

RECORDING REQUESTED BY:

City Clerk
City of Stockton
425 N. El Dorado Street
Stockton, CA 952021997

AND WHEN RECORDED MAIL TO:

City Clerk
City of Stockton
425 N. El Dorado Street
Stockton, CA 952021997

**ANNEXATION
MEMORANDUM OF UNDERSTANDING**

This Annexation Memorandum of Understanding ("MOU") is entered into this day of _____, 200__, by and between LGRE INC., 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 16175 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 16165 et seq., and section 16173 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 MelloRoos 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 MultiSpecies 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

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

ATTEST:

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

APPROVED AS TO FORM:
City Attorney

By _____

OWNER(S): 

LGRE INC. Parmmeet Dhalwal

PLEASE SEE
ATTACHED

Date: 07/06/21

APPROVED AS TO FORM:
Attorney for OWNER

By _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California, County of ALAMEDA

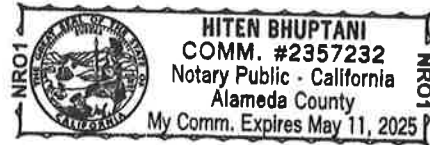
On 06 JULY 2021 before me, HITEN BHUPTANI, NOTARY PUBLIC,

personally appeared PARMEET DHALIWA L who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~(he)~~~~(she)~~~~(they)~~ executed the same in ~~(his)~~~~(her)~~~~(their)~~ authorized capacity(ies), and that by ~~(his)~~~~(her)~~~~(their)~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 



Seal

OPTIONAL

Though the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Annexation memorandum of understanding

Document Date: _____ Identifying No.: _____ No. of Pages: 5

Signer(s) or Issuing Agency: _____

Capacity Claimed by Custodian

Individual Attorney Trustee Business Proprietor or Manager

Corporate Officer — Title: Owner LGRE Inc.

University or School Officer — Title: _____

Governmental Officer or Agent — Title: _____

Other: _____

Custodian Is Representing: _____