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SMC 16-720

ANNEXATION APPLICATION

PRINT OR TYPE

A

COMMUNITY DEVELOPMENT DEPT.
PERMIT CENTER
345 N. EL DORADO STREET
STOCKTON, CA 95202-1997
TEL: (209) 937-8266 FAX: (209) 937-8893

A. APPLICANT

Name: _____
Address: _____
City/Zip: _____
Phone: _____
Fax: _____
E-mail: _____

B. PROPERTY OWNER (if different)

Name: _____
Address: _____
City/Zip: _____
Phone: _____
Fax: _____
E-mail: _____

C. PROJECT CONTACT PERSON

Contact: _____ Phone: _____
Address: _____ Fax: _____
City/Zip: _____ E-mail: _____

D. PROPERTY DESCRIPTION

Address/Location: _____

Annexation request area: _____

APN:	Size:	GP Designation:	Current Land Use:	Proposed Use:	Prezone:
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Surrounding area land uses and General Plan designation:

NORTH: _____	GP Designation: _____
EAST: _____	GP Designation: _____
SOUTH: _____	GP Designation: _____
WEST: _____	GP Designation: _____

E. SIGNATURE(S):

The information provided in this application is true and accurate to the best of my knowledge.

Applicant Date

Property Owner (if different from applicant) Date

OFFICE USE ONLY:

Date filed: _____ Date Complete: _____ File #: _____
Planner: _____ Associated File: _____
PC Date: _____ Council Date: _____ LAFCo Date: _____

**CAMPAIGN CONTRIBUTION DISCLOSURE
NOTICE AND INDEMNIFICATION FORM
(REQUIRED)**

Type of Application: _____

CAMPAIGN CONTRIBUTION DISCLOSURE NOTICE

If the applicant and/or property owner of the subject site has made a financial contribution to a Planning Commissioner within the past twelve (12) months, a signed disclosure of that contribution may be required in compliance with California Government Code Section 84308.

INDEMNIFICATION AGREEMENT

As part of this application, applicant and real party in interest, if different, agrees to defend, indemnify, hold harmless, and release the City of Stockton, its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against any of the above, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the City of Stockton, its agents, officers, attorneys, or employees.

Executed at _____ Dated: _____
City/State

_____ Applicant's Signature	_____ Date	_____ Real Party In Interest (if different from applicant)	_____ Date
_____ Title		_____ Title	



ANNEXATION APPLICATION

An annexation is the incorporation of a land and water area into an existing community with a resulting change in the boundaries of that community. Property is annexed into the City of Stockton for a variety of reasons, the most frequent being to obtain City services such as water and sewer. Annexation is often the precursor to the urbanization of an existing County area. The State has designated the authority for approving an annexation to the Local Agency Formation Commission, better known as LAFCo, rather than to the City to which the property is proposed for annexation or to the County in which the property is located. The City's role in annexation is limited to filing the annexation application with LAFCo and to address the availability of City services. The City has no authority to approve or deny an annexation.

LAFCo is a State mandated entity which has final authority over all boundary-setting activities. LAFCo's role is to encourage orderly development, preserve agricultural land, discourage urban sprawl, and encourage efficiently serviced urban development. The five member LAFCo Board consists of two County supervisors, representatives from two of the cities within the County, and one member at large.

Most County property does not have a City zoning designation. Prior to annexation, LAFCo requires that the property proposed for annexation receive a City zoning designation, or be rezoned. In addition, if the proposed project is not consistent with the City's General Plan, a General Plan amendment is required. Any other permits or entitlements such as a tentative map or Use Permit are also usually applied for at this time, and any environmental review that may be required is done. The rezoning, any General Plan amendment, and the environmental document first go to the Planning Commission for their recommendation to the City Council, and then to the City Council for final approval. Any tentative maps, Use Permits, or other entitlements for the project would go to the Planning Commission for their approval at the same time as the rezoning and/or General Plan amendment and these do not need to go to the City Council unless appealed.

At the time of the rezoning, or thereafter, the City Council usually authorizes staff to file an annexation application, along with City Services Plan and, if applicable, an Agricultural Conversion Statement, with LAFCo. The procedure for approving an annexation is dictated by State law (Government Code Section 56000 et.seq.). The LAFCo Board first conducts a Public Hearing on the annexation. If the annexation is uninhabited and 100% owner consent, the LAFCo Board can waive the remainder of the procedure and approve the annexation. If LAFCo approves any other annexation, LAFCo is required to conduct a protest hearing and/or election as follows, based on whether the annexation is for "inhabited" or "uninhabited" territory:

- For inhabited territory (territory within which there reside 12 or more registered voters), annexation will be determined by the following formulas. If written protests consist of less than 25% of the registered voters or less than 25% of the number of landowners owning less than 25% of the assessed value of the land, the annexation is approved. If written protests are either between 25% and 50% of the number of registered voters, or 25% or more of the number of landowners owning at least 25% of the assessed value of the land, an election confirming the annexation by a majority of the votes is required. Finally, if the written protests represent more than 50% of the registered voters, the annexation is denied.
- For uninhabited territory (All territory other than inhabited territory), annexation will be determined by the following formulas. If written protests do not represent more than 50% of the

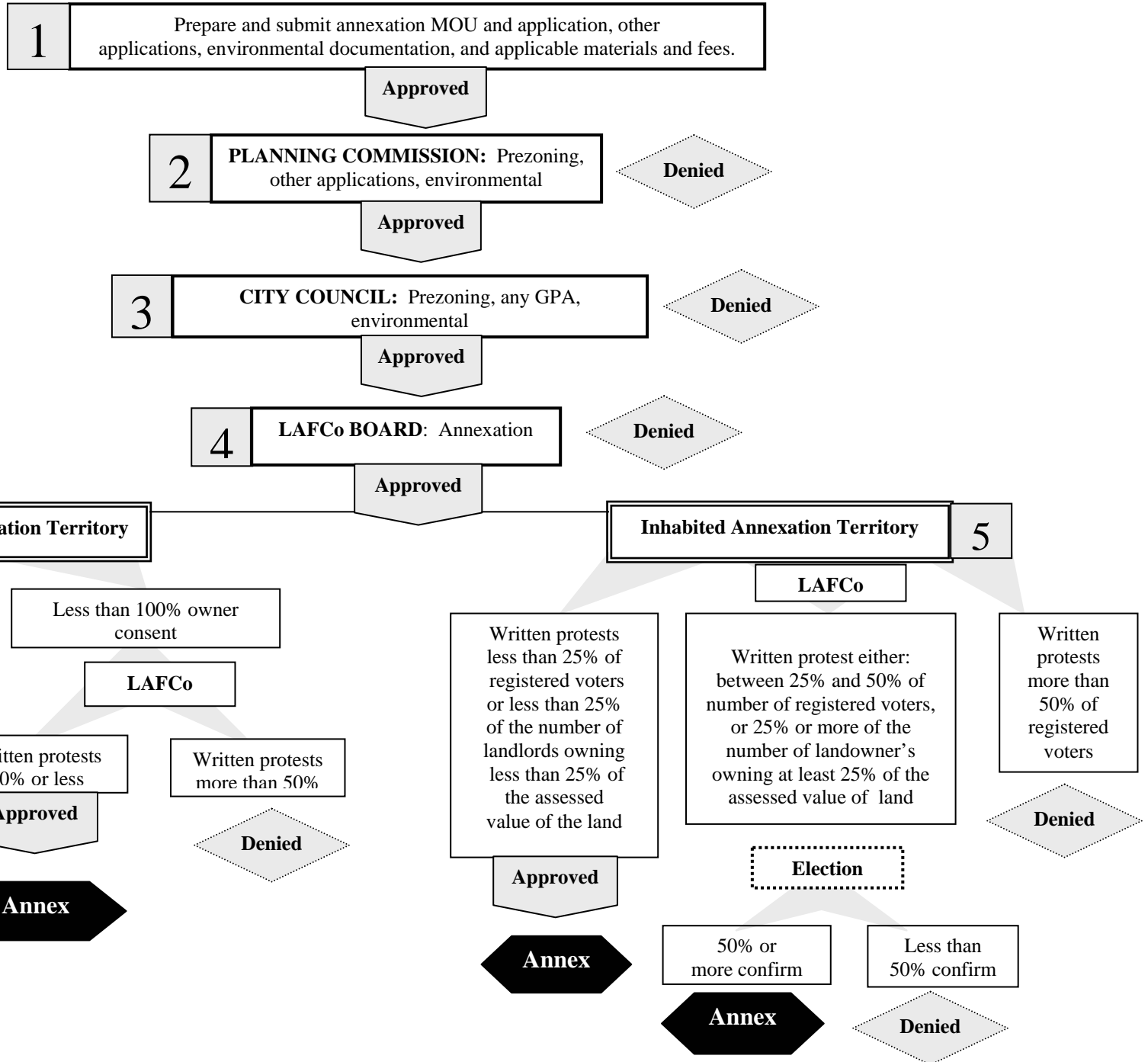
assessed value of land, the annexation is approved. If written protests represent more than 50% of the assessed value of land, the annexation is denied.

Following final approval of the annexation, LAFCo records the annexation and the property becomes part of the City of Stockton with all the rights and privileges of being in the City.

Attached is the material and information necessary for the City to file an annexation with LAFCo. This application package contains the following:

- Annexation Process Flowchart
- Application Information
- Annexation Processing Checklist
- Additional LAFCo Requirements for Annexation Applications
- Annexation Application
- Petition to Annex to the City of Stockton
- City Memorandum of Understanding
- Model Storm Water Pollution Prevention Plan for Construction Activities
- Justification of Proposal
- City Service Plan including water supply section

ANNEXATION PROCESS





APPLICATION INFORMATION

Preliminary Discussion - A meeting should be scheduled between the applicant and City staff to discuss the various requirements, scheduling, determination of project boundary, etc. Such a meeting should be arranged by contacting (209) 937-8266, Permit Center, 345 North El Dorado Street, Stockton, CA 95202.

Initial Contacts - It is the responsibility of the applicant to determine the availability of City services by contacting the respective City departments, particularly:

Stormwater, Wastewater. and Water	Municipal Utilities	937-8436
Storm Drainage Facilities	Public Works/Engineering	937-8366
Traffic control requirements	Public Works/Traffic	937-8282

Annexation Petition Application - A petition containing the signature(s) of all property owners within the annexation area for rezoning and annexation is required for annexation. It is the responsibility of the applicant to secure the signature(s) on forms provided by the City. Signatures are valid for one year.

Memorandum of Understanding (MOU) - A Memorandum of Understanding (MOU) or Memorandums of Understanding (MOU's) is required to be signed by all annexation petitioners prior to filing an annexation application. Each MOU must be notarized. Each MOU will be recorded with the Recorder's Office following the recording of an annexation; the applicant(s) is responsible for paying the fees for recording the MOU(s). Signatures are valid for one year.

Filings - All applications, with applicable fees, shall be filed with the Community Development Department/Planning Division at the Permit Center as indicated on the attached "Annexation Processing Checklist."

Filing/Processing Fees

- City Annexation and Planning related fees - See "Schedule of Fees"
- LAFCo Annexation fees - Contact LAFCo at (209) 468-3198 (fee to be paid directly to LAFCo)
- Fish and Game fee for review of environmental document
- Board of Equalization fee - contact LAFCo for fee – fee to be paid directly to LAFCo)
- Recording fee - contact Recorder's Office 468-3939

Processing Schedule - The annexation of property to the City of Stockton typically takes a total of between 6 to 16 months to complete. The timing for planning applications and annexation applications is as follows:

1. Planning Applications, including Planning Commission and City Council approvals.

Prezoning, etc. with Negative Declaration	4 to 10 months
Prezoning, etc. with EIR	8 to 16 months

2. Annexation Application

Following approval of Planning Applications	1 to 3 months
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ANNEXATION PROCESSING CHECKLIST

Preliminary Review

- ❑ Pre-application conference recommended to discuss the various requirements, scheduling, project boundary, environmental requirements, etc. City staff will review request and inform applicant of acceptability of, or required changes to, the proposed boundaries.

Filing Requirements

Initially submit, with applicable fees:

- ❑ Rezoning application with fee.
- ❑ Legal description for rezoning containing acreage of each zoning district and the bearings and dimensions (metes and bounds) of each proposed zoning district, excluding rights-of-way.
- ❑ General Plan amendment application, if applicable, with fee, including map.
- ❑ Environmental Information form with Initial Study fee - following review, staff will determine which type of environmental document will be required.
- ❑ Notarized Annexation MOU(s) - a separate MOU shall be provided for each petitioner.
- ❑ Annexation petition with City annexation fee.
- ❑ Legal description for annexation, including bearing and dimensions (metes and bounds) of the proposed annexation area, streets and other rights-of-way, and acreage of total annexation area.
- ❑ Map of proposed annexation area coinciding with the legal description and including bearings and dimensions (metes and bounds).
- ❑ Vicinity Map
- ❑ Environmental document, as determined by staff, prepared by a qualified environmental consultant hired by the applicant with applicable fee. Includes preparation of Findings and Mitigation Monitoring Program, if applicable.
- ❑ Tentative Map application, if applicable, with fee.
- ❑ Use Permit application, if applicable, with fee.

Additional Requirements

At the time of the submittal of the final environmental document (Final EIR, Initial Study/ Negative Declaration, etc. submit the following):

- ❑ Fish and Game fee
- ❑ City Services Plan indicating services required, the estimated cost, and funding sources for the services. See "Additional LAFCo Requirements for Annexation Applications" for requirements.
- ❑ Prime Agricultural Land Conversion Statement, if applicable, and Vacant Residential Land Inventory and Build-Out Rate for residential land uses prepared by consultant.
- ❑ Justification of Proposal for filing with LAFCo
- ❑ LAFCo fee (check made out to LAFCo and paid directly to LAFCo).

Prior to recordation of the annexation by LAFCo

- ❑ Board of Equalization processing fee

- Recording fee to record Annexation MOU

ADDITIONAL LAFCo REQUIREMENTS FOR ANNEXATION APPLICATIONS

Any application to LAFCo that proposes annexation to the City of Stockton shall include a Justification for Proposal, a map and description of the area to be annexed, a City Services Plan, and an Agricultural Conversion Statement which would include a build-out analysis. These shall be submitted with the resolution for annexation to the LAFCo that is approved by the City Council.

Justification for Proposal

LAFCo required form prepared by the applicants that includes a list of no more than three persons/groups (including the City) to receive reports and notices from LAFCo and basic information about the project.

City Services Plan

Any application proposing annexation to the City of Stockton shall be accompanied by a plan for City services prepared in accordance with the Local Agency Formation Commission of San Joaquin County requirements and Government Code Section 56653 to help the Commission to identify inappropriate or premature annexation proposals. A proposal shall be considered inappropriate or premature unless it can be demonstrated that City services can be provided to the annexing territory.

The City Services Plan should include a brief description of the proposed project, including total acreage and acreage by type of development and cover the following services:

- Water (provide sufficient water supply for each development project)
- Sewer (Wastewater)
- Storm drainage
- Solid waste disposal
- Garden refuse collection
- Fire and paramedical services
- Police
- Schools
- Library
- Parks and recreation facilities
- Streets, curbs, gutters, and sidewalks
- Natural gas, electric, telephone, and CATV services

For each of the services, the plan will need to include the following information:

- a. An enumeration and description of the services to be provided to the affected territory;
- b. The level and range of those services;
- c. For those services that will be extended to the affected territory, an indication of when those services can feasibly be extended to the affected territory;
- d. An indication of any improvement or upgrading of structures, roads, wastewater facilities, water facilities, storm drainage facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed; and

- e. Information with respect to how those services will be financed.

Agricultural Conversion Statement

Any application should include a description of soil types and analysis to determine if prime agricultural land, as defined in Section 56064 of the Government Code, is being proposed to be annexed to the City. If the project contains prime agricultural land, the application shall be accompanied by sufficient data to demonstrate that the annexation is consistent with the State's policies provided in Section 56377 of the Government Code.

Section 56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:

- (a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- (b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

Such data shall include vacant land acreage, estimated build-out rate in order to project the inventory of undeveloped land, and estimated build-out timing based on the inventory.

In addition, the application should state if any of the property is under Williamson Act contract. If there is any property under Williamson Act contract, the application should state the status of the contract.

Residential Entitlement Matrix

If the project includes a residential component, a "Residential Entitlement Matrix" for the applicable subarea should be prepared. The Residential Entitlement Matrix is a list of currently approved projects, both single-family and multi-family, with the current status of each including acreage, number of built lots, and number of vacant lots for the applicable subarea in which the project is located. LAFCo has broken the City into subareas for reviewing the build out of existing approved projects and the matrix need only include projects that have been approved for that subarea, rather than the entire City.

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RECORDING REQUESTED BY:

City Clerk
City of Stockton
425 N. El Dorado Street
Stockton, CA 95202-1997

AND WHEN RECORDED MAIL TO:

City Clerk
City of Stockton
425 N. El Dorado Street
Stockton, CA 95202-1997

**ANNEXATION
MEMORANDUM OF UNDERSTANDING**

This Annexation Memorandum of Understanding ("MOU") is entered into this day of _____, 200____, by and between _____, hereinafter referred to as "**OWNER**", and the City of Stockton, hereinafter referred to as "**CITY**".

Recitals

OWNER is the owner of certain real property ("the Property") located within the unincorporated area of San Joaquin County, a description of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

OWNER desires to annex the Property to CITY and develop the Property. Without the cooperation and approval of CITY, it is unlikely that OWNER would be able to annex the Property to CITY.

CITY desires that the Property be annexed to CITY only if provision is made for adequate public facilities and services to serve the Property, with **OWNER** funding its fair share of such facilities and services. "Public facilities and services" as such term is used herein shall mean and include all public improvements and public services provided by or on behalf of the CITY necessary in the legislative determination of CITY to serve the Property and future residents thereof or protect same from any natural or environmental hazard as now or hereafter

determined by CITY in its legislative discretion, whether that determination be made before or after an application for vesting tentative map is deemed complete or approved.

CITY presently cannot guarantee that there will be sufficient public facilities and services necessary to serve the Property when developed.

A variety of alternatives are available to **CITY** for financing various public facilities and services, including but not limited to the following:

1. CITY could use the proceeds of **CITY's** Public Facilities Fee collected from development pursuant to section 16-175 et seq., of the Stockton Municipal Code and **CITY's** Administrative Guidelines for its Public Facilities Fee Program. These fees may have to be substantially increased to provide the necessary funding for the various public facilities and services needed for this Property and other property annexed to **CITY** in the future.
2. **CITY** could establish one or more "areas of benefit" and assess area of benefit fees against new development to provide the necessary funding, pursuant to section 16-165 et seq., and section 16-173 et seq., of the Stockton Municipal Code.
3. **CITY** could fund public facilities and services by establishing one or more community facilities districts ("CFDs") and assessing special taxes from property within the CFDs, pursuant to the Mello-Roos Community Facilities Act - of 1982 (Gov. Codes § 53311 et seq.).
4. **CITY** could assess special benefit fees to pay for public facilities and services pursuant to any of a number of statutory provisions, including the Improvement Act of 1911 (Sts. & Hy. Codes § 5000 et seq.) and the Municipal Improvement Act of 1913 (Sts. & Hy. Codes § 10000 et seq.) and the Landscape and Lighting Act of 1972 (Sts. and Hy. Codes § 22500 et seq.).
5. **CITY** could legislatively enact a new tax or fee to pay for the needed facilities and services pursuant to its police powers and its charter powers.

However **CITY** chooses to fund the necessary public facilities and services, **CITY** desires that the owners of all property (including the Property) to be annexed to the **CITY** each pay a fair share of the cost of providing the necessary public facilities and services.

CITY would oppose annexation of any property whose owners fail to provide **CITY** adequate binding assurances that they will provide a fair share of the funding of the necessary public facilities and services, under whatever financing and cost allocation procedure the **CITY** may adopt. Once Property is annexed, property owners have a right to file vesting tentative maps which a court might find, in some cases, to limit **CITY's** ability to impose fees and conditions on development requiring payment of the development's fair share of public facilities and services. The law is somewhat unclear in this area. Thus, absent adequate binding assurances, **CITY** would prefer not to annex new areas until its plans for serving such areas are more concrete, with specific fees, taxes and assessments already established. It is the purpose of this MOU to provide clarity as to **CITY's** ability to require development to pay the costs of providing all public facilities and services deemed necessary by **CITY** to serve such development.

NOW, **THEREFORE**, the parties hereto agree as follows:

1. The Recitals set forth above are true and correct.
2. **OWNER** intends, pursuant to state and local statutes, to prepare and submit to **CITY** the applications and all fees necessary for any applicable general plan approval, rezoning, annexation, and subsequent development of the Property together with all applicable environmental documents.
3. **CITY** acknowledges that, upon receipt of such applications, **CITY** will review and process said applications and environmental documents and submit same to the Planning Commission and City Council of **CITY**, as applicable, for their review and discretionary approval or disapproval.
4. Both **OWNER** and **CITY** intend and understand that **CITY's** willingness to proceed at this time to initiate, consider and/or process any of the above applications will not in any manner be deemed to vest **OWNER** with the right to annex or develop the Property nor obligate **CITY** to provide public facilities or services to the Property nor in any other fashion be used against the **CITY** should the Property ultimately not be allowed to annex, develop, and/or "build out" to **OWNER'S** satisfaction. Upon approval by **CITY** of any such applications, **OWNER** shall have any and all rights which **OWNER** would otherwise have under applicable statutory and/or case law, subject to the limits of

applicable statutory and/or case law and to **OWNER's** obligation under this MOU to pay its fair share of necessary public facilities and services, as determined by **CITY**.

5. **OWNER** acknowledges that **OWNER** may have to finance, construct, oversize and maintain certain public facilities, as determined by the **CITY**, until such time as the **CITY** and/or other developers are ready, willing and able to participate in the cost of those facilities.
6. **OWNER** agrees that the Property will participate in any Community Facilities District, Area of Benefit, or other type of assessment district the **CITY** has formed or will form to help pay for the public facilities and services. **OWNER** agrees, on behalf of itself and its successors in interest to the Property or any portion thereof, to pay any and all fees, taxes and assessments now or in the future assessed by **CITY** against building permits and/or the Property to pay for public facilities and services in such amounts as are in effect at the time such fees, taxes and assessments are payable. **OWNER** agrees to be subject to any fee or other mitigation adopted by **CITY** pursuant to the San Joaquin Multi-Species Habitat Conservation and Open Space Plan.
7. **OWNER** agrees that its obligations under this MOU, including its obligation to pay all fees, taxes and assessments under any Community Facilities District, Area of Benefit, or other type of assessment district the **CITY** may establish to fund public facilities and services, shall constitute a covenant running with the land and shall apply to and be binding upon all future fee owners of the Property and any portion thereof. **OWNER** covenants that, whenever it conveys all or any part of the Property to another person or entity, it will require that person or entity, in a written instrument executed, acknowledged, and recorded in the Office of the Recorder for San Joaquin County, to agree to assume all of the **OWNER's** obligations under this MOU.
8. **OWNER** acknowledges that it is within **CITY's** legislative discretion, subject to applicable state and federal law, to determine what public facilities and services are necessary to serve new development, how to finance such facilities, and how to fairly apportion the cost of public facilities among development necessitating such facilities. Nothing in this MOU shall be construed to limit **OWNER'S** legal remedy under the law to contest the formation, fair apportionment of costs and the spread of assessments. However, **OWNER** expressly waives the right to contest the formation, fair apportionment of costs or spread of assessments on the basis of any vesting tentative map rights.

9. Without limitation of the foregoing, **OWNER** agrees that any and all buildings, structures, and/or public facilities developed on said Property shall be constructed and all permits shall be issued in accordance with all applicable federal and state laws in effect at the time of construction and all local construction and building codes in effect at the time of construction. Subdivision improvement specifications (e.g. standard construction details) applicable to development of the Property shall be those in effect as of the date **OWNER** obtains any vested rights provided by applicable law.
10. Nothing in this MOU shall be construed as placing any obligation on **CITY** to install, fund, or otherwise provide any public facilities or services of any nature whatsoever.
11. Nothing in this MOU shall be construed to obligate **CITY** to take, or not take, any legislative act, or to penalize CITY for taking or not taking any legislative act. However, any obligation imposed upon **OWNER** by this MOU shall be contingent upon the actual annexation of the Property to **CITY**.
12. If **OWNER files** an application for a vesting tentative map, the date upon which the application for tentative map approval is completed or deemed complete cannot be any earlier than the date of execution of this Annexation Memorandum of Understanding. The provisions of this MOU shall prevail over any conflicting rights **OWNER** may acquire due to any vesting tentative maps.

CITY OF STOCKTON,
a Municipal Corporation

OWNER(S):

By _____
J. GORDON PALMER, JR., CITY MANAGER

ATTEST:

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

Date: _____

APPROVED AS TO FORM:
City Attorney

APPROVED AS TO FORM:
Attorney for OWNER

By _____

By _____



City of Stockton
Community Development Department
425 North El Dorado Street
Stockton, CA 95202

SUBJECT: PETITION TO ANNEX TO THE CITY OF STOCKTON

We, the undersigned, being owners of the property or duly authorized agents of owners of property within the territory indicated on the attached map marked EXHIBIT A, hereby petition to annex to the City of Stockton. The signatures are valid for one year.

Property Address or Description	Signature of Property Owner or Agent	Telephone	Date

TO WHOM IT MAY CONCERN

Effective July 1, 1997, the City has been mandated to put into place a Storm Water Pollution Plan for construction activities (SMC Chapter 13, Part V, Sections 13-500 through 13-513). On the reverse side is a chart showing the types of project sites that fall under the Storm Water Pollution Prevention Plan requirements.

A Model Storm Water Pollution Prevention Plan for Construction Activities (Model SWPPP) was prepared by the City of Stockton, Stormwater Division (SWD) to assist local contractors and developers in complying with the requirements of the State Water Resources Control Board's National Pollution Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (State General Permit). SWD and other participants in the Stockton Storm Water Management Plan developed guidelines for Minimum Best Management practices (BMPs) to prevent and control storm water pollution from new developments during construction. These guidelines are incorporated into the Model SWPPP.

Further information regarding the State General Permits, pollutant sources, and recommended Best Management Practices can be obtained through:

City of Stockton/Stormwater Division	(209) 937-8734
Central Valley Regional Water Quality Control Board, Region 5	(916) 255-3000
State Water Resources Control Board Storm Water Permit Information Line	(916) 657-1146
California Storm Water Best Management Practices Handbook; Construction Activity	Published March 1993

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