A Resolution Making Determinations and Approving an annexation of 2,563.90 acres or less to the Olivehurst Public Utility District.

WHEREAS, a Resolution of Application initiated by Olivehurst Public Utility District consisting of an annexation of 2,563.90 acres more or less has been filed with the Executive Officer of the Yuba Local Agency Formation Commission; and said application complied with all the requirements of law and the Commission; and,

WHEREAS, the proceedings for this Annexation are governed by the Cortese-Knox-Hertzberg Local Government Annexation Act, Section § 56000 et seq. of the Government Code; and

WHEREAS, at the time and in the manner provided by law, the Executive Officer gave notice of the date, time, and place of a public hearing by the Commission upon said application; and

WHEREAS, the Executive Officer has reviewed the application and has prepared a report including staff recommendations thereon within the time required by law and has furnished copies of said report to the Commission and to all other persons required by law to receive it; and

WHEREAS, at hearings on December 11, 2019 and January 8, 2020, the Commission considered the proposal and the report of the Executive Officer; the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section § 56668; and all other relevant evidence and information presented at said hearing, including the comments of all interested parties desiring to be heard;

NOW THEREFORE, the Yuba Local Agency Formation Commission does hereby resolve and order the following:

1. The foregoing recitals are true and correct.
2. The territory comprises approximately 2,563.90-acres more or less to be annexed to the Olivehurst Public Utility District.
3. The change of organization is assigned the following distinctive short-term designation:

   LAFCO File 2019-0002 Employment Zone Annexation to OPUD.

4. The proposal is consistent with the sphere of influence of the OPUD, as amended. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Sphere of Influence and General Plan consistency, and other factors specified in Government Code Section § 56668 and as described in the staff reports dated November 4, 2019.

5. The Commission adopts the determinations regarding consistency with LAFCO Policies contained in the staff report for this Annexation and incorporates them by reference herein.
6. The purpose of this Annexation is to provide infrastructure to support planned and zoned commercial growth in the annexation area.

7. In reviewing this application, the Commission finds that all owners and registered voters within the annexation territory have been given public notice of this annexation under Government Code Section § 56157.

8. In reviewing this application, the Commission finds that domestic water, wastewater, lighting, drainage and Parks and Recreation services currently provided by the OPUD are necessary and no services are needed to be provided by any other special district. This approval does not authorize fire and EMS services since the territory is within the Plumas Brophy Fire Protection District boundary and Sphere of Influence.

9. In reviewing this application, this Commission has considered each of the factors required by Government Code Section § 56668 and LAFCO’s adopted policies.

10. The LAFCO Executive Officer’s Staff Report including attachments and recommendation for approval of the proposal are hereby incorporated by reference and hereby adopted.

11. An electronic copy (PDF) of all maps and boundary descriptions, and five 8 1/2 x 11 copies of all maps and five copies of the large 24” x 36” map and fire copies of the approved boundary description meeting the State Board of Equalization Requirements shall be submitted to LAFCo prior to recordation of the Certificate of Completion.

12. The boundaries, as set forth in the proposal and amended by action of the Commission, are hereby approved as amended and are as described in revised Exhibits “A” Boundary Description and “B” Map for territory to be annexed are attached hereto and by this reference incorporated herein subject to the terms and conditions and corrections included. This annexation approval does not include the Graf parcels (APN’s 14-280-079 & 014-410-021 consisting of 213.4 acres more or less and 160 acres more or less respectively) and the Burrow parcels (Latigo Farms, LLC) (APN’s 14-280-092 and 14-410-023 consisting of 65.19 acres more or less and 19.78 acres more or less respectively)

13. Notwithstanding the effective date, the boundary descriptions and maps, if rejected by the State Board of Equalization or amended by LAFCO, will be revised at the expense of the applicant. The applicants shall be responsible for any associated costs.

14. For this annexation, no share of the property tax revenue including base tax revenue and annual tax increment belonging to the County or any taxing agency within the subject territory shall be changed per Yuba County Board of Supervisor’s Master Tax Exchange Resolution 2004-157 adopted on October 26, 2004, which is attached as Exhibit “C”.

15. Said Annexation territory is found to be inhabited (12 or more registered voters).
16. All Yuba County, Yuba LAFCO, and State of California fees must be paid in full prior to filing the Certificate of Completion. LAFCO will forward invoices and (or) a list of required fees prior to filing the Certificate of Completion for direct payment to the agency by project proponent.

17. Further protest proceedings are waived and the Commission orders the 2,563.90-acre annexation to OPUD pursuant to Part 4 of Division 3 of the California Government Code commencing with Section § 57000. Satisfactory proof has been given that the subject territory is inhabited. The Commission hereby waives protest and election proceedings since no written protests or objections have been raised at this hearing by persons either owning land within the subject territory or, in this case, since the territory is inhabited, by anyone registered to vote who is currently residing within the annexation territory after providing mailed notice under Government Code section §56663. Therefore, the Commission does hereby approve and authorize the conducting authority to annex the territory described in Exhibits “A” and “B” to the Olivehurst Public Utility District without notice and election.

18. The Commission has independently reviewed the environment documents provided by OPUD including OPUD’s background information in support of responsible agency findings for the sphere of influence amendment and annexation and the hereby affirms and agrees with the following environmental findings made by the Olivehurst Public Utility District:

OPUD’s Board of Directors hereby makes the following environmental determinations:

1. On June 7, 2011, Yuba County adopted the Yuba County 2030 General Plan to guide future urban and rural development in unincorporated areas of the County, including the provision of utilities necessary to serve planned urban and rural uses.

2. Yuba County, as the CEQA lead agency for the approval and implementation of the 2030 General Plan, prepared and certified an Environmental Impact Report (EIR) for the 2030 General Plan evaluating the direct and indirect environmental effects of constructing and operating future development, including the provision of public utilities and recreation services, throughout unincorporated Yuba County.

3. In certifying the 2030 General Plan EIR, Yuba County made Findings of Fact, as required by CEQA, including those related to the significance of impacts, the appropriateness and effectiveness of mitigation measures, the feasibility and effectiveness of alternatives to the 2030 General Plan, and statements of overriding considerations regarding significant impacts. Yuba County also adopted a Mitigation Monitoring and Reporting Program.

4. OPUD finds that the proposed Sphere of Influence and Annexation project is consistent with the land use designations, goals, and policies of the Yuba County 2030 General Plan as assessed in the General Plan EIR
and that all parcels included in the proposed project are designated for urban or agricultural supporting uses.

5. As a Responsible Agency under CEQA, OPUD has independently reviewed and considered the Final EIR for the Yuba County 2030 General Plan, which includes an analysis applicable to this provision of public utility and recreation services. The Final EIR consists of the following:

a. The Draft EIR prepared by Yuba County as Lead Agency.

b. Comments and recommendations received on the Yuba County Draft EIR.

c. The responses of the Lead Agency to significant environmental points that arose both during and after the review and consultation process.

d. A Mitigation Monitoring Reporting Plan.

6. OPUD certifies that it has held a duly noticed public hearing and heard testimony and received written comments from affected agencies at a noticed public hearing and has responded to those comments.

7. OPUD makes a specific finding that there are no grounds that require OPUD to supplement the County’s EIR under PRC 21166 and State CEQA Guidelines Sections §15162 and §15163. There have been no changes in physical circumstances since the County certified the EIR for its General Plan and adopted Resolution 2011-0046 on June 7, 2011. OPUD is proposing to expand its service area from that considered in the County’s EIR, but those changes do not constitute substantial changes in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects (§15162(a)(1)). Those changes and specific findings with regard to those changes are as follows:

a. OPUD seeks to provide future domestic water, wastewater, and recreation services as required for future urban and rural development to 52 parcels comprising 3022 acres within and adjacent to OPUD’s Sphere of Influence (SOI) consistent with the goals and policies of the Yuba County 2030 General Plan. 257 acres of the 3022 are NOT in OPUD’s current SOI and will require a minor amendment to OPUD’s SOI, which amendment is presently being processed by Yuba County LAFCO.

b. OPUD finds that the area proposed for OPUD public utility and recreation services is within an area identified by the 2030 General Plan for urban and rural agricultural support uses whose environmental effects were evaluated in the General Plan EIR.

c. OPUD finds that in identifying an expanded area in which OPUD may provide public utility and recreation services, the future need for such services is subject to the ultimate and sole land use authority of Yuba County, and that no services are being offered at this time, nor are any facilities being constructed to serve the expanded OPUD service area.
8. OPUD hereby affirms in accordance with CEQA Guidelines Section § 15090 the County’s adopted certified EIR as well as its adopted findings for this Sphere of Influence Amendment and Annexation in order to provide utility and recreation services to the Industrial, Sports and Entertainment Zone.

9. In accordance with CEQA Guidelines Section § 15090, the Final EIR reflects the Lead Agency’s independent judgment and analysis.

10. OPUD has independently considered and hereby adopts the Yuba County’s environmental findings required by State CEQA Guidelines Section § 15091 and Statement of Overriding Considerations required by Section § 15093, which are incorporated by reference hereto as its own in approving the Sphere of Influence Amendment and Annexation.

19. The Commission hereby directs the Executive Officer to file a Notice of Determination for LAFCo as a responsible agency.

20. Prior to recordation, the title of the maps and descriptions shall include the following: “LAFCO File 2019-0002 Employment Zone Annexation to OPUD.

21. Approval of this change of organization is conditioned upon the applicant’s obligation to defend, indemnify, and hold harmless the Yuba Local Agency Formation Commission and its agents, officers and employees from any claim, action or proceeding against the Commission or its agents, officers, and employees; including all costs, attorney’s fees, expenses and liabilities incurred in the defense of such claim, action, or proceeding to attack, set aside, or void the approval or determinations of this Commission concerning this Change of Organization. The Yuba Local Agency Formation Commission of shall promptly notify the applicant of any such claim, action, or proceeding and be entitled to representation by counsel of its choosing.

22. Prior to the approval of any county entitlement for urban development within the annexation territory located within the boundaries South Yuba Water District or Brophy Water District, a change of organization approving the detachment from either the South Yuba Water District or the Brophy Water District shall be required. Prior to recordation of a Certificate of Completion by LAFCo for this annexation OPUD shall pass a resolution and provide a copy to both the County and LAFCo ensuring the territory will be detached and an application be filed and approved by the Yuba Local Agency Formation Commission. Provisions for groundwater recharge after an agricultural water district detachment shall also be considered by OPUD and the County.

23. Prior to recordation of a certificate of completion by LAFCo for this annexation OPUD shall enter into an agreement with Yuba County to ensure preservation of prime farmland defined in LAFCo’s definition in Gov. Code section § 56064. A copy of the agreement shall be provided to LAFCo. A dedication ratio of 1-acre converted to 1-acre dedication of a permanent easement within Yuba County.
having soils of equal productive value, or higher, through permanent agricultural easements, purchase of development rights or donation of mitigation fees to an agricultural land trust or a conservancy shall be required. Evidence of said farmland preservation shall be made prior to issuance of any entitlement within the annexation territory.

24. The Executive Officer of this Commission is instructed to mail a certified copy of this resolution to those persons so indicated on the application and as required by Government Code section § 56882.

25. The Executive Officer is directed to record a Certificate of Completion for this proposal upon completion of all proceedings.

26. The Effective Date of this Annexation shall be the date of recordation of the Certificate of Completion.

27. Any Olivehurst Public Utility District previously authorized assessments; taxes, fees and charges shall apply to any annexed territory.

28. Completion of proceedings shall be concluded within one-year after adoption of this resolution. If the proceedings are not concluded within one year after passage of this resolution, all proceedings shall be deemed abandoned unless prior to the expiration of that year the Commission authorizes an extension of time for that completion.

PASSED AND ADOPTED by this Yuba Local Agency Formation Commission, on the 8th day of January 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

Signed and approved by me after its passage this 8th day of January 2020.

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Andy Vasquez, Chair – Yuba Local Agency Formation Commission

Attest:

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John Benoit, Executive Officer
Yuba Local Agency Formation Commission
David Ruderman, Counsel
Yuba Local Agency Formation Commission