

**RESOLUTION NO. 2205**

**RESOLUTION OF APPLICATION AND APPROVAL  
OF THE REQUESTED ANNEXATION TO THE  
OLIVEHURST PUBLIC UTILITIES DISTRICT  
(Bear River Project by Danna & Danna, Inc.)**

**WHEREAS**, Danna & Danna, Inc., a California corporation (“Developer”), has requested annexation to the Olivehurst Public Utilities District (“OPUD” or the “District”) for the purpose of receiving domestic water, wastewater, park maintenance and recreation services, and

**WHEREAS**, the District's engineer has confirmed that Developer's property is adequately described in the legal description attached hereto and marked **Exhibit “A,”** and is adequately depicted on the plat map attached hereto and marked **Exhibit “B”** (the “Property”) and

**WHEREAS**, the District has duly considered the land uses and development proposed for the Property, which include a 11.8 acre multi-family residential site, a 17.8 acre commercial site, a 13.3 acre business park, a 15.7 acre elementary school site, 323.9 acres of residential land (proposed for subdivision into 1,925 single-family lots), 77.1 acres of parks and open space (including a detention basin) and 90.3 acres of roadways and water facilities approved for development by the Yuba County Board of Supervisors on December 16, 2008 by Resolution No. 2008-160 and known as the Bear River development project (the “Project”), and

**WHEREAS**, on the terms and conditions set forth in the pre-annexation agreement attached hereto and marked **Exhibit “C,”** the District desires to annex the Property and upon Developer's compliance with the terms and conditions thereof, and the installation of any required wastewater and domestic water facilities described therein, District will have both the capacity and ability to adequately provide the requested services without adversely impacting the provision of these services to the District's existing customers, and

**WHEREAS**, the District acknowledges that the Yuba County Local Agency Formation Commission (“LAFCO”) must approve this annexation before it may be effective, and

**WHEREAS**, an application for approval of this annexation has been filed by the Developer with LAFCO, together with all required legal descriptions, boundary surveys, location maps, and filing fees.

**NOW, THEREFORE**, be it resolved, determined and ordered by the Board of Directors of the District that:

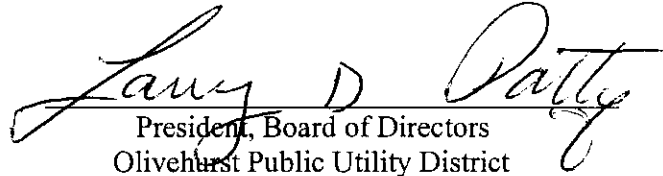
The above Recitals are true and correct.

1. The requested annexation of the Property described in **Exhibit “A”** and depicted on **Exhibit “B”** is hereby approved by the OPUD Board of Directors subject to the performance of all of the terms and conditions set forth in the pre-annexation agreement, a copy executed by the Developer is attached hereto and marked **Exhibit “C”** and the approval of LAFCO.

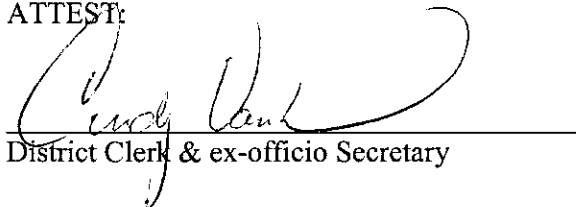
2. OPUD's approval of this annexation does not guarantee to the Developer any rights to receive the requested services until any required capacity expansions are completed to the satisfaction of OPUD and all of the terms and conditions relating to the provision of such services have been fully performed, including without limitation the completion of the update to the outstanding Park Master Plan. Additional terms and conditions could be imposed by LAFCO subject to their acceptance by the OPUD Board.
3. The General Manager is authorized and instructed to execute the pre-annexation agreement attached hereto as **Exhibit "C"** and deliver a certified copy of this Resolution to LAFCO, together with any other requested information required to support the Commission's action.
4. The District agrees, for purposes of this annexation, it shall not receive nor will there be any exchange of any share of property tax revenue (including base tax revenue and annual tax increment) belonging to the County or any taxing agency within the Project.
5. The District designates LAFCO as the "lead agency" with respect to any environmental review associated with this annexation request. The District acknowledges that an EIR for the Project (State Clearinghouse No. 2006112091) was certified by the Yuba County Board of Supervisors on December 16, 2008 by Resolution No. 2008-162, and a Notice of Determination filed on December 17, 2008, copies of which are on file with the Yuba County Community Development and Services Agency.
6. When a certified copy of the LAFCO Resolution approving the annexation has been returned to the District, and any additional terms and/or conditions imposed thereon accepted by the OPUD Board of Directors, the District's engineer shall amend the legal description and jurisdictional boundary map of the District to reflect the approved annexation.

**PASSED AND ADOPTED THIS 29<sup>th</sup> DAY OF JUNE 2009.**

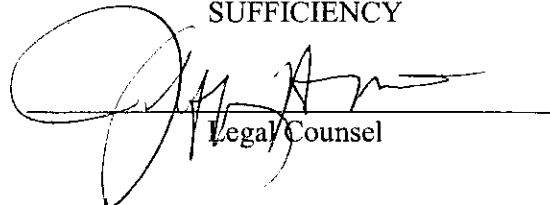
OLIVEHURST PUBLIC UTILITY DISTRICT

  
 President, Board of Directors  
 Olivehurst Public Utility District

ATTEST:

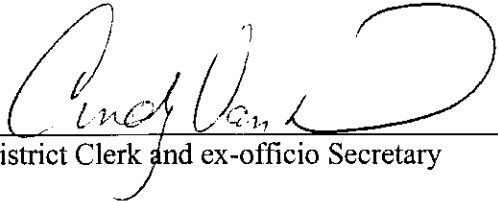
  
 District Clerk & ex-officio Secretary

APPROVE AS TO FORM AND LEGAL  
 SUFFICIENCY

  
 Legal Counsel

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted and passed by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, at a meeting thereof held on the 29<sup>th</sup> day of June, 2009, by the following vote:

AYES, AND IN FAVOR THEREOF:	Director Morrison, Peeples, Hollis, and Patty.
NOES	: None.
ABSTAIN	: None.
ABSENT	: Director Dougherty.

  
\_\_\_\_\_  
District Clerk and ex-officio Secretary

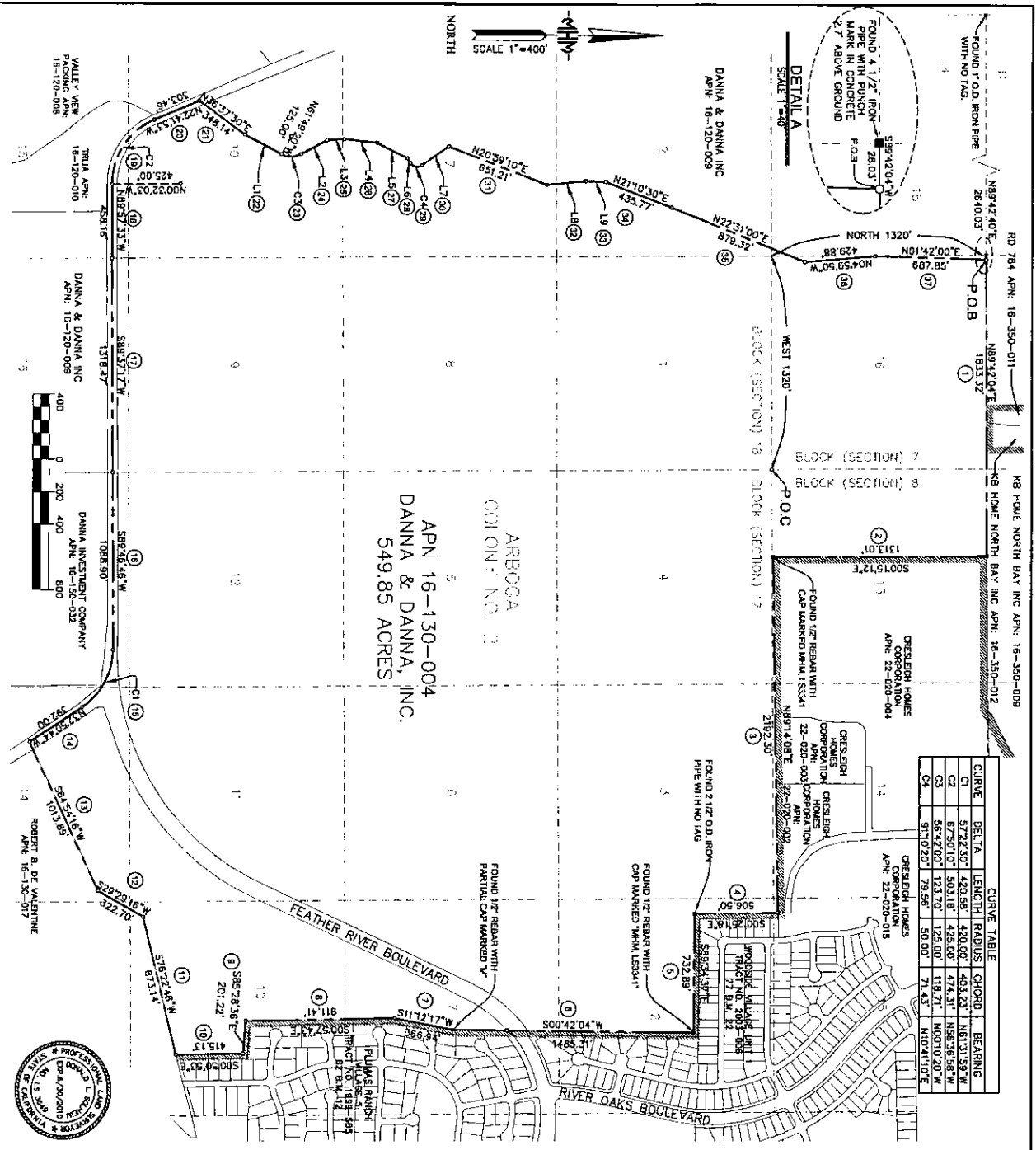
## EXHIBIT "A"

All that certain real property situate in the County of Yuba, State of California, being a portion of Sections 7,8,17 and 18, Township 13 North, Range 4 East, M.D.M., also being a portion of Blocks 7,8,17, and 18 of Arboga Colony No. 2, filed in book 2 of Maps at Page 15, Official Records of said Yuba County, described as follows:

Commencing at the Northwest corner of Southeast one-quarter of the Southeast one-quarter of said Section 7 marked by a 4 ½ Iron pipe in concrete, said corner being the Lot corner common to Lots 9,10,15, and 16 of Block 7, of said Arboga Colony No. 2 from which the Southeast corner of said Section bears South 1320 feet and East 1320 feet; thence from said point of commencement North 89°42'04" East 28.03 feet to the TRUE POINT OF BEGINNING of the herein described Parcel of land, said point also being in the centerline of Clark Slough; thence from said point of beginning, Course No. 1, North 89°42'04" East 1833.32 feet; thence Course No. 2, South 00°15'12" East 1313.01 feet; thence Course No. 3, North 89°14'08" East 2192.30 feet; thence Course No. 4, South 00°25'18" East 506.50 feet; thence Course No. 5, South 89°34'37" East 732.89 feet; thence Course No. 6, South 00°42'04" West 1485.31 feet; thence Course No. 7, South 11°12'17" West 366.94 feet; thence Course No. 8, South 00°57'43" East 911.41 feet; thence Course No. 9, South 85°28'36" East 201.22 feet; thence Course No. 10, South 00°50'53" East 415.13 feet; thence Course No. 11, South 76°22'46" West 873.14 feet; thence Course No. 12, South 29°29'16" West 322.70 feet; thence Course No. 13, South 64°54'16" West 1013.89 feet; thence Course No. 14, North 32°50'44" West 392.00 feet; thence Course No. 15, on a curve concave Southwesterly, having a radius of 420.00 feet, through a central angle of 57°22'30", the chord of which bears North 61°31'59" West 403.23 feet, with an arc distance of 420.58 feet; thence Course No. 16, South 89°46'46" West 1088.90 feet; thence Course No. 17, South 89°37'17" West 1318.47 feet; thence Course No. 18, North 89°57'33" West 458.16 feet; thence Course No. 19, on a non-tangent curve concave Northeasterly, from which the radius point bears North 00°32'03" West, having a radius of 425.00 feet, through a central angle of 67°50'10", the chord of which bears North 56°36'58" West 474.31 feet, with an arc distance of 503.18 feet; thence Course No. 20, North 22°41'53" West 303.46 feet; thence Course No. 21, North 36°37'30" East 348.14 feet; thence Course No. 22, North 28°10'30" East 255.31 feet; thence Course No. 23, on a non-tangent curve concave Westerly, from which the radius point bears North 61°49'20" West, having a radius of 125.00 feet, through a central angle of 56°42'00", the chord of which bears North 00°10'20" West 118.71 feet, with an arc distance of 123.70 feet; thence Course No. 24, North 28°31'20" West 181.95 feet; thence Course No. 25, North 03°13'40" West 104.41 feet; thence Course No. 26, North 06°20'40" East 201.55 feet; thence Course No. 27, North 27°22'30" East 210.03 feet; thence Course No. 28, North 56°16'20" East 33.77 feet; thence Course No. 29, on a curve concave Northwesterly, having a radius of 50.00 feet, through a central angle of 91°10'20", the chord of which bears North 10°41'10" East 71.43 feet, with an arc distance of 79.56 feet, thence Course No. 30, North 34°54'00" West 202.88 feet; thence

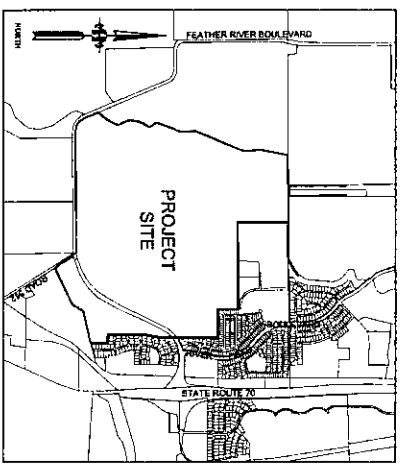
Course No. 31, North 20°59'10" East 651.21 feet; thence Course No. 32, North 05°22'30" West 246.51 feet; thence Course No. 33, North 02°06'00" East 122.87 feet; thence Course No. 34, North 21°10'30" East 435.77 feet; thence Course No. 35, North 22°31'00" East 879.32 feet; thence Course No. 36, North 04°59'50" West 429.88 feet; thence Course No. 37, North 01°42'00" East 687.85 feet to the point of beginning and containing 549.85 acres.

END OF DESCRIPTION



**CURVE TABLE**

CURVE	DELTA	LENGTH	RADIUS	CHORD	BEARING
C1	57°24'30"	420.58	420.00	493.23	N63°31'59"W
C2	87°50'01"	503.18	425.00	474.31	N58°38'58"W
C3	58°42'01"	174.78	174.00	119.71	N00°10'20"W
C4	91°02'01"	79.95	50.00	71.43	N104°11'01"E



**LINE TABLE**

LINE	BEARING	DISTANCE
L1	N28°10'30"E	255.31'
L2	N28°31'20"E	181.95'
L3	N03°13'40"W	104.41'
L4	N06°20'40"E	201.55'
L5	N27°22'30"E	201.05'
L6	N56°16'20"E	33.77'
L7	N54°54'00"W	202.88'
L8	N05°22'30"W	245.51'
L9	N02°08'00"W	122.87'

**LEGEND**

- FOUND MONUMENT AS INDICATED
- CALCULATED POINT—NOTHING FOUND OR SET
- ① COURSE NUMBER
- ▬▬▬ EXISTING BOUNDARY LINE
- ▬▬▬ QUINCY STREET PUBLIC UTILITIES DISTRICT
- ▬▬▬ 1987 DINA LARCO P.O. BOX 870 OLIVEHURST, CA 95061 (530) 743-4857

**OWNER(S)**

DANNA AND DANNA, INC.  
P.O. BOX 729  
YUBA CITY, CA 95992

**EXHIBIT "B"**

**LARCO APPLICATION NO. \_\_\_\_\_**  
**ANNEXATION TO OLIVEHURST PUBLIC UTILITIES DISTRICT**

BEING A PORTION OF BLOCKS 7, 8, 17, AND 18 OF THE "ARBOGA COLONY NO. 2" AS FILED IN BOOK 2 OF MAPS AT PAGE 19 IN THE OFFICIAL RECORDS OF YUBA COUNTY CALIFORNIA, AND BEING A PORTION OF SECTIONS 7, 8, 17, AND 18 TOWNSHIP 13 NORTH, RANGE 4 EAST, MOUNT Diablo MERRIDIAN, YUBA COUNTY CALIFORNIA

APRIL 2009  
SCALE 1"=400'  
PREPARED BY: HMM INC., 1204 E STREET, MARYSVILLE, CA 95901  
09151 LARCO  
SHEET 1 OF 1



## EXHIBIT C

### PRE - ANNEXATION AGREEMENT FOR THE BEAR RIVER PROJECT

This PRE-ANNEXATION AGREEMENT is made and entered into this 18<sup>th</sup> day of June 2009, by and between the Olivehurst Public Utilities District ("OPUD" or the "District") and Danna & Danna, Inc., a California corporation ("Developer").

#### RECITALS

**A.** Developer owns that certain real property identified as Assessor Parcel Number (APN) 016-130-004, described on the Exhibit "A" attached to the Resolution approving this Agreement and depicted on the plat map attached to said Resolution as Exhibit "B" (the "Property").

**B.** The Property has been planned for development of a 11.8 acre multi-family residential site, a 17.8 acre commercial site, a 13.3 acre business park, a 15.7 acre elementary school site, 323.9 acres of residential land (proposed for subdivision into 1,925 single-family lots), 77.1 acres of parks and open space (including a detention basin) and 90.3 acres of roadways and water facilities approved for development by the Yuba County Board of Supervisors on December 16, 2008 by Resolution No. 2008-160 (the "Project").

**C.** Developer has petitioned the Local Agency Formation Commission ("LAFCO") to annex the Project to OPUD (the "Annexation"). If and when the Annexation is completed, OPUD will provide the Property with sewer, water, and park and recreation services, subject to the terms and conditions of this Agreement.

#### AGREEMENT

**1. Wastewater Treatment.** OPUD has adopted a two-phased plan to expand its wastewater treatment capacity in its Wastewater Treatment Facility ("WWTF") to serve new development within the District's boundary. Phase I has been completed, with Phase II to be scheduled for construction when reasonably anticipated demand exceeds available Phase I capacity. Developer shall fund its share of the cost of wastewater treatment capacity needed to serve development of the Project through the payment of a WWTF capacity fee at the rate in effect at the time of the issuance of a building permit. If advance funding of such capacity is required, Developer may be required to participate in a Community Facilities District (CFD), assessment district, or similar financing district as required to secure tax/ bond financing for said expansion. Developer acknowledges that OPUD is not guaranteeing capacity to Developer in its WWTF at this time. Capacity will only be allocated to new development at the time a building permit is issued, and any available capacity shall be allocated strictly on a first-come, first-served basis.

**2. Sewer Collection.** Developer shall, to District's reasonable specifications, design and install in-tract sewer facilities having a design capacity to serve the Project. The Developer shall pay the then-current sewer collector system capacity fee with the issuance of each building permit. Funds received by OPUD from said collector fees may be utilized by OPUD to reimburse developers who previously installed any oversized collector or transmission facilities

which benefit the Project.

(C)

**3. Water Treatment.** Developer shall, to District's specifications, design and install the required domestic water system to serve the Project. In the Water Supply Assessment prepared for the Project, OPUD determined that sufficient groundwater would be available to meet future demands for domestic water within the Project. OPUD identified needs for certain water supply facilities within the Project, including two wells and a water treatment plant with three filter vessels, two pumps, a stand-by pump and 3.5 million gallon storage capacity. As provided in Paragraph (6) of this Agreement, OPUD agrees to reimburse Developer for the costs of said infrastructure during build-out of the Project through a credit of Developer's approved construction costs of the required water system infrastructure against the water system capacity fees within the Project, and, if appropriate, to refund approved costs in excess of credits from capacity fees paid by others who benefit from said water system improvements. Such reimbursement shall be governed by agreements to be negotiated between Developer and District. Without limiting the foregoing, any reimbursement, including refunds, shall be without interest and shall not be a general obligation of the District.

**4. Park Land Dedication.** To satisfy its obligation to provide park land for new residents, Developer shall dedicate park land to OPUD at the rate of 3.7 acres per 1000 residents, and pay park land dedication in-lieu fees ("In-lieu Fees") at the rate of 1.3 acres per 1000 residents, substantially as shown on the tentative map for the Project, and/or pay park dedication in-lieu fees, in accordance with the terms and conditions of the Yuba County Park Land Dedication Ordinance (the "Quimby Ordinance") and, if applicable, the Plumas Lake Specific Plan. Prior to the recordation of the first small-lot final map for the Project, Developer shall fund, and OPUD shall complete (through and including approval and adoption by the County of Yuba, if necessary), an update to the District's Park Master Plan in order to determine the park dedication, location, and amenities required for the Project, and to establish the required Park Development Fee applicable to the Project. Developer acknowledges that a portion of the In-lieu Fees will be required to be set aside and held by the County of Yuba to fund the Project's share of the acquisition of community park land serving the District, including the Project. The value of the real property upon which the In-lieu Fees will be calculated will be established as provided in the Quimby Ordinance.

**5. Park Development Fee.** With the issuance of each residential building permit, Developer shall fund the installation of park improvements and facilities through the payment of the then-effective Park Development Fee as established pursuant to the update to the Park Master Plan referred to in Paragraph 4, above. Park Development Fees are subject to periodic review and change by OPUD as approved by the County of Yuba. Unless constructed by District, Developer shall also be responsible for construction of all park improvements to the park sites located within the Project according to the updated District Park Master Plan. Upon satisfactory completion of an improved park, Developer shall be entitled to a refund or credit of that portion of the Park Development Fees representing the approved costs of the constructed park improvements in accordance with a park development agreement between Developer and OPUD, which agreement shall be negotiated and approved prior to recordation of small lot subdivision maps for single-family development or the clearance by OPUD of building permits for multi-family development.



**6. Credit and Reimbursement.** For any of Developer's sewer or water improvements that are included for funding within OPUD's sewer or water facilities financing plans, Developer shall be entitled to receive reimbursement through credits and refunds as confirmed by OPUD. The terms and procedure for the application of reimbursements shall be set forth in a Credit and Reimbursement Agreement to be entered into by and between the Developer and OPUD prior to the construction of the improvements, and which may provide for reimbursements between two or more phases of the Project.

**7. Special Taxes.** Prior to the filing of a small-lot final map, the Developer shall petition the OPUD Board of Directors to include residentially-planned portions of the Property in OPUD's Mello-Roos Maintenance District CFD 2005-2, in order to provide funding for annual maintenance of parks, trails, landscape corridors and open space to the extent that funding from CSA-66 is insufficient to cover the District's landscape maintenance costs.

**8. Non-exclusive.** Except as otherwise provided by this Agreement, Developer agrees to pay all applicable fees required by OPUD resolutions and ordinances in force and effect at the time that a building permit is issued. These may include capacity charges, park maintenance fees, and fire protection fees as well as in-house staff, and outside consultant, costs incurred by OPUD in the administration, review, and approval of required agreements and proceedings.

**9. District Standards.** Any water, sewer, park, trail, or landscaping improvements constructed or installed by Developer that are to be owned and operated by OPUD must be completed in accordance with plans and specifications approved by OPUD, inspected during construction, and approved for acceptance by OPUD's engineer prior to acceptance by OPUD.

**10. Administrative Costs.** Developer shall pay all other application, administrative (including legal and consultant costs) plan check, and construction inspection fees and charges lawfully imposed by OPUD within thirty (30) days of billing. At OPUD's request, Developer shall deposit estimated funds for OPUD to use as costs are incurred. If LAFCO imposes additional obligations on OPUD to complete the Annexation, including but not limited to pre-clearance under the requirements of the Federal Department of Justice under the Voting Rights Act, then the Developer agrees to deposit funds sufficient to reimburse OPUD for the costs thereof. This provision shall not prohibit either OPUD or the Developer from contesting such imposition by LAFCO.

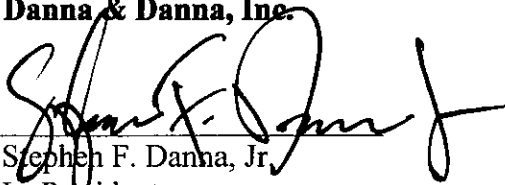
**11. Service Availability Letters.** Following the Annexation, Developer may request that OPUD issue letters to Yuba County advising that water and sewer collection and treatment service for the Project will be made available, subject to the conditions subsequent of construction of all required facilities by Developer and full compliance with the terms of this Agreement, including without limitation payment of all required fees and charges of OPUD and execution of all of the required agreements referred to above. Said letters do not guaranty Developer that collector system, WWTF, and domestic water capacities will be available at such time as building permits are pulled by Developer, but confirm that OPUD shall make said capacity available as and when required infrastructure is constructed and/or financed by Developer.

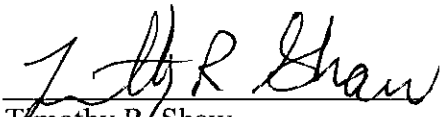
**12. Binding Effect.** This Agreement, and all the provisions, covenants and conditions

hereof, shall be binding upon and shall inure to the benefit of each of the parties hereto and their respective successors and assigns.

**13. Cooperation.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending said action.

**14. No Third Parties.** This Agreement is made and entered into for the sole benefit and protection of the Developer and OPUD. No other person, agency or entity shall have any right of action based upon any provision in this Agreement.

**Danna & Danna, Inc.**  
By:   
Stephen F. Danna, Jr.  
Its President

**Olivehurst Public Utility District**  
By:   
Timothy R. Shaw  
Its General Manager