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**BUTTE LOCAL AGENCY FORMATION COMMISSION (LAFCO)**

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TO: Local Agency Formation Commission

FROM: Shannon Costa, Local Government Planning Analyst

SUBJECT: **City of Chico – Island Annexation Agreement**

DATE: March 31, 2022 for the Commission meeting of April 7, 2022

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**BACKGROUND**

Over the past decade, the City of Chico (City) and the Butte Local Agency Formation Commission (LAFCo) have made substantial progress towards the common goal of annexing the remaining unincorporated, substantially surrounded, island areas within the City’s Sphere of Influence (see **Exhibit A**). This cooperative approach resulted in the execution of the 2015 *Sewer Service Extension and Annexation Agreement* that resolved the issue of unauthorized sewer connections and required development of an annexation plan to proceed with the orderly annexation of all other island areas into which the City has or plans to extend sewer services or annex for new development. Two of the largest annexations spawned by this Agreement included the 2020 Chapman/Mulberry annexation areas (205 acres) and the 2018 North Chico Annexation Area (411 acres), which was facilitated by a letter agreement between the City and LAFCo.

**DISCUSSION**

Over the past year, City and LAFCo staff have had purposeful discussions addressing the timing of annexation for the remaining island areas to be memorialized in an Island Annexation Agreement (“Agreement”). A number of factors were considered in determining the annexation schedule, including the socio-economic status of the areas, demand for sewer service, development and redevelopment potential, and more.

At its March 15, 2022 meeting, the Chico City Council adopted a resolution providing authority to the City Manager to enter into the Island Annexation Agreement between the City of Chico and Butte Local Agency Formation Commission (see **Exhibit B**).

*Principles of Agreement*

Both LAFCo and City of Chico staff believe that execution of the Annexation Agreement is a positive step towards achieving the goals of both agencies: promoting orderly development while balancing efficient provision of municipal services and City budget constraints. Notable elements of the Draft Agreement are outlined below for Commission consideration:

**Timing of Initiation:** The City would adopt a single initiating resolution identifying all areas simultaneously. In order to provide time for the City to prepare for the provision of services to these areas, LAFCo would include a condition of approval that the recordation of the Certificate of Completion for each island, and filing of the annexation with the State Board of Equalization, be deferred to a yearly basis. It is anticipated that the first annexation would be recorded in August 2023 until all four areas are annexed by 2026. The order by which each island would be annexed

is outlined in the Agreement (Section 1.03). Nothing in the agreement would preclude the City from requesting that any or all island annexations be expedited in advance of the schedule.

**Sewer Connections:** Upon execution of the Agreement, the City of Chico would be authorized to extend sewer services within any identified island area, to all currently existing, residentially zoned parcels not requiring a land use entitlement for development without any further LAFCo approval restrictions prior to the annexation of said parcels. The City would notify LAFCo of such connections for record keeping purposes.

**Further Annexations:** Upon execution of the Agreement, application for annexation of other areas for new development (i.e. Special Planning Areas) to the City of Chico can move forward on their own merits.

### *Timing*

Per the Agreement, the City will submit an annexation application that includes all four annexation areas to LAFCo prior to August 1, 2022. To allow reasonable time for the City to prepare for the provision of services to these areas, following the initial LAFCo review and approval, LAFCo will stagger the recordation of the annexation on the following City proposed schedule:

<b>Annexation Area</b>	<b>Acres</b>	<b>Parcels</b>	<b>Effective Date (Certificate of Completion Filed)</b>
W. Sacramento Avenue Island	69	262	August 1, 2023
W. East Avenue Island	102	227	August 1, 2024
El Monte Avenue Island	85	70	August 1, 2025
Chico Canyon Road Island	177	113	August 1, 2026

### **ENVIRONMENTAL REVIEW**

The City of Chico is the Lead Agency for the proposal under the California Environmental Quality Act (CEQA). Butte LAFCo is a Responsible Agency for environmental review. The City of Chico determined that the proposal is consistent with determinations made in the Final EIR prepared and certified for the Chico 2030 General Plan Update (SCH#2008122038), which programmatically and comprehensively analyzed impacts associated with implementation of the General Plan, including future annexations consistent with the Land Use Diagram. Pursuant to CEQA Guidelines Section 15132 (Subsequent EIRs and Negative Declarations), no subsequent environmental review is required because no new environmental effects are anticipated by the proposed annexation, nor has any new information about the annexation been revealed since the City Council Certification in April 2011 of the Chico 2030 General Plan Program Environmental EIR. LAFCo staff concurs with the City's environmental determination.

### **ACTION REQUESTED:**

Staff recommends that the Commission adopt resolution 16 2021/22 authorizing the Chair of the Commission to enter into the Island Annexation Agreement between the City of Chico and Butte LAFCo.

Respectfully submitted,

*Shannon Costa*

Shannon Costa

Local Government Planning Analyst

Attachments:

- A. Map of Remaining Island
- B. Draft Island Annexation Agreement

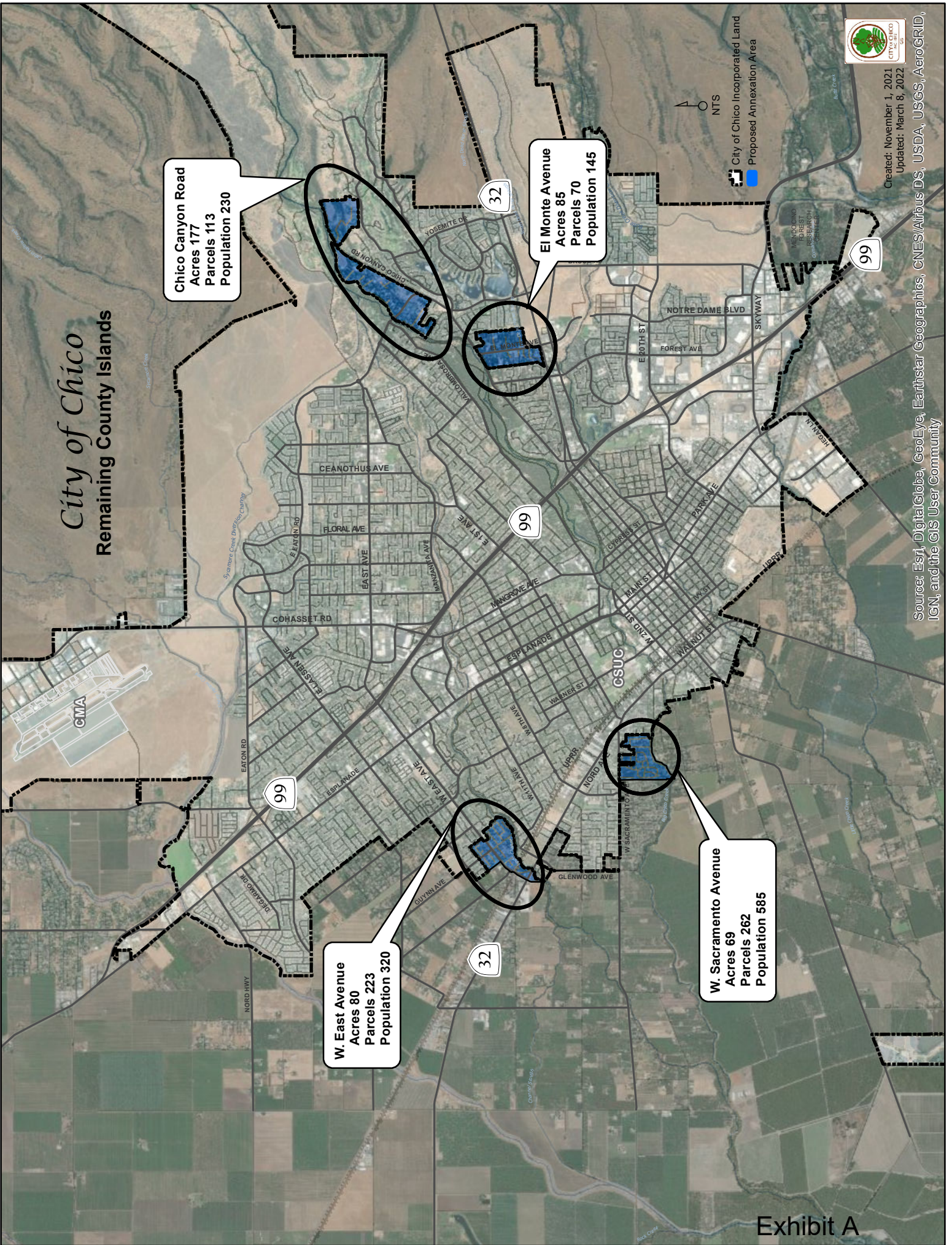
# City of Chico Remaining County Islands

**Chico Canyon Road**  
Acres 177  
Parcels 113  
Population 230

**El Monte Avenue**  
Acres 85  
Parcels 70  
Population 145

**W. East Avenue**  
Acres 80  
Parcels 223  
Population 320

**W. Sacramento Avenue**  
Acres 69  
Parcels 262  
Population 585



Created: November 1, 2021  
Updated: March 8, 2022

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Exhibit A

## ISLAND ANNEXATION AGREEMENT

This Island Annexation Agreement (“Agreement”) is entered into effective \_\_\_\_\_, 2022, by and between the City of Chico (“City”) and the Butte Local Agency Formation Commission (“LAFCo”), collectively referred to sometimes hereinafter as “the Parties”.

### RECITALS

**WHEREAS**, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq), the City is provided the authority to initiate annexations and LAFCo is given the authority to conduct annexation proceedings and LAFCo retains the sole authority to approve annexations; and

**WHEREAS**, the Parties have identified four (4) remaining islands of unincorporated territory within the City of Chico Sphere of Influence as depicted on **Exhibit A** and described as the Chico Island Annexation Areas. The identified island areas are substantially surrounded (>50% of exterior annexation area boundary) unincorporated islands, largely built-out with single-family residential uses and associated infrastructure such as curbs, storm drains, streetlights, and water service; and

**WHEREAS**, much of these areas are served by individual septic systems, although sewer infrastructure is installed in some areas and several homes are currently connected under sewer service extension agreements. It is highly desirable to connect existing septic systems to the City sewer in support of the Nitrate Action Plan; and

**WHEREAS**, it is the desire of both Parties to allow the City to extend municipal sewer services to all existing, substantially developed, residentially zoned parcels within the Chico Island Annexation Areas without limitation prior to the annexation of said parcels; and

**WHEREAS**, Chico Island Annexation Areas 1-4 are functionally a part of the City’s political, economic and social communities of interest and are logical to be under City jurisdiction; and

**WHEREAS**, the Parties concur that annexation of the Chico Island Annexation Areas is necessary for the orderly growth and planned build-out of the City pursuant to its 2030 General Plan, and wish to enter into an agreement that will allow the City to: 1) provide a full range of municipal services to existing, developed lands within its Sphere of Influence; and 2) responsibly plan for the extension of municipal services to newly annexed territory.

**NOW THEREFORE**, the Parties desire to enter into this Agreement on the following terms and conditions:

**ARTICLE 1**  
**ANNEXATION OF REMAINING ISLAND AREAS**

**Section 1.01** City Agreement to Initiate Annexations of Chico Island Annexation Areas

City agrees to adopt a Resolution of Application to annex the Chico Island Annexation Areas (collectively, “the Resolutions”) (delineated in **Exhibit A** and hereinafter referred to as the “Islands”) in accordance with Government Code §56375.3, where applicable, and to submit complete annexation applications to LAFCo for the Islands prior to August 1, 2022, and otherwise according to the agreed upon schedule in Section 1.03 of this Agreement.

**Section 1.02** Payment of LAFCo Fees for Islands Annexations

City will pay all of LAFCo’s charges and related State Board of Equalization fees required for the processing of the annexation applications for the Islands as follows:

- a) City shall pay LAFCo \$10,000 as an initial payment/deposit towards the actual costs for processing the applications for staff time, processing expenses, and materials. Upon the exhaustion of the initial payment, the City shall pay for additional actual costs for the processing of the application, not-to-exceed \$15,000. If it is determined by LAFCo that additional environmental review is required to support the annexation applications, upon notification to City, City shall prepare or pay the costs of the additional environmental review documentation, as reasonably required by LAFCo.
- b) City shall submit along with each LAFCo annexation application a voluntary indemnification for all legal challenges associated with each application and its approval. The voluntary indemnification agreement shall include terms: 1) that the limit on application costs shall not limit the City’s obligation for indemnification; and 2) that the indemnification obligation shall remain in effect to cover any challenge to the annexation of any or all of the Islands, regardless of when filed, so long as such challenge is filed within the applicable statute of limitations.

**Section 1.03** Deferral of Completion of the Annexation.

- a) In order to give the City time to prepare for the provision of services to the Islands, LAFCo agrees that as a condition of approval of the annexations, that the Certificate of Completion for each Island and filing of the annexation with the State Board of Equalization shall be deferred and recorded on the following schedule:

<b>Annexation Area</b>	<b>Acres</b>	<b>Parcels</b>	<b>Effective Date (Certificate of Completion Filed)</b>
W. Sacramento Avenue Island	69	262	August 1, 2023
W. East Avenue Island	80	223	August 1, 2024
El Monte Avenue Island	85	70	August 1, 2025
Chico Canyon Road Island	177	113	August 1, 2026

Prior to the above time limits for filing the Certificate of Completion, the City may request that LAFCo immediately record a Certificate of Completion. Any such accelerated annexation requires the immediate payment of any outstanding LAFCo fees due as well as the State Board of Equalization fee for filing a Certificate of Completion.

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**Butte LAFCo and City of Chico**

- b) The Parties understand that the recording of the Certificate of Completion of the annexation and filing with the State Board of Equalization shall complete the annexation and transfer service responsibilities to the City. In addition to the fee payment of Section 1.02(s), the City shall be responsible for all fees associated with the filing with the State Board of Equalization upon the recording of the Certificate of Completion.
- c) Once this Agreement is approved by both Parties, the disposition of these four annexation areas will no longer be considered by LAFCo as an impediment to future annexations proposed by the City.

**Article II.**  
**DETERMINATIONS**

**Section 2.01** Considerations

- a) The islands identified as W. Sacramento Avenue Island, W. East Avenue Island, and El Monte Avenue Island conform to the provisions of Government Code Section 56375.3 (Island Annexations Without Protest Proceedings). Pursuant to this Code section, the City shall adopt an initiating resolution requesting that LAFCo conduct protest proceedings pursuant to Government Code Section 56375.3, specifically including the waiver of protest hearing as appropriate. The City will comply with the informational requirements of LAFCo for such applications.
- b) Notwithstanding anything to the contrary in this Agreement, the City is authorized to extend sewer service within the Islands to: 1) existing, substantially developed, residentially zoned parcels; 2) vacant single-family zoned parcels; and 3) parcels developing Accessory Dwelling Units or additional units consistent with Senate Bill 9 without any further LAFCo approval prior to the annexation of said parcels. Upon receiving a completed City sewer service extension application/request from a parcel owner seeking extension of sewer services within an Island annexation area before that Island area annexation is complete, the City shall transmit a copy of the completed City sewer service application to LAFCo for its records.
- c) The City shall not extend sewer services to support development on parcels that require planning entitlements (e.g., land subdivision) until such time that the parcel located in the Island Area is annexed to the City.

**Article III.**  
**GENERAL PROVISIONS**

**Section 3.01** Term of Agreement

This Agreement shall remain in effect until such time that all Island areas have been annexed to the City.

**Section 3.02** Dispute Resolution Procedure

Should a dispute arise with respect to implementation or performance of this Agreement, the Parties

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agree to meet as necessary to resolve the problem. If the Parties cannot agree after meeting, then either party, by written notice to the other, may require a formal mediation of the matter. The Parties shall agree on a neutral mediator who shall facilitate the mediation, with the cost, including attorney's fees, shared equally between the Parties. At a minimum, the chair of LAFCo and the City Manager shall participate in the mediation. The mediation shall be held as soon as reasonably possible. If the mediation is unsuccessful, either party may proceed to enforce their legal remedies.

**Section 3.03 Remedies for Breach**

- (a) Agreement Specifically Performable. The Parties agree that the terms of this Agreement may be specifically enforced by order of an appropriate court ordering the performance by a party of any obligation hereunder.
- (b) Attorney's Fees. In the event of controversy, claim or dispute between the parties hereto arising out of or relating to the performance of this Agreement or the breach thereof, the prevailing party shall be entitled in addition to such other relief as may be granted, a reasonable sum as and for attorney's fees and litigation expenses which shall be determined by the Court. This section shall not be applicable to any fees incurred under Section 3.02.
- (c) Interest. Should any payment be required by this Agreement not be made as provided in this Agreement, the obligor shall be obligated to pay interest at the rate of ten percent (10%) per annum on the amount until paid, in addition to the principal.

**Section 3.04 Notices**. Unless otherwise expressly specified herein, any notice, which any party may or is required to give, shall be given by personal service, email, facsimile transmission or by depositing such notice with the U.S. Postal Service, postage prepaid, to such other parties. If delivered by email, the email shall be transmitted during business hours to the email address listed below each party's signature or at such other address as may be designated by the party in writing from time to time. However, such email shall not be considered delivered, unless there is confirmation of receipt. If delivered by fax, the fax shall be transmitted during business hours to the fax number listed below each party's signature or at such other number as may be designated by the party in writing from time to time. If delivered by mail, the mail shall be sent to the mailing address given below each party's signature, or at such other place as may be designated by the party in writing from time to time. Notice shall be effective upon the date of personal delivery, email, or fax transmission, or 3 days after date of mailing.

**Section 3.05 Implied Obligations**. LAFCo and the City shall reasonably cooperate to achieve the purposes of this Agreement, and shall execute or provide as requested such other documents and information as are reasonably necessary to achieve those purposes

**Section 3.06 Construction**. When the context of any provision requires it, the singular shall be held to include the plural, and the masculine shall be held to include the feminine gender. Should any provisions of this agreement require judicial interpretation, it is understood by the Parties and agreed that a Court interpreting or construing same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that the document is to be construed



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more strictly against the party who prepared it since the Parties agree that both have participated in the preparation of this document

**Section 3.07** Authority to Sign and Binding Effect. The Parties executing this Agreement personally warrant that they have full authority from their legislative body to enter into this Agreement on behalf of the agency for which they are signing, and that said agency will be legally bound to the Agreement by their signature hereto.

THE PARTIES EXPRESSLY ACKNOWLEDGE THAT THEY ARE MAKING LONG TERM LEGALLY ENFORCEABLE COMMITMENTS BY THIS AGREEMENT THAT WILL BIND FUTURE COMMISSIONS AND COUNCILS.

**Section 3.08** Counterparts

This Agreement may be executed in counterpart and shall become effective upon the signatures of the City and LAFCo to signature page hereto.

**ISLAND ANNEXATION AGREEMENT  
Butte LAFCo and City of Chico**

**Signature Page - City of Chico**

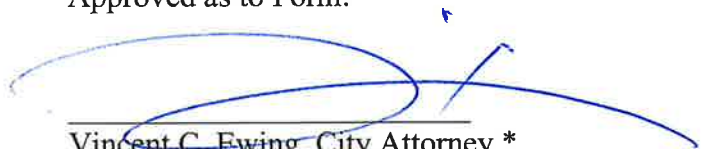
**CITY OF CHICO**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Mark Orme, City Manager  
City of Chico  
411 Main Street, PO Box 3420  
Chico, California 95927

Approved as to Form:



\_\_\_\_\_  
Vincent C. Ewing, City Attorney \*

\*City of Chico Charter, Section 906(D)

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**ISLAND ANNEXATION AGREEMENT  
Butte LAFCo and City of Chico**

**Signature Page - Butte LAFCO**

**BUTTE LAFCO**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Carl Leverenz, Chair  
Butte Local Agency Formation Commission  
1453 Downer Street, Suite C  
Oroville, California 95965

Approved as to form:

\_\_\_\_\_  
Scott Browne, LAFCo Counsel

# ISLAND ANNEXATION AGREEMENT Butte LAFCo and City of Chico

## EXHIBIT A: ISLAND ANNEXATION AREA MAP

