MEMORANDUM
LOCAL AGENCY FORMATION COMMISSION

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer

SUBJECT: LAFCo File 19-12 – County Service Area 158 - Sphere of Influence Amendment and Mandville Park Annexation No. 1 (Public Hearing)

DATE: October 28, 2019 for the meeting of November 7, 2019

Summary
Proposed is a Sphere of Influence Amendment to County Service Area 158 (CSA 158 - Ishi Valley Estates) that would add 25 parcels totaling approximately 26.4 acres to CSA158’s Sphere of Influence (SOI). Also proposed is the annexation of those 25 parcels to CSA 158 for the provision of fire protection services as shown in Attachment 1.

The Commission held a noticed public hearing on this proposal on October 3, 2019, considered the staff report and public testimony and continued the hearing open to its November 7, 2019, regular meeting in order to request additional information from the applicant (County) as described in the October 4, 2019, letter to the County (Attachment 2).

As of the date of this report we have not received confirmation from the County Counsel's Office as to the validity of the Proposition 218 Proceedings or confirmation that all (100%) of the current landowners are in support of this proposal.

Action Requested: The Commission has two alternative actions to consider:

1. If the requested information is not provided by the November 7 hearing the Commission can continue the item to its next regular meeting on December 5, 2019 in order to allow the applicant additional time to provide the requested information; or

2. If the requested information is provided by the November 7 hearing the Commission can approve the proposal and waive protest proceedings as follows:

   A. Move to adopt Resolution 02-S 2019/20 approving the proposed Sphere of Influence Amendment to County Service Area 158 as shown in Attachment 3.

   B. Move to adopt Resolution 02 2019/20 making determinations approving the proposed County Service Area 158 – Mandville Park Annexation No. 1 as shown in Attachment 4.

Attachments: 1. Map of CSA 158 and proposed annexation area
             2. October 4, 2019 letter to Butte County DPW
             3. Draft Resolution No. 02-S 2019/20 - Sphere Amendment
             4. Draft Resolution No. 02 2019/20 - Annexation
October 4, 2019

Dennis Schmidt, Director
Department of Public Works
County of Butte
7 County Center Drive
Oroville, CA 95965

Re: LAFCo File 19-12 – County Service Area 158 - Sphere of Influence Amendment and Mandeville Park Annexation No. 1 (Public Hearing)

Dear Dennis,

The Butte Local Agency Formation Commission held a noticed public hearing on October 3, 2019, for a Sphere of Influence Amendment and Annexation to County Service Area No. 158 (Ishi Valley Estates) for the Mandeville Park Subdivision. The Commission continued this hearing open to its regular meeting of November 7, 2019 in order to request and consider additional information as described below.

1. The Commission requests the County of Butte County Counsel’s Office provide a written statement to the Commission that confirms that the existing Proposition 218 agreement with the Mandeville Park Subdivision landowner is legal and is binding to the current annexation proceeding and current landowners. Should the County not provide the requested confirmation, a formal Proposition 218 vote will need to be held and landowner approval received, prior to the recording of the Certificate of Completion.

2. The Commission requests the County of Butte and former sole owner of the Mandeville Park Subdivision (Mandeville Park Subdivision LLC) obtain written approval from each of the current landowners within the Mandeville Park Subdivision in support of the annexation. Failure to obtain consent from the landowners within the proposed annexation area (subdivision) will result in the annexation proposal being subject to protest proceedings which will extend the timing and cost of processing this proposal. The signed consents shall be submitted to the Commission prior to the Commission’s November 7, 2019 meeting.

3. Mitigation Measure #10 of the Mandeville Park Subdivision Map project requires that a pressurized community water system for fire protection be installed and operational prior to combustible building materials arriving on site. A site visit determined that homes are being constructed and the pressurized water system (fire hydrants) has been installed within the subdivision. Given the above mitigation measure, we must assume the hydrants are operational. CSA 158’s existing fire protection system consists of a well, a 1 horsepower pump, a 25 horsepower pump, underground water lines, and six hydrants. The well and pumps are located on the northwest corner of APN 047-750-062 (4239 Tuliyani Drive) within the existing boundaries of CSA 158.
If in fact the water has been extended to the Mandeville Subdivision hydrants as suspected, this constitutes an unauthorized extension of services outside the jurisdictional boundaries of CSA 158. Government Code Section 56133 requires the County to first obtain Commission approval for any service extension outside of the jurisdictional boundaries of any CSA. While we realize the County is currently requesting annexation of this new subdivision which would allow such an extension, at present, the premature extension of water service remains unauthorized. The Commission is interested in understanding how this unauthorized extension of services could have occurred and what steps might be taken by the County to avoid such an occurrences in the future.

We look forward to working with the County to address these concerns and are hopeful this proposal can be approved at the next Commission meeting on November 7, 2019. Please contact me should you have any questions concerning this request.

Respectfully,

*Steve Lucas*

Stephen Lucas, Executive Officer

cc: LAFCO  
Butte County Admin
RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
MAKING DETERMINATIONS AND APPROVING
A SPHERE OF INFLUENCE AMENDMENT TO
COUNTY SERVICE AREA 158 – MANDVILLE PARK SUBDIVISION

RESOLVED, by the Local Agency Formation Commission of the County of Butte, State of California, that

WHEREAS, a proposal for an amendment to County Service Area 158’s Sphere of Influence was heretofore filed by the County of Butte and accepted for filing on May 29, 2019, by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

WHEREAS, the County of Butte has identified a need to amend the CSA 158’s Sphere of Influence to provide fire protection services (pressurized water system with fire hydrants) to the Mandville Park Subdivision, which is adjacent to CSA 158’s existing sphere of influence and jurisdictional boundaries; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56427, set October 3, 2019, as the hearing date on this proposal and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56428, has reviewed this proposal and prepared a report, including his recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission called for and held a public hearing on the proposal on October 3, 2019, and at the hearing this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, the Commission continued the public hearing to November 7, 2019 in order to solicit additional information;

WHEREAS, this Commission considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, the applicable Butte LAFCo Policies and Procedures and the factors specified in Government Code Section 56425(e); and

NOW, THEREFORE, the Local Agency Formation Commission of the County of Butte DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. Environmental Action:

The Commission certifies that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared and adopted by the County of Butte for the Mandville Tentative Subdivision Map project, which considered
extending CSA 158’s fire protection system to the subject territory. The Commission finds no compelling grounds to require supplementing the initial Study/Mitigated Negative Declaration prepared by the County of Butte.

Section 2. Determinations:

A. The Commission has considered the factors determined by the Commission to be relevant to the Sphere of Influence Amendment including Butte LAFCo Policies and Procedures, the County Service Areas Municipal Service Review, Sphere of Influence and General Plan consistency, planned land uses, the potential conversion of agricultural and open space lands, the need for municipal services, the availability of services, and the existence of any social or economic communities of interest as discussed in Government Code Section 56425, and as described in the staff report dated October 24, 2019, for the meeting of November 7, 2019.

B. The Commission determines that the extension of fire protection services to the subject parcels conforms to the land use plans of the Butte County in that the territory is located on the south boundary of, and is contiguous to, County Service Area 158’s Sphere of Influence and jurisdictional boundary.

C. Pursuant to Butte LAFCO Policy 2.13.1, the Commission determines that agricultural and/or open space lands will not be adversely affected by this proposal because the territory does not contain any agricultural uses and has been designated for residential uses by the North Chico Specific Plan since adoption of the Plan in 1995. Therefore, no conversion of designated agricultural or open space lands will occur as a result of the requested Sphere of Influence amendment.

D. County Service Area 158 has the capacity to provide fire protection services to the affected area and the annexation will not adversely affect the CSA’s ability to provide fire protection services to the existing parcels within the CSA.

E. The Commission determines that the subject territory is adjacent to CSA 158’s Sphere of Influence.

F. The Commission determines that the Sphere of Influence Amendment is intended to facilitate the annexation of defined territory and is not related to a systematic review of CSA 158’s Sphere of Influence as addressed in California Government Code Section 56430.

G. The Sphere of Influence Amendment area shall consist of twenty-five (25) parcels, totaling approximately 26.4 acres, as described in Exhibit “A.”

H. The subject proposal is assigned the following short form designation: 19-12(S) – County Service Area 158 Sphere of Influence Amendment – Mandville Park Subdivision.

Section 3. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution in the manner and as provided in Section 56853 of the Government Code.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 7th day of November 2019 by the following vote:
AYES:  
NOES:  
ABSENT:  
ABSTAINS:

Clerk of the Commission  

CARL LEVERENZ, Chair  
Butte Local Agency Formation Commission
RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF BUTTE
MAKING DETERMINATIONS AND ORDERING THE ANNEXATION OF TERRITORY DESIGNATED AS 19-12
COUNTY SERVICE AREA 158 – MANDVILLE PARK SUBDIVISION ANNEXATION NO. 1

RESOLVED, by the Local Agency Formation Commission of the County of Butte, State of California, that

WHEREAS, a proposal for the annexation of certain territory to the County Service Area 158 in the County of Butte was heretofore filed by the County of Butte and accepted for filing on May 29, 2019, by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set October 3, 2019, as the hearing date on this proposal and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report, including recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission called for and held a public hearing on October 3, 2019, and at the hearing this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, the Commission continued the public hearing to November 7, 2019 in order to solicit additional information;

WHEREAS, this Commission considered 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

NOW, THEREFORE, the Local Agency Formation Commission of the County of Butte DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. Environmental Findings:

A. The Commission certifies that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared and adopted by the County of Butte for the Mandville Tentative Subdivision Map project, which considered extending CSA 158's fire protection system to the subject territory. The Commission finds no compelling grounds to require supplementing the Initial Study/Mitigated Negative Declaration prepared by the County of Butte.
Section 2. General Findings and Determinations:

A. The Commission has considered the factors determined by the Commission to be relevant to the Sphere of Influence Amendment including Butte LAFCo Policies and Procedures, the County Service Areas Municipal Service Review, Sphere of Influence and General Plan consistency, planned land uses, the potential conversion of agricultural and open space lands, the need for municipal services, the availability of services, and the existence of any social or economic communities of interest as discussed in Government Code Section 56425, and as described in the staff report dated September 24, 2019, for the meeting of October 3, 2019.

B. The Commission finds that the proposal does have 100% support of the affected property owners and waives the conducting authority proceedings.

C. The annexation area shall consist of twenty-five (25) parcels totaling approximately 26.4 acres, as submitted by the County of Butte and described in Exhibit “A.”

D. The subject area is found to be uninhabited, and is assigned the following short form designation: 19-12 – County Service Area 158 – Mandville Park Annexation No. 1.

E. County Service Area 158’s existing fire protection service has the capacity to provide service to the territory without effecting existing users. The provision of fire protection services is a requirement of the Mandville Subdivision Map and the annexation/extension of CSA 158’s fire protection system to will ensure that adequate water for fighting fires is available within the this residential subdivision.

F. The proposal is consistent with the County Service Area’s Sphere of Influence as amended by the Commission on November 7, 2019 (Resolution No. 02S 2019/20).

G. Pursuant to Butte LAFCO Policy 2.13.1, the Commission determines that agricultural and/or open space lands will not be adversely affected by this proposal because the territory does not contain any agricultural uses and has been designated for residential uses by the North Chico Specific Plan since adoption of the Plan in 1995. Therefore, no conversion of designated agricultural or open space lands will occur as a result of the proposed annexation.

H. Resolution No. 18-178 adopted by the Butte County Board of Supervisors on December 11, 2018, which initiated the annexation proposal states that the territory being annexed to CSA 158 will not receive any property tax revenue.

Section 3. Conditions requested by LAFCO:

A. Prior to recordation of the Certificate of Completion for the annexation, the County of Butte shall substantiate that the existing Proposition 218
agreement with the landowner is legal and is binding to the current annexation proceeding. If the County of Butte is unable to provide the necessary substantiation, then a formal Proposition 218 vote to establish the maximum annual service charge is required to be held by the County of Butte prior to recordation of the Certificate of Completion for the annexation.

B. Prior to recordation of the Certificate of Completion for the annexation, the County of Butte shall formally request that Butte LAFCo update CSA 158's Municipal Service Review and Sphere of Influence Plan to include the new area added to the CSA. Along with the request, the County of Butte shall submit a deposit of $5,000 to Butte LAFCo to cover the costs of preparing the updated Municipal Service Review and Sphere of Influence Plan for CSA 158.

C. All LAFCO, County of Butte and State of California fees must be paid in full prior to filing the Certificate of Completion.

D. The legal description and map, if amended by action of the Commission, will be revised at the expense of the applicant, prior to filing the Certificate of Completion.

E. The map and legal description shall comply with the State Board of Equalization requirement and if rejected by the State Board of Equalization, will be revised at the expense of the applicant.

Section 4. The boundaries, as set forth in the proposal or as amended by action of the Commission, are hereby approved as submitted and are as described in Exhibits “A” and “B” attached hereto and by this reference incorporated herein.

Section 5. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Section 56882 of the Government Code.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 7th day of November 2019 by the following vote:

AYES:  
NOES: 
ABSENT: 
ABSTAINS:  

Clerk of the Commission  CARL LEVERENZ, Chair  
Butte Local Agency Formation Commission