small businesses, as well as the continued growth of home-based businesses, staff was asked to look at whether the City should update its home occupation permit (HOP) regulations to provide more flexibility.

Based on staff's review as well as input from the Planning Commission and the public, the Home Occupations ordinance, which was last updated in 1997, it was determined that the ordinance did need to be updated to address the need for flexibility, provide necessary clarifications, and to reduce inconsistencies with the rest of the Zoning Code. The new draft ordinance is designed to address these issues.

Background: Home-based businesses are regulated by the City in the Folsom Municipal Code (FMC). The owner and operator of a home-based business must obtain a City business

license as set forth in Chapter 5.04 of the FMC. In addition, home-based businesses are subject to the requirements of Title 17 of the FMC, which is commonly referred to as the Zoning Code. Chapter 17.61 provides the regulations associated with home-based businesses through the home occupation permit process. As described in this report, the General Plan policy and the intent of the current chapter in the Zoning Code is to allow home-based businesses while maintaining the residential character of the neighborhood and preventing undesirable impacts to nearby residences often associated with commercial business activity.

To address the intent and purpose of the current ordinance, home occupations (i.e., home-based businesses), as currently set forth in Section 17.61.070 of the FMC, must meet the following criteria:

- Size: The business, including storage or equipment, cannot take up more than 25% of the floor area of the dwelling unit.
- Number of Employees: Employment is limited to the residents and no more than two (2) non-resident employees on-site.
- Clients: Clients are limited to no more than two (2) at one time and no more than eight (8) clients per day. Clients are permitted between the hours of 7:00 am to 10:00 pm on weekdays and 8:00 am to 6:00 pm on weekends.
- Vehicles: Only one (1) commercial vehicle up to one-ton is allowed.
- Parking: Off-street parking must be provided for any commercial vehicle associated with the home occupation (i.e., company car or truck).
- Deliveries: No more deliveries than is normal for a residence (i.e., no more than 1 per day).
- Signage: Signage is limited to one attached, suspended or projecting sign no more than one (1) square foot in size.
- Nuisances: No activity that produces noise, smoke, odors, glare, electrical interference, or vibrations that can be detected beyond the site is allowed.
- Other Conditions: Additional conditions may be imposed as deemed necessary by the Community Development Director consistent with the intent of the ordinance.

The Planning Division of the Community Development Department reviews all home occupation permit applications. Any home occupation permit application that could involve flammable or combustible materials is routed to the Fire Department for review, while applications involving the sales of firearms or massage therapy are routed to the Police Department for review. Planning staff then makes a determination on behalf of the Community Development Director about whether the permit should be approved or denied based on the criteria listed above and input from the Police or Fire Departments. Renewals

are handled by the Finance Department. Complaints related to home-business activities are handled by the Code Enforcement Division in the Community Development Department.

The issuance or denial of a home occupation permit may be appealed to the Planning Commission. The Planning Commission may attach additional conditions to the permit that are necessary to ensure compliance with the intent. The decision of the Planning Commission can also be appealed to the City Council. Once granted, the permit is valid for one year.

In addition to the City's home occupation permit requirements, some residential neighborhoods in Folsom are subject to conditions, covenants, and restrictions (CC&Rs). These are private regulations typically monitored and enforced by a homeowner's association (HOA), which may further regulate or in some cases prohibit home-based businesses. Regardless of what zoning regulations allow, the City has no control over conditions, covenants, and restrictions, or the actions of an HOA.

POLICY / RULE

There are two important policies from the City's 2035 General Plan that relate either directly or indirectly to the issue of home-based business and home occupations. These policies are:

- LU 1.1.1 Zoning Ordinance: Ensure that the Folsom Zoning Ordinance is consistent with the 2035 General Plan.
- LU 6.1.8 Home-Based Businesses: With issuance of a home occupation permit, allow home offices and home-based businesses that are compatible with the character of the residential unit and do not significantly impact the neighborhood.

In addition, the current Zoning Code provides the intent behind the original regulation of home-based businesses through the home occupation permit process and defines a home occupation:

- 17.61.010 Statement of purpose. It is the purpose of this chapter to recognize the residence as a viable location for certain types of occupations and to ensure the compatibility of home occupations with principal residential uses, protecting the integrity and character of the neighborhood by minimizing negative impacts of commercial uses being conducted in residential areas.
- 17.61.020 Home occupation defined. "Home occupation" means any business-related use carried on within a residential structure or accessory structure thereto, primarily by the residents thereof, which use is secondary to the residential use of the structure. The home occupation must not substantially or materially change the residential character of the surrounding neighborhood.

ANALYSIS

Staff analyzed the following issues based on feedback from the public and staff's own experience with the current home occupation regulations including code enforcement complaints. The issue areas included:

- When a home occupation permit should be required
- Hours of operation
- Number of deliveries
- Signage
- Parking
- Number of clients/customers per hour and per day
- On-site versus off-site activities
- Manufacturing and technology businesses
- Inconsistencies between City commercial business regulations and home-base regulations
- Exterior modifications for home-based businesses
- Inappropriate business types for home-based businesses
- Administration

On May 5, Planning staff held a workshop with the Planning Commission to get input on the current home occupation regulations and areas for potential change. While the Commission was supportive of changes to the ordinance to encourage flexibility, they also wanted some clarifications and restrictions. The input that staff received at the workshop included:

- Support for a prohibited uses list
- Need to clarify when a home occupation permit is required
- Need to increase number of allowed deliveries
- Need to reduce nighttime hours from 10 pm to 8 pm
- Did not want to allow lighted signage
- Wanted to increase the number of clients/customers at one time and per day
- Did not want to allow uses prohibited in commercial zones as home occupations

A detailed analysis of these issues, current City regulations, and the proposed changes in the new ordinance are included as Attachment 3 to this staff report.

Based on the Commission input and direction, staff prepared a draft ordinance, which was presented to the Planning Commission for consideration on September 1, 2021. Staff was directed to make additional changes and staff returned on November 17, 2021 with a revised ordinance for consideration. The Planning Commission directed additional changes to the draft Ordinance and, then with those changes included, recommended, by a vote of 6 to 1 that the City Council repeal and re-enact Chapter 17.61 of the Folsom Municipal Code (FMC) related to home occupations.

As a result of the changes, the new ordinance should provide more clarity and flexibility. Some of the key changes include:

- Increased number of deliveries/pickups per day (from 1 to 4).
- Clarified that a home occupation permit is only needed when the activity involves the sale or storage of goods or providing services to customers on or from the property.
- Established the same hours for every day of the week – 8 am to 8 pm.
- Created a prohibited uses list to make clear what uses are not appropriate in residential areas.
- Increased number of clients/customers allowed at one time from 2 to 4 and increased the total number of clients/customers from 8 to 10 per day.
- Made sure that if a federal or state license is required for operation that proof of the license is presented to the City before the home occupation permit is issued.
- Added strict conditions for the sale of firearms and ammunition but increased the number of firearms sold at one time from two to four.

On the issue of retail store fronts in residential areas, most of the Commission members felt that modifications to the exterior of a residence to make it appear as a commercial business was not compatible with General Plan policy LU 6.1.8, which states that the City should allow home occupations and home-based businesses that are “compatible with the character of the residential unit and do not significantly impact the neighborhood.” For instance, in a situation where one-third of the homes on a street had home occupation permits and altered the exterior of the home or garage to look like a business then the character of that residential street would change to more of a mixed-use environment.

Overall, the Planning Commission wanted to be supportive of home-based businesses and the changes the Commission directed were done because most members felt that many of these uses were already subject to licensing and oversight from either state or federal agencies or both. In addition, the nuisance prohibitions that existed in the ordinance along with the City noise ordinance (Chapter 8.42 of the FMC) were sufficient to avoid issues with these uses that negatively impact the residential character of neighborhoods. These revisions removed the following activities from the prohibited uses list:

- Sale and storage of ammunition
- Manufacture, reload and sale of ammunition
- Assembly and manufacturing uses
- Tattoo or body art

The Commission also voted to increase the number of clients/customers present at one time from two (2) to four (4) and increase the number of daily clients/customers from eight (8) to

ten (10). The Commission also voted to increase the number of firearms that can be sold to a customer at one time from two to four.

These changes allow for a greater range of home-based businesses and provide more flexibility. However, one area where some inconsistency between the Home Occupations Ordinance and the rest of the Zoning Code remains is that some commercial uses that are allowed as home occupations are either not allowed or only allowed with a conditional use permit in the City's commercial zones. This makes the City of Folsom unique in terms of the type of business activities that are allowed at the home.

As shown in Table 1, most jurisdictions in Sacramento County and adjacent Placer County do not allow ammunition storage and sales nor do they allow ammunition manufacture and reloading. The prohibition on ammunition manufacture and reloading is typically due to safety concerns. While no other jurisdiction allows for on-site retail sales of firearms, many do allow home-based businesses that sell firearms so long as those sales are done online, through mail order, or off-site. Similarly, while all jurisdictions allow state-certified massage therapists to have home-based business subject to certain conditions (e.g., number of clients, state certification, etc.), none of them allow tattoo or body art as home occupations. Finally, most jurisdictions do not allow manufacturing except for home electronics and small appliances.

Under current City regulations set forth in the current Zoning Code (Title 17 of the FMC), gunsmiths and firearm sales are only allowed in the City commercial zoning districts (i.e., C-1, C-2, and C-3). In the Neighborhood Commercial (C-1) zone a minor conditional use permit is required by the Planning Commission or Historic District Commission. In the Central Business (C-2) zone and the General Commercial Zone (C-3), those uses are allowed when the commercial structure is located five hundred feet or more from a residential use and one thousand feet from the property line of any public or private school (kindergarten to twelfth grade), and as long as the operating hours are between 6:00 a.m. and 11:00 p.m. If it cannot meet these conditions, then a conditional use permit (CUP) is required by the Planning Commission or Historic District Commission. Firearm sales and gunsmiths are not allowed in the Business and Professional (B-P) zone – the City's remaining commercial zone.

**Table 1
Regional Comparison of Home Occupation Regulations Related to Uncommon Business Types**

Jurisdiction	On-Site Firearm Sales	On-Site Ammo Sales	On-Site Ammo Manufacture/ Reload	Manufact- uring	Tattoo/ Body Art	Massage Therapy	Animal Kennels
<i>Folsom (Existing)</i>	<i>Y</i>	<i>Y</i>	<i>N</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Folsom (Proposed)</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>N</i>
Auburn	N*	N	N	N	N	Y	N
Citrus Heights	N*	N	N	N**	N	Y	N
Rancho Cordova	N	N	N	Y	N	Y	N
Rocklin	N*	N	N	N	N	Y	N
Roseville	N	N	N	N	N	Y	N
Sacramento City	N*	N	N	N**	N	Y	N***
Sacramento County	N*	N	N	N**	N	Y	N

Notes:

*Online, mail order, or off-site sales only

**Limited to repair of home electronics and small appliances only.

***Kennels not allowed but pet services, such as pet sitting, pet grooming, pet training, and veterinarian care are allowed subject to additional conditions.

Similarly, tattoo and body art parlors are currently only allowed with minor conditional use permit in the C-2 and C-3 zones. In comparison, certified massage therapist businesses are allowed by right in all commercial zones. Regarding the question of manufacturing uses, assembly and light manufacturing business are only allowed with a minor conditional use permit in the City's General Commercial zone (C-3).

Regarding the home occupations involving the sale of firearms, Planning staff in consultation with the Police Department added strict requirements that any home occupation applicant must meet to sell and store firearms and ammunition. These include alarm systems with cameras, fire-proof gun safe, immediate reporting of any thefts, compliance with all state and federal requirements, and a prohibition on signage advertising gun sales. Since the Commission directed that ammunition sales and storage be removed from the prohibited uses list, there is currently no limit on the amount of ammunition that can be stored or sold at one time.

On the topic of ammunition manufacture and reload, this is not allowed currently given the hazards associated with the storage of black powder and smokeless powder. This is consistent with that of other jurisdictions in our region. However, the recent change to the ordinance would now allow home-based businesses involved in this type of activity. After learning of this change, the City's Fire Department has expressed safety concerns about ammunition manufacture and reload activities at home-based businesses.

Regarding the administration process, staff had originally proposed to limit the number of appeals to one. In that case the Community Development Director's decision could only be appealed to the Planning Commission or Historic District Commission depending on the location and the Commission's decision would be final. Since home occupation permits are considered minor permits because either the application meets the home occupation requirements or it does not, staff believed that limiting the appeal process to one level of appeal was appropriate and reduced the burden on applicants. However, the Planning Commission disagreed and wanted to maintain the two levels of appeal with the Council as the final appeal body. As a result, the proposed ordinance in Attachment 1 maintains the two levels of appeal.

Overall, the City's current home occupation regulations and permit process in Folsom's Zoning Code are typical of those in most other jurisdictions. As shown in Table 2 on the following page, Folsom's regulations are more lenient in several cases compared to many of its neighbors. For example, Folsom allows a greater percentage of the home to be used for the business and allows for signage. One of the major differences between Folsom's current rules and those of other jurisdictions is that some list those uses that are allowed and/or those that are prohibited as home-based businesses. Folsom's ordinance currently does not do this. However, the new ordinance does include a list of prohibited home-based businesses to

reduce confusion about small businesses that are not suitable in a residential environment (e.g., on-site alcohol sales, on-site automotive repair, animal kennels, etc.).

Given the General Plan policy and the input received from the community and individual Commissioners, staff believes these revisions provide the right balance between supporting the home-based business needs of residents, while preventing home-based businesses that could negatively impact a neighborhood. Based on the Commission recommended revisions, the one exception to this is the remaining issue of the inconsistency between commercial uses allowed as home occupations but prohibited or subject to conditional use permits in commercial zones.

All other changes to the existing ordinance were minor and related to organization and formatting. Given the change in organization and formatting, providing an underline/strikeout version of the original ordinance was infeasible given how difficult it was to read and understand the scope of proposed change. Instead, staff has included the original version of Chapter 17.61 in Attachment 2 for comparison with the new ordinance in Attachment 1.

Community Outreach: Several weeks prior to this meeting, staff sent an email with information about the upcoming Council meeting to over 500 persons consisting of residents, businesses, homeowners' associations, community and religious groups, developers, preservationists, etc. In addition, staff also emailed approximately 1,000 home-based businesses active in Folsom. Furthermore, in addition to email, staff also put out information about the hearing in the City's weekly electronic newsletter and used social media to alert the public about this meeting. Finally, a public hearing notice was published in the Folsom Telegraph 10 days prior to this meeting. City staff received several emails and letters in response to the changes to home occupations ordinance. All of these related to the rules related to home-based businesses involved in the sale of firearms. Those letters are included in Attachment 4.

**Table 2
Regional Comparison of Home Occupation Permit Rules**

Jurisdiction	% of Home	Number of On-Site Employees	Max. Clients at One Time	Max. Clients Per Day	On-Site Sales	Storefronts Allowed?	Signage Allowed	Signage Size	Illuminated Signs	Number of Business Vehicles
<i>Folsom (Existing)</i>	25%	<i>Residents + 2</i>	2	8	Yes	No	Yes	1 sq. ft.	No	1
<i>Folsom (Proposed)</i>	25%	<i>Residents + 2</i>	4	10	Yes	No	Yes	1 sq. ft.	No	1
Auburn	--	Residents Only	--	--	No	No	No	--	No	0
Citrus Heights	20%	Residents + 1	2	8	Limited*	No	Yes	1 sq. ft.	No	2
Rancho Cordova	--	Residents Only	--	--	Limited*	No	Yes	4 sq. ft.	No	2
Rocklin	--	Residents + 1	--	--	Yes	No	Yes	2" x 10"	No	1
Roseville	15%	Residents Only	1**	--	No	No	No	--	No	1
Sacramento City	10%	Residents + 1	1	8	Yes	No	No	--	No	1
Sacramento County***	20%	Residents Only	2	8	Limited*	No	Yes	4 sq. ft.	No	0

Notes:

*Limited only to sales of products produced by residents.

**One (1) student per hour allowed. Otherwise, clients not allowed unless granted by the Approving Authority.

***Sacramento County has a separate category for home-based family contractor businesses. It also has a special category of businesses subject to special restrictions.

FINANCIAL IMPACT

No change is proposed to the cost of a City-issued home occupation permit, which is currently \$29. The new ordinance is not expected to result in a significant change to City revenues from the permit fee.

ENVIRONMENTAL REVIEW

Under Section 15061(b)(3) of the California Public Resources Code, this activity will not have a significant effect on the environment and as such the project is exempt from environmental review under CEQA.

ATTACHMENTS

1. Ordinance No. 1325 - An Ordinance Repealing and Re-Enacting Chapter 17.61 of the Folsom Municipal Code Pertaining to Home Occupations
2. Existing Text from Chapter 17.61 (Home Occupations) of the Folsom Municipal Code
3. Additional Background Information
4. Public Comment

Submitted,



Pam Johns, Community Development Director

**ATTACHMENT 1
ORDINANCE NO. 1325
AN ORDINANCE REPEALING AND RE-ENACTING
CHAPTER 17.61 OF THE FOLSOM MUNICIPAL CODE
PERTAINING TO HOME OCCUPATIONS**

ORDINANCE NO. 1325
AN ORDINANCE OF THE CITY OF FOLSOM
REPEALING AND RE-ENACTING
CHAPTER 17.61 OF THE FOLSOM MUNICIPAL CODE
PERTAINING TO HOME OCCUPATIONS

The City Council of the City of Folsom hereby does ordain as follows:

SECTION 1 PURPOSE

The purpose of this Ordinance is to amend the Folsom Municipal Code to update the home occupation permit regulations to clarify the standards for the operation of home-based businesses in residential neighborhoods in Folsom.

SECTION 2 REPEAL AND RE-ENACTMENT TO CODE

Chapter 17.61 of the Folsom Municipal Code is hereby repealed and re-enacted to read as follows:

Chapter 17.61 HOME OCCUPATIONS

Sections:

- 17.61.010 Purpose**
- 17.61.015 Definitions**
- 17.61.020 Applicability**
- 17.61.025 Business License Certificate**
- 17.61.030 Home Occupation Permit**
- 17.61.035 Prohibited Uses**
- 17.61.040 Standards**
- 17.61.045 Permit Application and Procedure**
- 17.61.050 Fees**
- 17.61.055 Appeals**
- 17.61.060 Permit Revocation**
- 17.61.065 Enforcement**
- 17.61.070 Penalties**
- 17.61.075 Enforcement Procedures**
- 17.61.080 Time Limit.**

17.61.010 Purpose

The purpose of this chapter is to recognize the residence as a viable location for certain types of occupations and to ensure the compatibility of home occupations with principal residential uses, protecting the integrity and character of the residential neighborhood by minimizing negative impacts of commercial uses being conducted in residential areas.

In support of that purpose, this chapter provides locational, developmental, and operational standards for the conduct of home occupations to ensure that home occupations are compatible with, and do not have an adverse effect on, adjacent residential properties; ensure that public and private services and utilities are not burdened by the home occupation; and preserve the character and livability of residential areas.

17.61.015 Definitions

“Home occupation” means any business-related use carried on within a residential structure or accessory structure by the residents of the property, which use is secondary to the residential use of the structure, and involves the sale or storage of goods or the provision of services on the property. The home occupation must not substantially or materially change the residential character of the surrounding neighborhood.

17.61.020 Applicability

The provisions of this chapter shall apply to home occupations as defined in Section 17.61.015 subject to the issuance of a home occupation permit in compliance with the standards in Section 17.61.040. A home occupation shall only be allowed as an accessory use on a parcel with a residential dwelling unit.

17.61.025 Business License Certificate

If a business license certificate is required for the occupation to operate within the City, the home occupation may not begin operation until a business license certificate has been obtained as required by Chapter 5.04 (Business Licenses).

17.61.030 Home Occupation Permit

A. No person shall conduct a home occupation without first obtaining a permit from the director of the community development department or the director's designee. The home occupation permit is personal to the resident named on the permit and specific to the occupation to be conducted and the location stated on the permit. The permit is not transferable.

B. A home occupation permit is not required for any resident to work at their residence, so long as that work does not involve:

1. The sale or storage of goods; or
2. Providing services to customers on the property.

17.61.035 Prohibited Uses

The following uses and similar activities, as determined by the director of the community development department, are prohibited as home occupations:

- A. Adult entertainment activities/businesses.
- B. Alcohol beverage manufacturing or on-site sales business.
- C. Animal kennels except for pet sitting and training businesses that have no more than three dogs or cats over the age of four months old at the home at any one time.
- D. Automobile/vehicle service, repair or paint shops.
- E. Firearm sales involving the sale of more than four firearms to a customer at one time.

- F. Medical offices, clinics, and laboratories, except that counseling is allowed when no more than one client visit or group session is held at one time.
- G. Metal working or welding shops.
- H. Storage, repair, reconditioning or manufacture of large equipment on-site
- I. Tobacco or electronic cigarette shop involving on-site sales.

17.61.040 Standards

Home occupations shall comply with all of the following standards in order to be granted a home occupation permit:

- A. **Visibility.**
 - 1. No exterior modification to the residential structure or accessory structure that results in a change to the residential character of the home shall be permitted for the home occupation; and
 - 2. Aside from visiting clients and pick-ups or deliveries to the home occupation business, the home occupation activity shall not be conspicuously visible from a public right-of-way or from neighboring residential properties such that it results in a change to the residential character of the home.
- B. **Maximum Size.** The space exclusively devoted to the home occupation (including any associated storage) shall not exceed 25 percent of the residential unit's floor area. In calculating the amount of space devoted exclusively to the home occupation, all storage and activities associated with the home occupation shall be included. Rooms used for both residential uses and the home occupation shall be considered dedicated to the home occupation for purposes of this calculation.
- C. **Signage.** The operator of a home occupation may display signage with the business name and address at the residence or accessory structure, provided that the signage is less than one square foot in area, is not illuminated, and is attached flat against the building or in the window on the front of the residence or accessory structure facing the street or alley.
- D. **Employees.** Employment is limited to the resident permit holder, other residents in the residence, and no more than two non-resident employees on-site. The home occupation may not have more non-resident employees than resident employees.
- E. **Client/Customer Visits.** No more than four clients shall be present at the home occupation business at any one time, and no more than ten clients shall visit the home occupation business per day. Clients are allowed at the home occupation business location only from 8:00

a.m. to 8:00 p.m.

F. Vehicles. One commercial vehicle is allowed, not to exceed a one-ton capacity. Regardless of the number of home occupations at a residence, only two additional vehicles (including commercial, employee, and client vehicles) can be present at any one time. One off-street parking space shall be provided for any vehicle associated with the home occupation.

G. Pickups and Deliveries. The home occupation shall not have more than a total of four (4) pickups or deliveries each day. All pickups and deliveries shall occur during the hours of operation of the home occupation identified Section 17.61.040(E). The type of commercial vehicle(s) used for pickup or delivery of materials to or from the home occupation business location shall be similar in size and type to those typically used for pickup and delivery in residential neighborhoods.

H. Off-Site Effects. No home occupation activity shall create dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances.

I. Storage or Display of Materials. Storage, operation, or display of materials, goods, supplies, or equipment related to the operation of a home occupation, may not be visible from outside the residence, with the exception of office equipment and supplies inside the residential structure.

J. Storage of Hazardous Materials. On-site storage of hazardous materials (including toxic, explosive, combustible or flammable materials) associated with the home occupation is prohibited unless the storage of such materials has been reviewed and approved by the Folsom Fire Department.

K. Storage of Firearms. Unless prohibited by Section 17.61.035(E), a home occupation involving the sale or storage of firearms is subject to review and approval of the Folsom Police Department and shall comply with the following conditions:

1. All firearms and ammunition shall be stored in a locked fireproof safe or vault located on the premises. Under no circumstances shall firearms or ammunition be stored in a structure detached from the main structure of the residence. All windows, doors, and entry points to the location where firearms and ammunition are stored must be securely locked and equipped with an operable alarm and camera. All locks shall be secured, and the alarm shall be activated whenever an individual listed as a responsible person, or an individual authorized by him/her, under the Federal Firearms License is not present.

a. Minimum Safe Requirements: 60 minutes at 1200-degree fire-rating; and a TL-15 security rating

b. Minimum Alarm Requirements: 24 hour/7 days per week monitoring with exterior and interior audible. Smart home alarm systems do not satisfy this

requirement.

c. Minimum Camera Requirements: 1080p High Definition (HD) video with at least 7 days (168 hours) of recording capability.

2. No firearms or ammunition shall be delivered to a purchaser or sold from the premises before 8am or after 8pm. Upon sale, all firearms and ammunition shall be packaged separately. All firearms must be delivered to the purchaser unloaded and securely wrapped.

3. No signage advertising the presence of firearms or ammunition shall be displayed on or in the premises if it can be seen from the outside.

4. All authorized employees of the City shall have the right to enter the premises upon reasonable notification to inspect for compliance of these conditions. If these conditions are not met, notification will be given to the Bureau of Alcohol, Tobacco, Firearms and Explosives.

5. Permittee shall comply with all other applicable state and federal law and city ordinances.

6. Permittee shall file a report with the Folsom Police Department within twenty-four (24) hours of any criminal activity that occurs on the premises and provide video recorded during the timeframe of the crime.

7. Violation of these provisions shall constitute ground for revocation.

L. Storage of Inventory. Rooms used for both residential uses and the home occupation shall be considered dedicated to the home occupation for purposes of the maximum size calculation in Section 17.61.040(B). Storage of inventory shall not occupy any of the parking required in Section 17.61.040(F).

M. Other Conditions. The director of the community development department may place additional conditions on the permit in order to carry out the intent of this chapter.

17.61.045 Permit Application and Procedure

A. Application for a home occupation permit shall be made to the community development department on a form provided by the department. A home occupation permit shall be issued where the director of community development department or the director's designee finds that the home occupation applied for can be conducted pursuant this chapter.

B. State and Federal Licenses. When the federal government or the State of California requires a state or federally-issued license, permit or certification in association with any occupation, such as a masseuse, firearm seller, or a barber/hair stylist, the state or federal license, permit or certification shall be obtained prior to and submitted for verification in

conjunction with an application for a home occupation permit. Such state or federally-issued license, permit or certification must be maintained at all times for the home occupation permit to be valid.

17.61.050 Fees

Upon approval of the home occupation permit by the community development department, the applicant shall pay the designated current fee amount established to cover administrative costs, as well as any other applicable fees established by city resolution.

17.61.055 Appeals

The decision of the community development department concerning the issuance or denial of a home occupation permit shall be final unless an appeal is submitted in writing to the community development director accompanied by the current nonrefundable home occupation permit appeal fee and is filed within 10 days of the decision. The appeal shall be heard by the planning commission. The planning commission may attach such conditions as it deems necessary to the issuance of such a permit to ensure compliance with the intent of this section. The decision of the planning commission may be appealed to the city council within 10 days of the decision. The appeal shall be submitted in writing to the city clerk, accompanied by the current non-refundable home occupation permit appeal fee.

17.61.060 Permit Revocation

A home occupation permit may be revoked or modified by the director of the community development department if any of the standards for approval listed in Section 17.61.040 are not met by the home occupation.

17.61.065 Enforcement

A. This chapter shall be enforced pursuant to the provisions of Chapters 1.08 through 1.10, inclusive, of the Folsom Municipal Code.

B. The director of community development department and the code enforcement officer shall enforce the provisions of this chapter.

17.61.070 Penalties

The penalties set forth in Section 17.03.020 of this title shall not apply and the following penalties shall be applicable for any violation of this chapter:

A. A violation of this chapter shall be an administrative violation as defined in Section 1.08.020.

B. Each of the sanctions for administrative violations identified in Section 1.09.013 shall be available for enforcement of the provisions of this chapter.

C. Based upon the criteria for the imposition of administrative sanctions set forth in Section 1.09.014, a violation of this chapter shall be deemed a Level C violation, as that term is described in Section 1.09.012. The range of monetary sanctions available for a violation of this chapter shall be as set forth in Section 1.09.012(A)(3).

17.61.075 Enforcement Procedures

A. Prior to the suspension, revocation or denial of any home occupation permit, or the assessment of any monetary sanction, penalty or fine, or the commencement of any other enforcement action pursuant to this chapter, the director of the community development department and the code enforcement officer shall follow the procedures set forth in Sections 1.09.020 through 1.09.048. The rights to judicial review set forth in Sections 1.09.050 through 1.09.052 shall apply.

B. A notice to correct shall be served in accordance with the provisions of Section 1.09.023.

17.61.080 Time Limit

All home occupation permits shall be valid for a period of one (1) year from the date of approval. Requests for renewal shall be submitted to the finance department in writing on a form provided by the finance department, accompanied with the appropriate fee.

SECTION 3 SCOPE

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 4 NO MANDATORY DUTY OF CARE

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5 SEVERABILITY

If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

SECTION 6 EFFECTIVE DATE

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on March 8, 2022 and the second reading occurred at the regular meeting of the City Council on March 22, 2022.

On a motion by Council Member _____ seconded by Council Member _____, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this day of 2022, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

**ATTACHMENT 2
EXISTING TEXT FROM
CHAPTER 17.61 (HOME OCCUPATIONS) OF THE
FOLSOM MUNICIPAL CODE**

Chapter 17.61 HOME OCCUPATIONS

Sections:

- 17.61.010 Statement of purpose.**
- 17.61.020 Home occupation defined.**
- 17.61.030 Permit required.**
- 17.61.040 Permit application and procedure.**
- 17.61.050 Business license.**
- 17.61.060 Fees.**
- 17.61.070 Criteria for approval.**
- 17.61.080 Appeals concerning the issuance or denial of a home occupation permit.**
- 17.61.085 Revocation of permit.**
- 17.61.090 Enforcement.**
- 17.61.093 Penalties.**
- 17.61.095 Enforcement procedures—Notice to correct.**
- 17.61.100 Time limit.**

17.61.010 Statement of purpose.

It is the purpose of this chapter to recognize the residence as a viable location for certain types of occupations and to ensure the compatibility of home occupations with principal residential uses, protecting the integrity and character of the neighborhood by minimizing negative impacts of commercial uses being conducted in residential areas. (Ord. 804 § 1 (part), 1994)

17.61.020 Home occupation defined.

“Home occupation” means any business-related use carried on within a residential structure or accessory structure thereto, primarily by the residents thereof, which use is secondary to the residential use of the structure. The home occupation must not substantially or materially change the residential character of the surrounding neighborhood. (Ord. 858 § 14(1) (part), 1997)

17.61.030 Permit required.

No person shall conduct a home occupation without first obtaining a permit from the director of planning, inspections and permitting or designee. The home occupation permit is personal to the resident named on the permit and for the occupation to be conducted at the location stated on the permit. The permit is not transferable. (Ord. 858 § 14(1) (part), 1997)

17.61.040 Permit application and procedure.

Application for a home occupation permit shall be made to the planning, inspections and permitting department on a form provided by the planning, inspections and permitting department. A home occupancy permit shall be issued where the director of planning, inspections and permitting or designee finds that the home occupation applied for can be conducted pursuant to Section 17.61.070. (Ord. 858 § 14(1) (part), 1997)

17.61.050 Business license.

If a business license is required for the occupation to operate within the city, the home occupation may not begin operation until a business license has been obtained as required by Chapter 5.04. (Ord. 858 § 14(1) (part), 1997)

17.61.060 Fees.

Upon planning, inspections and permitting department approval of the home occupation permit, the applicant shall pay the designated current fee amount established to cover administrative cost, as well as any other applicable fees established by other city resolution. (Ord. 858 § 14(1) (part), 1997)

17.61.070 Criteria for Approval.

Home occupations shall meet all of the following criteria in order to be approved.

- A. Storage.
 - 1. Storage, operation or display of materials, goods, supplies or equipment, other than office equipment and supplies located inside the residential structure, related to the operation of a home occupation may not be visible from outside of the residence;
 - 2. On-site storage of hazardous materials (including toxic, explosive, combustible or flammable) associated with the home occupation is prohibited;
 - 3. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation may not exceed 25 percent of floor area of the dwelling unit. Rooms used for both residential uses and the home occupation use shall be considered dedicated to the home occupation for purposes of this calculation.
- B. Employees/Clients.
 - 1. Employment is limited to the resident occupant permit holder, other resident

occupants and no more than 2 non-resident employees on-site. The home occupation may not have more nonresident employees than resident employees.

2. The number of clients that can be present at the residence is limited to 2 at any one time, and not to exceed a maximum of 8 per day. Clients are permitted at the home occupation business location only on weekdays from seven a.m. to ten p.m. and on weekends from eight a.m. to six p.m.

C. Vehicles/Parking.

1. One commercial vehicle is allowed, not to exceed 1-ton capacity. Regardless of the number of home occupations at a residence, only 2 additional vehicles (including commercial, employee and client vehicles) can be present at any one time. Off-street parking space shall be provided for any such vehicle associated with the home occupation.

2. There shall be no commercial deliveries from or to the home occupation premises beyond what is normally incidental to residential uses. "Normal residential deliveries" can be defined as typically being no more than 1 per day, during normal business hours of eight a.m. to six p.m.

D. Signage. One attached wall, suspended or projecting nameplate sign not to exceed 1 square foot of area and pertaining directly to the particular home occupation is allowed subject to any permits required by the sign ordinance.

E. Nuisances. No activity which produces noise, smoke, odors, glare, electrical interference, or vibrations discernible beyond the site is allowed.

F. Other Conditions. The director of planning, inspections and permitting may place additional conditions on the permit in order to carry out the intent of this chapter. (Ord. 858 § 14(2), 1997; Ord. 804 § 1 (part), 1994)

17.61.080 Appeals concerning the issuance or denial of a home occupation permit.

The decision of the planning, inspections and permitting department concerning the issuance or denial of a home occupation permit shall be final unless an appeal is submitted in writing to the director of planning, inspections and permitting accompanied by the current nonrefundable home occupation permit appeal fee, and is filed within 10 days of the decision. The appeal shall be heard by the planning commission. The planning commission may attach such conditions as it deems necessary to the issuance of such a permit to ensure compliance with the intent of this section. The decision of the planning commission may be appealed to the city council within 10 days of the decision. The appeal shall be submitted in writing to the city clerk, accompanied by the current non-refundable home occupation permit appeal fee. (Ord. 858 § (1) (part), 1997)

17.61.085 Revocation of permit.

A home occupancy permit may be revoked or modified by the director of planning, inspections and permitting if any of the criteria for approval listed at Section 17.61.070 are not met by the home occupancy. (Ord. 858 § (3) (part), 1997)

17.61.090 Enforcement.

A. This chapter shall be enforced pursuant to the provisions of Chapters 1.08 through 1.10, inclusive, of the Folsom Municipal Code.

B. The director of the department of planning, inspections and permitting and the code enforcement officer shall enforce the provisions of this chapter. (Ord. 858 § (1) (part), 1997)

17.61.093 Penalties.

The penalties set forth in Section 17.03.020 of this title shall not apply and the following penalties shall be applicable for any violation of this chapter:

A. A violation of this chapter shall be an administrative violation as defined in Section 1.08.020.

B. Each of the sanctions for administrative violations identified in Section 1.09.013 shall be available for enforcement of the provisions of this chapter.

C. Based upon the criteria for the imposition of administrative sanctions set forth in Section 1.09.014, a violation of this chapter shall be deemed a Level C violation, as that term is described in Section 1.09.012. The range of monetary sanctions available for a violation of this chapter shall be as set forth in Section 1.09.012(A)(3). (Ord. 858 § (3) (part), 1997)

17.61.095 Enforcement procedures – Notice to correct.

A. Prior to the suspension, revocation or denial of any license or permit, or the assessment of any fee, penalty or charge, or the commencement of any other enforcement action pursuant to this chapter, the director of the department of planning, inspections and permitting and the code enforcement officer shall follow the procedures set forth in Sections 1.09.020 through 1.09.048, inclusive, of the Folsom Municipal Code. The rights to judicial review set forth in Sections 1.09.050 through 1.09.059, inclusive, of the Folsom Municipal Code shall apply.

B. A notice to correct shall be served in accordance with the provisions of Section 1.09.023. (Ord. 858 § 3 (part), 1997)

17.61.100 Time limit.

All home occupation permits shall be valid for a period of 1 year from the initial date of approval. Requests for renewal shall be submitted to the finance department in writing on a form sent to the applicant, accompanied with the appropriate fee. If the use continues to meet the then current criteria, the permit may be renewed. (Ord. 858 § 1 (part), 1997)

ATTACHMENT 3
ADDITIONAL BACKGROUND INFORMATION

ATTACHMENT 3 ADDITIONAL BACKGROUND INFORMATION

This attachment provides additional detailed information associated with City staff's analysis of the current regulations as well as new issues considered as part of the update process.

Issues with Existing City Regulations: Over time, City staff have come across certain issues associated with the home occupation regulations and the realities of actual home-based business operations. Several examples are described along with how staff addressed these issues in the new ordinance.

- *Retail Storefronts and Compatibility with Residential Neighborhoods:* Under current regulations as well as General Plan policy, home-based businesses cannot have the appearance of a commercial business. Signage is limited to one non-illuminated one-square foot sign and the home-based business must maintain the residential character of the dwelling. Recently, some businesses have already built, or requested to build, a retail storefront for their home-based business to attract more customers in the neighborhood. Based on General Plan policy LU 6.1.8 and the many other ways that the business can advertise without the need for a retail street presence, staff recommends that no storefront be permitted as commercial storefronts are likely to change the residential character of the surrounding neighborhood.
- *Limitation on Clients:* Current City rules limit clients to no more than two (2) persons at a time and no more than a total of eight (8) clients per day. This affects many types of home-based business activities including swimming lessons, yoga sessions, personal trainers, music lessons, etc. In other situations, such as home-based realtors, property management companies, or massage therapists, they may want or need to have more than 8 clients per day. At the Commission hearings on September 1 and November 17, 2021, Planning Commission members voted to increase this to four (4) persons at a time and no more than ten (10) clients or customers per day.
- *Home-Based Businesses Activity Onsite versus Offsite:* Home-based businesses such as dog walking and dog sitting typically involve activities offsite where dog walkers take dogs to the park or to walk on city sidewalks while dog sitters take care of dogs at others' homes. Yet, these home-based businesses may have multiple visitors onsite during the day as people drop off and pick up dogs, keys or food. In addition, for mobile businesses such as mobile auto or bike repair or mobile animal grooming services, most of the work is done off-site but they may have employees that arrive at the home and may have a larger commercial vehicle parked at the home. This is also the case for home-based contractor and construction businesses. Given the concerns expressed about traffic and vehicle parking, staff has left the current requirements unchanged regarding business vehicle parking and the number of clients per day. Mobile businesses can continue to operate so long as they comply with the standards in the new ordinance.
- *Home Offices and Storage:* The City has received home occupation permit applications

for home-based businesses that involve storage of goods at the home. So long as the home-based business meets the current City home occupation requirements (i.e., not more than 25% of dwelling space used for business activities and storage) then home-based businesses can store materials in the home. The City has not received many complaints about this. As a result, the regulation about the percent of space devoted to the business remains unchanged at 25 percent. However, the City has clarified in the new ordinance that the storage of hazardous materials is prohibited unless approved by the City's Fire Department.

- *Deliveries for Home-Based Businesses:* Current regulations limit home deliveries to one per day, which was seen as typical for most homes at the time. Yet, in recent years (especially during the pandemic given the temporary and permanent closures of many physical stores), some homes receive multiple deliveries per day as more residents shop online. Staff has drafted the new ordinance to allow for up to four (4) pickups or deliveries per day.
- *On-Site Sales and Services:* The City's current rules are silent on whether home-based businesses can sell products or perform services in their home. The only requirement is the limitation on the number of clients. Many home-based businesses sell products or provide services from the home either in-person or online. Given this, the Commission increased the client/customer limits from no more than two persons at a time to four and increased the maximum number of daily clients from eight to 10. The new ordinance also states that any home-based business involving on-site sales and services requires a home occupation permit. In addition, the new ordinance clarifies that no home occupation permit is required for residents who work from home or telecommute as long as they do not provide on-site sales or services from the property.
- *Manufacturing and Technology Businesses:* As mentioned earlier in this report, most people are familiar with the stories of technology companies starting in a home garage. In the past, the City has received applications for businesses that do small-scale manufacturing. Those have been allowed so long as the home-based business meets the home occupation requirements. In the new ordinance, home occupations involving assembly and manufacturing are allowed so long as they do not create any negative off-site effects (e.g., noise, odor, smoke, pollution, etc.).
- *Prohibited and Conditionally Permitted Commercial Uses Allowed as Home Occupations:* Because the City does not have clear prohibitions on certain uses for home occupations, there have been applications for uses that would either be subject to a conditional use permit or would not be allowed at all in one of the City's low-intensity commercial zones (i.e., C-1-Neighborhood Business Zone or BP-Business and Professional Zone). Staff reviewed the list of prohibited or conditionally allowed business in the C-1 or BP zoning districts and in most cases has added those to the list of prohibited businesses; however, changes directed by the Commission removed several of those uses from the prohibited uses list including assembly and manufacturing; ammunition sales and storage; ammunition manufacture and reload; and tattoo parlors.

- *Home-Based Businesses and Signage:* Currently, the City allows one (1) one square foot non-illuminated sign. The sign can be a wall mounted sign, a suspended sign, or a projecting sign. Folsom's home occupation sign requirements are generous compared to many jurisdictions in our region. Staff has left the current requirements in place with no change based on the feedback received and the fact that the City's standards are already more generous than most other jurisdictions in the region.

Proposed Improvements to Home Occupations Ordinance: Allowing greater flexibility for home-based businesses can have benefits as well as drawbacks. On the one hand, home-based businesses can be a local source of innovation and economic development. On the other hand, home-based businesses, if not properly regulated, can have negative impacts on the residential character of the neighborhood. Most zoning codes only allow those home-based businesses that are unlikely to change the residential character of the neighborhood. As described below, staff attempted to find a balance between supporting home-based businesses and protecting the residential character of neighborhoods. The proposed changes to the Home Occupations Ordinance are summarized below with specific edits/new language provided in Attachment 1:

- *Home Occupation Definition:* The proposed revisions to the ordinance clarify that businesses where the activity involves sales, storage, or in-person services that are provided at the location of the residence would require a home occupation permit (HOP). It also states that employees working from home or self-employed persons working from home would not need a home occupation permit unless there are sales, storage, or in-person services that are provided at the property. Refer to Sections 17.61.015 (Definitions) and 17.61.030(B) (Home Occupation Permit) of the new ordinance in Attachment 1.
- *Prohibited Uses:* As noted earlier, the new ordinance adds a list of prohibited home-based businesses. Refer to Section 17.61.035 (Prohibited Uses) of the new ordinance in Attachment 1.
- *Home Pickup and Deliveries:* This increases the number of home deliveries from one (1) per day to up to four (4) pickups or deliveries per day. Refer to Section 17.61.040 (G) (Pickups and Deliveries) of the new ordinance in Attachment 1.
- *Hours of Operation:* Changes the hours for client/customer visits for home-based businesses to 8 a.m. to 8 p.m. seven days a week from the current standard of 7 a.m. to 10 p.m. weekdays and 8 a.m. to 6 p.m. on weekends. Staff concluded that 10 pm was not an appropriate hour given the General Plan policy noted above. Refer to Section 17.61.040 (E) (Client/Customer Visits) of the new ordinance in Attachment 1.
- *Requirements for the Sale of Firearms:* Since the current ordinance is silent on what types of uses are allowed as home occupations, current practice has been to send all home occupation permit applications involving firearm sales to the Police Department for their review. In the new ordinance, applicants for a home occupation permit involving the sale of firearms and ammunition would be required to meet specific requirements set forth in Section 17.61.040(K) including having a fire-rated gun safe, alarm system with cameras,

separate packaging for firearms and ammunition, and compliance with all state and federal requirements.

- *State and Federal Licensing:* For those occupations such as firearms seller, masseuse or barber/hair stylist that require a license or certification from the State of California or the federal government, the new ordinance would require that the license be obtained prior to submittal of an application for home occupation permit. Staff did not want a situation where a City home occupation permit and business license were granted for a business that did not have the necessary state or federal license. Refer to Section 17.61.045(B) of the new ordinance in Attachment 1.
- *Storefronts:* Staff is not proposing any change to the prohibition on retail storefronts. Staff determined that storefronts were not necessary based on the allowed signage and the ability to advertise the business on the internet as well as in the newspaper and in social media (Facebook, Instagram, etc.). A recent search on Google Maps for instance provided information about the location and type of services for many home-based businesses in Folsom. Furthermore, no city or county in our region allows home-based businesses to have a retail store front. Refer to Section 17.61.040 (A) (Visibility) of the new ordinance in Attachment 1. Finally, staff also determined that a retail storefront was not consistent with General Plan Policy LU 6.1.8.

**ATTACHMENT 4
PUBLIC COMMENT:
EMAILS AND LETTERS RECEIVED
RELATED TO HOME OCCUPATIONS ORDINANCE**

Desmond Parrington

From: Roger Smith [REDACTED]
Sent: Sunday, November 14, 2021 9:19 AM
To: Desmond Parrington
Cc: California Rifle & Pistol Assoc.; Gun Owners of California
Subject: The banning of home businesses from the legal selling ammo in Folsom

Follow Up Flag: Flag for follow up
Flag Status: Completed

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As a home business owner that has a federal firearms license and a license with the Department of Justice for the State of California to sell firearms and ammunition, I am at a loss as to what to present City Planning Commission meeting banning to stop the sale of ammunition from my home business. I do not know the protocol around such a meeting.

Do you have a few minutes to answer a few questions I have regarding how to prepare for such a meeting?

I do not know exactly what to present to the commission or how much time I might have to discuss the new city ordinance banning ammunition sale from home businesses.

Is my presentation to obtain a variance for my business or to stop/modify the potential change in city code for the legal sale of ammunition in Folsom?

Have you heard from any of the other small business owners in the City of Folsom currently legally selling ammunition? Shouldn't they also be present at this meeting?

Does the commission what to see the specific steps necessary for the State of California to approve a business to sell ammunition? If so wouldn't it be better if someone more qualified than myself to provided that information such as the California Rifle and Pistol Association or the Gun Owners of California or even the Department of Justice?

All I want to do is to continue to be able to sell ammunition to my clients when they custom order it from me in advance. As you know I do not stock ammunition for retail sales.

I was speaking to a retired lieutenant deputy sheriff that is a client of mine about the potential code change banning ammunition sales by legally licensed home businesses like mine.

He made a very interesting comment to me. He said, "are you telling me that when I custom order my \$5,000 shotgun from you next year you will need to send me to Walmart to see if the clerk has the quality ammunition I want vs. my ordering it from you in advance?" (Yes Walmart sells ammunition.)

I do not know what to present or the how much time I have to present my case.

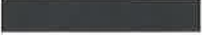
Do you have time to discuss my questions prior to the commission meeting on the 17th?

Thank you,

Roger T Smith
Smitty's Firearms & Gunsmithing



Folsom, CA 95630





Americans Against Gun Violence

[Redacted]

Sacramento, CA 95814

[Redacted]

November 16, 2021

Folsom City Council
50 Natoma Street
Folsom, California 95630

Dear Folsom City Council Members:

I am writing on behalf of Americans Against Gun Violence in opposition to the portion of the proposed revision of section 17.61 of the Folsom Municipal Code that relates to the sale of guns from private residences. Section 17.61.040.K of the current code places strict regulations on conditions that must be met for individuals to sell guns from their private residences, in addition to the requirement for gun sellers to obtain a permit from the Folsom Police Department. The proposed revision to the municipal code strikes all these regulations from the code and replaces them with the single condition that individuals selling guns from their private residences may not engage in "Gun sales involving the sale of more than two guns to a customer at one time."¹ In failing to define, "at one time," this condition places virtually no restriction at all on how many guns an individual can sell from his or her home to a single customer who returns day after day, or even hour after hour.

There is no shortage of guns and gun stores in our country, our state, or in the Folsom area. It's estimated that there are currently approximately 400 million privately owned guns in circulation in the United States, which amounts to more than one gun for every man, woman, and child in the country.² There are currently more than 50,000 federally licensed firearm dealers in the United States.³ A Google search of "gun stores near Folsom" comes up with 16 stores where you can buy guns. A Google search of "grocery stores near Folsom" comes up with 19 stores where you can buy groceries. In other words, there are nearly as many gun stores as grocery stores in and around Folsom.

The American people are paying a horrendous price for the plethora of guns and gun dealers in our country. Every year, approximately 40,000 Americans are killed by guns,⁴ and two to three times this number of U.S. residents suffer non-fatal but often devastating gunshot wounds.⁵ Since 1968, more American civilians have

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died of gunshot wounds than all the U.S. soldiers killed by any means in all the wars in which our country has ever been involved.⁶

Gun related deaths and injuries are far more common in the United States than in any other high income democratic country in the world. Lumping gun related suicides, homicides, and accidental deaths together, the rate of gun deaths in the United States is 10 times higher than the average rate in other advanced democracies.⁷ For gun homicides alone, the U.S. rate is 25 times higher.⁸ And for high school age youth, the U.S. rate of gun homicides is 82 times higher than the average rate for other high income democratic countries.⁹

Our country's extraordinarily rate of gun violence is not a result of Americans being more violent in general than people in other democratic countries. On the contrary, the U.S. rate of violent assault by any means is below the average for the other high income democratic countries of the world.¹⁰ The extraordinarily high rate of gun homicide in the United States is due to fact that because of their easy availability, guns are used in assaults far more frequently in our country, and guns are far more lethal than fists, knives, and other weapons commonly used in assaults in other countries.¹¹

International comparisons show a direct relationship between rates of gun related deaths and the numbers of privately owned guns in circulation, and the United States is an outlier in both categories. (See appended Figure) The extraordinarily high number of guns in circulation in our country is a direct result of our extraordinarily lax gun control laws as compared with the laws in other advanced democracies.¹²

Proponents of allowing gun sales from private residences may argue that permitting such sales makes it more convenient for neighbors to purchase "guns for protection." There is no basis, however, for the claim that honest, law-abiding people derive any net protective value from owning or carrying a gun. On the contrary, there is extensive evidence that guns in the homes and in the communities of honest, law-abiding people are far more likely to be used to kill, injure, or intimidate them than to protect them. In one of the best known studies on this subject in the public health literature, it was shown that for every one time a gun in the home was used to kill an intruder, there were 43 gun-related deaths of a household member.¹³ Another study showed that someone who was carrying a gun at the time of an assault was four times more likely to be killed than someone who was not carrying a gun.¹⁴

Law enforcement data confirm that guns are used far more often to kill innocent people than to kill attackers. In 2018, the most recent year for which expanded homicide data are available from the FBI, there were 14,123 criminal homicides in the United States, with guns being the weapons used in 73% of these murders.¹⁵ In the same year, there were just 298 justifiable homicides committed with guns by civilians in self defense.¹⁶ In other words, FBI data show that in 2018, guns were used by private citizens to commit murders 34 times more often than they were

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used to kill someone in self defense.

Proponents of allowing gun sales from private residences may also argue that permitting such sales is an extension of a Second Amendment “right to bear arms.” The Second Amendment states, however, in its entirety:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.¹⁷

The Second Amendment obviously says nothing about a right to sell guns from one’s private residence. Moreover, prior to 2008, there was no constitutional right, Second Amendment or otherwise, for any individual person in the United States to own or carry any kind of a gun unrelated to service in a “well regulated militia.” The Supreme Court had ruled in all four Second Amendment cases that it had considered prior to 2008 that the Second Amendment did not confer such a right.¹⁸ As the Supreme Court stated succinctly in the 1980 *Lewis* decision, quoting a phrase from the Court’s 1939 *Miller* decision:

[T]he Second Amendment guarantees no right to keep and bear a firearm that does not have “some reasonable relationship to the preservation or efficiency of a well regulated militia.”¹⁹

As the late Supreme Court Justice John Paul Stevens wrote in his autobiography, *The Making of a Justice*, the proper interpretation of the Second Amendment as conferring a collective right of the people of the states to maintain armed militias, such as the current day National Guard, had been “so well settled” that the late Supreme Court Chief Justice Warren Burger had called the gun lobby’s misrepresentation of the Second Amendment as conferring an individual right to own guns “One of the greatest pieces of fraud, I repeat the word, ‘fraud,’ on the American public by special interest groups that I have ever seen in my lifetime.”²⁰

Sadly, in the 2008 case of *District of Columbia v. Heller*, a narrow 5-4 majority of Supreme Court justices became a party to that fraud in ruling that Washington DC’s partial handgun ban violated the Second Amendment.²¹ The *Heller* decision has been criticized by respected authorities as “gun rights propaganda passing as scholarship”²² and as “evidence of the ability of well-staffed courts to produce snow jobs.”²³ In his autobiography, Justice Stevens, who authored a dissenting opinion in *Heller*, described the decision as “unquestionably the most clearly incorrect decision that the Court announced during my [35 year] tenure on the bench.”²⁴ Further discussion of the *Heller* decision is beyond the scope of this letter, but suffice it to say that as egregiously flawed as the *Heller* decision is, it says nothing about a right to sell guns from one’s private residence.

Finally, I’d like to address the argument that banning gun sales from private residences would adversely affect the income of some Folsom residents who currently profit from selling guns from their homes. In responding to this argument,

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I'd like to call the attention of the City Council to my November 7, 2021 interview with Dr. Michael North of Scotland. [A link to this interview](#) is posted on the Americans Against Gun Violence website.

Dr. North lost his five year old daughter, Sophie, in the 1996 mass shooting at the elementary school in Dunblane, Scotland, in which 15 other students and their teacher were also murdered and three other teachers and 12 other students were wounded by a man who legally owned the handguns he used to commit the massacre. Dr. North and other grieving parents subsequently led a successful campaign to completely ban civilian ownership of handguns in Great Britain. (Britain already had a ban on automatic and semi-automatic long guns, including so-called "assault rifles.") There have been no further school shootings since the handgun ban went into effect in 1998,²⁵ and the rate of gun deaths in Britain is currently 1/60th the rate in the United States.²⁶ Some opponents of the British handgun ban who were in the gun business complained that the ban would adversely affect their incomes, to which Dr. North and his fellow grieving parents replied that these opponents could find other sources of income, but Sophie and her classmates couldn't find other lives.

In the November 7 interview, Dr. North lamented the fact that the United States has not followed Britain's example, even after repeated mass school shootings, including the 2012 Sandy Hook Elementary School mass shooting in which 20 first graders, their school principal, and five other female staff members were murdered. If members of the Folsom City Council believe that a mass school shooting on the scale of the Sandy Hook, Columbine, Virginia Tech, or Marjory Stoneman Douglas massacres could not occur in Folsom, they are badly mistaken, for unlike Britain, Australia, New Zealand, and other high income democratic countries that took prompt and definitive action after mass shootings, the United States has taken no significant action to prevent our children and youth from becoming victims of such massacres.

Similarly, members of the City Council are badly mistaken if they believe that the threat of gun violence, including the trauma of being required to participate in regular school lockdown drills, has not already caused significant harm to Folsom children and youth. Americans Against Gun Violence sponsors an essay contest for high school students across the country every year. One of this year's winners attends Folsom High School. The student noted that for the first time in many years, there were no school shootings in 2020, not because elected officials had adopted stringent gun control laws, but because schools had been physically closed in response to the Covid pandemic. The student went on to write:

It is shameful that it took a pandemic-induced shutdown to quell mass shootings in America. It especially pains me when I hear stories of students breathing sighs of relief when they learned they no longer had to go to school in-person. Now more than ever, it has become excruciatingly clear that guns cause widespread fear and unease in the population. A school should be a safe haven for students and a hub for collaborative education,

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not a site of trauma and worry. Because of the presence of guns in their communities, young people in America have experienced great harm.

In a country with approximately 400 million privately owned guns in circulation, with more than 50,000 gun dealers already in business, and with 40,000 or more annual gun deaths, the Folsom City Council's decision concerning whether to ease restrictions on sales of guns from private residences, leave the restrictions as they are, or ban sales of guns from private residences altogether will have little overall effect on our country's shameful epidemic of gun violence. Nevertheless, easing restrictions would be a step in the wrong direction, while banning sales of guns from private residences would be a step, however tiny, in the right direction toward curbing the shameful epidemic. More significantly, however, will be the values reflected in how members of the Folsom City Council vote on this issue. Which do members of the Folsom City Council and their constituents value more – their guns and the profits of city residents who sell them, or the safety and wellbeing of the city's children and youth? We trust that the members of the Folsom City Council will demonstrate the proper priorities by rejecting the proposed easing of restrictions on sales of guns from private residences and by acting instead to ban such sales altogether.

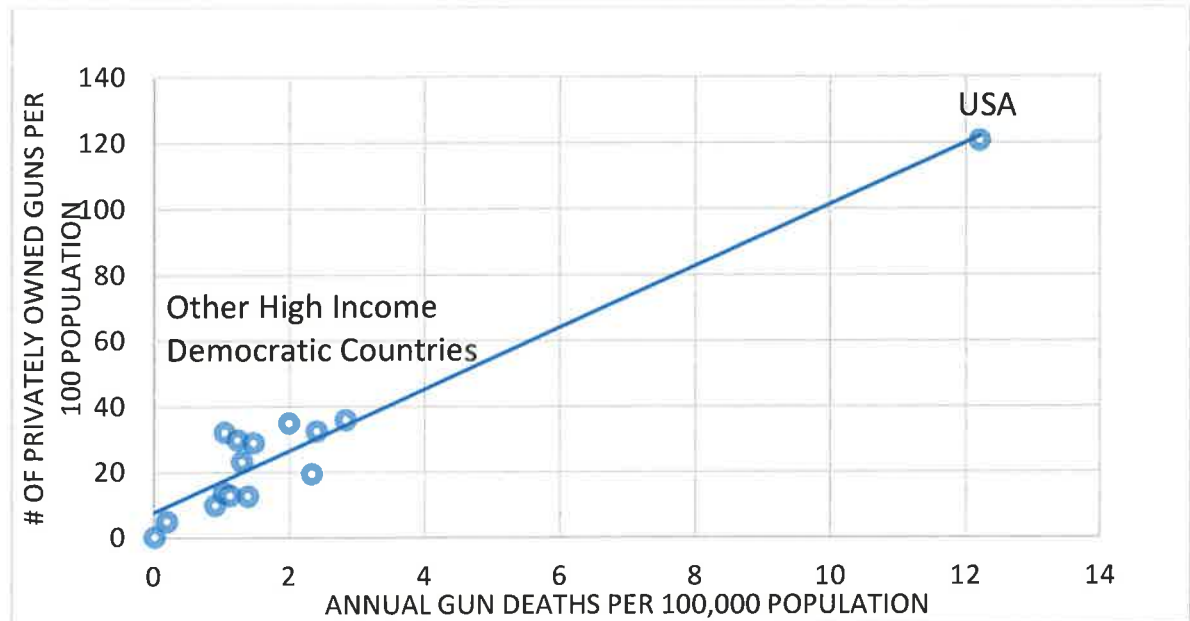
Yours truly,



Bill Durston, M.D.
President, Americans Against Gun Violence

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Figure



Legend: Annual rates of gun deaths are plotted against estimated per capita gun ownership for the United States and 16 other high income democratic countries, all represented as circles. (Because of overlap, there appear to be fewer than 16 circles representing other high income democratic countries.) The line is a computer generated best fit line. Data used to construct the graph were taken from the most recently available data posted on the website, GunPolicy.org, hosted by the University of Sydney School of Public Health. In cases in which GunPolicy.org listed a range of per capita gun ownership estimates for a given country, the mean of the highest and lowest estimates was used. The 16 other high income democratic countries represented on the graph are, in alphabetical order, Australia, Belgium, Canada, Denmark, Finland, France, Germany, Italy, Japan, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom.

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- ⁴ "Fatal Injury Data | WISQARS | Injury Center | CDC," Centers for Disease Control and Prevention, accessed July 1, 2021, <http://www.cdc.gov/injury/wisqars/fatal.html>.
- ⁵ Statistics regarding annual numbers of non-fatal gunshot wounds were taken from "NonFatal Data | WISQARS | Injury Center | CDC," Centers for Disease Control and Prevention, accessed September 11, 2016, <https://www.cdc.gov/injury/wisqars/nonfatal.html>. For unknown reasons, the CDC stopped reporting numbers of non-fatal gunshot wounds beginning about 2015 and removed old data from its WISQARS website.
- ⁶ Louis Jacobson, "More Americans Killed by Guns since 1968 than in All U.S. Wars, Columnist Nicholas Kristof Writes," @politifact, August 27, 2015, <http://www.politifact.com/punditfact/statements/2015/aug/27/nicholas-kristof/more-americans-killed-guns-1968-all-wars-says-colu/>.
- ⁷ Erin Grinshteyn and David Hemenway, "Violent Death Rates: The US Compared with Other High-Income OECD Countries, 2010," *The American Journal of Medicine* 129, no. 3 (March 1, 2016): 266–73, <https://doi.org/10.1016/j.amjmed.2015.10.025>.
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- ⁹ Ashish P. Thakrar et al., "Child Mortality In The US And 19 OECD Comparator Nations: A 50-Year Time-Trend Analysis," *Health Affairs* 37, no. 1 (January 2018): 140–49, <https://doi.org/10.1377/hlthaff.2017.0767>.
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- ¹² "Gun Law and Policy: Firearms and Armed Violence, Country by Country," GunPolicy.org, accessed July 1, 2021, <http://www.gunpolicy.org/>.
- ¹³¹³ Arthur L. Kellermann and Donald T. Reay, "Protection or Peril? An Analysis of Firearm-Related Deaths in the Home," *New England Journal of Medicine* 314, no. 24 (June 12, 1986): 1557–60, <https://doi.org/10.1056/NEJM198606123142406>.
- ¹⁴ Charles C. Branas et al., "Investigating the Link Between Gun Possession and Gun Assault," *American Journal of Public Health* 99, no. 11 (November 1, 2009): 2034–40, <https://doi.org/10.2105/AJPH.2008.143099>.
- ¹⁵ "FBI: UCR - Crime in the United States; Murder" (Federal Bureau of Investigation, 2018), <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/murder> Table 10: Murder, by States, Types of Weapons.
- ¹⁶ "FBI: UCR - Crime in the United States: Expanded Homicide" (Federal Bureau of Investigation, 2018), <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/expanded-homicide> Justifiable Homicide, by Weapon, Private Citizen.
- ¹⁷ "The United States Constitution," 17912nd Amendment.

11-16-21 Letter to Folsom City Council re: gun sales from private residences

¹⁸ United States v. Cruikshank, 92 US 542 (Supreme Court 1876); Presser v. Illinois, 116 US (Supreme Court 1886); U.S. v. Miller, 307 U.S. 174 (1939) (n.d.); Lewis v. United States, No. 55 (U.S. 1980).

¹⁹ John Paul Stevens, *The Making of a Justice: Reflections on My First 94 Years* (New York: Little, Brown, 2019), 483; *Lewis*, 445 at 65n8.

²⁰ Stevens, *The Making of a Justice*, 483; Warren Burger, PBS News Hour, December 16, 1991, c.

²¹ District of Columbia v. Heller, 554 US (Supreme Court 2008).

²² Saul Cornell, "Originalism on Trial: The Use and Abuse of History in District of Columbia v. Heller," *Ohio State Law Journal* 69 (2008): 629.

²³ Richard Posner, "In Defense of Looseness," *The New Republic* 239, no. 3 (August 27, 2008): 35.

²⁴ John Paul Stevens, *The Making of a Justice: Reflections on My First 94 Years* (New York: Little, Brown, 2019), 482.

²⁵ Michael J. North, "Gun Control in Great Britain after the Dunblane Shootings," in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore: The Johns Hopkins University Press, 2013), 185–93.

²⁶ "Gun Law and Policy: Firearms and Armed Violence, Country by Country," GunPolicy.org, accessed July 1, 2021, <http://www.gunpolicy.org/>.

December 20, 2021

Desmond Parrington, Principal Planner

dparrington@folsom.ca.us

Scott Johnson, Planning Manager

sjohnson@folsom.ca.us

Pam Johns, Community Development Director

pjohns@folsom.ca.us

Sari Dierking

sdierking@folsom.ca.us

* sent via email

RE: Zoning Code Update – Home Occupation Ordinance

Dear Staff,

Since the Planning Commission November 17th meeting when the Commission revised and approved the proposed Home Occupation Ordinance I have done some additional information gathering regarding my concerns. I believe this information must be taken into consideration before going forward with a recommendation for adoption of the Ordinance to the Council. Folsom has been known as a family-friendly and desirable place by national entities; I believe we are at risk for losing that status if some of the recommended changes in the Ordinance are adopted.

General considerations for all home-based businesses that staff may not be aware and which were not discussed at our Commission meetings:

- 1) California law requires that a seller of property must disclose such nuisances in the neighborhood, as well as any past or present known material facts or other significant items that affect the value or desirability of the property. As such, residents living next door to a home business will be required to add disclosures about the type of activities taking place next to them when selling their home. I have confirmed the requirement for such disclosures in conversations with two local real estate attorneys. It is clear that particular businesses would negatively affect the value of a home for sale and the potential for finding buyers.
2. The City should consider adding a noticing requirement to residences within a certain distance from someone selling guns and/or ammunition, manufacturing, or conducting other potentially disruptive business from their homes. This notice requirement is appropriate given that homeowners requesting permits for residential building projects must comply with notification procedures.

Regarding gun sales being conducted from homes, there is a lot of information that was not known or discussed at our meetings but which needs serious consideration.

1) California law prohibits guns from being carried within 1,000 feet of schools and school zones. Have staff researched or considered a prohibition of gun sales taking place next door to daycare centers, home schools, home-based pre-schools, religious education centers? Is City staff prepared to evaluate and track these locations to ensure that gun and ammunition sales are not taking place adjacent to educational/daycare sites? There are 79 California jurisdictions that either prevent firearm dealers from being located in residential areas or prohibit firearm sales as a home business.

2) Who is actually going to visit these sites to ensure compliance with City, State and Federal regulations? The ATF is supposed to monitor gun sellers on site annually, a recent study revealed that they are only being visited by ATF once every 7 years.

<https://www.thetrace.org/2015/10/gun-store-atf-inspection/>

a) Any gun dealer that operates out of a home has to meet the premises security requirements of California law. If adequate evaluation and monitoring is to be done by the Folsom police - how often should they monitor the site? Will there be a report produced about the compliance with in-home monitoring systems, storage of guns and ammunition and materials used to re-load ammunition? Does our police force have the staffing to do this work?

b) California law prohibits the sale of certain kinds of guns and ammunition – how often will the home-based gun dealers be evaluated for the possession of illegal firearms?

c) Neither the current code or the recommendation of the Planning Commission reflect State laws that are currently in effect. For example, state law permits the purchase of ONLY ONE handgun per month. At the meeting, some Commissioners expressed the opinion that it would be acceptable for sellers to sell up to 4 guns per customer per day. The Commissioners expressed these opinions after one gun dealer called into the meeting and reported that sometimes he needs to sell 4 guns at once to a customer. That gun dealer may be already violating State law if the guns he sells are handguns.

d) What is the cost to the City for accomplishing the work that should be done? This link contains more comprehensive information on the requirements for gun dealers:

https://giffords.org/lawcenter/state-laws/gun-dealers-in-california/#footnote_28_16033

3) Will monitoring the gun sales in homes take away from the time police need to ensure the safety of our residents in other venues?

4) How do gun and ammunition sellers advertise for customers? How do they screen customers? Do they advertise on line, in print, etc. What is the potential for attracting ill-intended persons into our neighborhoods? The gun and ammunition store on East Bidwell was the victim of a “smash and grab robbery” on a busy street regularly patrolled by the police (<https://www.sacbee.com/news/local/crime/article89312017.html>). This incident took place less than a quarter mile from the Folsom Aquatic Center, where youth swim teams practice on a daily basis. Homes in neighborhoods receive much less incidental surveillance than a busy

street. A robbery could result in open gunfire in a neighborhood with a business owner defending his property against an armed thief.

5) Will the City mandate that a gun and ammunition dealer carry liability insurance for the business covering the potential harm to neighbors in the case of untoward events associated with the business? Many cities in California that allow gun sales from a person's home require the seller to carry liability insurance. There are 34 jurisdictions in California that require firearm dealers to carry liability insurance, typically with a minimum coverage of \$1 million.

6) What is the City's liability for a business that it has permitted when adjacent residents are harmed by any untoward events at homes selling guns and ammunition, or manufacturing items that involve the use of flammable materials, etc.?

7) There will very likely be a "chilling effect" on neighboring businesses such as home schools and daycare centers or other businesses that could lose customers when the neighboring gun selling business is something that customers feel poses a threat to their or their children's well-being. There are 28 California jurisdictions that prohibit firearm dealers from operating within certain distances of "sensitive areas", such as schools, day care centers, bars and parks.

8) The City has many empty commercial properties. Businesses more suited to commercial centers, such as gun and ammunition sales, manufacturing and assembly should be housed in these commercial or retail spaces. Why should the City essentially allow them to reduce their overhead by allowing gun sales from homes?

9) Many cities require firearm dealers to periodically report their inventory to law enforcement. This requirement helps law enforcement solve crimes and deters dealers from trafficking firearms. Also, the city should require periodic inspections of the homes for compliance with local state, state and federal laws. As stated above, the licensing and inspections of these home business will add a significant cost to the city in terms of enforcement.

A comprehensive list of State gun dealer laws, lists of jurisdictions with comprehensive safety measures to be enacted and enforced regarding the sale of guns, and safe storage laws on this website: <https://giffords.org/lawcenter/report/communities-on-the-move-local-gun-safety-legislation-in-california/>

Evaluations of any business which may cause undue disruption of the peace and quiet of a neighborhood before approving a permit should include an on-site visit by staff. I think it's safe to say that, even with a more thorough evaluation of sites, if manufacturing and assembly and some other businesses such as in garage gyms/exercise classes are permitted that there will be an increased burden on homeowners to report violations such as noise, noxious odors, etc. An increase in parking problems/complaints with the increase in the number of customers to 4 at a time is also very likely, particularly if more than one homeowner on a street or court is operating a business that requires on site clients.

a) As I'd pointed out at Commission meetings, I have a neighbor who does what many would consider to be light manufacturing – constructing large model airplanes and accessories. The noise produced by his equipment exceeds the allowable maximum decibel limit of 65 db by 5 to 15 db, well over 50 feet away from his residence and he has failed to comply with code despite Code Enforcement contact.

In summary, I believe that the City is not prepared to adequately monitor gun and ammunition sales without further substantial cost and risk to the City and its residents. Sales of either should be placed on the prohibited list. If existing gun and ammunition sales businesses cannot be grandfathered in, a sunset clause for these businesses should be instituted to allow them time to re-locate into an appropriate retail space.

I also believe that the allowance of manufacturing and assembly, in home gyms/exercise programs, etc. warrant additional consideration for inclusion on the prohibited list of home businesses.

Thank you for your consideration.

Sincerely,



Barbara Leary



Sent Via Email on January 11, 2022

SUBJECT: Zoning Code Update – Home Occupation Ordinance safety questions

Dear Mr. Parrington,

It has come to my attention recently that the Folsom City Council will soon be voting on prohibiting the sale of firearms and ammunition from home residences. In doing further research, I have found that I have many unanswered questions and concerns regarding the sale of guns and ammo from home businesses. I am writing in the hopes that you can help answer some of my safety questions. My first question/concern is regarding school safety. California law prohibits guns from being carried within 1,000 feet of schools and school zones. Will there be a prohibition of gun sales taking place next to daycares, home schools, home-based pre-schools, and religious education centers? Another concern is neighborhood safety. What additional safety measures will be in place to help protect against home invasions where the gun sales take place in residential neighborhoods? Folsom has already had a dangerous robbery that occurred a few years ago at the gun store that was on Wales Dr. and E. Bidwell. And my last question is regarding who will be monitoring these home gun sale businesses. Who will be in charge of ensuring compliance with City, State, and Federal regulations? Does Folsom police have the extra capacity to properly monitor these businesses?

I would like to request that my questions and concerns be included in the Council meeting agenda packet.

Thank you for your time and I look forward to hearing back,

Tressa Cooper

January 24, 2022

Dear Folsom City Council Members:

It has come to my attention recently that the Folsom City Council will soon be voting on the Zoning Code Update of the sales/manufacturing of firearms and ammunition from home residences.

As a citizen of Folsom for the last 13 years and as a mother of two young children, I have many unanswered questions and concerns regarding the sale of guns and ammo from home businesses in Folsom. I am writing in the hopes that you can help address some of my safety questions and concerns regarding the Zoning Code Update – Home Occupation Ordinance, specifically the sale of guns and ammunition from homes.

Folsom has long prided itself on being a safe and family friendly community. Allowing guns to be sold in homes is risky and dangerous for our children. In 2019, nine children and teens were killed with guns **each day** in America, that's one child's death every 2 hours and 36 minutes.¹ Notably, guns killed more children and teens than cancer, pneumonia, influenza, asthma, HIV/AIDs, and opioids combined.² Shamefully, gun deaths reflect only part of the devastating toll of America's growing gun violence epidemic. Many more children and teens are injured than killed with guns each day in our nation. For every child or teen fatally shot, another 5 suffered non-fatal gunshot wounds.³ An estimated 16,644 children and teens were injured with guns in 2018—one every 32 minutes.⁴ Even with much of the country on lockdown, mass shootings hit a record high in 2020. Children witnessed, suffered, or died in 611 mass shootings in 2020—up from 417 in 2019.⁵ The COVID-19 crisis has exposed the consequences of our nation's longstanding failure to pass policies to keep children safe where they live and learn. Folsom should be one of those places that is safe for children. This means we need to keep guns out of our community.

If you choose to continue to allow gun sales from private homes in Folsom, will there be a prohibition of gun sales taking place next to daycares, home schools, home-based pre-schools, and religious education centers? This seems like the only way to comply with California law prohibits guns from being carried within 1,000 feet of schools and school zones.

¹ CDC. 2020. "Underlying Cause of Death, 1999-2019," Detailed Mortality Tables. Accessed using CDC WONDER Online Database. <https://wonder.cdc.gov/ucd-icd10.html>. Note: All data are for children and teens ages 0-19 and exclude deaths for interactions with law enforcement.

² Ibid.

³ CDC. 2020. "Nonfatal Injury Reports 2000-2018." Accessed using WISQARS. <http://www.cdc.gov/injury/wisqars/nonfatal.html>. Calculations by Children's Defense Fund.

⁴ Ibid.

⁵ Gun Violence Archive (GVA). 2021. "Mass Shootings in 2020" and "Mass Shootings in 2019." Washington, DC: GVA. <https://www.gunviolencearchive.org/past-tolls>.

Will gun businesses be required to notify their neighbors when they are applying for a Home Occupation Permit? I want to know if guns were being sold from a home in my neighborhood, if my children will be in the vicinity of that home, and how that business owner plans to keep our community safe from the guns they are selling.

Who will be monitoring these home gun sale businesses? Who will be in charge of ensuring compliance with City, State, and Federal regulations? Does Folsom police have the extra capacity to properly monitor these businesses? What additional safety measures will be in place to help protect against home invasions where the gun sales take place in residential neighborhoods?

With all of these unanswered questions and concerns, I think it is the responsibility of the Folsom City Council to add firearms/ammunition to the prohibited list of home businesses in our city. Please show us that you want Folsom to continue to be a family friendly place to raise our children and to put the welfare of our children above all else.

I appreciate your attention to this matter and your time in hearing my concerns.

Regards,
Sara Seberger

Desmond Parrington

From: Chris Yatooma [REDACTED]
Sent: Monday, January 24, 2022 2:36 PM
To: Desmond Parrington
Subject: Home Gun Sales

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Parrington:

I write to oppose the city's plan to allow the sale and distribution of home gun and ammunition sales. Home gun sales run counter to the bucolic, family-friendly reputation that Folsom is known for. While I'm not opposed to certain home businesses, I do not believe the city should allow gun sales from residential facilities. For reasons of pure safety, this type of activity seems incompatible in a residential neighborhood and is a better fit for a commercial establishment. I understand we are one of the few jurisdictions in the area to allow residential gun sales. I would ask that we follow the example of our neighbors and disallow this activity in our city.

Thank you. Chris Yatooma, [REDACTED]

Chris Yatooma
[REDACTED]

Desmond Parrington

From: Shelley Hudson [REDACTED]
Sent: Monday, February 7, 2022 12:13 PM
To: Desmond Parrington
Subject: DO NOT SUPPORT

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greetings,

Home based gun sales should not be allowed in the City of Folsom. Please do not support this endeavor. I do not support this change.

(feel free to share my comments)

Shelley Hudson

Desmond Parrington

From: Ruth Anderson [REDACTED]
Sent: Monday, February 14, 2022 6:04 PM
To: Desmond Parrington
Subject: Gun Sales From Homes

[You don't often get email from [REDACTED]. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Parrington:

As a Folsom resident, I am proud of sharing the phrase "Wholesome Folsom" with friends when I talk about how much I love living here..

I was taken aback to learn that we allow people to sell guns from their homes. This is apparently news to many of my friends and neighbors as well.

With so many storefronts available in our city, I believe selling guns should only been allowed in visible areas designated for selling of goods.

I don't need to repeat the safety and social consequences of home sales. Every other city in Sacramento County apparently realizes this, and prohibits gun sales from homes.

Let's do the right thing,

Sincerely,

Ruth Anderson
Folsom Resident

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Folsom City Council Staff Report

MEETING DATE:	3/8/2022
AGENDA SECTION:	New Business
SUBJECT:	Consideration of Letter in Response to Demand Letter Received from Scott Rafferty Regarding Alleged Non-Compliance with the Brown Act
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council consider and approve the attached reply to Scott Rafferty (Attachment 1) providing an unconditional commitment to continue to comply with the Brown Act.

BACKGROUND / ISSUE

On February 22, 2022, the City received a cease and desist letter from Scott Rafferty dated February 21, 2022 alleging the following violations of the Brown Act:

1. The failure to make available all non-exempt documents relating to council districts that were distributed to the council in advance of its February 11, 2022 meeting.
2. The failure to permit the public to inspect the written slides presented on February 11, 2022 during the meeting.
3. The redaction of the time and date of electronic communications to conceal when they were received and when they became subject to public disclosure.
4. The continuing failure, even after the meeting, to allow inspection of writings subject to §54957.5, including those identified in (1)-(3) and the data files presented at those meetings.

5. The reception during the February 11, 2022 meeting of text messages relayed by the City Manager, even though her telephone number had not been published as identified as a means for providing public input.

While staff disagrees with the alleged non-compliance, the Brown Act does provide a process for issues such as these to be resolved without further legal action. To that end, the Brown Act provides a prescribed form letter that the City Council may consider approving and sending in response to Mr. Rafferty's correspondence.

POLICY / RULE

The Brown Act provides that a response to the cease and desist letter shall be in substantially the form provided in Government Code section 54960.2(c)(1). The fact that the City Council provides an unconditional commitment shall not be construed or admissible as evidence of violation of the Brown Act. Government Code section 54960.2(c)(4).

ANALYSIS

Government Code section 54960.2 allows any interested person to submit a "cease and desist" letter to the City as a prerequisite to filing a lawsuit over alleged past non-compliance with the Brown Act. Pursuant to Section 54960.2(b), the City Council may respond to the "cease and desist" letter within thirty (30) days by providing an "unconditional commitment" not to repeat any or all of the actions challenged. By law, an "unconditional commitment" **does not** constitute admission of a violation, but does bar a potential plaintiff from pursuing litigation and collecting attorneys' fees with respect to past non-compliance related to the specific action the City has "unconditionally committed" not to repeat.

The City Council's reply must be approved in open session as a separate item of business, not under the "Consent" portion of the agenda, and in substantially the form as prescribed by the Brown Act. Once approved, the Brown Act prohibits legal action by the potential plaintiff; however, if such an action is nonetheless filed, the court is required to dismiss the lawsuit with prejudice if it finds that the City Council has provided an unconditional commitment pursuant to the Brown Act.

FINANCIAL IMPACT

There is no legal expense associated with this item as the City Council has always complied with the Brown Act. In addition, providing the attached reply may reduce the chance of litigation and any associated legal costs.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §15061(c)(3)), or is otherwise not considered a project as defined by Public Resources Code §21065 and CEQA Guidelines §15060(c)(3) and §15378. The City

Council's consideration of a reply to the Brown Act cease and desist letter meets the above criteria and is not subject to CEQA. No environmental review is required.

ATTACHMENT

1. Cease and desist letter received on February 21, 2022
2. Proposed reply from the City Council

Respectfully submitted,

Steven Wang, City Attorney

ATTACHMENT 1

SCOTT J. RAFFERTY**ATTORNEY AT LAW**1913 WHITECLIFF COURT
WALNUT CREEK CA 94596(202)-380-5525
RAFFERTY@GMAIL.COM

February 21, 2022

Ms. Christa Freemantle

Clerk, City of Folsom

50 E. Natoma Street

Folsom CA 95630

by electronic and postal mail

cc: Mayor Kerri Howell, members of
the City Council, City Attorney

Dear Ms. Freemantle:

This letter constitutes a demand specified by Section¹ 54960.1(b) that the City of Folsom cease and desist from violations of the Brown Act committed in connection with the public hearing the Council conducted on February 11, 2022. The Council purported to conduct these hearings pursuant to Elections Code, Section 10010. This letter also satisfies the requirement of Section 54960.2 and enables my clients to file an additional action to determine that the actions specified herein were taken in violation of the Brown Act. To the extent set forth herein, the City of Folsom may respond to this demand by making an unconditional commitment to cease and desist from the challenged practices.

The unlawfully conducted hearings are already the subject of litigation before the Superior Court. Because Elections Code, Section 10010 precludes actions designed to mislead the public, to prevent their active participation, or to exhaust their attention by conducting hearings over a protracted period, the City Council cannot effectively cure or correct the effects of these violations simply by redoing the hearing. This would burden the public with attending more hearings, after "actions" (as defined in the Brown Act) have been taken and when the underlying decisions can only be reversed in by a judicial decree from the Superior Court (or the District Court for the Eastern District of California). Therefore, I will be writing the City Attorney separately to propose additional actions that are necessary to prevent an expansion of the current litigation.

The violations include:

¹ "Section" refers to the Government Code, except as noted.

Rafferty to Freemantle, Brown Act Demand Letter, February 15, 2022, page 2

1. The failure to make available all non-exempt documents relating to council districts that were distributed to the council in advance of its February 11, 2022 meeting.
2. The failure to permit the public to inspect the written slides presented on February 11, 2022 during the meeting.
3. The redaction of the time and date of electronic communications to conceal when they were received and when they became subject to public disclosure.
4. The continuing failure, even after the meeting, to allow inspection of writings subject to §54957.5, including those identified in (1)-(3) and the data files presented at those meetings.
5. The reception during the February 11, 2022 meeting of text messages relayed by the City Manager, even though her telephone number had not been published as identified as a means for providing public input.

These violations are exceptionally flagrant. A.B. 361 recently amended Section 54953(e)(2)(B) to require that

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

Ms. Anderson knew that her cellphone had not been provided in the public notice, let alone in each instance in which the time of the teleconference was given. She acted with the specific intent of depriving Plaintiffs and other advocates of district elections equal access to the limited public forum created by the Brown Act, based on their viewpoint, in violation of civil rights guaranteed the First Amendment.

Similarly, deputy city clerk Lydia Konopka refused to provide the staff report and comments distributed to a majority of the City Council, which must be provided "without delay" under the Brown Act. Instead, she committed to "be in contact when the records are available for review." That was on February 10, 2022.

The failure to produce these records invalidates actions taken on February 8 and February 15, 2022, and make it inappropriate to continue the hearing on February 22, 2022. This letter demands that you cure and correct the violations by restarting any hearing process, which may not be possible given statutory deadlines. However, there is no other basis to continue the hearing, since the documents were not made available in time for the public to make meaningful comment on the selection of the preferred maps.

Rafferty to Freemantle, Brown Act Demand Letter, February 15, 2022, page 3

This letter also demands that the City cease and desist from failing to make Brown Act documents available to the public at the meeting, which includes posting them in the case of a teleconferenced meeting and making them available on paper in the council chambers.

Thank you for your prompt attention to these matters.

Sincerely,

A handwritten signature in black ink that reads "Scott Rafferty". The signature is written in a cursive, slightly slanted style.

ATTACHMENT 2

Scott J. Rafferty
1913 Whitecliff Court
Walnut Creek, CA 94596

Re: Brown Act Cease and Desist Letter

To Mr. Rafferty:

The Folsom City Council has received your cease and desist letter dated February 21, 2022 on February 22, 2022 alleging that the following described past action of the legislative body violates the Ralph M. Brown Act:

1. The failure to make available all non-exempt documents relating to council districts that were distributed to the council in advance of its February 11, 2022 meeting.
2. The failure to permit the public to inspect the written slides presented on February 11, 2022 during the meeting.
3. The redaction of the time and date of electronic communications to conceal when they were received and when they became subject to public disclosure.
4. The continuing failure, even after the meeting, to allow inspection of writings subject to §54957.5, including those identified in (1)-(3) and the data files presented at those meetings.
5. The reception during the February 11, 2022 meeting of text messages relayed by the City Manager, even though her telephone number had not been published as identified as a means for providing public input.

While the Folsom City Council strongly disputes and denies those allegations, in order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Folsom City Council hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action as described above.

The Folsom City Council may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to subdivision (a) of Section 54960 of the Government Code. That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Very truly yours,

Kerri Howell, Mayor

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