Resolution No. 09-0048

STOCKTON CITY COUNCIL

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPOINT A DESIGNEE TO EXECUTE AND DELIVER AGREEMENTS TO ANNEX TO THE SOUTH STOCKTON COMMUNITY FACILITIES DISTRICT 90-1 AND AMENDING THE SOUTH STOCKTON COMMUNITY FACILITIES DISTRICT ANNEXATION ADMINISTRATIVE GUIDELINES TO REFLECT THE APPROVED AUTHORIZATION AND A CHANGE IN NOTARY AND RECORDING FEE COLLECTION.

The City of Stockton formed the South Stockton Community Facilities District 90-1 (CFD 90-1) for the purpose of financing sanitary sewer facilities; and

The City of Stockton adopted Resolution No. 94-0366 on August 1, 1994, which authorized the Public Works Director to execute and deliver agreements to annex to the CFD 90-1 and approved the Annexation Administrative Guidelines and provided for an annexation procedure whereby properties pay an annexation fee to join CFD 90-1; and

It is now desirable to authorize the City Manager to appoint a Designee to execute and deliver agreements to Annex to the CFD 90-1; and

It is also desirable to amend the CFD 90-1 Annexation Administrative Guidelines to reflect the authorization of the City Manager’s Designee and the change in the City’s policy regarding notary and recording fees; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Manager is authorized to appoint a Designee to execute and deliver Agreements to Annex to the South Stockton Community Facilities District 90-1.

2. The Annexation Administrative Guidelines for the South Stockton Community Facilities District 90-1 are hereby amended, a copy of which is attached as Exhibit “A” and incorporated herein by reference.

3. The City Manager is authorized to take such other actions as are appropriate to carry out the intent of this Resolution.

PASSED, APPROVED and ADOPTED February 17, 2009

ATTEST:
KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

ANN JOHNSTON, Mayor
of the City of Stockton

City Atty: Review Date: February 6, 2009
ANNEXATION ADMINISTRATIVE GUIDELINES

CITY OF STOCKTON SOUTH STOCKTON COMMUNITY FACILITIES DISTRICT NO. 90-1

The City of Stockton South Stockton Community Facilities District No. 90-1 (District) was formed in accordance with the Mello-Roos Community Facilities Act of 1982 and is commonly referred to as a "CFD" or "Mello-Roos District". The District was formed to provide funds for the installation of major sanitary sewer trunklines to serve south Stockton. The attached map (Exhibit A) shows the territory served by the District sewer improvements.

The District is a special taxing district established by the City Council on August 27, 1990, following an affirmative vote of the property owners to create the District. In September 1990, to fund the cost of constructing the major sanitary sewer trunklines to serve south Stockton the City sold $16,000,000 in special tax Bonds. The debt service on these bonds is paid by a special tax on property that is located within the District. The maximum tax rate is $534.99 per acre per year. All property annexed to the District will be charged the special tax. The special tax is included as part of the annual property tax.

1. ANNEXATIONS

A. Annexation Requirements:

All property within the District (Exhibit A) shall annex to the District upon request for new or increased sanitary sewer service, subdivision, or development. Prior to the issuance of a building permit, outside sewer service application, the filing of any final or parcel map, or connection to the City sanitary sewer, the following conditions must be met:

1. The proposed use of the property shall be in conformance with the City’s General Plan and Council policies relating to sewer service connections.

2. Property owner shall execute the Agreement to Annex and Disclosure Statement (copy attached)\(^1\).

3. Pay all applicable administration, annexation and sewer connection fees\(^2\).

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\(^1\) The entire parcel and/or area included within the boundaries of the Districts, including developed and remainder parcels must be annexed to the District.

\(^2\) The fees shall be paid for the entire parcel and/or area within the boundaries of the District, including developed and remainder parcels.
4. **Subdivision and Parcel Maps** - All maps shall be required to annex to the District prior to map recordation. Dedicated acreage for City streets right-of-way shall not be subtracted from gross acreage prior to fee calculation. Acreage for schools, libraries, fire stations, etc. will be subject to the District tax. Refer to item No.4 on page 4.

B. **Annexation Exemptions:**

Annexation to the District and payment of District annexation fees **shall not be** required for:

**Prepaid Connections:** Parcels having previously paid sanitary sewer connection fees, but not yet physically attached to the City sewer system.

**Existing Connections:** As stipulated in the Public Facilities Fee Program Administrative Guidelines, parcels currently connected to the City sewer system and requesting permits for (1) residential additions, (2) non-residential additions of less than ten percent additional floor area or less than ten percent additional DUE and (3) replacement construction. Any amendments to the Public Facilities Fee Program Administrative Guideline regarding additions or replacements shall also apply to these Guidelines.

**Existing Agreements:** Sanitary sewer service agreements that predate the formation of the District such as those for the California Youth Authority and the San Joaquin County Airport, Hospital and Jail.

C. **Appeals:**

Should any situations arise which are not covered by these Guidelines, the City Manager’s Designee shall have the authority to make a decision in that regard. Any person dissatisfied with such decision may file a written appeal with the City Manager within 10 days. The City Manager's decision shall be final.

2. **AGREEMENT TO ANNEX AND DISCLOSURE STATEMENT**

A. **Property Owner Must Sign the Agreement:**

The attached Agreement to Annex and Disclosure Statement for the Annexation to the City or Stockton South Stockton Community Facilities No. 90-1 (Agreement) shall be filled out and signed by the property owner. The property owners signature must be notarized\(^3\). The City Manager’s Designee shall sign the agreement for the City.

\(^3\) City staff may notarize the agreement based on the current City fee rate to be paid by the property owner.
B. **Agreement Filed with the County Recorder:**

After the City Manager’s Designee has signed the Agreement, City staff will coordinate with the City Clerk the filing of the Agreement with the County Recorder’s Office. Once the Agreement has been filed with the County Recorder’s Office the property is officially annexed to the District. The property owner(s) shall pay the County Recorder’s Office fees.

C. **List of Annexed Parcels Filed with Muni Financial Services:**

On January 1st, April 1st, July 1st, and October 1st each year the City staff shall file a list of parcels annexed to the District to Willdan Financial Services (formerly known as and hereinafter referred to as Muni Financial Services) for adding to the following years tax rolls. This list sent to Muni Financial Services should include any acreage adjustments resulting from the subdivision of the parcel (refer to Item No. 4). Muni Financial Services is a City consultant who prepares the District tax roll each year for submittal to the County Tax Collector.

Muni Financial Services  
3727 Buchanan Street, Suite 202 San Francisco, CA 94123  
Tel: (800) 700-6864  
Fax: (415) 441-1401

3. **CALCULATION OF ANNEXATION FEE**

Each parcel added to the District will be subject to an annexation fee. The amount of the fee, on a per acre basis, will represent the accumulated special tax burden incurred by areas already within the District through the year of annexation. The per acre annexation fee in anyone year will be:

\[
\text{Annual Interest} = \text{Previous Year's Annual Interest} + \text{Previous Years' Accumulated Tax Burden Per Acre} + \text{Current Year Tax Assessment Per Acre}
\]

\[
\text{Annual Interest} = \text{Accumulated Tax Burden Per Acre} + \text{Tax Burden Per Acre}
\]

Table 1 shows the estimated accumulated tax burden per acre by fiscal year. The annexed properties are added to the tax roll in August of each year. In order for a property to be placed on the tax roll for the following year the information must be sent to Muni Financial Services by April 1st.
As an example consider property annexing in the 1994-95 fiscal year. If a property containing one acre was annexed on or before April 1, 1995, that parcel would pay an annexation fee of $1,881 and their property would be assessed the special District tax starting in 1995-96. If a property annexed between April 1, 1995 and April 1, 1996 that parcel would pay an estimated annexation fee of $2,402 and their property would be assessed the special District tax starting in 1996-97. The attached Table 1, should be updated annually after the actual special tax has been determined for that fiscal year. Contact Muni Financial Services to determine the actual tax rate for a given fiscal year.

4. REDUCED ANNEXATION RATE AND DEFERRED PAYMENT OF ACCUMULATED TAX BURDEN-LOW DENSITY RESIDENTIAL

Any parcel not currently annexed, and requesting annexation to the District, which is: (a) larger than 1 acre; (b) residential in character; (c) has a Dwelling Unit Equivalent ("DUE") sewer density of 2 DUE’s per acre or less; and (d) no subdivision of the parcel occurs, is eligible upon request for a reduced annexation rate and the deferred payment of the accumulated tax burden. The reduced annexation/deferred payment plan is not retroactive.

REDUCED ANNEXATION RATE:

A parcel meeting the above criteria would annex the entire parcel to the District, but it would only be charged at a rate of one acre of land ($-acre minimum) for each DUE. The corresponding annexation fee and annual assessment would be based on the reduced annexation rate. The formula for the annexation rate is as follows:

\[ \text{DUE's} + \text{Acres} = \text{Annexation Rate} \]

Any annexation rate which exceeds .50 (50%) would require payment for the entire legal parcel.

Example 1: The owner of a 10-acre parcel with a single-family home requesting connection to city sewer would be required to pay at the rate of 10% (1 DUE ÷ 10 acres) of the total 10-acre parcel. Thus, if the annual assessment for the year is $493 per acre, the property owner would pay $493 x 10 (acres) x 10% = $493.

Example 2: The owner of an 8-acre parcel with 1 single-family home wishing to add a second dwelling unit, and requesting connection to city sewer would be required to pay at the rate of 25% (2 DUEs ÷ 8 acres) of the total 8-acre parcel. Thus, if the annual assessment for the year is $493 per acre, the property owner would pay $493 x 8 (acres) x 25% = $986.

DEFERRED PAYMENT PLAN/ACCUMULATED TAX BURDEN:

A parcel meeting the above criteria is eligible for the deferred payment of the accumulated tax burden (annexation fee) to be paid over time with the first installment of 20 percent due and payable at the time of annexation and 20 percent PLUS interest on the unpaid balance due and payable each year thereafter until paid in full. In no case shall the term extend beyond 2015. Interest shall be charged on
the unpaid balance at the rate the current bond yield used to refund the District. Failure to make any payment would accelerate the entire amount which would be placed on the tax rolls to be paid in full with the next tax installment. Anyone desiring to defer payments of the accumulated tax burden would have to enter into a Deferred Payment Agreement. The sewer connection fee must be paid in full at time of connection and is not eligible for deferred payment.

Example: A 10-acre parcel that is annexed with 2 single-family homes would have the following deferred payments: $1,881 (1994-95 accumulated tax burden) x 10 (acres) = $18,810 x 20% = $3,762 (paid in full).

<table>
<thead>
<tr>
<th>Deferred Payments:</th>
<th>Interest:</th>
</tr>
</thead>
<tbody>
<tr>
<td>20% down = $752.40</td>
<td>$361.15 = $1,113.55</td>
</tr>
<tr>
<td>second payment =</td>
<td>$752.40 + $270.86 = $1,023.26</td>
</tr>
<tr>
<td>third payment =</td>
<td>$752.40 + $180.58 = $932.98</td>
</tr>
<tr>
<td>fourth payment =</td>
<td>$752.40 + $90.29 = $842.69</td>
</tr>
<tr>
<td>fifth payment =</td>
<td>$3,762.00 + $902.88 = $4,664.88</td>
</tr>
</tbody>
</table>

4. A DEFERRED PAYMENT OF ACCUMULATED TAX BURDEN—NON RESIDENTIAL, SINGLE LOT DEVELOPMENT OF 5-ACRE OR MORE

Any parcel not currently annexed, and requesting annexation to the District, which is: (a) non-residential in character; (b) single lot development (c); 5 acres or more; and (d) no subdivision of the parcel occurs, is eligible upon request for a deferred payment of the accumulated tax burden (annexation fee) to be paid over time. As the District expires in the year 2015, the deferred payments shall not extend beyond 2015. The deferred payment plan is not retroactive.

DEFERRED PAYMENT PLAN/ACCUMULATED TAX BURDEN:

A parcel meeting the above criteria is eligible for the deferred payment of the accumulated tax burden (annexation fee) to be paid over time with the first installment of 20 percent due and payable at the time of annexation to the District, and minimum payments of 20 percent PLUS interest on the unpaid balance due and payable each year thereafter until paid in full. In no case shall the term extend beyond the year 2015. Interest shall be charged on the unpaid balance at the rate of the current bond yield used to refund the District. Failure to make any payment would accelerate the entire amount which would be placed on the tax rolls to be paid in full with the next tax installment. Anyone desiring to defer payments of the accumulated tax burden would have to enter into a Deferred Payment Agreement. Security shall be submitted in the form of a suitable Letter of Credit or Deed of Trust equal to or greater than the value of the deferral, valid for the term of the deferral.

Example: A qualified, 10-acre parcel that is requesting annexation to the District would have the following deferred payments: $8,669.82 (2003-2004 accumulated tax burden) x 10 (acres) = $86,698.20.
Deferred Payments:  

<table>
<thead>
<tr>
<th>Payment Level</th>
<th>Amount</th>
<th>6.193% Interest (as of 3/01/04)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20% down</td>
<td>$17,339.64</td>
<td>$17,339.64</td>
</tr>
<tr>
<td>2ND payment</td>
<td>$17,339.64 + $4,295.38 = $21,635.02</td>
<td></td>
</tr>
<tr>
<td>3RD payment</td>
<td>$17,339.64 + $3,221.53 = $20,561.17</td>
<td></td>
</tr>
<tr>
<td>4TH payment</td>
<td>$17,339.64 + $2,147.69 = $19,487.33</td>
<td></td>
</tr>
<tr>
<td>5TH payment</td>
<td>$17,339.64 + $1,073.84 = $18,413.48</td>
<td></td>
</tr>
<tr>
<td>TOTAL PMTS:</td>
<td>$86,698.20 + $10,738.44 = $97,436.64</td>
<td></td>
</tr>
</tbody>
</table>

The terms of any deferred payment application in the year 2011 or later shall be adjusted as needed to provide full payment by 2015 to coincide with the District termination. The terms of this section shall also apply to qualified privately leased County Airport property for payment of the Airport "In-Lieu" fee. Additionally, the standard CFD 90-1 sewer connection fees shall apply.

5. **ANNEXATION FEE ADJUSTMENTS - SUBDIVIDED PARCELS**

The annexation cost is calculated on a gross acreage basis. As parcels are subdivided, the District acreage in privately owned parcels against which special taxes can be assessed will be reduced by the portion of the land area which becomes dedicated to streets and other public improvements. The acreage of parcels to be annexed should be expressed in gross acreages or gross acreage equivalent amounts to avoid understanding each subdivided parcel’s fair share of the tax responsibility. Calculations of the annexation fee will therefore require an adjustment to individual annexing parcels which have been previously subdivided. The adjustment to individual annexing parcels which have been previously subdivided. The adjustment will involve determining a gross acreage equivalent, in which land area dedicated to public improvements will be allocated to acreage remaining in private ownership.

An example illustrates the gross acreage adjustment. Consider a 75 acre parcel for which annexation has been requested. This parcel was previously formed out of a larger 100 acre parcel, and at the time of subdivision 25 acres were dedicated to public streets. The gross privately owned acreage subject to the special tax would therefore have been adjusted by 25 percent. An adjusting factor would be incorporated into the assessment calculation so that the 75 subdivided acres would pay the same amount as the original 100 gross acres. To determine the gross acreage equivalent for this parcel, the subdivided acreage would be multiplied by a factor of 1.33 (100 gross acres ÷ 75 subdivided acres). The same gross acreage adjustment factor will also be used to determine the relevant acreage for allocation of district costs for subsequent tax assessments.
The engineer for the property owner/developer must provide an adjusted acreage for each parcel.

6. USE OF ANNEXATION FEES

The proceeds from the annual annexation fees may be used for any District expense as determined appropriate by the City Council. It is the position of the City Council that when surplus annexation fees ($50,000 increments) are accumulated they shall be used to buy-back outstanding District bonds. If there is an average of 40 acres annex to the District each year this will reduce the life of the District by approximately 4 years. The annexation fee in 2010-11 is projected to be $18,284/acre or $3,657/DUE (at 5 DUE's/acre).

7. SANITARY SEWER CONNECTION FEE

The City's sanitary sewer connection fee consists of three components and at the present time the amount per DUE is:

<table>
<thead>
<tr>
<th>Component</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treatment</td>
<td>$1,140</td>
</tr>
<tr>
<td>Future Collection System</td>
<td>$ 350</td>
</tr>
<tr>
<td>Existing Collection System</td>
<td>$ 400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,890</strong></td>
</tr>
</tbody>
</table>

The property owners located within the District are paying (special tax) for a sewer collection system that extends from the sewer treatment plant to the District. Some of the parcels will not use any portion of the existing sanitary sewer system and some parcels will not use any of the new sewer trunklines, yet all parcels are assessed the special tax. The reason those parcels connecting to the existing system have capacity available for their use is because the new District sewer trunklines have provided relief to the existing system. The special tax is replacing the existing and future collection systems portion of the sewer connection fee. Therefore, all parcels located within the District will not pay the exiting collection system buy-in nor the future collection system portion of the sewer connection fee. All parcels within the District shall only pay the treatment portion of the sewer connection fee. The District sewer connection fee per DUE is:

<table>
<thead>
<tr>
<th>Component</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treatment</td>
<td>$1,140</td>
</tr>
<tr>
<td>Future Collection System</td>
<td>0</td>
</tr>
<tr>
<td>Existing Collection System</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,140</strong></td>
</tr>
</tbody>
</table>

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4 The treatment portion of the sewer connection fee for the District will be adjusted simultaneously with the treatment portion of the sewer connection fee for the remainder of the City.
8. **AREA OF BENEFIT - FUTURE CONSTRUCTION OF MASTER PLAN IMPROVEMENTS**

All future sanitary sewer lines constructed in accordance with the City's master sewer plan (12-inches and larger) that are designed to serve property located within the District will be constructed by the property owner/developer. To reimburse the property owner/developer for the construction of these sewer facilities, the City will attempt to establish an area of benefit in accordance with Section 16-173 of the Stockton Municipal Code.

9. **SAMPLE WORKSHEET: For a parcel annexed on April 1, 1995**

Annexation Fee: \[ \frac{5.2 \text{ Acres}}{} \times \$1,881/\text{acre} = \$9,781 \]

Sewer Connection Fee: \[ \frac{5.0 \text{ Dwelling units}}{} \times \$1,140/\text{DUE} = \$5,700 \]

Total Annexation & Sewer Connection Fee = \$15,481

The special District tax would appear on the property owners tax bill in the 1995-96 fiscal year.

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5 1994-95 Special Tax Rate supplied by Muni Financial Services.