

Resolution No. **07-0080**

STOCKTON CITY COUNCIL

RESOLUTION AMENDING THE PUBLIC FACILITIES FEE PROGRAM ADMINISTRATIVE GUIDELINES BY ADDING PROVISIONS REGARDING AN AGRICULTURAL LAND MITIGATION PROGRAM, INCLUDING AN IN-KIND ACQUISITION AND IN-LIEU FEE

WHEREAS, the Public Facilities Fee Program Administrative Guidelines were adopted on February 12, 1991, by Council Resolution No. 91-0119 and subsequently amended; and

WHEREAS, it is necessary to amend the Administrative Guidelines regarding the Agricultural Land Mitigation Program; now, therefore,

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

The Public Facilities Fee Program Administrative Guidelines, as amended, are hereby approved and adopted; a copy of which is attached as Exhibit "A" and incorporated by this reference.

PASSED, APPROVED, AND ADOPTED FEB 27 2007.



EDWARD J. CHAVEZ, Mayor
of the City of Stockton



ATTEST:

for Bonnie Paige, Assistant
KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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CITY ATTY
REVIEW

GDP
FEB 21 2007

DATE

PUBLIC FACILITIES FEE PROGRAM ADMINISTRATIVE GUIDELINES

I. FEE COLLECTION

These guidelines primarily apply to the implementation and administration of Stockton Municipal Code section 16-355.270, which imposes Public Facilities Fees on new development. When applicable, these guidelines shall also apply to the implementation and administration of all other code sections, which impose fees on new development, including, but not limited to the following:

Wastewater.....	7-092
Water.....	9-700
Traffic Signal.....	16-355.150
Street Sign.....	16-355.180
Street Tree.....	16-355.190
Parklands.....	16-355.060

Should any situations arise which are not covered by the guidelines set forth above, the City Manager shall have the authority to make a decision as to how the ordinance and any corresponding resolution are to be administered. Such decisions are to be in writing.

Any applicant dissatisfied with the decision of the City Manager may appeal such decision to the City Council by filing written notice thereof with the City Manager within 10 days of receipt of the City Manager's decision.

A. Fee Determination

The following paragraphs provide information as to which department determines the fee amounts for various types of development.

1. Fee Exemptions and Credits for Prior Use

Upon receipt of an application for a building permit, the Community Development Department (CDD) determines if it is a permit upon which fees are to be imposed. The fee is to be imposed on permits for the siting of a mobile home and the construction of buildings, specifically excluding any partial permits. The fees shall be charged and paid at the time of issuance of a building permit for development.

It is also imposed on applications for a building permit to add to or alter an existing building (with a credit for prior use). The amount of credit will be for the equivalent of the public facility fees that would currently be assessed against the existing building (as if a building permit for the existing building were pulled simultaneously with the permit for the alterations and/or additions). As an example, if the prior use of the property would have generated 10 Dwelling Unit Equivalents (DUE) and the new building will

generate 15 DUE, then the utilities and street improvement portion of the public facility fee would be based upon the cost of the additional 5 DUE.

The Public Facilities Fees resolution specifies exemptions (under certain conditions) 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. The exemption for replacement or reconstruction of buildings that have been destroyed or demolished applies so long as a new building permit is issued for the reconstruction within five years after the demolition. Thereafter, the amount of credit given against fees for the prior use declines 20 percent per year. It is the property owner's responsibility to provide sufficient proof to the City in establishing the date of demolition or destruction of the building and the prior use that existed. In order to be eligible, the property owner must request a credit for the prior use on or before the payment of fees and issuance of the building permit. The Public Facilities Fees are not imposed when to do so would be inconsistent with California law or any of the other provisions of the City of Stockton ordinances or resolutions cited above. The CDD determines if the project qualifies for an exemption under any of these exemption categories.

Any applicant dissatisfied with the decision of the CDD may appeal such decision to the City Manager by filing written notice with the CDD within 10 days of receipt of the CDD's decision.

2. Responsibility for Fee Calculation - Residential

Upon receipt of an application for a building permit for residential units (as defined in the resolution), the CDD determines the number of single-family units, multiple units, and/or guest rooms and adds this information to the application. The application is then circulated to the Public Works Department for determination of the street improvement, parkland, water, wastewater, surface water supply, and traffic signal fees. The CDD determines the remaining fees for City office space, fire stations, libraries, police station, community recreation centers, San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), and the associated administrative component.

3. Responsibility for Fee Calculation - Non-Residential

Parkland and community recreation fees are not imposed on non-residential development. The CDD has the responsibility for making the non-residential fee calculations, except for street improvement, traffic signals, wastewater, water, and surface water supply. The responsibility for determining street improvement, traffic signal, surface water supply, water, and wastewater fees are as noted below.

Employment is used as an indicator or service need and, hence, as a basis for the non-residential fees with the exception of street improvement, traffic signals, surface water supply, wastewater, and water. The guidelines for determining square footage and employment density are:

a. **Square Footage** - Upon receipt of an application for a building permit for non-residential development, the CDD footage is measured as defined in the Uniform Building Code (UBC). For improvements where the square footage is not appropriately defined by the UBC definition, e.g. gas stations, a co-generation plant, etc., the CDD develops appropriate square footage equivalents. As explained below, employment is used as the basis for the determination of most of the fees. The square footage equivalents are therefore based on projected employment (the employment typical for that type of development).

b. **Employment Density** - Except as noted above, employment is used as an indicator of service need and, hence, as a basis for all non-residential development fees. The CDD determines whether the typical use of the improvements will be characterized by high, medium, or low employment density and adds that information to the application. The high, medium, and low employment density ranges are less than 400 square feet, between 400 and 600 square feet, and greater than 600 square feet per employee respectively. Office space is categorized as high employment density, retail space as medium employment density, and warehouse and manufacturing space as low employment density. The characteristics of the space, along with the anticipated first use, are factors in the determination of the employment density.

If the space is divided among more than one type of space each with differing employment densities, then the square footage allocated to each type will be determined, except that any type of space constituting less than 25 percent of the total space will be included in the majority space type. As examples, offices in manufacturing plants will be part of the manufacturing space and storage space in retail stores will be retail space, as long as they are no more than 25 percent of the total space.

c. **Street Improvement and Traffic Signal Fees** - The application is circulated to the Public Works Department for determination of the street improvement and traffic signal fees.

d. **Water, Wastewater, and Surface Water Supply Fees** - The application is circulated to the Municipal Utilities Department for determination of the water, wastewater, and surface water supply fees.

e. **Other Fees** - The CDD determines the remaining fees - City office space, fire stations, libraries and police station, SJMSCP, and the associated administrative component.

f. **Fee Determination** - The above noted fees will be determined within 10 working days.

4. **Projects Not Requiring Building Permits**

The fee is also imposed to the extent permitted by law on any development which does not require a building permit from the City of Stockton (such as a hospital, which makes

application to the State). Such a development will often be required to apply to the City for a permit other than a building permit, for example, use permit, encroachment, water, or sewer connection permit. Upon receipt of such an application, the issuing department follows essentially the same procedure as described above for building permits.

5. SJMSCP Fee

a. In order to implement the goals and objectives of the SJMSCP, and to mitigate the cumulative and site-specific impacts of new development on undeveloped lands within the City of Stockton and in San Joaquin County, the establishment of preserve lands will be necessary to compensate for impacts to threatened, endangered, rare, and unlisted SJMSCP Covered Species and other wildlife, and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values, and other beneficial Open Space uses. While those undertaking new development pursuant to the SJMSCP may opt to dedicate lands consistent with the SJMSCP preserve designs or to purchase credits from mitigation banks, most of the 60 percent contribution to the SJMSCP costs from new development will be in the form of public facilities fees. The City of Stockton is required to collect a SJMSCP Fee in accordance with Section 5.1.1. (b) of the SJMSCP Implementation Agreement to finance the SJMSCP.

b. The SJMSCP Fee shall be collected in accordance with Chapter 5.3.2.3 of the SJMSCP. The SJMSCP Fee supersedes and incorporates the City of Stockton's pre-existing Habitat/Open Space Conservation Fee (established by Ordinance No. 029-94 and Resolution No. 94-0589). More specifically, the SJMSCP Fee shall be placed in a separate SJMSCP Fee Account to avoid commingling of the fees with other funds of the City of Stockton. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those uses(s) described in the SJMSCP which shall include the following:

- a. To pay for acquisition of preserve lands (and associated transaction costs);
- b. To pay for monitoring and restoration and/or enhancement of preserve lands;
- c. To pay for endowment for long-term management of preserve lands; and
- d. To pay for initial and on-going administration of the SJMSCP.

Pursuant to Section 5.1.1(d) of the SJMSCP Implementation Agreement and in compliance with the City Council adopted resolution, the City of Stockton shall transfer the funds in the City of Stockton SJMSCP Fee Account to SJCOG, Inc., no less frequently than quarterly.

c. The SJMSCP Fees shall be as categorized, and in the sum of the amounts specified, in Sections 7.4.1, 7.4.1.1, 7.4.1.3, and 7.4.1.4 of the SJMSCP, with the exception that the fee established at the adoption of this ordinance shall be initially adjusted to 2002 dollars and re-adjusted annually thereafter in January of each year, based on SJCOG, Inc.'s annual index adjustment as specified in the SJMSCP Financial Analysis Update, dated November 2, 2006, or as amended. A summary of the SJMSCP Fees is attached hereto as Appendix D and incorporated herein by reference.

The City's pre-existing Habitat/Open Space Conservation Fee (Category F) shall remain fixed (not subject to adjustments) for applicable on-going developments. The fees described in Sections 7.4.1, 7.4.1.1, 7.4.1.3, and 7.4.1.4 of the SJMSCP shall be determined based on SJCOG, Inc., staff review of the SJMSCP Vegetation Map(s) and confirmed by aerial photo information (as of the effective date of the SJMSCP Fee) and/or a pre-construction field survey, if necessary, to verify vegetation types on the site. The Compensation Zone Map, as described in Section 8.2.5 of the SJMSCP, shall be used to determine if the property is subject to the SJMSCP Fees and/or to the City of Stockton's pre-existing Habitat/Open Space Conservation Fee (Category F).

d. The SJMSCP Fee shall not be imposed on projects located in a "No Pay Zone" as established in the compensation zone maps. Project proponents may opt for only partial payment of the SJMSCP Fee if they choose to complete one or more of the following:

- i. Dedicate, as conservation easement or fee title, habitat lands (in-lieu dedications) as specified in Sections 5.3.2.1 and 5.3.2.2 of the SJMSCP; or
- ii. Purchase approved mitigation bank credits as specified in Section 5.3.2.4 of the SJMSCP; or
- iii. Propose an alternative mitigation plan, consistent with the goals of the SJMSCP and equivalent or greater in biological value to option i or ii above, subject to approval by SJCOG, Inc.

e. The SJMSCP Fee shall be adjusted and implemented in January of each year as noted in Section c. above and/or in conformance with Section 7.5.2.2. of the SJMSCP, with the exception that the SJMSCP Fees established at the adoption of this ordinance shall be effective until December 2002. SJCOG, Inc., shall notify the City of Stockton in writing of proposed annual adjustments to the fees by October 1st of each year. The City of Stockton shall be responsible for the implementation of the fee adjustment in January of each year.

6. Agricultural Land Mitigation Program (in-lieu fee and in-kind acquisition)

a. The purpose of the Agricultural Land Mitigation Program is to mitigate for the loss of agricultural land in the City of Stockton through conversion to private urban uses, including residential, commercial and industrial development.

b. The following words or phrases, when used in these Guidelines, shall have the following meanings:

(1) "Agricultural land or farmland" for the purposes of these Guidelines means important farmland, as defined by the California Department of Conservation's Farmland Monitoring and Mapping Program (FMMP) and as shown on the most recent available FMMP map of San Joaquin County. Important farmland includes prime

farmland, farmland of statewide significance, and unique farmland. This definition is consistent with the purpose of the Fee, and with the definition of "agricultural land" found in the California Environmental Quality Act (Public Resources Code Section 21060.1).

(2) "Agricultural mitigation land" means agricultural land encumbered by an agricultural conservation easement or such other conservation mechanism acceptable to the City.

(3) "Agricultural conservation easement" means an easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements should be permanent.

(4) "Nexus Study" means the City of Stockton Agricultural Mitigation Fee Nexus Study, prepared June 21, 2006, as may be amended from time to time.

(5) "Qualifying entity" means a nonprofit public benefit 501(c)3 corporation operating in San Joaquin County for the purpose of conserving and protecting land in its natural, rural or agricultural condition. A qualifying entity shall have suitable accounting and reporting procedures to assist the City in preparing the annual report described in section g, below.

c. The Agricultural Land Mitigation Program shall apply to all projects under the jurisdiction of the city of Stockton that would result in the conversion of agricultural land, as defined in this section, to a non-agricultural use, including residential, commercial, and industrial development. The Agricultural Mitigation Program shall apply (whether through an in-lieu fee or in-kind direct purchase) to the acquisition of agricultural mitigation lands (of equal or better quality to the land that is being converted) within the "Central Zone" of San Joaquin County [as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and excluding the Primary Zone of the Delta]. The Agricultural Mitigation Program shall not apply to agricultural activities and facilities as defined by the Development Code or projects within the SJMSCP "No Pay Zone" (see h.).

d. For projects of forty (40) acres or more, the in-kind direct purchase/acquisition of an agricultural mitigation easement at a 1:1 ratio and dedication to a qualifying entity shall be required. The Owner/Developer/Successor shall pay the associated administrative, monitoring, and contingency costs identified in the fee study, subject to any inflationary adjustments.

For projects of less than forty (40) acres, the Owner/Developer/Successor shall have the option to pay an in-lieu agricultural mitigation fee. The fee shall be determined by the fee schedule in effect on the date the final subdivision map is filed, the vesting tentative map application is deemed complete, or the date a building permit is issued, as applicable.

e. Dedication of agricultural mitigation land, or payment of in-lieu fees, shall be made prior to the recordation of a final subdivision map, except where a final map is processed to create parcels that are forty (40) acres or more in size for purposes of resale and not intended for development. Where a subdivision map is not required, the

dedication shall occur or the fee shall be collected before the issuance of building permits. The filing of a parcel map, which does not result in the conversion of agricultural lands, does not require dedication or payment of in-lieu fees. However, it is the intent of this section that the division of property into parcels of less than forty (acres) shall not be used to avoid dedication of mitigation lands that would otherwise be required. Therefore, projects larger than forty (acres) that are subsequently divided into parcels less than forty (40) acres are not eligible to pay in-lieu fees.

f. Agricultural mitigation shall be at a ratio of 1:1 (1 acre of mitigation land per acre of agricultural land converted to any other land use). The size of the dedication or the amount of the in-lieu fee shall be calculated based on the acres within the subdivision classified as agricultural land. Where a subdivision map is not required, the fee shall be calculated based on the acres classified as agricultural land within the parcel for which the building permit is issued.

g. Agricultural mitigation fees shall be placed in a separate Agricultural Mitigation Fee account to avoid commingling of the fees with the other funds of the City of Stockton. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those uses described in the Nexus Study which shall include the following:

- (1) To pay for acquisition of agricultural mitigation lands (of equal or better quality to the land that is being converted) within the "Central Zone" of San Joaquin County [as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and excluding the Primary Zone of the Delta].
- (2) To pay for transaction costs related to the acquisition of agricultural mitigation lands.
- (3) To pay for ongoing monitoring and administrative costs related to the ongoing stewardship of agricultural mitigation lands.
- (4) To provide a contingency for unexpected transaction costs or future legal costs required to maintain the terms of an agricultural conservation easement.

Agricultural conservation fees may be expended by the City of Stockton or transferred to the Central Valley Farmland Trust, or other qualifying entity as determined by City Council, for the purpose of acquiring agricultural mitigation land. For funds transferred to the Central Valley Farmland Trust, or a qualifying entity, the City shall transfer such funds quarterly, provided funds are available in the Agricultural Mitigation Fee Account. It is permissible to use agricultural mitigation fees in order to obtain agricultural mitigation lands in fee simple, provided the purpose is to place an agricultural conservation easement on such lands, and make the lands available by sale for agricultural use.

h. The Agricultural Mitigation Program shall not apply to projects located in the "No Pay Zone" as established in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) compensation zone maps.

i. Residential projects that provide affordable housing and comply with the

following (see Development Code Section 16-315 for specific development requirements) shall be exempt from the Agricultural Land Mitigation Program:

Consist of five or more dwelling units;

Be available so that at least:

1. Twenty percent of the total number of proposed dwelling units are for lower-income households, as defined in Health and Safety Code Section 50079.5; and/or

2. Ten percent of the total number of proposed dwelling units are for very low-income households, as defined in Health and Safety Code Section 50105.

j. Stacking of habitat easements on top of existing agricultural easements is allowable with concurrence from San Joaquin Council of Governments and the qualifying entity administering the agricultural easement.

k. Agricultural easements shall be established in perpetuity.

l. Projects that qualify to pay the in-lieu fee shall be subject to a 2.5% administration fee. In addition, agricultural mitigation fees shall not be eligible for the "Deferred Payment" option set forth in Section C.

m. The City shall report to the City Council once each fiscal year concerning the fees and accounts, including any portions of fees remaining unexpended or uncommitted five (5) or more years after deposit. The City Council shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to identify the purpose to which the fee is put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

A refund of unexpended or uncommitted fee revenue for which a need cannot be demonstrated, along with accrued interest may be made to the current owner(s) of the development project(s) by the City on a prorated basis. The City may refund unexpended and uncommitted fee revenue that has been found by the City Council to be no longer needed, by direct payment or by off-setting other obligations owed to the City by the current owner(s) of the development projects(s).

If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this program exceed the amount to be refunded, City, after a public hearing, for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fee is collected subject to this Chapter that serves the project on which the fee was originally imposed.

B. Place of Collection

The CDD totals the fees as determined by the appropriate departments and informs the applicant of the amounts of the total and its components. The applicant pays the fee simultaneously with the issuance of the permit unless the applicant qualifies for and elects to defer payment of the fees as explained below.

C. Deferred Payment - Non-Residential

Rather than paying "development fees" at the time a building permit is issued, the developer who has qualified the project as a "qualified project" with the City Manager's Office, Economic Development Division, may elect to defer payment of all or a portion of those fees with the exception of surface water supply fee, air quality mitigation fee, and the SJMSCP Fee.

1. Definitions

a. A "qualified project" is defined as a commercial, office, or industrial/warehouse project on one parcel of land or a group of non-residential contiguous parcels under the same ownership; and

b. An "Enterprise Zone project" is any project which is within the definition above and located within the boundaries of the Enterprise Zone as existing or hereafter amended

c. "Development fees" include the following:

Public Facilities Fee (less Surface Water Supply Fee, Air Quality Mitigation Fee, and SJMSCP Fee) (S.M.C. § 16-355.270)

Wastewater Fee (S.M.C. § 7-092)

Water Fee (S.M.C. § 9-700)

Traffic Signal Fee (S.M.C. § 16-355.150)

2. Deferral of Fees

a. For a "qualified project," if the total amount of "development fees" due and payable at the time of issuance of a building permit or multiple permits issued concurrently for a project exceeds \$100,000, the property owner may enter into a Deferred Payment Agreement with the City to pay ten percent (10%) of those fees at the time the building permit is issued with the remaining ninety percent (90%) to be paid in equal installments over the next ten (10) years (or less at the property owner's option except that wastewater and water fees shall be paid in full within five (5) years).

b. For an "Enterprise Zone project," if the total amount of "development fees" due and payable at the time of issuance of a building permit, or multiple permits issued concurrently for a project, exceeds \$20,000, the property owner may enter into a Deferred Payment Agreement with the City for payment of any amount of "development

fees" with an initial payment at time of issuance of the building permit of not less than twenty percent (20%) of those fees and the remaining eighty percent (80%) paid in equal annual installments over a period of five (5) years (or less, at the owner's election) or pay ten percent (10%) of those fees at the time the building permit is issued with the remaining ninety percent (90%) to be paid in equal installments over the next ten (10) years (or less at the property owner's option except that wastewater and water fees shall be paid in full within five (5) years).

c. There is also the possibility to defer fees if the total amount of "development fees" due and payable is \$20,000 or greater but less than \$100,000 as set forth in Appendix E attached hereto and incorporated herein.

3. Security

a. For a "qualified project," the property owner shall, as security for repayment, execute and deliver a deed of trust on qualified project property to be recorded in the San Joaquin County land records, and execute a promissory note evidencing the obligation and terms of repayment. On a case by case basis, adequate security acceptable to the City and equal to the unpaid balance may be provided.

b. For "Enterprise Zone projects," the property owner shall, as security for repayment, execute and deliver a deed of trust on qualified project property to be recorded in the San Joaquin County land records, and execute a promissory note evidencing the obligation and terms of repayment.

4. Repayment Terms

a. Interest: The unpaid balance of the fees shall be subject to interest and collection charges. The annual interest rate will be equal to the 11th District Cost of Funds plus 1% (100 basis points) adjusted every July. For "Enterprise Zone projects" with a five (5) year or less payback period, interest shall begin to accrue on the first anniversary of the agreement.

b. Due on Transfer: The unpaid balance together with accrued interest shall be due and payable in full upon the sale or any other transfer of the property.

c. Recording and Processing Fees: All such fees shall be paid by the owner or applicant.

5. Processing Deferred Fee Requests

a. For "qualified projects," and "Enterprise Zone projects," an application shall be submitted to the City Manager's Office, Economic Development Division, for review, processing, and determination of eligibility.

b. The applicant shall provide, with the application, a preliminary title report, legal description of the property, and a brief description of the project.

c. If the project is eligible, the City Manager's Office, Economic Development Division, shall prepare the agreement and security documents for review and execution. The executed documents shall be returned to the City Manager's Office, Economic Development Division, for processing. Once the deferral agreement is executed by the City and the security documents have been approved and/or recorded, the City Manager's Office, Economic Development Division, will issue a notice to the CDD to proceed with issuance of the building permit(s), stating the amount of fees to be collected at issuance, and deferral of the balance of the development fees.

6. Redevelopment Agency Deferral Authority for Nonresidential Governmental Uses/Tenancies

The Redevelopment Agency of the City of Stockton is authorized to offer additional fee deferral opportunities in connection with the redevelopment of the City's downtown for redevelopment projects involving government office uses/tenancies that meet all of the following criteria: Consist of office facilities of 25,000 square feet or greater; require a conditional use permit (i.e., for a use not permitted outright); are located along the Stockton Channel Area; and are constructed as a multiple (not single) story building. The deferral afforded the Redevelopment Agency pursuant to this provision shall allow for a deferral of up to 100% of the development fees (as defined in this section) for a maximum period of up to 55 years and shall include an option, as determined by staff on a case by case basis, of no required down payment and an interest rate as low as 0% on the deferred principal.

D. Deferred Payment - Low/Moderate Income Residential

Rather than paying "development fees" at the time a building permit is issued, the developer, who has pre-qualified his "qualified residential project" with the Housing and Redevelopment Department of the City, may elect to defer payment of all or a portion of those fees.

1. Definitions

A "qualified residential project," as certified by the Housing and Redevelopment Department, is defined as either:

a. A single-family housing project consisting of one or more homes on one or more lots within an approved subdivision under the same ownership. Single-family home projects must be sold to owner-occupied, first-time home buyers whose combined family income is equal to or less than 100% of the median income for the Stockton Metropolitan Statistical Area as contained in HUD's Section 8 Housing Program Income Limits as adjusted from time to time. The home purchase price shall not exceed the FHA limit for home mortgages without mutual mortgage insurance as adjusted from time to time; current limit is set at \$117,800.

b. A multi-family housing project consisting of any new construction project meeting the definition of a "low rent housing project" as contained in Article XXXIV of the

California Constitution requiring local voter approval or any other project utilizing local, state, and/or federal funds in whole or in part in the acquisition or construction of said project.

"Development Fees" shall be defined as:

Public Facilities Fee (less Surface Water Supply Fee, Air Quality Mitigation Fee,
and SJMSCP Fee, S.M.C. § 16-355.270)
Parkland Fee (S.M.C. § 16-355.060)
Traffic Signal Fee (S.M.C. § 16-355.150)
Wastewater Fee (S.M.C. § 7-092)
Water Connection Fee (S.M.C. § 9-700)

2. Deferral and Repayment

Development fees for "qualified residential projects" shall be deferred during the period the project is under construction. In the case of a single-family project, fees deferred shall be collected without interest at the time permanent take-out financing is put in place as part of the closing transaction for the purchase of the home by the qualified buyer. In the case of multi-family projects, fees deferred shall be collected without interest prior to final approval of the Building Permit and issuance of a Certificate of Occupancy.

3. Security

All development fees deferred for "qualified residential projects" shall be secured by recorded liens or deeds of trust encumbering each lot of record involved with the project. Said liens or deeds of trust shall be recorded prior to issuance of Building Permits and shall be secondary only to deeds of trust associated with acquisition or construction financing. Full or partial reconveyance of encumbrances shall be issued by the City at the time "development fees" are paid. All document preparation and recording fees shall be paid by developer or property owner applying for the fee deferral.

4. Penalty

All development fees deferred pursuant to this program shall be subject to a penalty if the single-family home projects are not sold to buyers meeting the income qualifications or if the purchase price exceeds the maximum allowed. In the case of multi-family projects, a penalty will be assessed if, following initial approval, the project is restructured so as not to meet the definition of a low rent housing project or refinanced so as not to include public funds as contained in the definition of a "qualified residential project." The penalty assessed shall be in the form of an interest payment equal to the 11th District Cost of Funds plus 1% (100 basis points) adjusted every July computed from the date the fee is deferred until totally repaid.

5. Processing Deferred Fee Requests

Developers or owners of "qualified residential projects" shall make application for the deferment of fees to the Housing and Redevelopment Department. In the case of single-family housing projects, the content of the application shall be a list of all fees applicable to the project as calculated by the CDD. In addition, the applicant shall submit a brief description of the project profiling the type of buyer expected to reside within the project. This shall include projected annual income of home buyers and projected sale prices.

For "qualified multi-family projects," the developer or applicant shall submit a project proforma and financial feasibility analysis that includes sources of all financing associated with the project; projected rents for the project; operating maintenance; and debt service costs associated with the project. The application shall also include a preliminary title report and legal description. The Department of Housing and Redevelopment shall review the information submitted and make a determination as to whether the project meets the criteria for a deferral of fees. For those projects meeting the above-mentioned criteria, the Housing and Redevelopment Department will prepare a Development Fee Deferral Agreement along with a security document consisting of a lien or deed of trust to be executed by the applicant and returned to the City for processing. Once the deferral agreement is executed by the City and the security document has been recorded, the Housing and Redevelopment Department will issue a notice to the CDD to proceed with the deferral of the development fees and the issuance of the Building Permit.

6. Collection

In the case of single-family housing projects, development fees shall be collected as part of the sales transaction between developer and qualified home purchaser. Development fees shall be paid to the City out of the proceeds of the permanent take-out loan. At the time the sales transaction takes place, the developer or escrow company shall submit an appropriate document to the Housing and Redevelopment Department evidencing that the proposed buyer meets the income qualifications and the purchase price of the home is within the maximum amount allowed. Evidence of satisfying this criteria will include a copy of the purchase agreement and copies of the buyer's last three years income tax returns. The Housing and Redevelopment Department will review this information and make a final determination as to the buyer's eligibility. The Housing and Redevelopment Department will determine whether the development fee repayment amount will include an interest payment as a penalty and submit this demand to the escrow agent along with reconveyance documents. The escrow company will collect and remit to the appropriate demand and transmit it to the Housing and Redevelopment Department for processing.

In the case of multi-family projects prior to the issuance of a Certificate of Occupancy or the placement of permanent take-out financing for the project, the developer shall submit evidence that long-term financing agreements have been executed with public entities that contain provisions and assurances that the project will remain affordable to lower-income tenants during the duration of the finance period. Upon review and

approval of such documents, the Housing and Redevelopment Department will calculate the appropriate repayment amount and follow the remainder of the procedures as described above.

E. Refunds

Refunds, less the administrative fee, will be made according to City procedures.

II. EXPENDITURES

A. Capital Improvement Program

State law requires that development fees be imposed only when the nature of the facilities to accommodate the development has been identified and the cost of these facilities estimated. Furthermore, the City must account for the use of the funds. In order to fulfill this requirement, the City has undertaken a number of studies analyzing public facility needs and/or the need for compensation measures to offset the impacts of future development. The intent of Appendix A is to list the various types of public facilities and compensations governed by these administrative guidelines and the respective authority that established the needs for facility type. The referenced authority does include specific public facilities scheduled for partial and/or full funding by the public facilities fee as well as guidelines for use of the SJMSCP fee component of the public facilities fees.

Projects to be constructed by the City in the next five years are included in the City's Capital Improvements Program (CIP). This includes projects to accommodate new development and to cure existing deficiencies.

Beginning with the 1990-91 fiscal year, the facilities listed in Appendix A (in its updated form) will be reviewed and those projects planned for construction within five years will be included in the City's CIP budget. The City's CIP budget will also include:

1. Projects scheduled for construction by developers within the next fiscal year and funded with a combination of developer and City funds.
2. Projects which have been constructed by the developer that have City Council approved reimbursement agreements and funds have been scheduled to be paid to the developer in the next fiscal year(s) based upon available City funding. For reimbursement purposes, the City will set aside, for each fee area and facility type, 25 percent of the fees collected (minus credits) in the prior year. Any unexpended portion of the 25 percent reimbursement set aside will be carried over for one year only.
3. Projects which have been constructed by the developer that have City Council approved reimbursement agreements for which no funds have been scheduled to be paid to the developer in the next fiscal year due to lack of funds. It is the intent of this provision that all projects that have City Council approved reimbursement agreements shall be included in the

City's CIP budget and in order of priority based upon the effective date of the reimbursement agreement.

B. Budgeting for Proposed Projects

At the time that an actual appropriation for a project is requested, either during the annual budget preparation or as an appropriation during the fiscal year, the following information must be provided as part of the request:

1. To insure satisfaction of the nexus requirement, identify the proposed project as being one of the Council projects intended to be provided by the public facilities fees or, within the adopted guidelines for use of SJMSCP fees. See Appendix A.
2. Document the percentage of cost, if any, of the proposed project that is to correct existing deficiencies. Reference to an analysis that may be included as part of Appendix A would satisfy this requirement.
3. Be specific in identifying the source of funding for the proposed project. For the percentage that is approved for expenditure of public facilities fees other than SJMSCP fees, it is necessary that the facility type and fee area be identified for each portion of the appropriation. This is necessary because the revenues are being collected by a particular fee area for each facility type and are being accounted for by specific facility type and fee area. For the percentage that is determined to correct existing deficiencies, identify specifically the other source of funds.
4. Check with the Administrative Services Department to determine if sufficient funds are available in the correct accounts for the necessary appropriations. The amount available will include the fund balance, less any amounts already appropriated or otherwise encumbered, plus estimated revenues. The CDD and Public Works Departments will provide the Administrative Services Department with projections of estimated revenues from public facilities fees by facility type and fee area.
5. Initiate a loan between fee areas if sufficient funds are not available in the correct accounts.

C. Existing Deficiencies

The adoption of the Public Facilities Fee program require the City to correct existing deficiencies. It is the intention of the City to appropriate funds each year such that at the end of each year, the cumulative appropriations will meet a defined proportion of the total cost of correcting deficiencies. This proportion shall be calculated as the ratio of the number of years after 1987-88 (the number of years the fee program has been in effect) to the 20 years through the 2007-08 fiscal year. In other words, it is the City's intention that funds to correct the deficiencies will be provided by the 2007-08 fiscal year

at an approximate rate of one-twentieth each year. Existing deficiencies will be funded by general funds and/or bond issues (net of issuance costs).

D. Zone Expenditure Guidelines

The principle that the fees collected from a development must be used for the facilities to accommodate that development is being further fulfilled by a guideline that the majority of the funds collected in each of three geographical zones of the City be used for facilities to serve that area. This restriction does not apply to the police station, surface water supply, and City office space fees, as these facilities are centrally located and serve the entire City. It also does not apply to the water, wastewater or the SJMSCP fees. It does apply to the fire station, library, community recreation center, street improvement, parklands and traffic signal fees.

For this purpose, the City is divided into three zones: North -generally north of the Calaveras River - equal to fee collection areas 1 and 2; Central - generally between Charter Way and the Calaveras River - equal to fee collection areas 3 and 4; and South - generally south of Charter Way - equal to fee collection areas 5 and 6. For each of the fees, an account has been established for each fee area. Approximately eighty-five percent of each fee collected is credited to the account for the fee area from which it was collected. The funds in the accounts for fee areas 1 and 2 will be expended for projects in the North zone. The funds in the accounts for fee areas 3 and 4 will be expended for projects in the Central zone. The funds in the accounts for fee areas 5 and 6 will be expended for projects in the South zone.

Because some service demands are made across zones, the remaining 15 percent of the fee is deposited into a City-wide account (for each fee), the contents of which may be expended anywhere in the City for facilities to accommodate new development.

The above percentages could vary depending on ordinances or based on additional analysis which identified alternate distribution.

E. Borrowing Among Fee Area Accounts

It would not well serve the City to have funds gradually building in all of the fee area accounts for an extended period of time without any one account having sufficient funds to provide a facility, thus depriving all areas of new facilities. Therefore, in order to enable the provision of facilities as they are needed, loans can be made from one fee area account to another.

The department initiating the request for an appropriation must also initiate the loan request. The loan would be required if sufficient funds are not available in the fee area accounts within the expenditure zone. Such borrowing may only take place, however, if it can be demonstrated that the account from which the funds are borrowed will have sufficient remaining funds to appropriate to projects scheduled within that zone. A financial plan must be prepared projecting anticipated revenues to the accounts for the fee areas within the zone and proposing a repayment schedule. All loans shall require loan documentation and approval by the City Council. The account from which the

funds were borrowed shall receive interest on funds loaned equal to the City's average pooled investment earnings rate.

The possible need for a loan must be addressed at least twice during the life of a project.

1. It may be necessary to establish a loan at the time an appropriation for a specific project is requested. Depending on the estimated beginning date of the proposed project, the above appropriation and/or loan might be based largely on estimated revenues.
2. It may also be necessary to establish or amend the amount of a loan at the time a department issues a purchase order or requests City Council approval of a contract for an expenditure of funds from the project account. At the request of the department managing the project, the Administrative Services Department will re-evaluate the availability of funds by comparing actual revenues collected with estimated revenues (used in step 1 above) and indicate if there is an additional need for a loan at this time. If this is the case, then the loan must be approved by the City Council before the contract or purchase order can be executed.

F. Developer In Lieu Improvements

New development is responsible for all public facilities that are needed as a result of new development. This includes all improvements that are required by the subdivision and public improvement ordinances or identified as being necessary to satisfy mitigation measures for the project. There may be situations where a developer will incur the cost of a facility which corrects an existing City deficiency or serves other development. Therefore, under those conditions, developers will receive a reimbursement in the form of credits or cash, plus interest at the rate equal to the 11th District Cost of Funds from the date the improvements are accepted by the City, consistent with the City Council approved reimbursement agreement. Developers dedicating the land and/or constructing these facilities will be eligible for credit/ reimbursement as outlined in these administrative guidelines. Construction costs, design costs, and fees for plan checking and inspection, etc., are eligible for credit/reimbursement.

A credit/reimbursement will be given to the developer to offset the public facilities fee for that type of facility imposed on subsequent development of the parcel. In other words, a street improvement cost will only be subject to credit/reimbursement against the street improvement fee.

The amount of credit-/reimbursement shall be as outlined below for each of the appropriate fees:

Libraries, Community Recreation Centers,
Fire Stations, & Parks:

If the developer only dedicates the land for these facilities, it is eligible for a partial credit/reimbursement equal to the percentage of the fee that is needed to acquire the land. As an example, if 50% of the parkland fee is to acquire land for parks, a developer that dedicates the land will be eligible for a 50% credit against its parkland fee for permits within its development. The developer is also eligible to be reimbursed for 50% of the parkland fees from other developments within the service area of the park.

In the case of parkland, the value of the land dedicated shall be the value of land used to calculate the parkland fee in effect on the date the land is accepted by the City Council.

If the developer also constructs one of these facilities, it is eligible for a full credit/reimbursement of the fee for permits within its development, and reimbursement of the fees from other developments within the service area of the facility.

Wastewater:

The sanitary sewer connection fee is composed of the following components: (1) treatment, (2) existing collection system, and (3) future collection systems.

If the developer constructs a completely new collection system in accordance with the Master Plan, conveying wastewater from the developed parcel to the City of Stockton Wastewater Control Facility on Navy Drive, without use of any portion of the existing City sanitary sewer system, developer is eligible for a full credit/reimbursement within its development of components (2) existing collection system and (3) future collection systems, of the connection fee. The developer is also eligible for reimbursement of a portion of the fee for both existing and future collection systems from other developments within the service area of the collection system improvements.

If the developer connects to the existing collection system and installs mains in accordance with the Master Plan, developer is eligible for a full credit/reimbursement within its development of component (3) of the connection fee-future collection systems. The developer is also eligible for reimbursement of a portion of the fee for future collection systems from other developments within the service area of the collection system improvement.

In no case will the reimbursement authorized under this section of the Administrative Guidelines exceed the cost of the eligible sanitary sewer improvements constructed by the developer.

Water:

If the developer constructs a portion of the water system in accordance with the Master Plan, it is eligible for a full credit/reimbursement within its development for the fee for that portion of the cost which represents water transmission mains

installed which exceed the requirements of the individual development as determined by the City. The developer is also eligible for reimbursement in accordance with the City's Water Rates and Regulations.

Street Improvements:

If the developer constructs a portion of the street improvements within and adjacent to its project which are covered by the fee, it is eligible for a 50% credit/reimbursement on building permits within its development until the full cost of the improvements have been recovered. The 50% credit is necessary since only approximately 33% of the total street improvements covered by the fee are adjacent to or within undeveloped properties. The remaining improvements are freeway-related improvements, railroad grade separations, and street improvements adjacent to developed properties. Without the City retaining 50% of the fees, sufficient revenue would not be generated to fund the necessary freeway, railroad grade separations, and street improvements adjacent to developed properties.

If the developer constructs a portion of the street improvements outside and not adjacent to its development, it is eligible for a 100% credit/reimbursement on building permits until the full cost of the improvement has been recovered.

Refer to Appendix B for specifics on reimbursements for developer constructed street improvements. Also, refer to Appendix C on the procedures to be followed where past developments made significant street improvements and the development is not completely built out.

The developer shall submit a detailed cost breakdown of the public facilities to be constructed and/or the land to be dedicated for the public facilities. The cost breakdown shall also include the timing of the various improvements. In addition, the developer shall submit a yearly schedule of projected building permits through full build-out of the project. The developer shall enter the projected building permits, applicable fees, cost breakdown, interest and the proposed spread of credits/reimbursements into a spreadsheet compatible with City-used software.

The spreadsheet shall be reviewed and approved by the Public Works Department. Upon approval, the developer shall provide a copy of the spreadsheet on an IBM-PC compatible floppy disk. The spreadsheet shall be updated by the developer and reviewed and approved by the Public Works Department at least once a year. The value of the land and improvements shall not be adjusted for inflation or deflation, but the applicable fees shall be adjusted to the current fee and projected ahead in constant dollars.

The City shall enter into a credit/reimbursement agreement with the developer. The agreement shall provide for the credit/reimbursement to the developer from fees generated within the project and that zone. The timing and method of payment (credit/reimbursement) will be negotiated and included as part of the subdivision agreement or as approved by the City Council when the improvements are accepted. If

the improvements are financed by an assessment district (including Mello-Roos), credits may be given to the individual property owner and/or reimbursement shall be made to the district. The proposed spread of credits/reimbursement must also be approved by the City Council prior to the subdivision improvements being accepted by the City Council.

If the credit/reimbursement agreement is submitted for approval by the City Council prior to the installation of the improvements, the costs will be based upon estimates. Upon completion of the improvements, the credit/ reimbursement agreement will be resubmitted to the City Council for approval prior to subdivision improvements being accepted.

If the developer has pulled building permits and paid public facility fees prior to the credits/reimbursement agreement being approved by the City Council, the developer will only receive credits/reimbursements on future permits. No refunds will be processed for the fees paid prior to the credit/reimbursement agreement being approved by the City Council.

When the various fees are adjusted by the City Council, the total amount to be credited/reimbursed does not change, but the amount of credit/reimbursement to be applied to an individual building permit will be adjusted. For example, if a fee was originally \$1000 and the developer receives a 50% credit or reimbursement, when the fee increases to \$1100, the developer will still receive a 50% credit or reimbursement but it will be \$550 versus the original \$500.

The developer has the option, to be determined at the time of the reimbursement agreement, of receiving credits when the building permits are issued or accumulating these credits and receiving a lump sum reimbursement at the end of each quarter, based upon claims made by the developer.

G. Use of Administrative Funds

The funds in the administrative account are not used for studies and/or administration for specific improvements or types of improvements. Such expenses are charged to the account for that type of facility, i.e., a traffic analysis charged to the Street Improvements accounts. However, administrative funds may be used for planning studies, such as a City initiated general plan revision. The funds in the administrative account are not used to cover the cost of reviewing projects; nor are funds from any other fee account used for this purpose. The funds may be used for both consultant and staff costs. Staff costs are calculated based on time card entries.

III. ANNUAL REPORT

A. Fiscal Year Summary

An annual report on the development fee program is prepared. The first portion of the report, the fiscal year summary, is prepared reasonably soon after the end of the fiscal

year, as accounting information becomes available. This portion of the report includes the following information.

1. **Account Balances** - The information includes fiscal year revenues and the accumulated balance for each account.

2. **Improvements** - The report includes, for each account and subaccount, except the SJMSCP Account, the following: the constructed improvements and a projection of the funds to be collected in each of the next five years; when the next project (or projects) will be able to be funded; and the proposed projects to be undertaken in the next five years. The latter information is in a form appropriate for integration into the Capital Improvements Program. For the SJMSCP Account, the annual report will be provided by SJCOG, Inc.

3. **Administration Fund** - The revenues to the administration account are compared with the administration expenses incurred, both for the past fiscal year and for an appropriate longer period of time. Both future projected revenues and expenses are also included in the report, along with a recommendation either to retain the current level of administrative component of the fee, or to adjust it up or down.

4. **Existing Deficiencies** - The expenditures to cure existing deficiencies are set forth, both for the fiscal year and cumulatively. These expenditures are compared with the commitment to cure existing deficiencies on at least a pro rata basis between 1988 and 2008.

5. **Reimbursement Agreements** - The report includes, for each agreement, the following: the constructed improvements; the total cost of the improvement including land; all accrued interest; the outstanding balance; and the projected credit/reimbursement and source of revenue.

B. Fee Review and Adjustment

The second portion of the annual report is prepared three or four months before the start of the calendar year. This report is submitted to the City Council along with recommendations so that action can be taken no later than 60 days before the start of the calendar year, allowing the adjusted fees to become effective on or about January 1. This portion of the report includes the following information.

1. **Inflation Adjustments** - The report presents information on the inflation rate during the prior calendar year as determined by the construction cost index of the Engineering News Record publication. The rate of inflation (or deflation) is applied to the fees to determine the fees for the subsequent year. A land cost index will be used to adjust the land cost portion of the fees.

2. **Reimbursement Agreements Adjustments** - The report presents information on the credits/reimbursements due developers for the subsequent year. Since the developers are eligible for credits/reimbursements plus interest, the fees shall be adjusted to cover this additional expense.

3. **Special Studies or Information** - From time to time, new information will be come available regarding the facilities needed to accommodate new development and their cost. If this information is different from that upon which the fees are currently based, the information should be documented along with calculations that determine the appropriate new fee level.

4. **Findings** - The report sets forth findings suitable for adoption by the City Council determining that, except for the adjustments listed, the prior findings on which the current fees are based are still sufficiently accurate.

Adopted Feb. 12, 1991 (Resolution No. 91-0119);
Amended Jan. 23, 2007 (Resolution No. 07-0040);
Amended _____ (Resolution No. ____-____).

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APPENDIX A

REFERENCES TO FACILITIES TO BE FUNDED BY DEVELOPMENT FEES

Public Facilities Fees (Resolution No. 92-0755)

City Office Space
Fire Stations
Libraries
Police Station Expansion
Community Recreation Centers
Street Improvements
Surface Water Supply
Parklands
Air Quality

Wastewater Collection and Treatment (Resolution NO. 89-0498)

Wastewater Treatment and Sludge Management Master Plan
Wastewater Collection System Master Plan

Water Systems (Resolution No. 89-0498)

North and South Master Water Plans

Traffic Signal Fee (Resolution No. 89-0498)

Traffic Signal Priority Rating List

Note: These Resolution numbers are current as of
December 21, 1992

APPENDIX B

DEVELOPER REIMBURSEMENT FOR STREET IMPROVEMENTS

The purpose of this appendix is to describe the situations in which developers may be reimbursed for the cost of constructing street improvements included in the traffic (street improvement) fee program. New development is responsible for the installation of street improvements as specified in the Stockton Public Improvement Ordinance. At the time a building permit is issued, traffic impact fees are assessed which are used to provide street capacity to accommodate new development. Developers are eligible for reimbursement for their cost of construction of street improvements as defined below.

EXISTING DEFICIENCIES

The city is responsible for the cost of correcting all existing deficiencies. A deficiency in the street system is defined as any street segment or intersection that does not operate at Level-of-Service "D" or better at all times. A deficiency also includes a missing street link required to provide Level-of-Service "D" on streets in the area.

LEVEL-OF-SERVICE "D" for street segments represents high-density, but stable flow. Users experience severe restriction in speed and freedom to maneuver, with poor levels of comfort and convenience. Technically speaking, level-of-service "D" occurs when the average travel speeds are approximately 40-mph on 70-mph design speed sections, while the average spacing of vehicles is 125 feet, or 6 car-lengths. Only the most minor disruptions can be absorbed without the formation of extensive queues and the deterioration of service.

Level-of-service for signalized intersections is in terms of the average stopped delay per vehicle for a 15-minute analysis period. Level-of-service "D" describes operations with delay in the range of 25.1 to 40.0 seconds per vehicle. At level "D", the influence of congestion becomes more noticeable. Many vehicles stop, and the proportion of vehicles not stopping declines.

CAPACITY TO ACCOMMODATE NEW DEVELOPMENT

New development is responsible for the construction of the future street system that is needed to handle increased traffic

from new development (buildings). This includes all street improvements that are required by the subdivision ordinance and identified as being necessary to satisfy environmental mitigation measures for the project. The financial responsibility for the necessary improvements in the street system will be satisfied in one of two ways:

- (a) Developer construction of the improvements with no credit/reimbursement.
- (b) Developer (or city) construction of the improvement with credit/reimbursement from the traffic impact fees. A street must appear on the Traffic Impact Fee Map (MAF) in order for any of its cost to be eligible for credit/reimbursement from traffic impact fees.

If any improvements which are required as a result of the current development, but which do not appear on the MAF, are deferred, to a later phase in the project, then the developer must bond for the estimated cost of those improvements.

The following paragraphs list the various components of the street system and define the situations in which a developer may expect credit/reimbursement.

Right-of-Way

Developer - The developer must dedicate right-of-way for new streets. If the city determines that the right-of-way of an existing street is inadequate, the developer is responsible for the first 30 feet of additional right-of-way required for a one-half street section (measured from the ultimate right-of-way line). If the street does not appear on the MAF, then the developer is responsible for all of the required right-of-way.

Any right-of-way required to accommodate access to a given parcel (such as deceleration and acceleration lanes for driveways) will be dedicated at the developer's expense and is not subject to credit/reimbursement.

Reimbursement - The developer will be eligible for credit/reimbursement for the cost of any additional right-of-way required for street improvements in excess of the first 30 feet of additional right-of-way required for a one-half street section (measured from the ultimate right-of-way line). In order for credit/reimbursement to be allowed, the street must appear on the MAF.

Refer to Figure No. 1. In this case, the existing right-of-way is 80 feet wide and the ultimate right-of-way is 134 feet wide. The developer on each side of the street will have to dedicate 27 feet of right-of-way without any credit/reimbursement.

In calculating the value of the right-of-way, the value is to be based upon the value of the land at the time of the application for the first tentative map on the property.

Storm Drainage

Developer - The developer is responsible for the construction of all storm drainage facilities.

Reimbursement - In those cases where an existing street, in a fully developed area (a street segment not located adjacent to a proposed development), is being widened to accommodate increased traffic and there is an existing storm drainage system, then any modifications to the storm drainage system will be eligible for credit/reimbursement from the traffic impact fees. In order for credit/reimbursement to be allowed, the street must appear on the MAP.

Street Lights

Developer - The developer is responsible for the construction of all street lights (including median street lights) within its subdivision or development. This includes installing new street lights on metal poles in those areas that have the street lights mounted on wooden poles. Median street lighting on peripheral streets shall be installed by the subdivider or developer. The city will pay 50 percent of the cost when the opposite side of the street is fully developed. If the opposite side of the street is not fully developed, the City will establish an Area of Benefit to reimburse the developer. The City will pay the proportionate share of fully developed parcels.

Street Light Fees - These fees are used as an alternative to the requirement (that the developer install street lights) for subdivisions of four lots or less in areas where no street lights currently exist or where street lights exist on wooden poles.

Reimbursement - In those cases where an existing street is being widened to accommodate increased traffic and there are existing street lights, then any modifications to the street lights will be eligible for credit/reimbursement from the traffic impact fees. In order for credit/reimbursement to be allowed, the street must appear on the MAP.

At-Grade Railroad Crossings

Developer - The developer is responsible for the construction of the street improvements up to the railroad track and those railroad crossings not shown on the MAP. The developer is not responsible for the cost of installing new or relocating and upgrading existing railroad crossings shown on the MAP. The developer is responsible

for the cost of installing new at-grade railroad crossings not shown on the MAP.

Grade separated crossings (identified on the MAP) will be constructed by the City using traffic impact fees and/or any other state and federal funds that may be available.

Bridges

Developer - The developer is responsible for the construction of bridges and dedication of right-of-way necessary to serve developer's parcel. In those cases where the developer does not own the adjacent property, the City will acquire or otherwise provide, at developer's expense, all adjacent right-of-way necessary for developer to construct the bridge, bridge approach and connecting streets.

Reimbursement - The developer of the adjacent property shall dedicate at no cost the right-of-way required for the bridge. In those cases where the developer does not own the adjacent property, the City will set up an area of benefit to recover the right-of-way cost when the adjacent property develops. Right-of-way required for bridges is not eligible for credit/reimbursement. The full cost of constructing and/or widening of bridges will be eligible for credit/reimbursement from traffic impact fees. In order for credit/reimbursement to be allowed the bridge must appear on the MAP.

Traffic Signals

Developer - The developer is responsible for the construction of all traffic signals that are adjacent to and within its development and are required by the project in order to mitigate traffic impacts.

Reimbursement - In order for credit/reimbursement from traffic impact fees to be allowed, the traffic signals must have been identified on the MAP as being required to mitigate traffic to a Level-of-Service "D" at an intersection. The developer is not eligible for credit/reimbursement from traffic signal fees.

Sidewalk, Curb and Gutter

Developer - The developer of any parcel is responsible for the installation of sidewalk, curb and gutter. If the existing sidewalk, curb and gutter need to be replaced (adjacent to the property being developed) to accommodate the widening of the street, it will be done so at the developer's expense and is not subject to credit/reimbursement. Any damaged sidewalk, curb and gutter will be repaired at the developer's expense and is not subject to credit/reimbursement. Any sidewalk, curb and gutter construction required to accommodate access to a given parcel (such

as deceleration and acceleration lanes for driveways) will be constructed at the developer's expense and is not subject to credit/reimbursement.

Reimbursement - In those cases where an existing street, in a fully developed area (a street segment not located adjacent to a proposed development), is being widened to accommodate increased traffic and the sidewalk, curb and gutter exists, then any modifications to the sidewalk, curb and gutter will be paid for out of traffic impact fees. In order for credit/reimbursement to be allowed the street that is being widened must appear on the MAP.

Medians

Developer - The developer is responsible for construction and/or reconstruction of medians.

Reimbursement - Any cost for constructing and/or modifying medians to provide access to adjacent property will be done at the developer's expense and is not subject to credit/reimbursement. If the developer is installing a new median and an opening is constructed for access to the adjacent property, the developer will be eligible for credit/reimbursement of the cost of constructing the median (as though there were no openings), but any additional cost for providing access to the property will not be allowed. Any openings identified on specific plans may be subject to credit/reimbursement. In order for credit/reimbursement to be allowed, the street where the median is being constructed and/or modified must appear on the MAP.

Street Construction (Paving)

Developer - The developer is responsible for the construction and/or reconstruction of all paving required for its project.

Reimbursement - The first 18 feet of paving adjacent to the curb line, plus all paving required to accommodate deceleration and acceleration lanes for driveways, is a developer responsibility and is not subject to credit/reimbursement. The developer is not eligible for credit/reimbursement for extra pavement thickness required within the first 18 feet of pavement adjacent to the curbline. The developer will be eligible for credit/reimbursement for the remainder of the street section outside of the first 18 feet of paving on either side of the street. In order for credit/reimbursement to be allowed, the street must appear on the MAP.

The allocation of responsibility can be illustrated by reference to Figure No. 1.

APPENDIX C

STREET IMPROVEMENTS TRANSITION PROCEDURES

The imposition of development fees to provide funds to accommodate new development is a change from the way such infrastructure has been provided in the past. Previously the Public Works Department determined the necessary street improvements within reasonable proximity to a proposed project. The approval of the project was then made contingent upon the project providing such facilities. Because such improvements often were sized to serve additional possible new development, areas of benefit were sometimes established to provide appropriate reimbursement to the developer required to put in the facilities.

Refer to the administrative guidelines for the details on who is responsible for constructing given facilities. The new traffic impact fee includes the cost of improvements (and right-of-way) for existing and future streets, bridges, railroad crossings, highways and freeways. With the imposition of the new traffic impact fees, the procedures for calculating a credit for an existing street improvement will be as follows. The developer will, as before, be required to provide the minimum street improvements fronting the project property as required by city codes. Developers will still in many situations be required to provide additional capacity to mitigate project impacts, but to the extent the additional street facilities are identified on the MAP, the ultimate financial responsibility will lie with the traffic impact fee program. The developer will receive reimbursement or credit against its own traffic impact fees depending on the City Council approved reimbursement agreement.

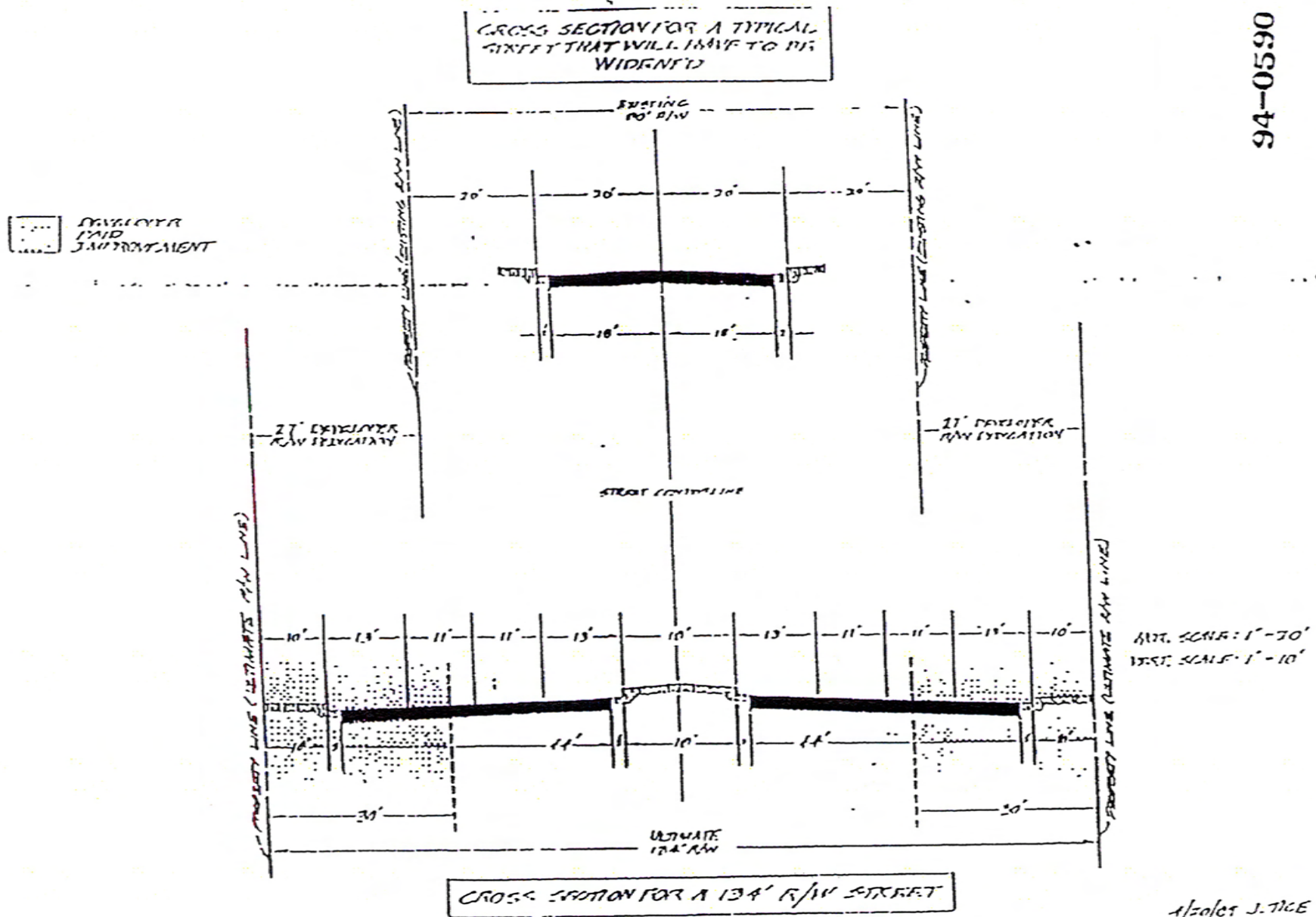
The problems of transition arise from the situations in which past developments made significant street improvements as required, but have not completed buildout of the projects. The imposition of the new traffic impact fee on buildings in such projects would potentially result in a duplicate liability being imposed on the developers.

The City started charging a traffic impact fee of \$660 per peak hour trip end on October 1, 1988. The \$660 per peak hour trip end was based upon a study that did not include all of the required improvements to City streets. In addition, it did not include any improvements to Highway 99 and the I-5 Freeway. When the cost of all of the known required improvements are included, the fee becomes the "Street Improvement Fees" as adopted by the City Council during 1991.

Any person receiving a building permit prior to the adoption of the "revised traffic impact fees" will not have paid for all of the improvements required by their development. Therefore, the City will not give the developer a credit/reimbursement on traffic

impact fees for the construction of traffic improvements for those projects that were charged a traffic impact fee of \$660 per peak hour trip. The only exception will be in those cases where the developer is willing to pay the difference between the revised traffic impact fees and the \$660 traffic impact fee that was paid at the time the building permit was pulled. The credit/reimbursement in these cases will be calculated in the same manner as outlined in the Administrative Guidelines.

94-0590



4/20/01 J. TICE
FIGURE NO. 1.

APPENDIX D

Amended Effective April 1, 2007

San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) Schedule of Fees (April 1, 2007)

<u>FEE CATEGORY / COMPENSATION ZONE</u>	<u>BASE FEE PER ACRE</u>
Category A/No Pay Zone	\$0/Acre
Category B/Pay Zone A (Multi-Purpose)	\$6,511/Acre*
Category C/Pay Zone B (Agriculture)	\$13,022/Acre*
Category D/Pay Zone B (Natural)	\$13,022/Acre*
Category E/Pay Zone C (Vernal Pools)	\$34,958/Acre (upland)* \$69,858/Acre (wetted)*
Category F/Other Pay Zone (Prior Agreement)	\$750/Acre**

* The fees established for Categories B, C, D and E, above, shall now be comprised of three components: Acquisition Costs, Assessment and Enhancements, and Management and Administration. The Assessment and Enhancements and Management and Administration components shall be adjusted annually based on the Consumer Price Index (CPI). The Acquisition Cost component shall be adjusted annually based on a minimum of ten comparable agricultural sales within the previous two years. If ten acceptable comparables are not found, then the two year window will increase in three month intervals until ten acceptable comparable agricultural sales are found. The comparable agricultural sales shall meet the following criteria: over forty acres in size, but under 500 acres in size, no orchard or vineyard properties shall be included, and all comparable sales must be on land that is consistent as mitigation land under the SJMSCP. In addition, all SJCOG, Inc. transactions regardless of size or sale type will be included in the comparables.

** The fee established for Category F, above, shall remain fixed, based on prior agreement(s).

Participation in the SJMSCP is voluntary related to providing mitigation for a project's site-specific wildlife/habitat impacts. Project proponents have the option of mitigating under the Plan or negotiating directly with the State and/or Federal permitting agencies to establish acceptable mitigation for those impacts. However, pursuant to the SJMSCP and the related Implementation Agreement, all projects within a designated "Pay Zone" or within a "Prior (Mitigation) Agreement" area, shall, at a minimum, compensate for its cumulative pro-rata share of habitat loss resulting from new development within the City and shall, therefore, be subject to the Multi-Purpose Habitat/Open Space Conservation Fee or to the "Other Pay Zone/Prior Agreement" Fee, as applicable.

**ADJUSTED HABITAT/OPEN SPACE CONSERVATION FEE
SINGLE-FAMILY RESIDENTIAL DEVELOPMENT
(Per Net Parcel Area)
(Effective April 1, 2007)**

	Category A No Pay	Category B Multi-Purpose	Category C Agriculture	Category D Natural Lands	Category E Vernal Pool Wetted	Category E Vernal Pool - Upland	Category F Prior Agreement
Habitat Fee	-	\$9,575	\$19,150	\$19,150	\$93,054	\$51,409	\$1,103

**ADJUSTED HABITAT/OPEN SPACE CONSERVATION FEE
MULTI-FAMILY RESIDENTIAL DEVELOPMENT
(Per Net Parcel Area)
(Effective April 1, 2007)**

	Category A No Pay	Category B Multi-Purpose	Category C Agriculture	Category D Natural Lands	Category E Vernal Pool Wetted	Category E Vernal Pool - Upland	Category F Prior Agreement
Habitat Fee	-	\$8,567	\$17,134	\$17,134	\$83,259	\$45,997	\$987

**ADJUSTED HABITAT/OPEN SPACE CONSERVATION FEE
GUEST ROOMS
(Per Net Parcel Area)
(Effective April 1, 2007)**

	Category A No Pay	Category B Multi-Purpose	Category C Agriculture	Category D Natural Lands	Category E Vernal Pool Wetted	Category E Vernal Pool - Upland	Category F Prior Agreement
Habitat Fee	-	\$8,567	\$17,134	\$17,134	\$83,259	\$45,997	\$987

**ADJUSTED HABITAT/OPEN SPACE CONSERVATION FEE
OFFICE/HIGH-DENSITY NON-RESIDENTIAL DEVELOPMENT
(Per Net Parcel Area)
(Effective April 1, 2007)**

	Category A No Pay	Category B Multi-Purpose	Category C Agriculture	Category D Natural Lands	Category E Vernal Pool Wetted	Category E Vernal Pool - Upland	Category F Prior Agreement
Habitat Fee	-	\$7,940	\$15,880	\$15,880	\$77,167	\$42,632	\$915

**ADJUSTED HABITAT/OPEN SPACE CONSERVATION FEE
RETAIL/MEDIUM-DENSITY NON-RESIDENTIAL DEVELOPMENT
(Per Net Parcel Area)
(Effective April 1, 2007)**

	Category A No Pay	Category B Multi-Purpose	Category C Agriculture	Category D Natural Lands	Category E Vernal Pool Wetted	Category E Vernal Pool - Upland	Category F Prior Agreement
Habitat Fee	-	\$7,845	\$15,689	\$15,689	\$76,237	\$42,118	\$904

**ADJUSTED HABITAT/OPEN SPACE CONSERVATION FEE
WAREHOUSE/LOW-DENSITY NON-RESIDENTIAL DEVELOPMENT
(Per Net Parcel Area)
(Effective April 1, 2007)**

	Category A No Pay	Category B Multi-Purpose	Category C Agriculture	Category D Natural Lands	Category E Vernal Pool Wetted	Category E Vernal Pool - Upland	Category F Prior Agreement
Habitat Fee	-	\$7,001	\$14,002	\$14,002	\$68,040	\$37,589	\$806

City of Stockton's Nonresidential Fee Deferral Program

APPENDIX E

	Current Programs			Additional Proposed Program
	ENTERPRISE ZONE		CITYWIDE	CITYWIDE
	<u>Five-Year Program</u>	<u>Ten-Year Program</u>	<u>Ten-Year Program</u>	<u>Five-Year Program</u>
Fee Threshold	\$20,000	\$20,000	\$100,000	\$20,000 but less than \$100,000
Qualifying Fees	For all Programs: City Office Space, Fire Stations, Libraries, Police Station Expansion, Street Improvement, Sewer Connection, Water Connection and Traffic Signal			same as current programs
Down Payment	20% of Qualifying fees plus all other fees due at time of permit issuance	10% of Qualifying fees plus all other fees due at time of permit issuance	10% of Qualifying fees plus all other fees due at time of permit issuance	\$10,000 of total Qualifying fees plus all other fees due at time of permit issuance (1)
Interest Rate (2)	For all Programs: 11th District Cost of Funds July Rate, plus 1 percentage point			same as current programs
Security	For all Programs: deed of trust or other acceptable security equal or greater than value of deferral.			same as current programs
Payment Schedule (3)	five equal annual installments plus interest calculated on the unpaid principal (first year's interest is waived)	ten equal annual installments plus interest calculated on the unpaid principal	ten equal annual installments plus interest calculated on the unpaid principal	five equal annual installments plus interest calculated on the unpaid principal

- (1) Proposed down payment of \$10,000 is to differentiate the citywide five-year program from the Enterprise Zone's five-year program. Council policy has been to provide a greater incentive in the Enterprise Zone.
- (2) The first year's interest is waived for the Enterprise Zone's five-year program.
- (3) Water and sewer connection fees may be deferred for five year or less.

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