

# Olivehurst Public Utility District



## Agenda Item Staff Report

**Meeting Date: September 16, 2021**

### **Item description/summary:**

**Annexation of the "Leaks" property to OPUD for water, wastewater and parks services.** The property owner has initiated this annexation with Yuba LAFCo and will be responsible for all associated costs of the annexation into our service boundaries. LAFCo has requested that OPUD provide a resolution of support for the annexation and provided a template for the resolution. Resolution 2378 is attached for the Board's consideration. Also attached is LAFCo documentation for the annexation.

### **Fiscal Analysis:**

As described above

### **Employee Feedback**

None

### **Sample Motion:**

Move to approve OPUD resolution number 2378 in support of the annexation of the Leaks property.

Prepared by:

John Tillotson, P.E., General Manager

**RESOLUTION NO. 2378**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE OLIVEHURST PUBLIC UTILITY DISTRICT  
REGARDING THE LEAK ANNEXATION CONSISTING OF 201.82  
ACRES MORE OR LESS LOCATED ON RIVER OAKS BOULEVARD  
FOR WATER, WASTEWATER, AND PARKS**

**WHEREAS**, the Yuba Local Agency Formation Commission (LAFCo) received a petition of application by Danna Properties to annex 204.82 acres more or less to OPUD.

**WHEREAS**, the purpose of this annexation is to receive Water, Wastewater and Parks services from OPUD

**WHEREAS**, This application has been assigned a LAFCo File # of 2021-0001 (Leak).

**WHEREAS**, it is requested that the proposed annexation be subject to the following terms and conditions:

1. All costs incurred to complete the annexation including but not limited to Yuba LAFCo, Yuba County, and the State Board of Equalization costs will be borne by the property owner(s)
2. All impact mitigation fees will be applied to any development on this property after the completion of the annexation.
3. Properties in the proposed area to be annexed will be subject to capacity fees established by District

**NOW THEREFORE**, this Resolution of Application is hereby adopted and approved by the Board of Directors of the Olivehurst Public Utility District supporting this application subject to the terms and conditions above

**PASSED AND ADOPTED** by the Board of Directors of the Olivehurst Public Utility District this 16<sup>th</sup> day of September, 2021.

OLIVEHURST PUBLIC UTILITY DISTRICT

\_\_\_\_\_  
President, Board of Directors

ATTEST:

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
District Clerk and Ex-Officio Secretary

\_\_\_\_\_  
Deirdre Joan Cox, 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 16<sup>th</sup> day of September, 2021, by the following vote:

AYES, AND IN FAVOR THEREOF:

NOES:

ABSTAIN:

ABSENT:

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District Clerk and ex-officio Secretary

DRAFT

# **YUBA COUNTY LOCAL AGENCY FORMATION COMMISSION**

**JOHN BENOIT, EXECUTIVE OFFICER**

**915 8<sup>th</sup> STREET, SUITE 130  
MARYSVILLE, CA 95901**

**Phone (530)749-5467  
Fax (530)749-5468  
URL www.yubalafco.org**



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## AMENDED MEMORANDUM

DATE: July 12, 2021

TO: Yuba County Auditor, Property Tax Division  
Yuba County Administration, Kevin Mallen  
Olivehurst Public Utility District

FROM: Paige Hensley, Clerk Analyst

SUBJECT: LAFCO File 2021-0001/OPUD/Leak Annexation

Danna Properties LP and SJ&R Amber Properties LLC has requested to annex approximately 204.82 acres of land into the Olivehurst Public Utility District. The purpose of this annexation is to provide water and sewer services. The project area is located on the west side of River Oaks Blvd near Pembroke Drive in the Plumas Lake Specific Plan area in Southern Yuba County. The property is known as APN No's 016-350-026, 016-350-027, 016-350-022, 016-350-024, 016-350-009 and 016-500-047

Attached you will find the application submitted to Yuba LAFCo, along with a map and geographic description of the boundaries of the proposed territory for the purpose as indicated by the above subject title.

The County Assessor has been asked to forward to the Auditor the Assessed Valuations and the Tax Rate Areas of the properties to be annexed as required in Section R and T code section 99b. The Assessor will verify for us if there are any property taxes levied within the territory to be annexed.

Normally this letter constitutes notice to commence property tax negotiations under Revenue and Taxation Code §99(b), however LAFCO records indicate there is already a Master Property Tax Agreement in affect, adopted by the Board of Supervisors of the County of Yuba, on October 26, 2004, as County resolution no. 2004-157.

Please confirm with our office this Master Property Tax Agreement will be used for this project, so that we may commence the procedure for processing this annexation based on the attached Master Property Tax Transfer Agreement and issue a Certificate of Filing.

If the current Master Property Tax Agreement is not going to be used for this project then this letter constitutes notice to commence property tax negotiations under Revenue and Taxation Code §99(b). LAFCO is also requesting information from the County Assessor to be used in the procedure to conclude an agreement for reallocation of property tax revenue. The County Assessor has been asked to forward to the Auditor the Assessed Valuations and the Tax Rate Areas of the properties to be annexed in the Olivehurst Public Utility District within 30 days from the date of this letter as required in Section R and T code section 99b. The Assessor will verify for us if there are any property taxes levied within the territory to be annexed.

The County Auditor has the responsibility under Section 99 to provide information within 45 days from the date of this letter to the County Administrator and the affected agencies, who have 60 days from the date of receipt of the Auditor's letter to conclude a negotiated agreement. However, if necessary, R&T code allows a 30-day automatic extension upon written notice by an affected agency. The affected agencies must agree on how the property taxes will be reallocated for this annexation proposal as described in Section 99. Since this annexation involves a district, the County shall negotiate on behalf of new district, but not before consulting with all affected agencies. Ideally, LAFCO would prefer a resolution of property tax agreement from both Olivehurst Public Utility District and the Board of Supervisors. Such an agreement is required prior to LAFCO issuing a certificate of filing for this application and proceeding with the consideration of this annexation.

Please complete the procedure in Revenue and Taxation Code Section 99 (b) and provide LAFCO with the resulting resolution adopted by your respective Boards, as applicable. I will then commence the procedure for processing this annexation request through LAFCO.

**COUNTY OF YUBA  
LOCAL AGENCY FORMATION COMMISSION  
Application Form for Changes of Organization**

-- LAFCO use only --

AGENCY-PROJECT	SHORT FORM DESIGNATION

-- To be completed by applicant --

Use supplemental pages as necessary, and reference all attachments on the attachment list

**1. Subject Property**

<b>PROJECT TITLE:</b>		<b>ADDRESS OR LOCATION:</b>
OPUD Annexation		River Oaks Boulevard.
		Olivehurst, California 95961
<b>ACREAGE: 204.82</b>	<b>PARCEL NO.: see list</b>	

**2. Proposal**

Applicants request the following change of organization: **The application is for a reorganization consisting of 204.82 acres more or less. The reorganization includes annexation to the Olivehurst Public Utilities District and CSA 66A.**

**3. Applicants**

LAFCO will send copies of the staff report on the proposal to the following (maximum of 3):

<b>NAME: Danna Properties LP c/o Stephen Danna</b>	<b>PHONE: (530) 673-5131</b>
<b>ADDRESS: 1001 Feather River Boulevard Plumas Lake, CA 95961</b>	
<b>EMAIL: sdanna@dannafarms.com</b>	

<b>NAME: MHM Incorporated c/o Sean Minard</b>	<b>PHONE: (530) 742-6485</b>
<b>ADDRESS: 1204 E Street Marysville, CA 95901</b>	
<b>EMAIL: sminard@mhm-inc.com</b>	

<b>NAME:</b>	<b>PHONE:</b>
<b>ADDRESS:</b>	
<b>EMAIL:</b>	

#### 4. Authority to File Application

- Petition of landowners or registered voters     Resolution of Application of an affected agency

Certified copies of the Petition or Resolution of Application are included as Attachment B.

Petitions and Resolutions of Application must meet certain legal requirements. The Application Instructions include samples for applicant use.

#### 5. Statement of Justification

Provide a Statement of Justification for and explain the purpose of each request for change of organization. Include in the statement reasons why the proposal is more effective than the present organization and/or what services to the area are to be enhanced by the project. If any terms or conditions are proposed for this project, include them in the statement.

The purpose of the reorganization is to allow development of a portion of the Plumas Lake Specific Plan Area consisting of 204.82 acres more or less. The reorganization shall consist of annexation to Olivehurst Public Utilities District (OPUD) and Community Service Area (CSA) 66A. OPUD will provide municipal services consisting of sewer and water. Linda Fire Protection District is the fire protection and will continue to provide fire service through Olivehurst Public Utility Department. CSA 66A shall directly provide services for flood control, structure protection, paramedics, street lighting, street sweeping, and park maintenance. Indirectly, CSA 66A shall provide services for stormwater and drainage, as well as street maintenance.

#### 6. Plan for Services

A plan for services is now required for all LAFCO applications. The contents of a Plan for Services are enumerated in detail in Government Code Section 56653 and generally shall contain the following information: A description of the services requested, the level and range of those services, an indication of when those services can be extended into the affected territory, an indication of any improvements or upgrading of infrastructure, and information of how the services will be financed. A plan for services is attached as Attachment C.

#### 7. Boundaries

- a. An 8.5 x 11 map of the subject territory meeting the specifications listed in the Application Instructions is included as Attachment D.
- b. A geographic description of the boundaries of the subject territory meeting the specifications listed in the Application Instructions is included as Attachment E.
- c. Describe how the boundaries of this proposal were determined.: The boundaries were determined by lands owned by SJ&R Amber Properties LLC, Danna Properties, LP, Olivehurst Public Utilities District, and Yuba County.
- d. This proposal  is  is not (*check one*) consistent with the sphere of influence of all the affected agencies. (*If you are not sure of each agency's sphere boundaries, check with LAFCO staff.*)
- e. Describe access to the area. Access to the area is from River Oaks Boulevard and Pembroke Drive.



- f. A map showing the area in which the proposed change of organization is to occur. This map should include adjacent properties and streets and will be used for the purpose of illustrating the area where the change of organization is proposed. A map was provided in the annexation request letter dated May 4, 2021. This is included as Attachment A. Attachment D also shows the boundary in more detail.
- g. A regional map with the affected area depicted. A map was provided in the annexation request letter dated May 4, 2021. This is included as Attachment A.

**8. Neighboring Properties**

- a. Have surrounding property owners been canvassed for participation in the proposal? The Plumas Lake Reorganization is proposed as a landowner request with less than 12 registered voters. The adjacent property owners were not canvassed.
- b. ~~Results of any survey of surrounding property owners are included as Attachment \_\_\_\_\_.~~

**9. Land Use**

- a. Describe existing land use within the subject property. The property is currently used for agriculture orchards and row crops. There are no residential home sites within the proposed annexation.
- b. Describe the land use surrounding the subject property:
  - North: Single family residential
  - South: Agriculture
  - East: Single family residential
  - West: Drainage Lateral
- c. What is the General Plan designation for the subject property? The General plan designation of the proposed property is Plumas Lake Master Plan. The lands General Plan designation include Valley Neighborhood.
- d. What are the General Plan Designations surrounding the subject property?
  - North: Valley Neighborhood
  - South: Valley Neighborhood
  - East: Valley Neighborhood
  - West: Natural Resources
- e. What is the zoning designation (include combining districts, if applicable) for the subject property? All of the lands are within the Plumas Lake Master Plan Area. The zoning designations are specific plan medium density residential (SP-MDR).
- f. What are the Zoning Designations surrounding the subject property?
  - North: SP-MDR
  - South: SP-MDR
  - East: SP-MDR
  - West: AR-20

- g. Have any zoning changes, General Plan amendments, subdivision maps, or conditional use permits been applied for or will be applied for on the subject property? The property is part of the Plumas Lake Specific Plan Area and no modifications are proposed to the entitlements. The PLSP included a GPA, rezone, and tentative subdivision map.
- h. Copies of any such maps and/or applications or entitlement permits or resolutions shall be included as Attachment G (Plumas Lake – Leak Tentative Map, Plumas Lake – Danna Tentative Map, Tract Map 2004-07, and Parcel Map 2012-0002).
- i. Will any entitlement applications be made after approval of this proposal? None proposed at this time for the residential development.
- j. If this proposal is for an annexation to a city, this is not an annexation to a city.
- k. Does the project involve agricultural or open space lands? The project area does not include open space or agricultural lands.
- l. Flood Zone Designation? Zone X. The County includes provisions that all lands will be elevated to be above the base flood elevation (100 year) and less than 1 foot during the 200-year flood. All structures will be at least or more than 1 foot above the base flood plain.

**10. Public Services**

- a. Please indicate which agencies presently provide public services to the subject territory, and which are proposed to provide service. If you are uncertain, you may leave spaces blank.

<i>Service</i>	<i>Present Provider</i>	<i>Proposed Provider</i>
Fire Protection	Linda Fire Protection District	Same
Police Protection	Yuba County	Yuba County
Domestic Water Service	none	Olivehurst Public Utility District
Agricultural Water Service	Plumas Mutual Water Co.	Same
Sewer Service	none	Olivehurst Public Utility District
Solid Waste	Recology Yuba-Sutter	Same
Road/Street Maintenance	Yuba County	Same
Snow Removal	Yuba County	Same
Drainage	RD 784	Same
Power	Pacific Gas and Electric	Same
Levees	RD 784	Same
Street Lighting	none	Yuba County
Planning & Zoning Authority	Yuba County	Same
Schools	Plumas Lake Unified School District	Same

- b. What effect will approval of this proposal have on the type or level of services *within* the subject property? *There will be no change in the type or level of service.*
- c. What effect will approval of this proposal have on public services *outside* the subject property? *We are not aware of any change in level of service outside the subject area.*
- d. Will approval of this proposal place additional burdens on a public service provider? If so, what revenue will the change in organization generate to compensate the provider for the additional services? *As part of the PLSP, a fiscal plan was developed which included establishment of a community facilities district (CFD) to generate funding sources of the service provider.*
- e. Have the affected agencies been notified of this proposal (per G.C. 56654 (b))? *Yes, OPUD has been notified and they asked for their property to be included.*

A list of agencies who have received notification is included as **Attachment H**.

### 11. Population

Estimate whether the subject territory contains:

- 12 or more registered voters.       - Less than 12 registered voters.

### 12. Property Tax Exchange

The Revenue and Taxation Code 99b requires negotiation of a Property Tax Sharing agreement to be concluded prior to the Executive Officer issuing a Certificate of Filing. This is the case where agencies receive a share of the property tax and (or) the agency is included in the California Board of Equalization system. In the absence of a master agreement or an agreement in place prior to an application LAFCO staff will initiate the process within the affected County. However, LAFCO is not a party to the property tax exchange process or conclusions.

- a. If this application includes a Resolution of Application, does the Resolution include or reference documentation that the agencies are in agreement with regards to a Tax Exchange Agreement? *No, there is no Tax Exchange Agreement for this project.*
- b. If this application includes a petition. This does not include a petition.

### 13. Feasibility of Proposal

- a. What revenue will this proposal require for the accomplishment of its goals and what are the prospective sources of such revenues? *Developer Impact Fees, Lighting and Landscape District, Community Facilities District Fees, Connection Fees, and other standard revenue sources typical of development.*

~~If the proposal involves a granting of an additional service, consolidation, incorporation, or formation, a 5 year projected budget is included as Attachment \_\_\_\_\_.~~

- b. Is a new tax or assessment being proposed as a part of this project? *No. The fees for this project are the same as other projects in Yuba County.*

~~If so, a thorough discussion of how the service will utilize the tax or assessment, as well as the legal authority for the agency to utilize the tax or assessment is included as Attachment \_\_\_\_\_.~~

- c. Have agreements to mitigate the financial effects of this proposal been established with present service providers? **Yes.** There are numerous CFD's, Lighting and Landscape Districts, and CSA's that have been established.

If so, signed copies of these agreements are included as **Attachment H.**

**14. Environmental Compliance**

- a. Is the applicant agency acting as a Lead Agency or a Responsible Agency (*circle one*) for purposes of California Environmental Quality Act (CEQA) compliance? **No.** Yuba County was the lead agency and has already completed the environmental documents addressing this project that is available on the County website.

- i. Indicate what the Lead Agency has done to comply with the requirements of CEQA.

- Categorical Exemption from CEQA       - Negative Declaration
- Environmental Impact Report       - Other (*please specify*): \_\_\_\_\_

- ii. Copies of the complete environmental documentation prepared by the Lead Agency (including the initial study, any technical reports, and any written comments or recorded public testimony relative to the environmental documents), and a copy of the Notice of Determination, showing the date filed with the County Clerk, are included as **Attachment J.**

- iii. Was the environmental documentation circulated to the Yuba Local Agency Formation Commission prior to adoption by the Lead Agency?  Yes  No

- iv. If yes, copies of any comments made by LAFCO relative to the project, and any Lead Agency responses are included as **Attachment K.**

*Note for Sphere of Influence Proposals and Updates: Should an agency desire to include more territory within its Sphere of Influence all additional CEQA costs must be paid by that agency prior to the Commission approving the Sphere of Influence Update.*

- b. In limited circumstances, LAFCO will act as Lead Agency for CEQA purposes. These circumstances include situations where the applicant agency is unable or unwilling to act as Lead Agency and in a situation such as a district formation or Sphere of Influence update.

- i. If the applicant agency has declined to act as Lead Agency, and the applicant wishes LAFCO to assume this responsibility, applicant must **Request in writing for LAFCO to Act as Lead Agency and be willing to pay all associated costs.**

**15. Disclosure Requirements and Certification**

Pursuant to Government Code Sections 56700.1 and 57009 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and 82015 and 82025 of the Political Reform Act applicants for LAFCO approvals and those opposing such proposals are required to report to LAFCO all political contributions and expenditures with respect to the proposal that exceed \$1,000. LAFCO has adopted

policies to implement the law, which are attached to this application (attachment #8 to application instructions). By your signature to this application, you are binding the applicant to abide by these disclosure requirements. You are further agreeing that should LAFCO be required to enforce these requirements against you (or if the agency is the formal applicant, the real party in interest) that you will reimburse LAFCO for all staff cost and legal fees, and litigation expenses incurred in that enforcement process. Applicants request that proceedings as described in this application be taken in accordance with the provisions of Government Code sections 56000 *et seq.* and hereto affix their signatures below.

**16. Agreement to Pay and Indemnification**

**Charges and Deposits**

LAFCO charges are based upon actual staff time and other expenses attributable to processing applications, reviewing project proposals and researching matters as requested. Such charges may be incurred prior to or without the filing of an application with LAFCO. Individuals and agencies who request services, research, or review must provide a deposit toward project expenses, as listed on the attached current fee schedule, along with a signed copy of this agreement. All deposits are subject to increase, should the Executive Officer determine that the magnitude of the project justifies the increase. The amount of staff time necessary to process any individual application cannot be easily predicted in advance. Therefore, applicants should be aware that LAFCO charges may exceed the applicable deposit. (Unexpended deposits will be refunded.)

**Staff Assignments**

The Executive Officer shall assign LAFCO staff members to projects as appropriate. Should the scope of a project require that outside consulting or other needed services be obtained, applicants will be responsible for the entire cost of recruitment, source selection, and payment for such outside services. Applicants are responsible for paying actual costs for any services obtained through contract, even if such costs exceed the charge-out rate of a regular staff member providing similar services.

**Billing Procedure**

LAFCO invoices will detail tasks, hours, staff charge-out rates, staff members responsible for work, and/or costs of contracted services. Invoices will also reflect the remaining balance of the initial deposit. Should the deposit be depleted, all staff work will cease until the deposit on file has been replenished. Projects with delinquent balances will not be scheduled for hearing, and the Commission will consider applicants to have waived any and all statutory deadlines.

This application must be signed by the person responsible for payment and must be filed with LAFCO along with the applicable deposit when an application is filed or a request for staff services is submitted.

Questions regarding specific billing procedures should be directed to the LAFCO Executive Officer at (530) 218-0886.

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**Agreement**

I certify that I have reviewed the above information, the attached LAFCO fee schedule, and the attached State Board of Equalization fee schedule. I agree, as project applicant or authorized representative, to pay Sutter LAFCO for all staff services, materials, and other charges attributable to my application or request for services. I understand that services may be required before LAFCO receives a formal

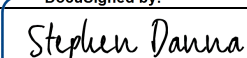
application if extensive staff assistance is required prior to receipt of an application, and I agree to pay for such services whenever incurred and regardless of whether a formal application is submitted to LAFCO. I also understand and agree that LAFCO's charges are payable regardless of whether the application is withdrawn, denied, or otherwise terminated prior to completion.

I understand that if the cost of services exceeds the deposit on file, staff work on my project will cease, and my project will not be scheduled for hearing until additional funds are provided. I agree to remit the applicable State Board of Equalization filing fee when required. I agree to pay all charges within thirty (30) days of receipt of invoice or in any case prior to the filing of the Certificate of Completion for the project.

**Indemnity**

Applicant agrees to indemnify, save harmless, defend, and reimburse LAFCO for all reasonable expenses and attorney fees in connection with the defense of LAFCO and for any damages, penalties, fines or other costs imposed upon or incurred by LAFCO should LAFCO be named as a party in any litigation or administrative proceeding in connection with his/her/its application. Applicant agrees that LAFCO shall have the right to appoint its own counsel to defend it and conduct its own defense in the manner it deems in its best interest, and that LAFCO's taking such actions shall not limit Applicant's obligations to indemnify and reimburse defense costs or relieve Applicant of such obligations.

Applicant may request modification of the terms of this agreement in writing, with supporting reasons. Such modification can be approved only by the full Commission.

Date	Signature <small>DocuSigned by:</small>	Printed Name	Title
5-04-21	 <small>3887A0B5FFCD495...</small>	Stephen Danna	Managing Partner

**NOTE:**

*Applications will not be accepted without the signature of one or more of the following: 1) the legal owner(s) or official agents with Power of Attorney or written authorization to sign (a copy of which must be attached); 2) Chief Petitioners; 3) Chair of the Legislative Body submitting a Resolution of Application.*

Date	Signature	Printed Name	Title

**NOTE:**

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