

OLIVEHURST PUBLIC UTILITY DISTRICT

RESOLUTION NO. 2130

A RESOLUTION OF APPLICATION OF THE REQUESTED ANNEXATION TO THE OLIVEHURST PUBLIC UTILITY DISTRICT (VALLEY DEVELOPMENT COMMERCIAL DEVELOPMENT PROJECT)

WHEREAS, the owners of the real property, described as The Valley Development Commercial Development Project, have requested annexation to the Olivehurst Public Utilities District for the purpose of receiving services provided by the District, including domestic water, waste water collection and treatment, and park and recreation services, and

WHEREAS, the District's engineer has confirmed that the real property to be annexed is adequately described in the legal description attached hereto and marked Exhibit "A" and is shown on the plat map attached hereto and marked Exhibit "B", and

WHEREAS, on the terms and conditions set forth in the Agreement attached hereto as Exhibit C, the District desires to annex the real property and, and upon completion of the improvements required of Developer, 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 the requirement that the Yuba County Local Agency Formation Commission must concur in the approval of this annexation before it may be deemed complete.

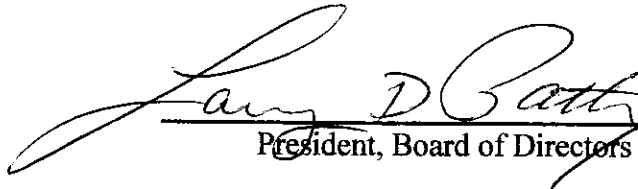
NOW, THEREFORE, be it resolved, determined and ordered by the Board of Directors of the Olivehurst Public Utilities District that:

1. The above Recitals are true and correct.
2. The requested annexation of the real property described in Exhibit "A" is hereby approved by this Board of Directors subject to the performance of all of the terms and conditions set forth in the Pre-Annexation Agreement, a signed copy of which is attached hereto and marked Exhibit "C".
3. The approval of this annexation does not guaranty to the property owner any rights to receive the requested services until this annexation has been approved by Yuba County Local Agency Formation Commission and all of the terms and conditions relating to the provision of such services as described in Exhibit A have been fully performed. Additional terms and conditions could be imposed by LAFCO subject to their acceptance by this Board.

4. Pursuant to the District's adopted annexation procedure an application for approval of this annexation has been or will be filed with Local Agency Formation Commission, together with all required legal descriptions, boundary surveys, location maps, and filing fees. The General Manager is instructed to deliver a certified copy of this Resolution to the Yuba County Local Agency Formation Commission, together with any other requested information required to support the Commission's action.
5. 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 Valley Development Commercial Development Project.
6. The District designates the Yuba County Local Agency Formation Commission as the "lead Agency" with respect to any environmental assessment that is required in the consideration of this annexation request.
7. When a certified copy of the LAFCO Commission's Resolution approving the annexation has been returned to the District, and any additional terms and / or conditions imposed thereon accepted by this Board of Directors, the District's engineer shall amend the legal description and jurisdictional boundary map of the District to reflect the approved annexation.

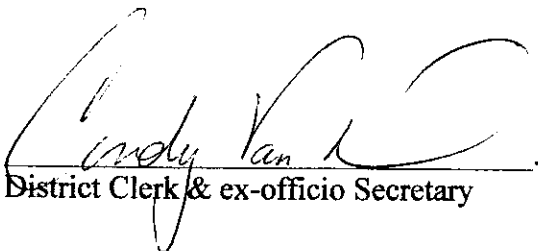
PASSED AND ADOPTED THIS 17th DAY OF AUGUST 2006.

OLIVEHURST PUBLIC UTILITY DISTRICT



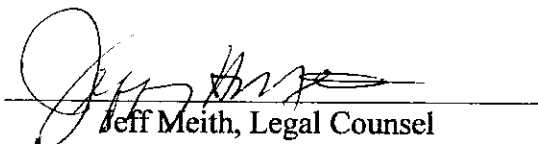
President, Board of Directors

ATTEST:



District Clerk & ex-officio Secretary

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY



Jeff Meith, 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 17th day of August 2006, by the following vote:

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

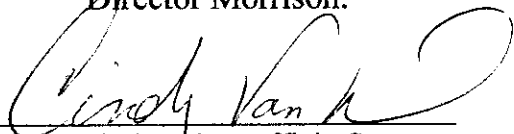

District Clerk and ex-officio Secretary

Exhibit A

Order Number: 5104-2470923
Page Number: 7

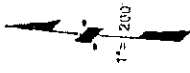
LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Yuba, State of California, described as follows:

LOTS 1 THROUGH 16, BOTH INCLUSIVE, BLOCK 6; LOTS 1 THROUGH 16, BOTH INCLUSIVE, BLOCK 7; LOTS 1 THROUGH 8, BOTH INCLUSIVE, BLOCK 8; LOTS 1 THROUGH 7, BOTH INCLUSIVE, BLOCK 9; LOTS 1 THROUGH 5, BOTH INCLUSIVE, BLOCK 10, AS SHOWN UPON THE MAP ENTITLED "ARBOGA TOWNSITE", ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF YUBA, STATE OF CALIFORNIA, IN BOOK 1 OF MAPS, AT PAGE 32.

APN: 014-320-02

14-32

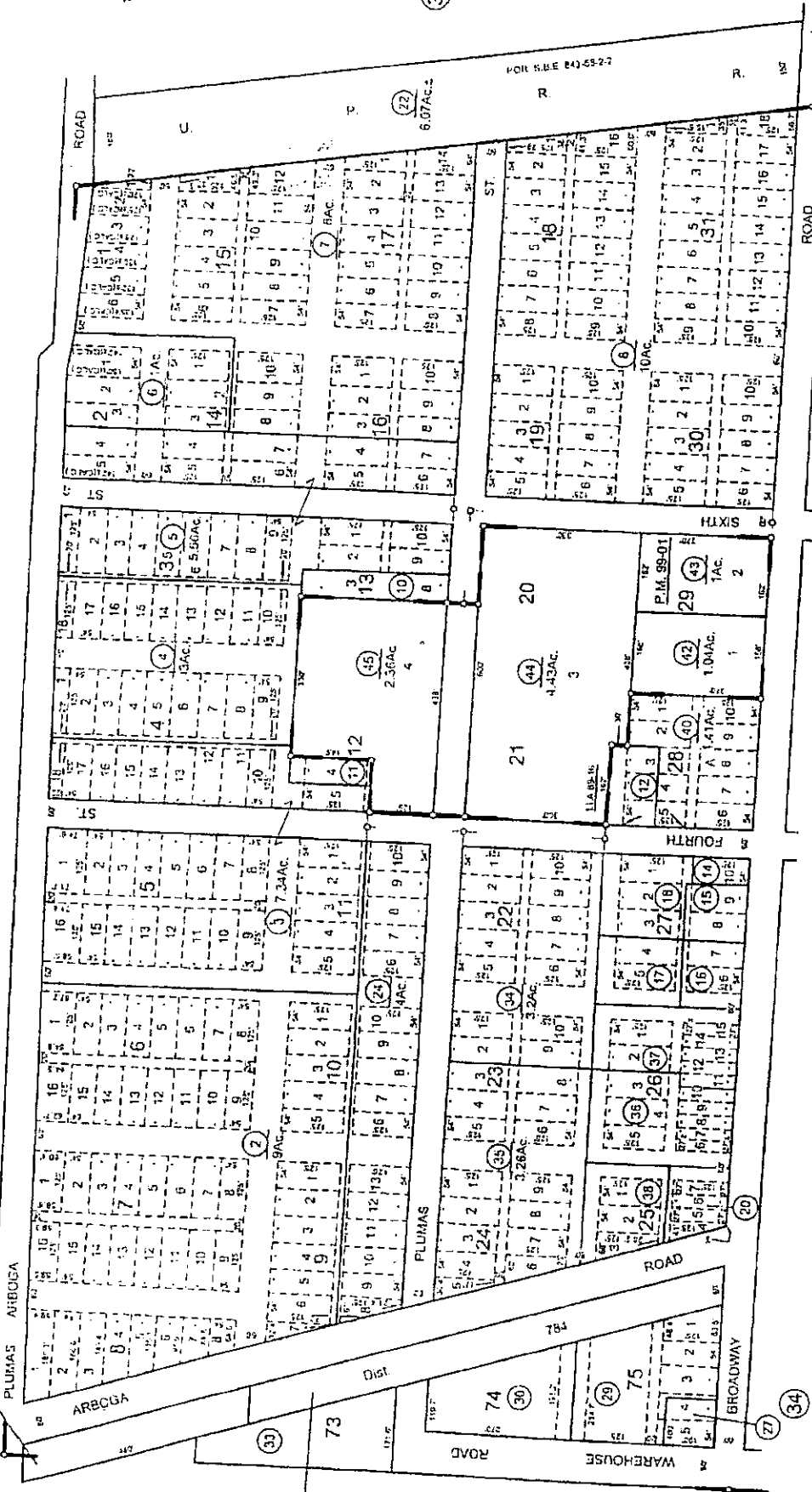


POR. ARBOGA TOWNSITE, SEC. 20, T.14N., R.4E., M. D. B. & M.

Tax Area Code
64-347
64-349

NOTE: This map was prepared for assessment purposes only, and is not intended to indicate legal rights or establish precedence over local ordinances. For information concerning use in use of law, please contact the assessor's office.

INCLUDED IN 14-306-46



Assessor's Map Bk. 14, Pg. 32
County of Yuba, Calif.

R.S. - Bk. 70, Pg. 34 (Reversion to Acreage, Parcel Map 99-01)
R.S. - Bk. 56, Pg. 20 (L.L.A. 89-16, R.O.S. 91-21)
R.S. - Bk. 1, Pg. 32 (Arboga Townsite)

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NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

SEP 27 2005

Exhibit B

EXHIBIT C

**PRE-ANNEXATION AGREEMENT
OLIVEHURST PUBLIC UTILITY DISTRICT AND THE
DEVELOPER OF THE VALLEY DEVELOPMENT COMMERCIAL DEVELOPMENT
PROJECT**

This Pre-Annexation Agreement is made and entered into this _____ day of _____, 2006, by and between the Olivehurst Public Utilities District and Valley Development Co., Inc. (Developer for the Valley Development Commercial Development Project). Upon completion of Developer's annexation and the performance of the terms and conditions set forth in this Agreement, and subject to the completion of any required conditions subsequent as set forth herein, Olivehurst Public Utilities District ("OPUD" or "District") will provide the Valley Development Commercial Development Project (described in Exhibit "A") with sewer, water, and park and recreational services.

I. SEWER CAPACITY:

(A) Treatment Plant. OPUD provides wastewater treatment capacity to development projects when they request connection to the system on a capacity available basis. OPUD has established a wastewater treatment capacity fee to fund the cost of its wastewater treatment plant (WWTP), and any required expansion thereof to serve new customers. Developer will be subject to plant capacity fees to fund its fair share of the expansion cost of the WWTP capacity, as such fees are established and modified, from time to time, by OPUD. The Developer shall pay, with the issuance of each residential building permit, the then current Wastewater Treatment Plant Capacity Fee established under OPUD's financing plan. Developer shall pay the fee in effect at the time building permits are requested. OPUD does not guaranty that capacity will be available at the time connection is requested, and will allow connections on a capacity available basis.

(B) Sewer Collector System Capacity Fees. OPUD has established a capacity fee to fund the required expansion and improvement of its sewer collector system, including lift stations, transmission main, and appurtenant facilities. Developer shall pay the fee in effect at the time the connection is made.

(C) Sewer Collector and Backbone Systems. Developer shall design and install, to the satisfaction of the District, and in accordance with its specifications, all required sewerage within the development. Developer shall also, to District's specifications, and in accordance with District's Water and Sewer Master Plan, design and install the required backbone sewer system from the District's existing collector system with capacity to serve Developer's project to a point of interconnection with the system within the development. OPUD may, in its

Valley Development Co., Inc. _____

OPUD _____

discretion, require Developer to oversize certain components of its collector system as required to provide for the orderly expansion and planning of its collector system.

Developer may be entitled to a credit against the sewer collector system capacity fees up to the amount of Developer's expense, approved by OPUD, to construct the backbone system. In addition, Developer may be entitled to reimbursement for some of its expense in constructing the backbone system, to the extent OPUD requires the oversizing of such facilities to serve others and OPUD determines the costs are eligible for reimbursement, and to the extent that District determines that other developers, who did not participate in the costs of such improvements, are benefiting thereby. Terms and conditions of fee credits and reimbursement, construction costs that will be eligible for fee credits and reimbursement, and the method by which such credits and reimbursement will be obtained will be in accordance with District's fee credit and reimbursement programs then in effect and will be subject to a separate fee credit and reimbursement agreement between Developer and OPUD.

II. WATER CAPACITY:

Developer shall be served from the existing North (historic) Olivehurst system. Valley Development will also have to construct, as directed by OPUD, and consistent with its then approved water and sewer systems master plan, required transmission lines and connections to tie Developer's system into OPUD's potable water system in the location(s) required by District.

OPUD has established a Water System Capacity Fee which fee is subject to change from time to time. Developer shall be entitled to a credit against such fee to the extent improvements otherwise funded by said fee are constructed by Developer. Developer shall also be eligible for reimbursement, to the extent Developer constructs water facilities or transmission lines with excess capacity that may be used by other Developers, to insure that all Developers pay their fair share of costs of required infrastructure. As with the sewer system, the terms and procedure for the application of credits and/or reimbursements, and the eligible costs and facilities, shall be in accordance with the then effective fee credit and reimbursement program of the District and will be subject to a fee credit and reimbursement agreement to be negotiated with Developer and approved by OPUD.

III. PARK IMPROVEMENTS:

With the issuance of building permit, or at such time as is otherwise established by OPUD and the County, Developer shall pay a Park Development Fee determined in accordance with OPUD's applicable Park Master Plan and Park Development Fee Nexus Study-Plumas Lake Specific Plan and North Arboga Study Area and implemented by Yuba County under the Plumas Lake Specific Plan. As of the date of this Agreement the park development fee is \$.30 per square foot but the fee to be paid shall be the fee in effect at the time of building permit issuance. This fee consists of two components: one for a community park and one for a community center.

IV. GENERAL PROVISIONS:

(A) Developer shall also pay all other lawful fees in force and effect as required by OPUD resolutions and ordinances that are due and owing at the time of building permit.

(B) Any water or sewer facilities, park and landscape 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 and approved for acceptance by OPUD's engineer prior to acceptance by OPUD.

(C) Developer shall pay all other application, administrative, legal, engineering, including plan check, and construction inspection fees and charges incurred in the review and approval of Developers project lawfully imposed by OPUD within thirty (30) days of billing. Developer shall deposit, and maintain, funds with OPUD sufficient to pay OPUD's costs, both Staff and consultants, reasonably required in OPUD's sole discretion to review, respond to, and assist and direct Developer in constructing facilities to be owned and operated by OPUD, and in obtaining fee credits and reimbursement therefore.

(D) Developer may make use of utility infrastructure installed and/or oversized by other developers, which facilities are part of the fee credit and reimbursement program established by OPUD. To the extent that Developer shall make use of such installed capacity, then, as a part of the capacity fees referenced above, Developer shall pay, at the time its capacity fees are otherwise due, such additional costs as represent Developer's fair share of the costs of such facilities, as determined by OPUD.

(E) Upon the approval, in a form reasonably acceptable to OPUD, by the Local Agency Formation Commission of the annexation of the real property described in Exhibit "A" to OPUD, OPUD will issue sewer and water "will serve letters" for the Valley Development Commercial Development Project. However, such will serve letters will be subject to full compliance with the terms hereof, the construction of all required on-site, off-site, and

backbone facilities by Developer, payment of all required fees and charges of OPUD, and the negotiation and execution of all required agreements required subsequent to annexation, referred to above. Will serve letters do not guaranty Developer that capacity in the water, sewer collector, and wastewater treatment systems will be available at such time as it is requested by Developer, but OPUD shall provide access to capacity as and when constructed.

(F) 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 permitted assigns.

Executed in Yuba County, California this _____ day of _____ 2006.

Developer

Olivehurst Public Utility District

Valley Development Co., Inc.

By: _____

Timothy Shaw
It's General Manager

By: _____

Dennis Nelson
It's Vice President